GLOBAL FORUM ON
TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

SERBIA

2023 (Second Round)

OECD

Global Forum on Transparency and Exchange of Information for Tax Purposes: Serbia 2023 (Second Round)

PEER REVIEW REPORT ON THE EXCHANGE OF INFORMATION ON REQUEST

OECD

BETTER POLICIES FOR BETTER LIVES

This peer review report was approved by the Peer Review Group of the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum) on 5 October 2023 and adopted by the Global Forum members on 3 November 2023. The report was prepared for publication by the Global Forum Secretariat.

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Reader's guide

The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 160 jurisdictions that participate in the Global Forum on an equal footing. The Global Forum is charged with the in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes (both on request and automatic).

Sources of the Exchange of Information on Request standards and Methodology for the peer reviews

The international standard of exchange of information on request (EOIR) is primarily reflected in the 2002 OECD Model Agreement on Exchange of Information on Tax Matters and its commentary, Article 26 of the OECD Model Tax Convention on Income and on Capital and its commentary and Article 26 of the United Nations Model Double Taxation Convention between Developed and Developing Countries and its commentary. The EOIR standard provides for exchange on request of information foreseeably relevant for carrying out the provisions of the applicable instrument or to the administration or enforcement of the domestic tax laws of a requesting jurisdiction. Fishing expeditions are not authorised but all foreseeably relevant information must be provided, including ownership, accounting and banking information.

All Global Forum members, as well as non-members that are relevant to the Global Forum's work, are assessed through a peer review process for their implementation of the EOIR standard as set out in the 2016 Terms of Reference (ToR), which break down the standard into 10 essential elements under three categories: (A) availability of ownership, accounting and banking information; (B) access to information by the competent authority; and (C) exchanging information.

The assessment results in recommendations for improvements where appropriate and an overall rating of the jurisdiction's compliance with the EOIR standard based on:

1. The implementation of the EOIR standard in the legal and regulatory framework, with each of the element of the standard determined to be either (i) in place, (ii) in place but certain aspects need improvement, or (iii) not in place.

2. The implementation of that framework in practice with each element being rated (i) compliant, (ii) largely compliant, (iii) partially compliant, or (iv) non-compliant.

The response of the assessed jurisdiction to the report is available in an annex. Reviewed jurisdictions are expected to address any recommendations made, and progress is monitored by the Global Forum.

A first round of reviews was conducted over 2010-16. The Global Forum started a second round of reviews in 2016 based on enhanced Terms of Reference, which notably include new principles agreed in the 2012 update to Article 26 of the OECD Model Tax Convention and its commentary, the availability of and access to beneficial ownership information, and completeness and quality of outgoing EOI requests. Clarifications were also made on a few other aspects of the pre-existing Terms of Reference (on foreign companies, record keeping periods, etc.).

Whereas the first round of reviews was generally conducted in two phases for assessing the legal and regulatory framework (Phase 1) and EOIR in practice (Phase 2), the second round of reviews combine both assessment phases into a single review. For the sake of brevity, on those topics where there has not been any material change in the assessed jurisdictions or in the requirements of the Terms of Reference since the first round, the second round review does not repeat the analysis already conducted. Instead, it summarises the conclusions and includes cross-references to the analysis in the previous report(s). Information on the Methodology used for this review is set out in Annex 3 to this report.

Consideration of the Financial Action Task Force Evaluations and Ratings

The Financial Action Task Force (FATF) evaluates jurisdictions for compliance with anti-money laundering and combating terrorist financing (AML/CFT) standards. Its reviews are based on a jurisdiction's compliance with 40 different technical recommendations and the effectiveness regarding 11 immediate outcomes, which cover a broad array of money-laundering issues.

The definition of beneficial owner included in the 2012 FATF standards has been incorporated into elements A.1, A.3 and B.1 of the 2016 ToR. The 2016 ToR also recognises that FATF materials can be relevant for carrying out EOIR assessments to the extent they deal with the definition of beneficial ownership, as the FATF definition is used in the 2016 ToR (see 2016 ToR, Annex 1, part I.D). It is also noted that the purpose for which the FATF materials have been produced (combating money-laundering and terrorist financing) is different from the purpose of the EOIR standard (ensuring effective exchange of information for tax purposes), and care should be taken to ensure that assessments under the ToR do not evaluate issues that are outside the scope of the Global Forum's mandate.

While on a case-by-case basis an EOIR assessment may take into account some of the findings made by the FATF, the Global Forum recognises that the evaluations of the FATF cover issues that are not relevant for the purposes of ensuring effective exchange of information on beneficial ownership for tax purposes. In addition, EOIR assessments may find that deficiencies identified by the FATF do not have an impact on the availability of beneficial ownership information for tax purposes; for example, because mechanisms other than those that are relevant for AML/CFT purposes exist within that jurisdiction to ensure that beneficial ownership information is available for tax purposes.

These differences in the scope of reviews and in the approach used may result in differing conclusions and ratings.

More information

All reports are published once adopted by the Global Forum. For more information on the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, and for copies of the published reports, please refer to www.oecd.org/tax/transparency and http://dx.doi.org/10.1787/2219469x.

Abbreviations and acronyms

2016 Terms of Reference	Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015
AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
AML/CFT Law	Law on the Prevention of Money Laundering and the Financing of Terrorism
APML	Administration for the Prevention of Money Laundering
BO	Beneficial Owner
BO Register	Register of Beneficial Owners
Business Register	Business Entities Register
CA	Companies Act
CDD	Customer Due Diligence
CSD	Central Securities, Depository and Clearing House of Serbia
DTC	Double Taxation Convention
EOI	Exchange of Information
EOIR	Exchange of Information on Request
EU	European Union
EUR	Euro
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
GP	General Partnership

Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
IFRS	International Financial Reporting Standards
JSC	Joint Stock Company
Law on Archival Material	Law on Archival Material and Archival Activities
Law on the Execution of Payment	Law on the Execution of Payment and of Legal Persons, Entrepreneurs and Natural Persons not performing a Commercial Activity.
Law on Procedure of Registration	Law on Procedure of Registration with the Serbian Business Registers Agency.
LP	Limited Partnership
LCRBO	Law on the Central Records of Beneficial Owners
LLC	Limited Liability Company
LPDP	Law on Personal Data Protection
LTPTA	Law on Tax Procedure and Tax Administration
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
NBS	National Bank of Serbia
RSD	Serbian Dinar
SBRA	Serbian Business Registers Agency
SSN	Social Security Number
TIEA	Tax Information Exchange Agreement
TIN	Taxpayer Identification Number
VAT	Value Added Tax

Executive summary

1. This report analyses the implementation of the international standard of transparency and exchange of information on request in Serbia under the second round of reviews conducted by the Global Forum against the 2016 Terms of Reference. It assesses both the legal and regulatory framework as at 4 August 2023 and the practical implementation of this framework, in particular in respect of EOI requests received and sent during the review period from 1 April 2019 to 31 March 2022. This report concludes that Serbia is rated overall Largely Compliant with the international standard. Serbia joined the Global Forum in 2018. Hence, the current report is the first assessment of the legal and regulatory framework for transparency and exchange of information on request in Serbia and its implementation in practice.

Determination and Ratings for Second Round Report

Element		Determination on the legal framework	Ratings on practical implementation
A.1	Availability of ownership and identity information	Needs Improvement	Largely Compliant
A.2	Availability of accounting information	In place	Compliant
A.3	Availability of banking information	Needs Improvement	Largely Compliant
B.1	Access to information	In place	Compliant
B.2	Rights and Safeguards	Needs improvements	Largely Compliant
C.1	EOIR Mechanisms	In Place	Compliant
C.2	Network of EOIR Mechanisms	In Place	Compliant
C.3	Confidentiality	In Place	Compliant
C.4	Rights and safeguards	In Place	Compliant
C.5	Quality and timeliness of responses	Not applicable	Compliant
	OVERALL RATING	**Largely Compliant**	

Note: The three-scale determination are in place, in place but certain elements need improvements, not in place. The four-scale ratings are Compliant, Largely Compliant, Partially Compliant, and Non-Compliant.

Transparency framework

2. Since joining the Global Forum in 2018, Serbia has made efforts to put in place the necessary legal and regulatory framework to comply with the Transparency and EOIR standard.

3. Overall, Serbia has implemented a system that enables legal ownership and identity information, to be available for most types of legal persons formed under the Serbian legal framework. Supervisory measures to ensure the accuracy of legal ownership information are in place.

4. Serbia has in place a framework that enables the availability and access to Beneficial ownership information (BO information) from three sources: Anti-Money Laundering (AML) obliged persons, Register of Beneficial Owners (BO Register), and entities themselves as a result of the requirements set in the BO Register. Serbia has in place effective, dissuasive and proportionate sanctions for ensuring compliance with the requirements in Serbia's Law on the Prevention of Money Laundering and the Financing of Terrorism (AML/CFT Law) and is actively supervising the relevant AML obliged persons.

5. Accounting information is also available in Serbia through the Law on Accounting' requirements which covers most relevant persons under the Standard. The Law on Accounting particularly provides for the maintenance of a central register of financial statements which keeps this information indefinitely. Legal requirements for maintaining accounts are generally well supervised and enforced.

6. Banking information, including BO information of all type of account holders (i.e. legal entities or legal arrangements) is available with banks in Serbia. Records pertaining to the accounts a bank maintains have to be kept for ten years. Banks are generally well supervised.

Key recommendations

7. In respect of foreign companies with sufficient nexus with Serbia and foreign partnerships with income, deductions or credits for tax purposes or carrying business in Serbia, some identity information is available with the tax authority, with the Business Register and with AML-obliged persons like banks through Customer Due Diligence (CDD) information collected if they engage with such persons. However, this information may not be complete and up to date. Serbia is recommended to ensure that adequate, accurate and up-to-date legal ownership and identity information is available for all foreign companies with a sufficient nexus with Serbia and relevant foreign partnerships in line with the standard.

8. In respect of foundations, the applicable law provides for availability of identity information of the founders and members council of a private endowment but identity information on the beneficiaries is not required to be collected. Complete legal ownership information is therefore not available for these relevant persons and Serbia is recommended to ensure that adequate, accurate and up to date identity information is available for all private endowments in line with the standard.

9. While there are requirements to update beneficial ownership information (BO information) in the Register of Beneficial Owners (BO Register) when there are changes, and during customer due diligence in various situations, there is no specified frequency for updating the BO information. This could result in situations where adequate, accurate and up-to-date BO information may not always be available. Serbia is recommended to ensure that up-to-date beneficial ownership information is available for all relevant entities and arrangements in accordance with the standard.

10. The BO Register entered in force in 2018. However, there is no supervisory authority yet to ensure the accuracy of the information entered into the register by obliged persons, nor to ensure that the obliged persons maintain the necessary documentation. Serbia is recommended to put in place effective supervision and impose sanctions where necessary, to ensure that the information entered into the Register of Beneficial Owners is accurate, adequate and up to date.

11. There are currently no requirements for a Serbian resident trustee to maintain accounting records on the trust it administers. Serbia is recommended to establish an obligation to maintain reliable accounting records, including underlying documentation, with a record retention period of at least five years for trusts with Serbian resident trustees in all circumstances.

Exchange of information in practice

12. The legal and regulatory framework of Serbia for the access and exchange of information requested by EOI partners is generally in place.

13. Serbia domestic tax law provides for wide access powers. The Competent Authority may therefore obtain information directly from internal databases, request to third parties holding information, including AML obliged persons or to taxpayer which holds information requested by launching an audit. The legal framework is generally in place and is supported by adequate sanctions.

14. Serbia has a wide EOI network in place and its EOI mechanisms are in line with the standard. The Tax Administration became Competent Authority in May 2021 for requests made under the Multilateral Convention

on Mutual Administrative Assistance in Tax Matters, and in April 2022 for requests made under double tax conventions. It established an independent EOI unit which became functional in May 2021. It is adequately staffed and has enough resources to respond to the requests in a timely manner.

15. Out of the 123 requests for information received from exchange partners during the review period from 1 April 2019 to 31 March 2022, Serbia has responded to all. The peers that provided peer input were generally satisfied with responses provided by the Serbian Competent Authority. Serbia is also using EOIR for its domestic audits and investigations and sent 64 requests during the review period.

Key recommendations

16. Serbia implements a data protection law which requires that when personal data is requested, Serbia inform the individual to whom the data relates that request for information has been made. There are no exceptions to the notification of the individual when the request is of a very urgent nature or when the notification is likely to undermine the chances of success of the investigation of the requesting partner. Although the scope of the law is limited to only cases where personal information is not available from internal databases or by a request to a third party as confirmed by the practice, the lack of exception to the prior-notification of the taxpayer is not in line with the Standard. Serbia is recommended to ensure that appropriate exceptions exist to the prior notification of the person concerned by an exchange of information request (i.e. in urgent cases or in cases in which informing that person is likely to undermine the chance of the success of the investigation conducted by the requesting jurisdiction).

17. The practice of sending status updates was implemented in December 2021 and was therefore not in place for most of the review period. Due to the building up of skills and process within the EOI unit at the early stage of its operation, status updates were not regularly sent until towards the end of the review period. Serbia is recommended to monitor that a status update is systematically sent where a full response is not provided within 90 days, including when a partial response is provided.

Overall rating

18. Serbia has received a rating of Compliant for seven elements (A.2, B.1, C.1, C.2, C.3, C.4 and C.5), a rating of Largely Compliant for three elements (A.1, A.3 and B.2). Serbia is therefore rated overall Largely Compliant with the EOIR standard on a global consideration of its compliance with the individual Elements.

19. This report [was approved at the Peer Review Group of the Global Forum on 5 October 2023 and was adopted by the Global Forum on 3 November 2023. A follow up report on the steps undertaken by Serbia to address the recommendations made in this report should be provided to the Peer Review Group in accordance with the procedure set out under the 2016 Methodology.

Summary of determinations, ratings and recommendations

Determinations and ratings	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and BOs, for all relevant entities and arrangements is available to their competent authorities (Element A.1)		
The legal and regulatory framework is in place but needs improvement	The Business Register in Serbia contains legal ownership and identity information for foreign entities actively running business operations through branches. However, a small legal gap exists for situations where the foreign companies with sufficient nexus with Serbia do not have a branch in Serbia and are hence, not registered in the Business Register. Similarly, foreign partnerships with income, deductions, and credits for tax purposes in Serbia but not having a branch in Serbia also fall within this gap. In the scenarios above, some ownership and identity information may be available with the Tax Authority or with the bank when the above-mentioned foreign companies and foreign partnerships have a bank account in Serbia, but such information may not be complete and up to date.	Serbia is recommended to ensure that adequate, accurate and up to date legal ownership and identity information is available for all foreign companies with a sufficient nexus with Serbia and relevant foreign partnerships which have not registered a branch in Serbia.

Determinations and ratings	Factors underlying recommendations	Recommendations
	The Law on Endowments and Foundations provides for availability of identity information of the founders and members council of a private endowment. Identity information on the beneficiaries is not required to be collected.	Serbia is recommended to ensure that adequate, accurate and up to date identity information is available for all private endowments in line with the standard.
	The AML legal and regulatory framework does not specify the frequency to update the beneficial ownership information of their customers (relevant entities and arrangements) and they do not clarify when verification must be provided, although in practice AML obliged persons seem to conduct a review of their customer due diligence every year when the customer is high-risk, every two years when the customer is medium-risk and every five years for low-risk customers. Although legal entities, including partnerships and endowments, must update the beneficial owner register when changes occur in their beneficial ownership, the system in place does not ensure that changes in beneficial ownership are brought to their attention. This means that adequate, accurate and up-to-date information may not always be available.	Serbia is recommended to ensure that up-to-date beneficial ownership information is available for all relevant entities and arrangements in accordance with the standard.

Determinations and ratings	Factors underlying recommendations	Recommendations
EOIR Rating is Largely Compliant	The beneficial ownership information under the Register of Beneficial Owners is a key source of beneficial ownership information in Serbia. However, there are currently no effective mechanisms in place to ensure that all data entered in the register is accurate and up to date since legal persons (including partnerships and endowments) subject to the requirement of filing BO information are neither monitored nor required to confirm on a periodic basis whether the information present in the register is up to date. The Guidance currently sets that AML obliged persons have to notify their customers when they find a discrepancy between the beneficial ownership information they have collected and the beneficial ownership information in the Register of Beneficial Owners, but there is no reporting of those discrepancies from the AML obliged person to the Business Registers Agency of Serbia which maintains the Register of Beneficial Owners register. No sanctions have been imposed so far although some entities have not complied with their obligations.	Serbia is recommended to put in place an effective supervision and impose sanctions where necessary, to ensure that the information entered into the Register of Beneficial Owners is accurate, adequate and up to date.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements (Element A.2)		
The legal and regulatory framework is in place	Serbia's legislation does not ensure that reliable accounting records or underlying documentation are kept in all circumstances for foreign trusts with Serbian resident administrators or trustees.	Serbia is recommended to establish an obligation to maintain reliable accounting records, including underlying documentation, with a record retention period of at least five years for trusts with Serbian resident trustees in all circumstances.
EOIR Rating is Compliant		

Determinations and ratings	Factors underlying recommendations	Recommendations
Banking information and Beneficial ownership information should be available for all account-holders (Element A.3)		
The legal and regulatory framework is in place but needs improvement	The AML legal and regulatory framework does not provide for a specified frequency, for banks to update beneficial ownership information, although in practice AML obliged persons explained they conduct a review of their customer due diligence every year when the customer is high-risk, every two years when the customer is medium-risk and every five years for low-risk customers. Although the National Bank of Serbia confirmed it checked that the accounts would be reviewed at the frequency specified in the internal acts of the bank, it is not clear whether there is an obligation to specify the frequency in the internal acts. This means that adequate, accurate and up-to-date information may not always be available with banks.	Serbia is recommended to ensure that up-to-date beneficial ownership information on all bank accounts in line with the standard is available.
EOIR Rating is Largely Compliant		
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) (Element B.1)		
The legal and regulatory framework is in place		
EOIR Rating is Compliant		

Determinations and ratings	Factors underlying recommendations	Recommendations
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information (Element B.2)		
The legal and regulatory framework is in place but needs improvements	Serbia's domestic legislation provides that when personal data is sought directly from a person under foreign investigation or examination, this person must be notified of the request. This would not be the case if personal data is not obtained directly from the taxpayer. In the limited cases where the Law on Personal Data Protection will apply, there is no legal exceptions to this prior-notification for an EOI request for which the requesting partner would have formally asked the Serbian Competent Authority from not notifying the taxpayer (i.e. where the request is of a very urgent nature or the notification is likely to undermine the chances of success of the investigation).	Serbia is recommended to ensure that appropriate exceptions exist to the prior notification of the person concerned by an exchange of information request (i.e. in urgent cases or in cases in which informing that person is likely to undermine the chance of the success of the investigation conducted by the requesting jurisdiction).
EOIR Rating is Largely Compliant		
Exchange of information mechanisms should provide for effective exchange of information (Element C.1)		
The legal and regulatory framework is in place		
EOIR Rating is Compliant		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners (Element C.2)		
The legal and regulatory framework is in place		

Determinations and ratings	Factors underlying recommendations	Recommendations
EOIR Rating is Compliant		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received (Element C.3)		
The legal and regulatory framework is in place		
EOIR Rating is Compliant		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties (Element C.4)		
The legal and regulatory framework is in place		
EOIR Rating is Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner (Element C.5)		
Legal and regulatory framework:	This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.	
EOIR Rating is Compliant	Serbia did not always provide status updates to treaty partners systematically. The Competent Authority explained that in some cases it considered the partial responses it sent to the treaty partners as status updates. However, the practice of sending status updates systematically where Serbia was not able to provide complete information within 90 days started from December 2021 towards the end of the review period.	Serbia is recommended to monitor that a status update is systematically sent where a full response is not provided within 90 days, including when a partial response is provided.

Overview of Serbia

20. This overview provides some basic information about Serbia that serves as context for understanding the analysis in the main body of the report.

21. The Republic of Serbia is located in the central part of the Balkan Peninsula in South-eastern Europe. The population of Serbia is 6.8 million as of 31 July 2022.[1] Belgrade is the capital of Serbia. The official currency of Serbia is the Serbian Dinar (RSD). The conversion rate for EUR 1 is RSD 117.

22. Serbia's economy is classified as an upper middle-income economy according to the World Bank, with GDP of RSD 18.3 trillion in 2022 (EUR 156 billion) adjusted for purchasing power parity.[2] Serbia is the largest economy in the Western Balkans by per capita GDP. The largest sectors are energy, automotive industry, machinery, mining and agriculture. Trade plays an important role in Serbia's economic output, with Germany, Italy, China and Russia being Serbia's main trading partners.

23. A large number of foreign companies have based their operations in Serbia due to its location, low operating costs compared to the European Union (EU), tax incentives, free trade agreements with key markets, and skilled workforce (in particular in the IT sector). Most of these companies are export orientated. According to National Bank of Serbia data, Serbia was the recipient of foreign direct investment of RSD 519 trillion in 2022 (EUR 4.4 billion), a significant amount relative to its GDP.

Legal system

24. The Republic of Serbia is a parliamentary republic, with a legal system based on civil law tradition. The Federal Republic of Yugoslavia (1992), which was later named the State Union of Serbia and Montenegro

1. See the website of the Statistical Office of the Republic of Serbia for more information (www.stat.gov.rs).
2. See IMF World Economic Outlook, estimate as of April 2023.

was formed in 1992 following the break-up of the socialist federal republic of Yugoslavia in 1991. Modern day Republic of Serbia was formed in 2006 following a declaration of independence by Montenegro.

25. According to the constitution of Serbia, the National Assembly is the supreme representative body and holder of constitutional and legislative power in the country. The Assembly is a unicameral legislature comprised of 250 elected deputies which are elected for a four-year term. The government is comprised of the Prime Minister as the head of government and a cabinet of ministers, who together are responsible for the executive affairs of the state. The head of state is the President, who holds a largely ceremonial position. Primary legislation is in the form of laws, with secondary legislation mainly in the form of regulations. The hierarchy of laws is as follows:

- Constitution
- Ratified international treaties and generally accepted rules of international law. In accordance with the Article 16 of the Constitution, ratified international agreements and generally adopted rules of international law are part of the legal system of the Republic of Serbia and have direct application. Some of the treaties that were ratified before 2006 remain in force.
- Laws
- By-laws, statutes, decisions and other general acts of autonomous provinces and local self-government units

26. Judicial power in the Republic of Serbia belongs to courts of general and special jurisdiction. Courts are separated and independent in their work and they perform their duties in accordance with the Constitution, laws and other general acts when stipulated by the law, generally accepted rules of international law and ratified international contracts.

27. The judiciary system in Serbia is composed of courts of general jurisdiction made of basic, high, appellate and Supreme Court of Cassation, and courts of special jurisdictions, made of commercial, Commercial court of Appeal, misdemeanour and Misdemeanour Court of Appeal and Administrative Court. In Serbia judicial review of tax cases are typically handled through appeal of the Tax Administration decision to reject an objection of the taxpayer on its tax assessment before the Commercial Court of Appeal up to the Supreme Court of Cassation, which judge in last resort.

Tax system

28. The Constitution of Serbia provides for the basis for the State to collect taxes and other levies from legal and natural persons, in accordance with the specific laws enacted in the country.

29. The basis for personal income tax for natural persons is set out in the Law on Personal Income Tax (LPIT). It covers income tax for residents of Serbia, realised within Serbia and in third countries; and the income tax for non-residents for income realised in Serbia. A natural person who meets any of the following criteria during a tax year will be a resident for tax purposes:

- place of residence or a centre of business and vital interest in Serbia
- reside 183 days or more for a period of 12 months in Serbia.

30. Personal income tax is taxed annually at the following rates:

- employment income (10%)
- additional progressive annual personal income tax (10%) with a higher threshold (15%) for higher incomes.

31. The Law on Corporate Income Tax (LCIT) sets out the obligations for companies whereas the LPIT sets them for the entrepreneurs undertaking profit-making activities. Resident companies must pay their tax on worldwide income, while non-resident companies and entrepreneurs must pay tax on income generated in Serbia. A taxpayer that is a legal person is considered as a resident under LCIT if it is incorporated in Serbia or managed or controlled from Serbia for the purposes of generating profit.

32. The permanent establishment of non-resident companies and entrepreneurs performing activities in the territory of the Republic of Serbia must determine the taxable income consistent with the relevant applicable law (i.e. LCIT or LPIT) and must submit a taxable income sheet and a tax return within 180 days following the end of the business year on which tax is due. The corporate tax rate contained in the LCIT is 15%. Capital gains are subject to a 15% tax for residents and 20% for non-residents if Double Tax Conventions do not provide other rules.

33. Other than these, the Law on Property Taxes (LPT) provides for property tax and the Law on Value Added (VAT) Tax governs VAT on the supply of goods and provision of services, at all stages of production and trade of goods and services.

34. Further, Serbia has some specific provisions for inheritance and gift taxes as well as transfers of certain types of properties including intellectual property.

Financial services sector

35. Serbia has an established financial sector. Total assets of the Serbian financial sector made up 84.4% of GDP as of 31 December 2022. The most relevant parts of the financial services sector in Serbia are made up of banks and insurance undertakings. Banks are dominant with more than 90% of total financial sector assets.

- **Banking sector**: Serbia has 20 banks.[3] At the end of March 2023, total banking sector assets and capital amounted to RSD 5 560 billion (EUR 47.5 billion) and RSD 749.5 billion (EUR 6.4 billion), respectively. 17 banks were majority owned by foreign entities (mostly from EU countries), two banks were majority owned by domestic entities and two were majority owned by the State. All banks operating in Serbia are legal entities registered in Serbia with operating licence issued by the National Bank of Serbia (NBS). There are no branches of foreign banks. Most banks (18 banks) are headquartered in the capital city Belgrade, while 3 banks are headquartered in the second largest city, Novi Sad.
- **Insurance sector**: There are 16 insurance undertakings and 4 reinsurance undertakings, 80 insurance brokerage undertakings, 30 insurance agency undertakings and 78 natural persons – entrepreneurs who carry on insurance agency activities.[4]

36. In addition, there are 16 financial leasing providers, 4 voluntary pension funds management companies and 7 voluntary pension funds, 7 pension funds, 12 payment institutions, 4 electronic money institutions, 1 public postal operator that provides payment services, 15 broker-dealer companies, 8 authorised banks (for securities), 6 custodian banks, 7 investment fund management companies, 26 investment funds, and 77 auditing companies.

3. Since 29 April 2023, following the merger of RBA banka a.d. Novi Sad with Raiffeisen banka a.d. Beograd.
4. The official register of insurance entities supervised by National Bank of Serbia can be found on https://www.nbs.rs/en/finansijske-institucije/osiguranje/registar/index.html.

Anti-money laundering framework

37. The Law on the Prevention of Money Laundering and Financing of Terrorism (AML/CFT Law), last amended in 2020, provides the main legislative structure that underpins the AML/CFT framework in Serbia. In 2020, more detailed rules have been enacted that set out more specific requirements for AML obliged persons, such as the Rulebook on the methodology to comply with the AML/CFT Law and Guidelines for identifying the Beneficial Owner of the Customer and Guidelines for entering the Beneficial Owner of a Registered Entity into the Centralised Records. Complementary legislation also exists for some sectors, which provides the sanctions regime for those specific sectors for failure to comply with AML/CFT Laws, as well as additional information on the approach that supervisors must take (for example the Law on Banks, 2015).

38. Most financial institutions in Serbia, including banks and payment service providers, are supervised by the National Bank of Serbia (NBS). Before a change in the law in December 2019, the Administration for the Prevention of Money Laundering (APML), the FIU of Serbia, was in charge of supervising both auditing companies and independent auditors. Since the legal amendments, APML is the supervisory authority of legal persons providing accounting services. The Security Commission is supervising auditing companies while tax advisors are currently not supervised by any authorities. The Bar Association of Serbia supervises lawyers.

39. Excluding the entities licenced in the financial services sector above, which are all supervised by the NBS or Securities Commission, the other registered AML obliged persons are as follows:

- tax advisors
- auditors
- accountants
- lawyers (when they assist their customers planning or executing transactions concerning buying or selling of real estate or a company, managing of customer assets, opening or disposing of an account with a bank (bank, savings or securities accounts), collecting contributions necessary for the creation, operation or management of companies, creation, operation or management of a company or person under foreign law, carrying out, on behalf of or for a customer, any financial or real estate transaction. Trust and company service providers do not exist in Serbia, as trusts cannot be formed in Serbian law, and any person can form a company without any professional intermediaries. There is, therefore, no specific industry for licenced trust service providers. In practice, lawyers often carry

out this function, and the activities of collecting contributions necessary for the creation, operation or management of foreign express trust are explicit activities under which a lawyer is an obliged person under the AML/CFT Law.

- public notaries when they draft or certify (solemnise) documents in relation to any financial or real estate transaction on behalf of or for a customer.

40. Serbia is a member of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). The Fifth Round Mutual Evaluation Report (MER) of Serbia was adopted in 2016.[5] Serbia was rated as partially compliant for Recommendation 10 (Financial Institutions: Customer Due Diligence), Recommendation 22 (Designated Non-Financial Businesses and Professions: Customer Due Diligence) and Recommendation 25 (Transparency and beneficial ownership of legal arrangements). Serbia was rated as largely compliant with Recommendation 24 (Transparency and beneficial ownership of legal persons). Serbia was rated as moderately effective for its supervision of AML/CFT requirements, for the application of AML/CFT measures by AML obliged persons, and for its measures to prevent legal persons and arrangements from misuse.[6]

41. Following its MER in 2016, Serbia was placed on an enhanced follow-up. Serbia's was re-rated as largely compliant with Recommendation 10 and Recommendation 25 in 2018 and Recommendation 22 in 2021, and currently the Republic of Serbia is rated as largely compliant or compliant for 39 out of 40 FATF Recommendations.

5. https://www.fatf-gafi.org/content/dam/fatf/documents/reports/mer-fsrb/MONEYVAL(2016)2_MER_Serbia_en.pdf.

6. A moderate rating for effectiveness means that the relevant immediate outcome is achieved to some extent, and major improvements are needed. See FATF Methodology for Assessing Technical Compliance with the FATF Recommendations and Effectiveness of AML/CFT Systems (2013).

Part A: Availability of information

42. Sections A.1, A.2 and A.3 assess the availability of ownership and identity information for relevant legal entities and arrangements, accounting information and banking information.

A.1. Legal and beneficial ownership and identity information

> Jurisdictions should ensure that legal and beneficial ownership and identity information for all relevant entities and arrangements is available to their competent authorities.

43. The legal system in Serbia provides for legal ownership and identity information for relevant legal persons, predominantly via the Business Entities Register (Business Register). Identity and shareholder information is required to be submitted when first registering and creating a new company, including for partnerships, and then when updates are needed. This information is publicly available from the Business Register. There are also requirements for companies and partnerships to retain information on shareholders and partners themselves.

44. Serbia has put in place mechanisms that help ensure that the information submitted to the Business Register is complete and accurate, including verification of signatures by notaries, automatic checks with other databases, and manual checks by legal experts who work for the Serbian Business Registers Agency (SBRA). While this does not constitute verification of the underlying information, there are inherent incentives that help ensure that the Business Register contains up-to-date information on shareholders, as the shareholding in companies is recognised upon registration in the Business Register.

45. Severe sanctions in the form of compulsory liquidation have been implemented since 2019 to purge the Business Register of inactive companies that did not file a statement of inactivity or annual financial statements to the SBRA.

46. Supervision of the companies to ensure that they maintain up-to-date and accurate shareholder information is ensured through tax audits.

47. Serbia has in place processes for collecting some legal ownership and identity information on foreign companies which have a sufficient nexus with Serbia and relevant partnerships, which have not registered a branch in Serbia, by the tax authority (through withholding tax returns in case of distribution of dividends) and by banks as part of their CDD (when such foreign companies and foreign partnerships active in Serbia have not registered a branch and have a bank account in Serbia). Serbian authorities explain that foreign entities with sufficient nexus in Serbia, including relevant foreign partnerships, regardless of whether they have a registered branch, would have to open a bank account. However, complete legal ownership information may not always be available either with the Tax Administration or from banks for foreign companies or foreign partnerships active in Serbia.

48. The Law on Endowments and Foundations and related rulebook provides for identity information of private endowments to be captured, but this is limited to the founders and the board members and would not include the identity of the beneficiaries. When the endowment has a bank account, some identity information only may be available on the beneficiaries.

49. Serbian competent authorities have three sources of beneficial ownership information (BO information), one from AML obliged persons, another from the public Register of Beneficial Owners (BO Register) and a third from companies and partnerships themselves. The latter two sources were implemented relatively recently, just before the start of the review period, in 2018. Their supervision needs to be strengthened. Sanctions exist for providing inaccurate information to the BO Register, but active supervision or monitoring is not taking place and sanctions have not been applied in practice. In addition, no monitoring of companies' obligations to maintain information on the beneficial owner is taking place. Serbia intends on rectifying some of these deficiencies through future legislative amendments.

50. While information on customers is required to be updated by AML obliged persons on a risk sensitive basis according to their assessment of money laundering risks, and entities are required to keep their BO information in the BO Register up to date, there is no specified frequency that entities are required to follow to update the BO information. As a result, BO information in all cases may not always be up to date.

51. Overall, Serbia was able to respond to the 16 EOIR requests on legal ownership and identity information on companies and partnerships they received during the review period based on the information available to competent authorities. No requests on beneficial ownership of an entity were received during the review period.

52. The conclusions are as follows:

Legal and Regulatory Framework: in place, but certain aspects of the legal implementation of the element need improvement

Deficiencies identified/Underlying factor	Recommendations
The Business Register in Serbia contains legal ownership and identity information for foreign entities actively running business operations through branches. However, a small legal gap exists for situations where the foreign companies with sufficient nexus with Serbia do not have a branch in Serbia and are hence not registered in the Business Register. Similarly, foreign partnerships with income, deductions, and credits for tax purposes in Serbia but not having a branch in Serbia also fall within this gap. In the scenarios above, some ownership and identity information may be available with the Tax Authority or with the bank when the above-mentioned foreign companies and foreign partnerships have a bank account in Serbia, but such information may not be complete and up to date.	Serbia is recommended to ensure that adequate, accurate and up to date legal ownership and identity information is available for all foreign companies with sufficient nexus with Serbia and relevant foreign partnerships which have not registered a branch in Serbia.
The Law on Endowments and Foundations provides for availability of identity information of the founders and members council of a private endowment. Identity information on the beneficiaries is not required to be collected.	Serbia is recommended to ensure that adequate, accurate and up to date identity information is available for all private endowments in line with the standard.
The AML legal and regulatory framework does not specify the frequency to update the beneficial ownership information of their customers (relevant entities and arrangements) and does not clarify when verification must be provided, although in practice AML obliged persons seem to conduct a review of their customer due diligence every year when the customer is high-risk, every two years when the customer is medium-risk and every five years for low-risk customers. Although legal entities, including partnerships and endowments, must update the Register of Beneficial Owners when changes occur in their beneficial ownership, the system in place does not ensure that changes in beneficial ownership are brought to their attention. This means that adequate, accurate and up-to-date information may not always be available.	Serbia is recommended to ensure that up-to-date beneficial ownership information is available for all relevant entities and arrangements in accordance with the standard.

Practical Implementation of the Standard: Largely Compliant

Deficiencies identified/Underlying factor	Recommendations
The beneficial ownership information under the Register of Beneficial Owners is a key source of beneficial ownership information in Serbia. However, there are currently no effective mechanisms in place to ensure that all data entered in the register is accurate and up to date since legal entities (including partnerships and endowments) subject to the requirement of filing beneficial ownership information are neither monitored nor required to confirm on a periodic basis whether the information present in the register is up to date. The Guidance currently sets that AML obliged persons have to notify their customers when they find a discrepancy between the beneficial ownership information they have collected and the beneficial ownership information in the Register of Beneficial Owners, but there is no reporting of those discrepancies from the AML obliged person to the Business Registers Agency of Serbia which maintains the Register of Beneficial Owners. No sanctions have been imposed so far although some entities have not complied with their obligations.	Serbia is recommended to put in place effective supervision, and impose sanctions where necessary, to ensure that the information entered into the Register of Beneficial Owners is accurate, adequate and up to date.

A.1.1. Availability of legal and beneficial ownership information for companies

Types of Companies

53. Two types of company can be formed in Serbia for the purposes of generating profit. The Companies Act 2021 (CA) defines their characteristics.

a. **Limited liability companies (LLCs).** An LLC has one or more members who own shares in the company. Members are only liable for the share capital invested in the LLC (CA Art. 139 and Art. 548), except in specific circumstances where a member misuses the company, for example using the company's assets as if they were his or her own rather than the company's (Art. 18). LLCs are by far the most numerous types of legal person active in Serbia, with 135 344 companies registered at the end of 2021.

b. **Joint stock companies (JSCs).** A JSC is a company whose share capital is divided into stocks that are held by one or more stockholders. Stockholders are only liable for the share capital they have invested except if they misuse the company, similar to

LLCs (CA Art. 245). There may be both public and private JSCs. The transfer of stocks of private JSCs occurs by means of an agreement in writing, whereas the transfer of stocks on public JSCs occurs in accordance with the law governing capital markets (Art. 261). Shares in JSCs are issued in a dematerialised form in the name of the stockholder (Art. 248) and are freely transferable with some exceptions (such as if the JSC's articles of association require pre-approval), with the possibility of co-ownership of shares (Art. 256). A public JSC must also publish information such as an annual report on the operations of the company, registering these reports with the SBRA (Art. 367 and 369), and must set up an audit commission (Art. 409). European Joint Stock Companies (*Societas Europaea*) can also be incorporated as a JSC in Serbia (Art. 577). At the end of 2021, there were 793 JSCs registered in Serbia.

54. There are no forms of company in Serbia that have been designed specifically for the purposes of conducting business outside of Serbia, such as International Business Companies, although there are also no restrictions placed upon the location of activities conducted by legal persons formed and registered in Serbia (i.e. within or outside the territory of Serbia). The address of the company seat and the head office from which the company's operations are managed is detailed in the articles of association and must be located in the territory of Serbia (CA, Art 19).

55. Foreign companies conducting business in Serbia operate through a branch office. A foreign entity may choose to have recourse to a representative office which is appointed to perform the preliminary steps needed to form a foreign branch in Serbia. It is therefore not conducting any business in Serbia and accordingly will not be considered as a tax resident. It is therefore not relevant for the purpose of EOIR since it does not have a sufficient nexus with Serbia. A branch office of a foreign company (foreign branch) is an organisational unit of a company in the territory of Serbia, acting on behalf of a company located in another country (CA, Art 567). At the end of the review period, there were 833 branches of foreign companies registered with the SBRA.

Registration of companies

56. To register a company with the Business Register, LLCs and JSCs must create a Memorandum of Association that records the decision to incorporate the company (CA, Art. 11).[7] The Memorandum of Association contains the signatories of those taking the decision to form the company, with the signatures certified by a public notary (CA, Art. 11).

7. Partnerships are considered in a separate section below.

57. For LLCs, the Memorandum of Association regulates how the company is managed and can be subsequently amended. Articles of association regulate the management of JSCs.

58. Foreign entities wishing to undertake business activity on a permanent basis in Serbia should do it through a branch and must therefore register it with the SBRA (see paragraph 55).

Legal ownership and identity information requirements

59. The legal ownership and identity requirements for companies are contained predominantly in the CA. There are no explicit requirements in the tax law for all companies, including foreign ones, to submit legal ownership or identity information beyond the details of the taxpayer or their representative when registering with the Tax Administration. However, this information may be collected during a tax inspection. Finally, as AML obliged persons have the obligation when conducting their CDD to understand the nature of its customer's business, and its ownership and control structure, some legal ownership and identity information will be available.

60. The following table shows a summary of the legal requirements to maintain legal ownership information with respect to companies.

Companies covered by legislation regulating legal ownership information[8]

Type	Company Law	Tax Law	AML Law
Limited liability company	All	Some	Some
Joint Stock Companies	All	Some	Some
Foreign companies (tax resident not registered with SBRA as a branch)	None	Some	Some
Foreign companies with a registered branch	All	Some	Some

Business Register

61. The primary source of information on legal ownership in Serbia is the Business Register, as LLCs and JSCs acquire legal personality when they complete registration (CA, Art. 3).[9] The Business Register contains

8. The table shows each type of entity and whether the various rules applicable require availability of information for "all" such entities, "some" or "none". "All" means that the legislation, whether or not it meets the standard, contains requirements on the availability of ownership information for every entity of this type. "Some" means that an entity will be covered by these requirements if certain conditions are met.
9. Information on partnerships, which are also legal persons formed under the Companies Act in Serbia, is included in a separate section below.

legal ownership and identity information consistent with the standard for companies formed in Serbia and for foreign branches or offices registered in Serbia (Rulebook on the content of the Business Register and documents required for registration, Art. 4).

62. The Law on the Serbian Business Registers Agency grants the SBRA the powers to operate and maintain 24 registers, including the Business Register.

63. When registering a new company with the SBRA, the articles of association must be registered with the Business Register along with the Memorandum of Association, which cannot be amended for JSCs (CA, Art. 11). The address of the head office of the company is included in the Memorandum of Association for LLCs and Articles of Association for JSCs (CA, Art. 19).

64. The Memorandum of Association must also contain the following information for LLCs (CA, Art. 9 and 141):

- the LLC’s name and predominant business activity
- the names of the members of the LLC forming the company, whether natural or legal person, and where they are resident
- the total share capital of the company
- the contributing capital of each member or shareholder (financial and in-kind)
- each member’s share in the company expressed as a percentage.

65. The equivalent information with details of the stockholders forming the JSC (rather than shareholders forming the LLC) must be included in the Memorandum of Association for JSCs (CA, Art. 264 and 265).

66. When registering a foreign branch with the SBRA, a resolution on forming the branch must be provided to the SBRA. The resolution includes the name and address of the branch, its predominant activity, the personal name of the branch representative, the name, legal form, and address of the head office of the branch’s founder (CA, Art. 573). Further, information on the names of the shareholders and their shareholding, total registered capital, date of formation, tax identification number (TIN) as issued automatically to the entity upon registration, and details of the person authorised to represent the company is also required to be submitted to the SBRA alongside the Memorandum of Association for Companies (and Articles of Association for JSCs) when an LLC, JSC, foreign branch is formed (Rulebook on the Content of the Business Register and documents required for registration, Art. 4).

67. There are incentives that help ensure information on Serbian companies contained in the Business Register remains up to date, as ownership rights are only acquired when the change of ownership is registered at the Business Register (CA, Art. 143), with the person purchasing the shares responsible for submitting an application to update the Business Register to the SBRA (Law on Procedure of Registration with the Serbian Business Registers Agency [Law on Procedure of Registration], Art. 5).

68. In addition to the incentives described above, an application for the registration of a change of shareholder in an LLC must be supported by a share transfer contract and an identity document for the new shareholder (Rulebook on the Content of the Business Register and documents required for registration, Art. 35). The signatures of the persons selling and purchasing the shares must be verified by a notary (CA, Art 97 and 175). Changes in ownership are required to be registered within 15 days (Law on Procedure of Registration, Art. 10), with the registrar reviewing the application within five days (Law on Procedure of Registration, Art. 15). Holders of securities, including shares in private joint stock companies, must have a named account with the Central Securities, Depository and Clearing House of Serbia (CSD) (Law on Capital Markets, Art. 5).

69. Annual financial statements filed under the Law on Accounting contain balance sheet with details of equity and statement of changes in equity. Legal ownership and identity information is therefore available through this channel. Companies with no business activity taking place during the financial year, and without changes to the company's assets or liabilities, must submit a statement of inactivity to the SBRA by 31 March the following year instead of annual financial statements (Law on Accounting, Art. 44). This is then recorded in the Business Register. However, this statement of inactivity does not contain legal ownership information.

70. All of the legal ownership and identity information required to be held by the SBRA, as well as CSD, must be kept on a permanent basis (Law on the Procedure of Registration, Art. 3(1)).

Information maintained by companies

71. There are also requirements for companies to keep or have available information on legal ownership themselves, which represents an additional source of information of legal ownership and identity information for some types of company.

72. LLCs are required to keep records of the addresses of each of the members (i.e. shareholders). This includes details for each co-owner if the shares are co-owned (CA, Art. 144). Information on the identity of shareholders of JSCs may be retrieved from the CSD or the relevant intermediary,

including the ultimate stockholder (i.e. the legal or natural person who owns the shares). If the company does not receive identity information on the ultimate stockholder from an intermediary within 15 days of the date of request, the voting rights attached to the shares are suspended. Identity information includes name and information on whether the shareholder is a domestic or foreign natural or legal person (CA, Art. 469f).

73. In terms of retention, LLCs and JSCs must keep a range of documents on a permanent basis, including the Memorandum of Association. Other documents, such as the records of the names and addresses of members must be kept for five years, after which, the documents may be disposed off, unless the entities cease to exist (see explanatory paragraphs below).

74. There are no requirements associated with the retention of documents by foreign branches and offices. However, the information that must be registered and kept up to date (CA, Art. 569) at the Business Register is subject to the rules on retention for the Business Register (see above).

Companies that cease to exist

75. In terms of dissolved companies,[10] if a company is under the process of liquidation (ordinary or forced) or bankruptcy, this is recorded in the Business Register (CA, Art. 22; Law on Bankruptcy, Art. 71). Once a company has been dissolved and deleted from the Business Register, it becomes the responsibility of the appointed liquidation or bankruptcy administrator or legal successor to respond to enquiries about the company from public authorities (Law on Bankruptcy, Art. 27). Liquidation and bankruptcy administrators also have the responsibility of preparing and submitting tax returns during the process of liquidation and bankruptcy respectively (Law on Bankruptcy Art. 27 para 4a). When there are liquidation and bankruptcy administrators, and that the retention period prescribed by the CA is unlimited (e.g. the case for the Memorandum of Association for instance), those are required to submit archival material on the dissolved company to the competent public archives within one year from the initiation of liquidation or bankruptcy proceedings (Law on Archival Material, Art. 19). When the information does not have to be kept permanently, the liquidator or bankruptcy administrator will maintain the records for at least 5 years, in line with the prescribed retention period under the CA (Articles 240 and 464).

10. There are three methods that result in the dissolution of a company. Dissolution may occur as a result of compulsory or voluntary liquidation (when the assets of the company are sufficient to settle all of the company's liabilities); upon completion of bankruptcy proceedings (when the assets of the company are insufficient to settle the company's liabilities); or as a result of a status change (an acquisition, merger, division or spin-off of a company) [CA, a.117, 238, 468, 485, 524].

Regardless, the availability of the legal ownership and identity information is always ensured through the Business Register Authority which keeps legal ownership and identity information permanently.

76. The retention requirements in case of dissolved banks and insurance companies are clarified through the Law on Banks. The National Bank of Serbia must approve the bankruptcy or liquidation of a bank or insurance company (Law on Bankruptcy and Liquidation of Banks and Insurance Undertakings, Art. 2 and 3), and the Deposit Insurance Agency performs the function of the bankruptcy or liquidation administrator – the same role as described in the previous paragraph (Art. 6). As such, the Deposit Insurance Agency will be subject to the CA requirements described above and has to maintain the records of the bank that has ceased to exist for at least five years (i.e. which is the minimum retention period prescribed in the CA).

Implementation in practice

77. The Business Register is an electronic register of entities that is publicly available. Applications to register a new company can be submitted in person to the SBRA, by mail or online. The registrar of the SBRA is responsible for inspecting the application and providing a decision on whether the legal person is to be registered and formed, or the changes to the company registration requested are to be accepted (CA, Art. 6-7 and 16).

78. Several automatic electronic checks are carried out to ensure that all fields in the application form have been completed, for example ensuring that the minimum share capital is more than RSD 100 (EUR 0.8) prescribed in company law, and that domestic and foreign citizens provide an ID number in the correct format. Once the fields are complete and the application is submitted, a notification is sent electronically to the Tax Administration and central registry of compulsory insurance, and a Tax Identification Number (TIN) and Social Security Number (SSN) are assigned. The TIN and SSN are then provided electronically to the SBRA.

79. Currently, there are electronic links between the Tax Administration database and Business Register, allowing penalties imposed by the Tax Administration to be published by the SBRA, and registration prohibited where it is appropriate to do so. Banned directors may also be prevented from becoming directors due to these automatic checks. Information on the granting of licences is also available to the SBRA, enabling the SBRA to reject registration applications when a licence has not been given, for example for applications for financial institutions.

80. On application of registration of a new company, a notification of registration (subject to the verification) is issued to the applicant,[11] which is also published on the SBRA website. Applications are then verified by legal experts to confirm that the appropriate information has been provided, that there is no other company with the same name, and that there is no reason that the company should not be formed (for example if a bank is being formed it has the word “bank” in its company name). A response must be issued determining whether the application has been accepted within five days, and if a response it is not issued, the application is automatically accepted (Law on Process for Registering with the SBRA, Art. 15 and 19). There are 56 scanning operators and 44 legal experts in total, responsible for processing and checking applications across all 24 registers overseen by the SBRA, including the Business Register.

81. Requests to update registered information, such as shareholder information, are checked in a similar way. For example, the SBRA’s team of lawyers would check that there is a shareholder agreement in place when an application to amend the shareholding of a company is made, and checks would take place to ensure that the company in question is not subject to a process of bankruptcy or liquidation.

82. Overall, legal ownership and identity information on companies is accurate thanks to combination of the incentives on shareholders to provide accurate information so that legal ownership will be recognised and they can enjoy the benefits associated with ownership, and the checks that are taking place as described above including automated ones. The verification of signatures by notaries on the documents submitted as part of the registration process also contributes to their accuracy, as it ensures that identity information is accurate. In addition, the Registrar can revoke an initial decision by the SBRA to form a company, to accept changes in its registered details (change in shareholder, company representative, etc.), or accept supporting documents (Law on Registration Procedure with the SBRA, Art. 30). The decision to revoke can take place *ex officio* within a period of 12 months after publication of the original registration information in the Business Register, with the information or document in question deleted and the previous state of the company reinstated. The person who registered the information is informed when the information is deleted and is able to appeal.

83. Separate to the information available from the register, there are requirements, as above, on companies to maintain information on their ownership themselves. The accuracy of information is verified indirectly by

11. There are 23 individuals, all based at the central unit of the SBRA in Belgrade, and 33 based across the 13 regional offices of the SBRA, who are responsible for processing new applications.

the tax authority through tax inspections when they occur. However, during the review period, no actions to sanction inaccurate or incomplete information in the shareholder register held by companies were taken following a tax inspection. Given that the SBRA is ensuring the reliability of information furnished under the Business Register and that legal entities may be subject to a tax audit where the obligation to maintain ownership information is checked, the lack of sanctions in practice does not represent an impediment to the availability of legal ownership information in Serbia.

Tax law requirements

84. There are no specific requirements in tax law in Serbia for companies – whether domestic or foreign – to provide shareholder information when registering with the tax authority or when filing a tax return, although some information may be available through the course of tax inspections as part of the records for taxation that have to be maintained by the taxpayer and that may be inspected and requested by the Tax Administration or from withholding tax returns on which details of the shareholders to whom distribution of dividends was made. The requirements associated with the legal ownership information of foreign legal persons are important as they are the predominant mechanism Serbia has to collect information on foreign companies with a sufficient nexus with Serbia when those foreign companies have not registered a foreign branch, moreover since registering a foreign branch is not mandatory for foreign companies operating in Serbia.

85. The requirements on foreign legal persons active in Serbia are contained in the Law on Tax Procedure and Administration (LTPTA). All resident legal entities (i.e. incorporated in Serbia or with their place of effective management in Serbia) and non-resident legal entities with a permanent establishment in Serbia,[12] must register with the Tax Administration (Art. 27). Therefore, all foreign legal persons with a sufficient nexus with Serbia, as defined by the standard, must register with the Tax Administration. However, registration requires only basic information about the entity, such as the name of the representative, their contact details, name of the company, its type, the country where the entity is registered and its registration number (i.e. it does not include information on its legal owners).

86. Serbia is an attractive location for foreign companies to set up operations (see paragraph 23). Some information associated with foreign companies who choose to register branches in Serbia is maintained by the Business Entities Register, including BO information from the Register of Beneficial Owners. Legal ownership information may also be available

12. A permanent establishment is an office, branch, place of management, or physical premises where activities are carried out.

through the course of tax inspections, conducted on a risk sensitive basis (limited to the tax liabilities of the foreign companies in Serbia). Some information may be available through CDD that is conducted by banks since foreign companies with a registered branch in Serbia that are active in Serbia must have a bank account in Serbia. Serbia authorities explained that foreign entities with no registered branches will also open a bank account in Serbia. However, there are no legal requirements to ensure that complete legal ownership information of foreign entities that have not registered a foreign branch in Serbia but that still have their place of effective management in Serbia would be available in all cases. **Serbia is recommended to ensure that adequate, accurate and up-to-date legal ownership is available on all foreign companies with a sufficient nexus with Serbia that have not registered their branch in Serbia**.

Anti-Money Laundering requirements

87. Key sectors for the implementation of EOIR are captured under the AML/CFT Law in Serbia, including financial institutions such as banks, lawyers, auditors and accountants. The relevant requirements in the AML/CFT law on legal ownership and identity information relate to customer due diligence obligations that all the AML obliged persons must fulfil. These obligations require them to identify and verify the identity of their customers, including identity of the beneficial owner(s) of legal persons (AML/CFT Law, Art. 7). These requirements capture legal entities operating in or outside Serbia and registered branches of foreign entities operating in Serbia, as all of them must open a bank account with a regulated payment service provider (Law on the Execution of Payments of Legal Persons, Entrepreneurs and Natural Persons not performing a Commercial Activity, Art 2) (Law on the Execution of Payments)). Serbian authorities state that foreign entities with no registered branches will be obliged to open a bank account in Serbia if they are registered with the tax administration.

88. These obligations extend to the need to take reasonable measures so as to know at any time the ownership and management structure of the legal person that is a customer, meaning that information may also be available on the shareholders of the entity (AML/CFT Law, Art. 25). This information may not represent complete legal ownership information of the customer, but provides an additional source of legal ownership information to an extent that may complement the other sources described above, if necessary, when Serbia is responding to an EOI request.

Nominees

89. Serbia does not recognise the concept of nominee shareholders in its legal framework. Ownership is defined by the Law on Foundations of Property as a natural or legal person who is entitled to possess, use, and dispose of property (Art. 3). Therefore, the person registered in the shareholder register would be considered the legal owner, and would solely be entitled to dispose of their holding in the company.

90. The Fifth Round MONEYVAL Mutual Evaluation Report from 2016 did not identify any particular issues with regards to nominee shareholders, neither does the latest National Money Laundering Risk Assessment and National Terrorism Financing Risk Assessment as issued by Serbia in 2018.

Legal ownership information – Enforcement measures and oversight

91. Serbia has severe sanctions in place for providing false or falsified information on legal ownership and identity information to the Business Register, and for companies in the register that are inactive and are not declaring themselves as such. However, Serbia is only making use of the latter, and does not have a range of sanctions available for lesser offences for providing late or inaccurate submissions to the Business Register.

92. There are relatively severe penal provisions contained in the Companies Act that may only be brought against natural persons when these are submitting false or falsified documents as part of the registration processes of the SBRA, with a prison sentence of three months to five years available (Law on Process for Registering with the SBRA, Art. 45). A charge has never been brought.

93. A range of fees have been set for registering new companies, for updating registered information (such as shareholders), and for other services such as the issuance of certified excerpts (Decision on Fees for Registration and Other Services provided by the SBRA). The fee for incorporating a company is RSD 6 500 (approx. EUR 55), with a lesser fee for electronic applications of RSD 5 900 (EUR 50). Fees are also due for registration of a change of shareholder of RSD 350 (EUR 3) per shareholder for paper applications and RSD 300 (EUR 2.6) for electronic applications, in addition to a fee of RSD 3 100 (EUR 26) for each application for a change in registered information (RSD 2 800 or EUR 23.9 for electronic applications). These fees act as an incentive to persuade applications to be submitted completely and correctly, avoiding a second application and the associated registration fee being paid again. Nevertheless, there are some gaps in the penalties available. There are no penalties available for late filing of updates, and there are no penalties available for legal persons themselves.

94. However, Serbia has taken other courses of action to correct areas where systematically inaccurate information has been identified. Amendments to the Companies Act, in effect as of June 2022, provided additional specificity as to the exact location of company offices (including the town, street, house number, floor and apartment number), in response to companies using fake or fictitious registered addresses. Amendments to the law in 2021 also provided a process for any person to contest the address of a head office of a company if they do not believe it is legitimate.[13]

95. In terms of the enforcement and oversight mechanism of obligations on companies to maintain shareholder and identity information, the tax authority is empowered to identify discrepancies through its usual tax auditing of companies that are failing to file, or incorrectly filing, tax returns. The Tax authority is therefore actively checking the shareholder information required to be kept by companies, but it is not possible to clearly identify how often a rectification of an error on keeping of ownership information was required as it forms part of the entire audit report and could not be extracted. In addition, Serbia is also ensuring that unregistered businesses are detected and brought back into the system. During the review period, it conducted 299 audits which led to identifying unregistered businesses which all ended up registering with the Tax Administration.

96. Serbia has in place a dissuasive sanction that limits the number of inactive companies that have not registered as such through a process of compulsory liquidation. Although there is no formal category of "inactive" company in Serbia – all registered companies are considered active – companies should submit a statement of inactivity in place of financial statements if there has been no business activity over the previous financial year. One of the justifications that can be used to initiate compulsory liquidation is failure to submit annual financial statements up to the end of the previous year for two consecutive years (CA, Art. 546 para 10). Annual inactivity statements are required to be submitted by companies or their representatives for inactive companies in place of annual financial statements if they are legitimately dormant.[14] Therefore, compulsory liquidation can be

13. Article 3 of the Law on Amendments to the Company Law (Official Gazette of the RS, no. 109/2021) amended the provisions of Article 19 of the Company Law.

14. Other justifications for compulsory liquidation are that a company does not appoint a legal representative, a company is in liquidation without a liquidation manager or failing to submit information on liquidation to the register (i.e. an incorrect liquidation process), non-compliance with a court ruling to change the name, address or other information such as the Memorandum of Association, the time period has expired for an LLC formed for a limited amount of time, a company does not have the appropriate licence it requires to carry out, or a partnership has one or no partners registered (Art. 546). These factors may also indicate that a company is inactive, as the company is not complying with its obligations. Therefore pursuing compulsory

pursued for companies that are neither submitting financial statements or inactivity statements.

97. Once a company has been dissolved it cannot be reinstated. Compulsory liquidation both dissolves the company and renders the shareholders of an LLC or JSC (or limited partners in a partnership)[15] responsible for the liabilities of the company up to the amount received from the liquidation surplus – i.e. the aggregate net liability once the assets have been realised. This makes the actual or perceived threat of compulsory liquidation a dissuasive sanction for most companies particularly those with larger balance sheets and more significant liabilities.

98. In 2019, Serbia began routinely pursuing compulsory liquidation for LLCs, partnerships and JSCs (see table below on the numbers of compulsory liquidation cases), resulting in proceedings against around 25 000 companies in that year, around 20% of the total population of LLCs, partnerships and JSCs registered at the time. The SBRA has informed that all but around 1 000 have been successfully liquidated to date. In 2020 and 2021, compulsory liquidation proceedings were initiated against a further 5 600 and 4 300 LLCs and JSCs respectively, around 5% and 3.5% of the population of those companies in 2020 and 2021 respectively.

99. The significant decrease in the numbers of proceedings after 2019 demonstrates the impact of compulsory liquidation on the population of inactive companies that are not declared as such. Nevertheless, a relatively material number and proportion of the population still faced compulsory liquidation in 2020 and 2021 (see table below). Serbia explained that since there was a backlog from previous years, the number of compulsory liquidations would continue to be material until it was handled completely. Nevertheless, the decreasing numbers overall suggest that compulsory liquidation is an effective sanction for companies that are not declaring themselves as inactive when they should be doing so.

liquidation in these circumstances may also help purge the company register of inactive companies not declared as such.

15. General partners are by definition liable for the liabilities of the partnership.

Numbers of cases of compulsory liquidation (by reason)*

	2019	2020	2021
Limited liability company	**1 199** (no representative) **143** (incorrect liquidation process) **22 120** (no financial statements) **1** (no change of registered info following direction) **0** (no licence) **2** (time period expired)	**1 240** (no representative) **430** (incorrect liquidation process) **3 979** (no financial statements) **2** (no change of registered info following direction) **1** (no licence) **0** (time period expired)	**813** (no representative) **251** (incorrect liquidation process) **3 106** (no financial statements) **1** (no change of registered info following direction) **1** (no licence) **2** (time period expired)
Partnership (general)	**8** (no representative) **12** (incorrect liquidation process) **558** (no financial statements) **26** (only one partner)	**6** (no representative) **4** (incorrect liquidation process) **8** (no financial statements) **3** (only one partner)	**6** (no representative) **7** (incorrect liquidation process) **61** (no financial statements) **4** (only one partner)
Partnership (limited)	**1** (no representative) **1** (incorrect liquidation process) **67** (no financial statements) **1** (only one partner)	**0** (no representative) **2** (incorrect liquidation process) **1** (no financial statements) **2** (only one partner)	**1** (no representative) **0** (incorrect liquidation process) **13** (no financial statements) **0** (only one partner)
Joint Stock Companies (private)	**25** (no representative) **5** (incorrect liquidation process) **85** (no financial statements) **0** (no licence)	**13** (no representative) **1** (incorrect liquidation process) **2** (no financial statements) **1** (no licence)	**6** (no representative) **1** (incorrect liquidation process) **36** (no financial statements) **0** (no licence)
Total	**24 254**	**5 695**	**4 309**

* Foreign offices are not required to submit financial statements or inactivity reports. Compulsory liquidation proceedings have not been initiated against foreign branches.

100. There are legal avenues enabling the retrieval of legal ownership and identity information relating to compulsory liquidated companies as showed under the part dealing with Companies that cease to exist.

Availability of legal ownership information in EOI practice

101. Serbia received 16 requests on legal ownership information over the review period. Those requests concerned information on both companies and partnerships as the data kept by the Competent Authority does not distinguish between these two types of Serbian legal persons. All peers who submitted peer input reported that they were satisfied with the content of the response provided by Serbia.

Availability of beneficial ownership information

102. The standard was strengthened in 2016 to require that BO information be available on companies. In Serbia, this aspect of the standard is met through three separate requirements – the AML/CFT requirements for financial institutions and non-financial professionals subject to obligations under the AML/CFT Law, and obligations for companies to maintain information on their beneficial owner on the first hand and to report this information to a BO Register on the second hand. Both legal regimes governing these three requirements are analysed below.

Companies covered by legislation regulating BO information

Type	Law on the Central Records of Beneficial Owners (LCRBO) – Central Register	Law on the Central Records of Beneficial Owners (LCRBO) – Companies	Tax Law	AML Law (CDD)
Limited liability company	All	All	None	All
Partnership (general)	All	All	None	All
Partnership (limited)	All	All	None	All
Joint Stock Companies (private)	All	All	None	All
Foreign branches (tax resident not registered with SBRA as a branch)	None	None	None	All[16]
Foreign companies (with registered branches)	All	All	None	All

Definition of beneficial owner

103. There are two definitions of beneficial owner in Serbia, one in the AML/CFT Law, and the other in the LCRBO that provides for the BO information in Serbia. The two definitions are aligned and are in line with the standard. Articles 3 of both the LCRBO and AML/CFT Law are reproduced below:

> ***Article 3 of the LCRBO***
>
> 3) the beneficial owner of the Registered Entity is:
>
> (1) a natural person, who is indirectly or directly the holder of 25% or more of the ownership interest, shares, voting

16. Where a foreign company has a sufficient nexus, then the availability of BO information is required to the extent the company has a relationship with an AML-obligated service provider that is relevant for the purposes of EOIR. (Terms of Reference A.1.1 Footnote 9).

rights or other rights, based on which he/she participates in the management of the Registered Entity, or participates in the capital of the Registered Entity with 25% or more of the ownership interest;

(2) a natural person, who indirectly or directly exerts dominant influence over the conduct of business and decision-making;

(3) a natural person, who indirectly secures or is securing funds for the Registered Entity and thereby exercises dominant influence on the decision-making of the management body of the Registered Entity when deciding on financing and business operations;

Article 3 of the AML/CFT Law

Beneficial owner of a customer means the natural person who owns or controls the customer, indirectly or directly […];

Beneficial owner of a company or other legal person means the following:

a natural person who owns, indirectly or directly, 25% or more of the business interest, shares, voting rights or other rights, based on which they participate in controlling the legal person, or who participates in the capital of the legal person with 25% or more of the interest, or a natural person who indirectly or directly has a dominant influence on business management and decision-making.

a natural person who has provided or provides funds to a company in an indirect manner, which gives him the right to exercise dominant influence on the decisions made by the managing bodies of the company concerning its financing and business operations.

104. References to participation and indirect control covers the scenario where two or more natural persons may jointly exert control also clarified in enforceable guidance.[17] Dominant influence is defined in the guidelines for identifying the beneficial owner as having the *absolute right* to take a decision or right to veto a decision on a legal person's financial and business policy, such as adoption or modification of the company's business plan, change in line of business, legal form of the company, decisions on

17. Guidelines for identifying the Beneficial Owner of the Customer and Guidelines for entering the Beneficial Owner of a Registered Entity into the Centralised Records as issued by the Administration for the Prevention of Money Laundering on 24 February 2020 under reference Ref. No. OP-000329-0019/2019.

borrowing, decisions on dividends and other types of distribution of profits and right to appoint the majority of directors or members of an advisory board. This is consistent with the standard's concept of "ultimate effective control". Serbia confirmed that this list was not an exhaustive list and those were only providing a series of examples (including those in the previous sentence). It is therefore enabling its interpretation in a variety of structures and situations. In addition, "right" can be considered an informal "right", therefore also capturing the aforementioned types of relationship, which can be informal. This interpretation is also the one taken by Serbia and was confirmed during the discussion held at the onsite visit.

105. According to the guidelines, indirect control is defined as situations whereby a natural person can exercise a dominant *influence* on decisions made by the managing bodies of the company in relation to decisions on financing and business operations, while not being "visible" in the ownership structure. This covers essentially the aspect of control through other means.

106. While the third and second clause of the definitions above outline the specific situation whereby a person has provided funds in an indirect manner, resulting in them gaining dominant *influence* over the decisions made by managing bodies of the company in relation to its financing and business operations, this does not constrain other examples of indirect control. For example, control exerted through a family connection, associate, or contractual relationship would be covered given the broad definition of dominant influence and indirect control in the previous clause. Such instances would be examples of exercise of control through other means. This is confirmed by Serbia.

107. When identifying the beneficial owner, AML obliged persons must follow a series of steps (see below), ultimately identifying the one or more natural persons who are senior managers if they are unable to identify the beneficial owner (AML/CFT Law, Art. 40).

Anti-Money laundering Law requirements

108. Requirements in the AML/CFT law place obligations on all AML obliged persons to conduct customer due diligence (CDD) to identify and verify the beneficial owner, update the information based on risk, and maintain records for a minimum of 10 years. A sanctions regime is in place for all of these sectors.

109. Legal persons (and entrepreneurs) must open a bank account in Serbia to facilitate their business (Law on the Execution of Payments, Art. 2), meaning that all companies formed in Serbia and conducting business activity whether in or outside of Serbia must have a business relationship with a bank, and the bank must undertake the above CDD

measures. These obligations extend to legal entities formed outside of Serbia when they are operating in the country through a registered foreign branch registered with the SBRA. According to Serbia, foreign companies with a sufficient nexus which do not conduct business in Serbia will also have to open a bank account in Serbia.

Customer Due Diligence obligations

110. All AML obliged persons are required to identify and verify the beneficial owner of a customer that is a legal person when establishing a business relationship with the client, when carrying out a transaction that exceeds EUR 15 000 (RSD 1.76 million) in cases where a business relationship has not been established, when executing a wire transfer in excess of EUR 1 000 (RSD 117 000), when there is suspicion of money laundering or terrorist financing, or when there are doubts as to the veracity or credibility of the customer or beneficial owner (AML/CFT Law, Art. 7 and 8).

111. Identification of the beneficial owner when forming a customer relationship is not linked to risk, and therefore must occur for all new customers that are legal persons. Simplified due diligence may be performed when the nature of the business relationship, form or manner of the transaction, customer business profile, or other circumstances related to the customer, poses insignificant or low level of money laundering or terrorism financing risk. However, whether or not simplified due diligence is performed by the AML obliged person, the BO must be identified (Art. 43). CDD in all circumstances requires the AML obliged person to establish the purpose and intended nature of a business relationship, as well as information on the type of a customer's line of business and business activities (Art. 43 and Art. 99). The AML obliged person must take reasonable measures to enable them to know at any time the ownership and management structure of the customer and its beneficial owners (Art. 25).

112. Identification and verification of the beneficial owner occurs through the process of the AML obliged person obtaining the name, surname, date and place of birth, and permanent or temporary address and country of residence of the beneficial owner independently (Art. 25). They must obtain this information from the following sources directly and in sequence (Art. 25):

- Obtain the identification and permanent or temporary address and country of residence evidencing documents issued within the previous three months for legal persons registered in Serbia and six months for a foreign legal person. The documents or certified copy must be sourced from a register maintained by the country where the legal person has a registered office, or another official public register where the company has a registered office.

- If it is not possible to obtain all of the necessary information from a company register, a public or commercial register can be used.
- If neither of the above two avenues provides the information required, the obliged entity may ask the representative of the legal person to submit the missing information on the beneficial owner, providing an original or certified copy of another document associated with the business (for example founding contracts or acts, article of association, governing or supervisory board decisions, shareholders' contracts, annual reports etc. as set out in guidelines for identifying beneficial owners).
- If there is a specific reason why the information above cannot be obtained, or there are doubts about the veracity or credibility of the documentation provided, the obliged entity may ask the customer to provide a written statement.
- Having undertaken all the actions above, if the obliged person is still unable to identify the beneficial owner, it may identify one or more natural persons who are senior managers.

113. In order to verify the identity of the beneficial owner, the Article 25 of the AML/CFT Law requires the AML obliged person to undertake reasonable measures as to know at any time the ownership and management structure of the customer and its beneficial owners. The AML/CFT Law clarifies that AML obliged persons cannot merely rely on the BO Register and are still bound by the obligation to take actions and measures for identifying the beneficial owner. This is confirmed and further elaborated under the binding guidance.

114. The binding guidance states that the AML obliged persons shall obtain relevant documentation (e.g. decisions, excerpts, printed statements or business documentation) used for identifying the beneficial owner of the customer and/or the obligation to identify the beneficial owner. The BO Register only provides AML obliged persons with information on the beneficial owner and not on the entire ownership structure of the customer, the latter being a requirement for the obliged entity to establish, verify and document. The AML obliged person must therefore go through the additional steps outlined above to independently identify this information.

115. Enhanced due diligence should be applied in high-risk cases, which include "offshore" legal persons, defined as foreign legal persons which do not operate or may not conduct business activity in the State of its registration (Art. 3, para 3 bullet 22). The type of enhanced measures applied is required to be commensurate with the risks identified (Art. 6) and actions and measures beyond identification and verification of the customer and its BO will vary depending on the high-risk cases. In the case of "offshore

legal persons", among the most EOI pertinent measures to be taken, the AML obliged entity has to collect information on and analyse the ownership structure of the legal person. If the structure is also considered "complex", a statement must be obtained from the beneficial owner or legal representative of the customer for the reasons for existence of the structure (Art. 40).

116. During a business relationship, the identity of the customer must be updated on a risk basis and when there is a change in the circumstances of the customer (Art. 8), for example a change in the operations of the business, the identity of the customer or beneficial owner, or the purpose or intended nature of the business relationship between the customer and obliged person. No frequency for updating CDD/BO information is specified in law, but Serbia explained that this would be specified in the banks internal acts. In practice, most frequent periods are five years for low risk, two years for medium risk and up to one year for high-risk customers, as confirmed during the onsite visit by the bankers interviewed. However, and although the obliged entity is expected to conduct its CDD actions and measures at a frequency and intensity that is in line with the assessed risk and changed circumstances of the customer, there are no minimum frequency legal requirements. **Serbia is recommended to ensure that up-to-date BO information is available for all relevant legal entities in accordance with the standard**.

117. AML obliged persons are required to keep data and documentation on their customers, business relationships established with their customers, and risk analysis conducted for at least 10 years from the date of termination of the business relationship or execution of a transaction, whichever is later (Art. 95). This includes documentation of the actions that AML obliged persons take when verifying the beneficial owner (i.e. the steps taken as described above), and the reasons why subsequent steps were taken if the beneficial owner cannot be verified under the first (Art. 25). In case the AML obliged person ceases to exist (or dies if it is an individual), the appointed legal successor will keep the records for the duration of the prescribed retention period (i.e. ten years).

118. AML obliged persons may rely on third parties to carry out CDD, including due diligence relating to the beneficial owner of customers (Art. 30). If a third party carries out CDD on behalf of an obliged entity, whether in Serbia or a third country, they would be required to ensure that the measures taken are consistent with the AML/CFT Law (Art 30) – i.e. the AML obliged person is ultimately responsible. Relying on a third party that is an offshore legal person, anonymous company[18] or shell bank is not

18. Defined as a foreign legal person whose owners or persons controlling it are unknown (AML/CFT Law, Art. 3).

permitted (Art. 31). The third party must submit the information gathered through the process of CDD without delay to the obliged entity and must provide the supporting documentation without delay when requested to do so by the AML obliged persons (Art. 32).

119. Sanctions for AML obliged persons who fail to meet the requirements are set out in the AML/CFT Law for accountants and auditors, whereas sanctions for lawyers for instance are provided for in their respective sector-specific laws. The sanctions set out in respective laws may be applied to each specific deficiency identified in a cumulative manner.

120. The sanctions available in the AML/CFT Law for accountants and auditors are as follows:

- A fine of RSD 1 000 000 to RSD 3 000 000 (EUR 8 547 to EUR 25 641) when the AML obliged persons is a legal person, for failures to identify the beneficial owner of a customer (Art. 117, para 1 bullet 1). A fine in this range may also be applicable for failures to keep data and documentation for the required period of 10 years following the termination of a business relationship (Art. 117, para 1 bullet 8). A fine of RSD 50 000 to RSD 200 000 (EUR 427 to EUR 1 709) can also be applied to the responsible natural person (Art. 117).
- Fines in the same range can also be applied for a failure to inspect the sources of information prescribed when identifying and verifying the beneficial owner (Art. 118, para 2 bullets 22 and 23), with fines of RSD 10 000 to RSD 150 000 (EUR 85 to EUR 1 282) available for the responsible natural person. Similar fines can be issued for other failures to comply with the AML/CFT Law with relevance or ensuring accurate and up to date information is available, such as updating CDD information (Art. 118).

121. A fine of RSD 10 000 to RSD 150 000 (EUR 85 to EUR 1 282) is applied in line with Article 121 of the AML/CFT Law if a lawyer or notary fails to establish whether the customer or legal entity appearing in the ownership structure of the customer is an offshore legal entity. The same fine applies if any fail to keep records of customers gathered through the course of CDD.

122. There is a sanctions regime for banks set out in the Law on Banks. The NBS can impose the following sanctions, as well as written warnings and orders to eliminate irregularities with deadlines for execution for breaches under the AML/CFT Law, including the failures to correctly conduct CDD, identify and verify the beneficial owner, and a failure to keep records appropriately (Law on Banks, Art. 113-117):

- fines of up to 10% of the banks' revenue for the previous year

- fines for the members of the bank's management and executive board of at least their average monthly wage and no more than 12 times their average monthly wage and/or the remuneration of the individual received over a period of three months revocation of licences in the most extreme cases.

123. The above is a set of proportionate and dissuasive sanctions for the above key sectors, however, there are gaps in the sanctions that can be applied to lawyers and public notaries, as there are no sanctions available for failing to identify and verify the beneficial owner of customers. Given the requirement for all active legal entities to maintain a bank account in Serbia, including foreign entities and partnerships with a registered branch, and relevant foreign entities without registered branches, the availability of BO information with the banking sector is wide enough to mitigate the gaps that exist for lawyers. However, since lawyers may still be a source of BO information relevant for foreign trusts which may not hold bank accounts domestically, Serbia should ensure there are effective proportionate and dissuasive sanctions for lawyers' failure to conduct CDD, including the identification and verification of the BO (see Annex 1).

Anti-Money laundering Law: Implementation and enforcement

124. Serbia is carrying out risk-based supervision for key sectors including banks, accounting services, lawyers and auditors. Supervisors have also issued sanctions, including on the verification of BO information.

125. Supervision for the implementation of AML/CFT requirements in Serbia is carried out by the following supervisors or self-regulatory bodies that have particular relevance for EOIR.[19]

- The National Bank of Serbia supervises banks and other payment institutions (as well as most other financial institutions).
- The Security Commission supervises auditors.

19. Public Notaries are supervised, therefore being less relevant for EOIR by the Chamber of Public Notaries, responsible for AML/CFT supervision in relation to real estate transactions as well as functions relating to verifying the signatures on documents, therefore being less relevant for EOIR. Tax Advisors are currently not supervised under the AML/CFT Law. Their role as defined under Article 17 of the LTPTA is confined to providing tax advisory services in the course of a tax procedure such as an appeal against a tax act taken by the tax administration. They do not conduct any comparable type of activities as lawyers such as incorporating entities, or managing assets of a customer, and although they may, in the course of their advisory activity, be in possession of records of the taxpayer, they do not prepare those records, therefore being less relevant for EOIR.

- The Administration for the Prevention of Money Laundering (or APML), the FIU of Serbia, supervises accounting services.[20]
- The Bar Association of Serbia supervises Lawyers.

126. All supervisors are required to apply a risk-based approach to supervision (AML/CFT Law, Art. 104). The APML and NBS' frequency of onsite and offsite inspections takes into account tax evasion, classified as high risk in Serbia's 2018 National Risk Assessment of Money Laundering and Terrorist Financing. During onsite inspections, supervisors conduct spot checks to check that customer due diligence, including on the beneficial owner, has been executed appropriately. Offsite inspections involve issuing a questionnaire and inspection of the responses received. However, it is unclear whether the Bar Association takes the same approach for lawyers.

127. The sanctions regime for the APML requires a petition to a court, and the APML was able to successfully execute sanctions over the review period. Eight penalties were issued during the three-year period of review, including two penalties for failing to correctly establish the identity of the beneficial owner of clients.[21] The Bar Association of Serbia identified deficiencies in the verification of BO information by lawyers in one case. It is not clear whether any sanctions were issued in this case, although the Bar Association raised a broader question around the practicality of the requirements in the AML/CFT law when verifying the identity of the beneficial owner of foreign registered legal persons in particular (see below). The Bar Association explained that it was unable to conduct supervisory activities in 2020 and the first half of 2021 due to the impacts of the COVID-19 pandemic.

128. The NBS supervised 21 banks during the review period (20 since April 2023). During the three-year review period, NBS carried out nine onsite inspections of banks, and ten follow-up inspections to verify whether deficiencies previously identified had been addressed. NBS also carried out 204 off-site inspections during the three-year period. As of 2022, the NBS gained direct access to the BO Register, helping facilitate checks as parts of its supervisory activities (although it still had manual access via the public website during the review period).

20. Since December 2019. Before December 2019, APML was the supervisory authority for auditors.
21. With two deficiencies directly relating to failures to identify BO information, leading to fines of RSD 1 125 000 (EUR 9 615) for the legal person and RSD 10 000 (EUR 85) for the responsible natural person in the first instance; and 230 000 RSD (EUR 1 960) for the legal person and RSD 3 000 (EUR 25) for the responsible person in the second.

129. Although the beneficial owner was identified in every case when checked by the NBS as part of on-site visits, 4 banks in 27 separate cases did not use independent sources to verify the beneficial owner as required. All deficiencies were followed-up, with warning letters sent to each bank, and administrative fines issued between RSD 1.1 million (EUR 9 401) and RSD 5.05 million (EUR 43 162), totalling RSD 12.7 million (EUR 108 547). The penalties imposed for failures to verify the beneficial owner are mostly for failures to verify the beneficial owner of legal structures involving multiple entities, or where the beneficial owner is unclear, requiring a statement verified in person by a notary in Serbia.

130. While several banks had experience identifying and verifying the control structure of legal persons with more complex structures, this was not the case for other AML obliged persons. Although AML obliged persons including banks, sometimes took all board members of companies to be the beneficial owner (by virtue of control) without closer inspection and a more nuanced determination of the natural person that may be controlling the entity and therefore the beneficial owner, banks displayed a general understanding of the concept of control, providing examples of the analysis undertaken to identify and verify the beneficial owner.

131. There is a reliance on inspecting the SBRA Registers when AML obliged persons verify the beneficial owner, including when identifying and verifying the ownership and control structure. While Serbia has taken several steps to help ensure that the contents of its Business Register contain adequate accurate and up to date identity and legal ownership information on companies, that in turn will help verify the ownership and control structure, this may not be the case in other countries. Serbia (and its financial institutions) cannot rely on the fact that other countries' company registers and BO registers, for those that have them, are subject to adequate oversight to ensure the accuracy of their contents. There are also weaknesses in the extent that the BO Register in Serbia is populated, as neither verification nor monitoring or supervision of the register is being carried out in Serbia. (see paragraphs 146 to 149)

132. As described above (paragraph 116), Serbia reported that banks check CDD information once a year for higher-risk clients, every two years for medium risk clients and every five years for lower-risk clients and that this practice is included in their internal policies. The NBS confirmed it would check whether BO information is updated in accordance with the internal policy when conducting its supervisory activities. However, there is no set minimum frequency notified to the AML obliged persons for high, medium or low-risk customers and NBS would only supervise that banks' internal acts prescribe periods for updating CDD in the scope and frequency that corresponds to the estimated degree of risk of money laundering and terrorist financing, as well as whether the bank acts in accordance with their internal

acts. There does not seem to be any minimum expectations being communicated to the AML obliged persons on what the cycle of review should entail in high, medium and low risks. There has been no clear evidence either of remedial measures taken by NBS when the AML obliged person is deviating from it. **Serbia is recommended to ensure that up-to-date BO information is available for all relevant legal entities in accordance with the standard**.

133. Supervisors for other AML obliged persons confirmed a similar frequency of update is applied in practice. Given that the AML/CFT Law requires that enhanced due diligence is applied when a legal person appearing in a customer's ownership structure is an offshore legal person, this may also encourage the more frequent updating of CDD information collected for these types of structures as part of enhanced customer due diligence actions and measures the AML obliged person integrates in its internal policy (Article 35 of the AML/CFT Law). Nonetheless, there were some weaknesses in understanding of the risks associated with legal persons displayed by the private sector during the onsite which may in turn affect the frequency that BO information is updated (i.e. higher risk customers that are legal persons may not be considered higher risk, and therefore BO information may be updated less frequently).

134. Since 2020, the Securities Commission has been conducting quality control of audit companies and independent auditors and control under the Law on Prevention of Money Laundering and Financing of Terrorism. In the scope of their supervision, the two departments responsible have issued five decisions on elimination of irregularities and 17 warnings on audit companies and licensed authorised auditors as well as responsible persons in those audit firms in 2022 for audits conducted in 2021.

135. Most supervisors have conducted outreach with their respective sectors to ensure that there is a good level of understanding of the rules, as well as the importance of the identification and verification of BO information. However, given the outcome above, Serbia should reinforce its outreach activities and enhance its supervision to ensure that there is an accurate understanding of the beneficial ownership requirements and risks, and that up-to-date BO information is available throughout the course of the business relationship (see Annex 1). This is particularly important given the relatively recent changes to the system in Serbia with the introduction of a BO Register in 2018, on which the identification and verification of BO information by AML obliged persons has an impact.

Companies Law requirements

136. The BO Register, implemented by Serbia at the end of December 2018, represents a significant step, enabling BO information for all companies registered in Serbia to be available from a single source, with obligations also placed on companies to know who their beneficial owner is at any time. Appropriate record keeping requirements and a set of dissuasive and proportionate sanctions are also in place.

137. The LCRBO established the BO Register on 31 December 2018 – a public, electronic database containing information about all beneficial owners of legal persons registered in Serbia (Art. 3 para 1, Art. 17).

138. The legal persons that are required to register their beneficial owner(s) includes all the main types of legal persons that can be formed in Serbia within the scope of the review (LLCs, partnerships, private JSCs, and endowments – see below), as well as foreign branches.

139. The information that must be submitted to the BO Register includes the name, citizen number, and country of residence for Serbian nationals that are beneficial owners; and the name, passport number and country of issue and/or identity number, date of birth, country of residence and citizenship for foreign nationals that are beneficial owners (Art. 5). Legal persons, through their authorised representative, must submit the above information to the BO Register no less than 15 days from the point at which the legal person is established or there is a change in the beneficial owner(s) (Art. 7). Legal persons that were incorporated before the existence of the register had to submit information on their beneficial owner(s) before 31 January 2019 (Art. 15) with an extension subsequently provided to 31 January 2020 (Article 4 of the Law on Amendments of and a Supplement to the LCRBO). If a natural person is inaccurately recorded as a beneficial owner in the register, they may file a complaint to a competent court to rectify the content (Art. 11).

140. The entities covered by the LCRBO must keep appropriate, accurate and up-to-date information in order to enable the beneficial owner to be determined for a period of 10 years, making the information available to a competent authority or the National Bank of Serbia upon request (Art. 10). The LCRBO specifically requires that the entities covered update their BO information when there is a change in the ownership structure and members of bodies, as well as other changes that would trigger a new beneficial owner but does not prescribe them to periodically check whether their beneficial owners have changed. Nevertheless, there could be cases where there has been a change in beneficial ownership without the reporting entity being aware of such change. Absent a mechanism applicable to the beneficial owner to comply with the obligation to provide relevant information and documentation to the entity, such non-reporting is not adequately

dissuaded. This would in turn lead to situations where the available beneficial ownership information is not adequate, accurate and up to date. The AML legal and regulatory framework also do not provide for a specified frequency, although in practice AML obliged persons conduct a review of their CDD every year when the customer is high-risk, every two years when the customer is medium-risk and every five years for low-risk customers. In addition, due to an absence of an effective discrepancy reporting from AML obliged persons, NBS or APML to the SBRA, the BO register deficiencies may therefore not be compensated. **Serbia is recommended to ensure that adequate, accurate and up-to-date BO information is available for all relevant legal entities in accordance with the standard**.

141. The SBRA is responsible for maintaining the BO Register, and upon submission to the register of a new company or change in ownership, the Registrar must update it within two days (Art. 7). The SBRA is required to keep the information in the register permanently (Art. 10).

142. The SBRA is responsible for checking that companies have recorded information on the beneficial owner in the register on time (Art. 12). The SBRA may file a request to the relevant court to initiate misdemeanor proceedings against a company if it is found that it has not submitted information on the beneficial owner when it should have done (Art. 12), resulting in a fine of between RSD 500 000 and RSD 2 000 000 (approximately EUR 4 273 to EUR 17 094) (Art. 14). The competent court can issue a fine of between RSD 500 000 and RSD 2 000 000 (EUR 4 273 to EUR 17 094) to a company if the information in the register is found to be inaccurate, or if the company is not keeping adequate, accurate and up-to-date information on the beneficial owner (Art. 14). The responsible person of the relevant company may also be fined RSD 50 000 to RSD 150 000 (EUR 427 to EUR 1 282) (Art. 14). Deliberately concealing the beneficial owner's identity, or deliberately providing false information can result in a prison sentence of three months to five years (Art. 13). These are considered a set of proportionate and dissuasive sanctions.

Companies Law requirements: Implementation and oversight

143. Serbia has not yet implemented measures to verify or check the information in the beneficial ownership register. The table below provides statistics on the proportions of companies (including partnerships) submitting information on their BO to the BO Register. Relatively low proportions of companies submitted BO information in 2019. Serbia attributed this to it being shortly after the deadline for companies to submit their BO information for the first time (31 January 2019, later extended to 31 January 2020) and just over a year since the register was first introduced. Despite some

entities which have not submitted their BO information, this remains a low proportion of the total entities at stake (out of a total of over 138 000 entities concerned, over 114 500 have complied with their filing obligations). There is some increase in the proportions of companies submitting their beneficial owner in 2020 and 2021.

Percentage by type of entity with their BO in the register

	1 April 2019	1 April 2020	1 April 2021
General Partnership	49%	83%	84%
Limited Partnership	53%	82%	84%
Limited Liability Company	68%	86%	88%
Joint Stock Company (non-public)	79%	90%	90%
Branch office of a foreign company	66%	72%	71%

144. Companies may submit information on a natural person registered to represent the entity when the beneficial owner cannot be identified, including when there is insufficient information available to the company. However, information submitted on such registered natural person was only provided in a small number of cases, less than 3% of the total population for each company type during the review period for LLCs and Partnerships.

145. Over the reporting period no fines were pursued or issued by a competent court in response to a request from the SBRA for failure to file BO information. No information on the checks taken to verify the content of BO information or pursue penalties for failure to provide accurate information have been provided, and therefore it is assumed that these powers have not been exercised.

146. There are currently no processes in place to verify the accuracy of the information entered in the BO Register, or to ensure that changes in beneficial ownership are updated. Registered companies currently do not have to submit copies of the documents that were used to identify the beneficial owner. There are also no requirements on the companies to verify the accuracy and currency of the information recorded as the beneficial owner(s) in the register on a regular basis. However, some measures exist that could improve the reliability of information filed in the BO Register. According to the Guidance, where the AML obliged person establishes a business relationship with a newly established entity, AML obliged person should take the following steps:

1. check the information from the BO Register against the documentation presented to it by the customer in the course of the establishment of the business relationship, and when they do not

match, obtain an explanation from the customer's legal representative, and depending on the situation, do the following:

- collect additional documentation which confirms the registered owner is actually the beneficial owner
- if it is established that a wrong beneficial owner has been registered in BO Register, instruct the customer to correct the information within a certain deadline
- file a report to the APML.

2. establish a business relationship with the customer if it identified and verified the identity of the client's BO according to the AML/CFT Law, but take the action described above within 15 days following the date of establishment of entity.

147. The "Decision on the Guidelines for the Application of the Provisions of the Law on the Prevention of Money Laundering and Terrorism Financing for Obligors supervised by the National Bank of Serbia" (the Decision) states in its Article 12b that if the customer fails to correct the recorded data on the beneficial owner within a given deadline, based on the estimated risk of the customer, the AML obliged persons shall inform APML.

148. The Guidance and the Decision are the sole source for the above-mentioned obligations and is not supported under any provisions of the AML/CFT Law or the Law on Central Record of Beneficial Owners. There are no sanctions for failure to notify the customer to APML if there are inaccuracies between the information collected through the course of CDD and the information in the BO Register. Serbia explained that the NBS may also order the bank to notify the customer to NBS if it finds that there are differences in the information recorded by the bank and the information in the beneficial ownership register through the course of supervision. However, there are no requirements for the bank, NBS or APML to notify the SBRA or for the customer to amend the information in the BO Register when inaccuracies are identified. There are sanctions for inaccurate filing of information in the BO Register but since there is no Authority to impose those sanctions, nor any requirements to inform the SBRA that there has been inaccurate information filed, it is unlikely that the sanctions will be implemented and that the BO Register will be updated.

149. Given the above, and since the BO information under the BO Register is a key source of BO information, **Serbia is therefore recommended to put in place effective supervision and impose sanctions where necessary, to ensure that the information entered into the Register of Beneficial Owners is accurate, adequate and up to date**.

Availability of beneficial ownership information in EOI practice

150. Serbia reported it did not receive any requests for beneficial ownership information on companies during the review period.

A.1.2. Bearer shares

151. The Serbian legal system does not allow for bearer shares to be issued. The law on business companies, which pre-existed the Company Law, contained an explicit provision prohibiting companies issuing bearer shares (Art. 204). The Company Law currently in force recognises ownership of companies when the name of the legal owner – natural or legal person – is registered at the SBRA. Therefore, there is no possibility of an unnamed holder of a share holding the rights in the security.

A.1.3. Partnerships

Types of partnerships

152. Two types of partnership can be formed in Serbia – a general partnership (GP) and a limited partnership (LP). A GP has two or more partners, each accountable for the partnership's liabilities (CA, Art. 93). An LP has one or more "general" partners accountable for the partnership's liabilities, while the liability of the other partners (the "limited partners") is restricted to the capital invested in the partnership's shares (Art. 125). There are relatively few partnerships registered in Serbia (1 229 GPs and 198 LPs as of end of the review period), and almost all (around 95%) are micro partnerships, with fewer than 10 employees.

153. Partnerships, similar to LLCs and JSCs, acquire legal personality when they register with the Business Register (CA, Art. 3).

Identity information

154. Identity information on general and limited partners is available in Serbia from both the Business Register and from partnerships themselves.

155. To form a partnership in Serbia, a Memorandum of Association records the decision of incorporation by the partners (CA, Art. 11). The signatures of the partners included in the Memorandum of association are certified by a public notary. The Memorandum of Association also regulates the way that the partnership operates, setting out key information such as the name of the partnership and its intended activities, and is submitted to the SBRA as part of the registration process (CA, Art. 11). Changes to the Memorandum of Association for partnerships can only be made following a

resolution of a general meeting of the partners and must be registered with the Business Register (CA, Art. 12).

156. All partners, whether they are "general" or "limited" partners, whether they formed the partnership or joined it subsequently, must register with the Business Register. They must provide the following information when registering or joining a partnership (CA, Art 9 and 9a):

- For a natural person who is a resident of Serbia: name, gender, and unique identification number.
- For a natural person who is not a resident of Serbia: name, gender, passport number and country of issue, personal identification (such as identity card number and country of issue).
- For a Serbian legal person: business name, address of head office and registration number.
- For a foreign legal person: business name, address of head office, identification number or ID at registry where the company is registered and the country of registration.

157. Each partnership must also have a partnership agreement, agreed by all of the partners (CA, Art. 95). As the partnership agreement is a type of contract amongst partners and shareholders (where applicable), one of the partners or members is responsible for maintaining the partnership agreement (Art. 15). In addition to the information mentioned in the previous paragraph, the partnership agreement contains the following (Art. 94):

- the partnership's business name and registered address
- the partnership's predominant business activity
- the type and value of each partner's contribution.

158. General partners' contributions, consisting of work, services, or other contributions such as financial contributions, are reflected through ownership of shares in the partnership proportionate to their contribution, although this can be varied in accordance with the partnership agreement (Art. 96). Transfers of shares in a partnership must be done by means of a written agreement concluded by the transferor and the transferee, with the signatures certified by a notary (CA, Art. 97). A general partner may only transfer their share in the partnership to a third party (i.e. non-partner) with the agreement of all of the other partners, unless this is explicitly permitted within the incorporation agreement (CA, Art. 99). However, general partners must always play a role in managing the partnership's operations and represent the partnership, while limited partners are not permitted to play either of these roles (CA, Art. 131). Limited partners may transfer their shares to any other third party without requiring any permission (CA, Art. 129).

159. In addition to the partnership agreement, limited partnerships must have a limited partnership incorporation agreement stating the names of the partners along with their status as general or limited partner (CA, Art. 27). A limited partnership must also keep a record of the addresses of each of the limited partners (CA, Art. 128 and 144).

160. Information on the economic interest of all partners (i.e. their shareholding) of a general or limited partnership must be submitted to the SBRA when partnerships are registered via a submission of a bank certification detailing the payment of cash contributions or appraisal of non-monetary contributions (Rulebook on the content of the Business Register and Documents required for Registration, Art. 8 and 9). This information may also be able to be derived from the partnership agreement. The transfer of shares in general partnerships is conducted through the means of a written agreement between the transferor and transferee, with the share acquired on the day of registration (CA, Art. 97 98). The change in registration of shares in limited partnerships are also only recognised upon registration (CA, Art. 134).

Foreign partnerships

161. All foreign partnerships that carry on business in Serbia must have a branch and register with the SBRA. Hence, all identity information on such partnerships would be submitted to the SBRA and will be available to the Serbian authorities. Further, such partnerships would need to open a bank account if they have registered a branch with SBRA in all cases. However, there could be foreign partnerships that have income, deductions or credits for tax purposes in Serbia but may not be carrying out business in Serbia. For instance, they could have investments and asset holdings in Serbia. Serbian authorities explain that such foreign partnerships would need to appoint a tax proxy to register with the tax authority (Article 14 of the LTPTA) and will open a bank account to facilitate their business operation. However, and similarly to the conclusion reached in paragraphs 84 to 86, only certain identity information would be available from both tax authority and the AML obliged person through the course of CDD on relevant foreign partnership with no registered branch or office in Serbia. **Serbia is recommended to ensure that adequate, accurate and up-to-date identity information is available on relevant foreign partnerships in Serbia in line with standard**.

Beneficial ownership

162. As a partnership formed in Serbia is a legal person, the same provisions as for LLCs and JSCs apply, with BO information collected for all partnerships registered via CDD conducted by banks and other AML obliged persons, and in the BO Register. BO information on foreign

partnerships active in Serbia would be collected by banks through the process of CDD, and must be retained for 10 years (see paragraph 108). In addition, all entities registered with the SBRA, if they are active in Serbia, must register with the tax authority and open a bank account in Serbia. The proportion of partnerships in the BO Register that are declaring their beneficial owner(s) are similar but slightly lower than for LLCs.

163. There are no specific definitions capturing the beneficial owner that apply to partnerships in Serbia. The same definitions as those provided for legal entities will therefore apply (see paragraph 103). The conclusions for Availability of Beneficial ownership information under Part A.1.1 apply to partnerships, including the conformity of the definition of beneficial ownership in Serbia with the definition in standard. This is because Serbia uses the *simultaneous approach* requiring identification of the beneficial owner by an AML obliged person on the basis of economic interest and control over the legal person initially and at the same time. Therefore both limited partners and general partners would be captured by the definition applicable to Partnerships at the same time. Since BO information on partnerships is available through banks, the findings in part A.1.1 apply to Part A.1.3 as well, including the deficiencies identified on the lack of specified frequency. **Serbia is therefore recommended to ensure that up-to-date beneficial ownership information is available for all partnerships in accordance with the standard**.

Oversight and enforcement

164. The Business Register in Serbia provides a mechanism to enable legal ownership and identity information to be accessed. BO information is available through a combination of CDD applied by AML obliged persons, the BO Register and information available with the partnerships themselves. Gaps in the practice from AML obliged persons in the way they identify beneficial owners and appreciate the frequency of review they have to undertake based on the risk level were noted. Serbia should reinforce its outreach activities and enhance its supervision to ensure that there is an accurate understanding of the beneficial ownership requirements and risks, and that up-to-date BO information is available throughout the course of the business relationship (see Annex 1).

165. As a partnership is a type of legal person in Serbia, the same strengths and weakness identified in Part A.1.1 above would apply and **Serbia is therefore recommended to put in place effective supervision and impose sanctions where necessary, to ensure that the information entered into the Register of Beneficial Owners is accurate, adequate and up to date**.

166. The same robust measures are taken to ensure that all legal persons contained in the Business Register who are inactive but are not declaring themselves as such are applied for partnerships (i.e. a process of compulsory liquidation – see paragraph 97).

Availability of partnership information in EOIR practice

167. Serbia reported it did not receive any requests on beneficial ownership. Identity information with respect to partnerships is not kept in separate statistics as Serbia does not make a distinction between legal entities and partnerships. Therefore, among the 16 requests for legal ownership information received during the review period, there may have been some identity information pertaining to partnerships, but this could not be determined. Regardless, peers have not reported any issues regarding the same.

A.1.4. Trusts

168. Serbia's legislative framework does not provide for the creation, operation and management of express trusts or other similar legal arrangements, and Serbia is not a signatory to the Hague Convention on the Law Applicable to Trusts and Their Recognition.

Foreign trusts

169. Serbia has in place requirements for AML obliged persons to conduct CDD, identify and maintain information on the trustee, settlor, beneficiary and protector (if applicable), as well as the beneficial owner associated with the trust (whether or not they are one of the aforementioned parties). However, there are no requirements on foreign trusts administered in Serbia to interact with an AML obliged person, and therefore identity and BO information on foreign trusts active in Serbia may not always be available.

170. Serbia amended its AML/CFT Law in 2017, creating specific requirements on trusts governed under the legal framework of third countries but active in Serbia. A trust is defined consistently with the Hague Convention on the Law Applicable to Trusts and their Recognition in the law as follows (AML/CFT Law, Art. 3):

> A trust means a person under foreign law established by one individual (settlor, trustor) during their lifetime or post-mortem to entrust property to be disposed with and managed by a trustee for the benefit of the beneficiary or for a specifically defined purpose in a way that:
>
> the property is not part of property of the trust's settlor;

> the trustee has the property title over the property he holds, uses and disposes with for the benefit of the beneficiary or settlor, according to the conditions of the trust;
>
> certain operations may be entrusted by a trust deed to the trust protector, whose main role is to ensure that the property of the trust is disposed with and managed in such a way that the aims for which the trust was established are fully accomplished;
>
> The beneficiary of a trust and a "person under foreign law" are also defined, enabling the concept to be applied in Serbian legislation (AML/CFT Law, Art. 3):
>
> Beneficial owner of a trust means its settlor, trustee, protector, beneficiary if designated, and the person who has a dominant position in controlling the trust; the provision of this item also applies on the beneficial owner of other persons under foreign law, mutatis mutandis.
>
> Beneficiary means a natural person or group of persons for the furtherance of whose interests a person under foreign law is established or operates, regardless of whether such a natural person or group of persons are identified or identifiable.
>
> Person under foreign law is a legal form of organisation which does not exist in national legislation (e.g. trust, anstalt, fiduciae, fideicommisum, etc.) whose purpose is to manage and dispose with property.

171. A specific article in the AML/CFT Law places requirements on the AML obliged person to identify the beneficial owner, applying the same definition as that applied to legal persons (see para 103 to 106 above), and the settlor, trustee, protector, beneficiary (if designated), and the person that has a dominant position controlling the trust who are all always considered beneficial owners (AML/CFT Law, Art. 3; Art. 25). The AML/CFT law provides a description of a trust even though the concept of common law trusts or equivalent does not exist in Serbian law, describing a trust as a legal form under foreign law (such as a trust, anstalt, fiduciae or fideicommissum etc.), enabling AML obliged persons to identify and conduct CDD on foreign legal arrangements. The "Guidelines for identifying the Beneficial Owner of the Customer and Guidelines for entering the Beneficial Owner of a Registered Entity into the Centralised Records" when identifying BO information provides ancillary information for AML obliged persons in relation to CDD for trusts, clarifying that the beneficial owner of a trust is a natural person that is a settlor, trustee, protector, beneficiary, if identified, as well as the person holding dominant position in managing the trust and/or another person under foreign law. The AML obliged person therefore must identify a settlor,

trustee(s), protector, if there is one, beneficiary(-ies) if identified, as well as any other natural person exercising the ultimate control over trust.

172. When conducting CDD, the AML obliged persons must identify the name, surname, date and place of birth, and permanent or temporary address and country of residence of the beneficial owner(s) (AML/CFT Law, Art. 25 and Art. 99 para 1 item 13) following the same sequential steps set out above for legal persons (see paragraph 112) although there are no explicit requirements on trustees to disclose their status to reporting entities. Reasonable measures must also be pursued to ensure that the ownership and management structure of the trust is always known (AML/CFT Law, Art. 25). This ensures identity information of the trust is collected when it has recourse to the service of an AML obliged person in Serbia.

173. Residents of Serbia are taxed on their worldwide income. This means that a trustee or a trust administrator of foreign trusts who resides in Serbia and receives income earned by the trust, is subject to income tax on that income as if it was his/her own income. Resident trustees may only avoid such tax liability by demonstrating that the income should be attributed to another person, such as by providing evidence of the existence of a fiduciary relationship (typically the trust deed) and disclosing the identity of the settlor(s) and beneficiaries to the tax authorities. Should a trustee (deriving fees or not for the services rendered) provide services to a foreign trust and derive reportable income for tax purposes, identity information could be available.

174. The approach relating to updating CDD information, the retention period and sanctions that can be applied to AML obliged persons described in paragraphs 108 and 110 and 117 to 123 for AML obliged persons are also applicable to the information they must hold on express trusts that are customers.

175. While competent authorities confirmed that trustees of foreign trusts are not regular customers of AML obliged persons, banks and lawyers were aware of examples. BO information is likely to be available from an AML obliged person in most cases.

176. Trust and company service providers do not exist in Serbia, as trusts cannot be formed in Serbian law, and any person can form a company relatively straightforwardly in Serbia meaning there is no specific industry for licensed trust and company service providers. In practice, lawyers often carry out this function, and the activities of collecting contributions necessary for the creation, operation or management of foreign express trusts are explicit activities under which a lawyer must be an obliged person under the AML/CFT law.

177. Given there are requirements for all persons incurring tax liabilities in Serbia to register with the tax authorities, some information is likely to be available from the tax authority for express trusts active in Serbia. The requirements to open a bank account in the Law on Payment Services are limited to legal persons, branches of foreign entities which registered with SBRA and entrepreneurs, and therefore do not cover express trusts, trusts may nevertheless use a bank account or the services of a lawyer, with CDD conducted and identification and verification of the beneficial owner carried out. However, this will not be the case when a foreign trust does not maintain a business relationship with an AML obliged persons or is administered by a trustee with no tax obligations. Serbia should ensure that identity and beneficial ownership information is available when a foreign trust is not administered by an AML obliged person or a trustee with taxable income (see Annex 1).

Oversight and enforcement

178. As the BO information on express trusts is available primarily through banks and lawyers, the findings in part A.1.1 apply to Part A.1.4 as well, including the deficiencies identified on the lack of specified frequency. **Serbia is therefore recommended to ensure that up-to-date beneficial ownership information is available for all legal arrangements in accordance with the standard.** As part of NBS' supervisory activities of banks carried out under the AML/CFT Law, NBS conducts spot checks including to ensure that BO checks are being conducted and that the settlor, trust, trustee and protector (if necessary) are identified including where a legal arrangement forms part of the ownership structure of a legal person. The NBS has not identified any deficiencies as part of its supervisory activities. It is not clear the extent to which the Bar association is assessing the CDD requirements conducted by lawyers for customers that are legal arrangements or legal persons who have legal arrangements in their ownership structures. The Bar Association should monitor the implementation of the requirements related BO information by lawyers and take the necessary sanctions in case of failure (see Annex 1).

Availability of trust information in EOIR practice

179. Serbia did not receive any requests for beneficial ownership and identity information with respect to trusts or similar legal arrangements during the review period and peers have not reported any issues regarding the same.

A.1.5. Foundations

Types of Foundations

180. Only private domestic endowments are considered within scope of this review, as they can be used to generate private income. Public endowments and foundations must be established to pursue charitable activities in the public interest, with funds not permitted to be withdrawn or used for any purpose except the charitable purpose for which they were set up to pursue.

181. Foundations and endowments are non-profit, non-governmental organisations that can be formed in Serbia in accordance with the Law on Endowments and Foundations (2018) (Art. 4). Similar to companies, foundations and endowments gain legal personality when they are registered at the Registry of Endowments and Foundations and may not engage in activities before registration (Art. 29).

- A foundation is a legal entity without members or assets, established to pursue charitable activities in the public interest (Art. 2). Examples of the types of activities that reflect the public interest are referenced in the law, and include activities such as environmental protection, regional development and caring for children or the elderly (Art. 2 and 3).
- Endowments are also legal entities without members, but have property assigned to them for the purposes of realising a public or private interest (Art. 2).

182. Both foundations and endowments (for the public interest) can generate income through the activities they carry out (Art. 45), however, the assets held cannot be distributed to the founders, management, employees, or any person affiliated with the foundation or endowment in any circumstance (Art. 47). Endowments formed with the purpose of benefitting the public interest are exempt from tax on their assets (e.g. gifts, donations, financial grants, and legacies) (Art. 7). Upon liquidation or bankruptcy, the assets of a public interest endowment or foundation can only be allocated to another endowment, foundation or association established to achieve the same or similar objectives (Art. 55).

183. As endowments can be formed for private purposes with assets distributed to beneficiaries including private individuals, these are considered within scope of the EOIR review. There are four private endowments registered in Serbia.[22]

22. As of 15 May 2023.

Identity information

184. Information on the founders and board members is available on domestic, private endowments (Art. 4 Rulebook on the detailed content and method of keeping the Register of Endowments and Foundation). However, information on beneficiaries is not part of the documentation for registration and there are no requirements to maintain this information directly at the endowment seat. (Art. 2 and Rulebook on the detailed content and method of keeping the Register of Endowments and Foundation). However, CDD information conducted on the beneficial owner when endowments open bank accounts mitigates these deficiencies to some extent, as information on the beneficiaries will often be required as they will likely constitute the beneficial owner when they are a natural person. **Serbia is recommended to ensure that accurate, adequate and up-to-date identify information on private endowments is available in Serbia in line with the standard**.

185. Upon application of an endowment to be entered in the register, it shall submit identity information on all of the founders, members of the management board and the person authorised to represent the endowment in Serbia, the statute and Founding Act of the endowment or a document proving the origin of the endowment (such as the legally binding document determining the inheritance), the Act of appointment of the Management Body of the endowment and proof of paid funds required for founding the endowment.

186. Once registered in the Register the following information is publicly available (Art. 30 and Art. 32): name, address of residence, and unique identification number of each of the founders or details of the legal entity (where the founder is a legal entity).[23] Registered name of the endowment, date it was established, address of its head office and time period for which the endowment is established, goals for which the endowment was established, including whether the endowment is for public or private interest, the economic activity that the endowment performs and information on the property administered.

187. The same process is required (application to the register of endowments) when a change to any of the information on the endowment is needed (Art. 31). The process involved in terms of the checks carried out for information submitted to the Registers of Endowments is not clear, as endowments are not in scope of the rules governing registration to the Business Register.

23. This includes the name of the legal entity, address of its head office, identification number of the company, tax identification number of the company, and the first and last names and unique ID number (e.g. passport number) of the managing board members.

188. As per paragraph 70 the SBRA archives the information in registers permanently, including the register of endowments. The regulations governing liquidation and bankruptcy of associations are applied to endowments (Art. 53), which in turn apply the statutes in the Law on Bankruptcy (Law on Associations, Art. 59), and similar for liquidation (Art. 52). Therefore, the processes outlined in paragraph 75 for commercial companies also apply to endowments. If an endowment is going through bankruptcy or liquidation proceedings this information is included in the public register of foundations and endowments (Art. 32).

Beneficial ownership information

189. Endowments must register BO information in the BO Register similar to the requirements that capture companies (Art 2 of the LCRBO) – see para 136 to 142 above. Two of the four domestic endowments were active over the review period, and one submitted information on its beneficial owners to the BO Register.

190. Similar to companies, endowments (both domestic and foreign) must register with the tax authority if they incur a tax liability, also a requirement when opening a bank account. Banks must then execute CDD, including identification and verification of beneficial owner, consistent with the description in the section on Anti-Money Laundering requirements, keeping this information up to date in accordance with the risk-based approach.

191. As the BO information on endowments may also be available through banks when they open a bank account, the findings in Part A.1.1 apply to Part A.1.3 as well, including the deficiencies identified on the lack of specified frequency. **Serbia is therefore recommended to ensure that up-to-date beneficial ownership information is available for all private endowments in accordance with the standard**.

Oversight and enforcement

192. Serbia is not implementing or enforcing requirements on endowments sufficiently. A range of effective proportionate and dissuasive sanctions are not available for private endowments.

193. Private endowments, whether domestic or foreign, can be fined RSD 150 000 to RSD 400 000 (EUR 1 282 to EUR 3 418) for a misdemeanour if they engage in activities before registration, or the assets administered by the endowment are not used to support its objectives. A fine of RDS 10 000 to RSD 20 000 (EUR 85 to EUR 171) can also be imposed on the responsible person. No other fines are available for failure to submit adequate, accurate and up-to-date information on the legal ownership and

identify information associated with the endowment, including the founders and members of the managing body. If the endowment acts contrary to the established goals, or they join a foreign or international organisation whose activities contravene those permitted in the law on endowments and foundations, the competent authority can *ex officio* issue a decision to revoke the business licence (Art. 52). Information on the revocation of approval for the endowment is available from the Register of Endowments (Art. 32).

194. Similar to LLCs, JSCs, and partnerships, the application fee for registration (RSD 6 500 or. EUR 55) would be due again if there is incorrect information submitted and this is detected, and so this is an incentive for the endowment to provide accurate information when registering.

195. The Ministry of Culture is responsible for enforcement of the requirements in the Law on Endowments and Foundations (Art. 61). It is not clear whether the ministry has taken any steps to supervise or enforce the requirements in the law for endowments, described above.

196. For BO information, the conclusion reached under paragraphs 126 and 130 are the same and Serbia should reinforce its outreach activities to ensure that there is an accurate understanding of the beneficial ownership requirements and risks, and that up-to-date BO information is available throughout the course of the business relationship (see Annex 1).

197. It is not clear whether steps have been taken to follow-up with respect to the private endowment that has not submitted information on its beneficial owner. Consistent with the section A.1.1 above, **Serbia is recommended to put in place effective supervision and impose sanctions where necessary, to ensure that the information entered into the Register of Beneficial Owners is accurate, adequate and up to date**.

Availability of foundation information in EOIR practice

198. Serbia did not receive any requests for beneficial ownership and identity information with respect to endowments during the review period and peers have not reported any issues regarding the same.

Other relevant entities and arrangements

199. There are several other types of legal person that are active in Serbia but are not considered relevant for the purposes of this assessment. This is because the following entities are themselves not generating profit, rather they are structures to allow other natural and legal persons to carry out activities themselves. These are described below.

200. Business associations with legal personality can be formed by two or more companies or sole traders and must register with the SBRA. They are included on a specific register of associations, although they cannot engage in activity for the purpose of gaining profit (CA, Art. 578). Similarly, European economic interest groups may also be formed in Serbia, acquiring legal personality but cannot seek to gain profit (CA, Art. 580b). At least one entity in the group must be registered in Serbia and at least one in a European Union Member State.

201. A separate legislative act, the Law on Associations (2018) regulates associations, defined as a voluntary non-profit organisation based on the association of natural persons (Art. 2). The association can acquire property from membership fees, voluntary contributions, donations, financial subsidies, legacies, interest on shares, rent, and dividends (Art. 36), generating a profit consistent with the aims and objectives of the association (Art. 37). Some exemptions exist for the payment of tax by legal and natural persons to the association (Art. 36). Associations are not permitted to distribute profits to members, directors, employees, or related persons (Art. 37). Foreign associations can also be formed in Serbia (Art. 60). There are registers of domestic and foreign associations overseen by the SBRA.

202. Co-operatives can be formed in Serbia with a minimum of five members and may be established as agricultural or farming, housing, consumer, trade, labour, student-youth, social, health and other types of co-operatives for production, trade in goods, services and other activities in accordance with the Law on Co-operatives.

203. They gain legal personality when registered at the Business Register (Law on Co-operatives 2016, Art. 5). Establishment, modification of data and their termination shall be entered into the Register. Upon registration the data to be submitted is designation of the type of co-operative; business name; address of the registered office; date and time of establishment; date and time of changes; tax identification number (TIN); code and description of predominant activity; bank account numbers; personal name and personal identity number of the co-operative member who is a natural person, i.e. business name, address of the registered office and identification number of the co-operative which is a legal entity; personal name and personal identity number of the director or acting director; information on whether a co-operative is established/operates with contributions or membership fees; personal name and personal identity number of members of the board of directors or supervisory board; information on liquidation and bankruptcy of the co-operative, in accordance with the law.

204. All changes of data on the co-operative contained in the Register shall also be entered into the Register. In addition, the co-operatives are obliged to keep a book of co-operative members permanently and to update

it regularly. A set of adequate and dissuasive sanctions is available in case of failure to comply.

205. Once a co-operative ceases to exist (effective after it is deleted from the Register), the co-operative's legal representative or other authorised person is obliged to maintain the records for the retention period prescribed under the CA (Article 13 of the Law on Co-operatives). Beneficial ownership information is also available for co-operative as they must operate a bank account in Serbia and should also enter their beneficial owners in line with the LCRBO.

A.2. Accounting records

Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements.

206. Serbia's domestic laws ensure that the necessary requirements of maintaining reliable accountings records and underlying documentation exist for all legal persons registered with the SBRA and the Tax Administration. The requirements are supported by suitable sanctions for non-compliance under both – the Law on Accounting as well as the LTPTA. The record retention requirements are in line with the standard.

207. Tax audits are a critical part of Serbia's overall framework ensuring availability of accounting information, and in ensuring the accuracy of the financial statements filed in the Register of Financial Statements. The SBRA as the authority which maintains the Register of Financial Statements, also conducts some oversight activities but any verifications are limited to timely submission of the financial statements in the register and form of the submission rather than accuracy.

208. There are no legal obligations for trustees resident in Serbia and administering a foreign trust to maintain accounting records for the trust.

209. During the review period, Serbia received 42 requests for accounting information. The Competent Authority was able to respond to those requests, and the peers were generally satisfied with the information provided.

210. The conclusions are as follows:

Legal and Regulatory Framework: in place

Deficiencies identified/Underlying factor	Recommendations
Serbia's legislation does not ensure that reliable accounting records or underlying documentation are kept in all circumstances for foreign trusts with Serbian resident administrators or trustees.	Serbia is recommended to establish an obligation to maintain reliable accounting records, including underlying documentation, with a record retention period of at least five years for trusts with Serbian resident trustees in all circumstances.

Practical Implementation of the Standard: Compliant

No issues have been identified in practice. However, once the recommendation on the legal framework is addressed, Serbia should ensure it is applied and enforced in practice.

A.2.1. General requirements and underlying documentation

211. Obligations of keeping accounting information of relevant entities and arrangements are mainly contained in the Law on Accounting, supplemented by LTPTA. The various legal regimes and their implementation in practice are analysed below.

Accounting Law

212. The Law on Accounting is applicable to all relevant legal entities. Article 2 states that, among others, companies (i.e. JST, LLC, General and Limited Partnership), legal entities and other forms of organisation that the legal entity had founded abroad (i.e. branch or related entity of the Serbian legal person), branch offices and other organisational parts of legal entities with headquarters abroad that are performing economic activities in the Republic of Serbia, legal person within the course of their bankruptcy proceedings, public interest entities regulated by the Security Commission, and persons not founded for the purposes of gaining profits (i.e. foundations and associations) have to abide by the obligations stated under the Law on Accounting.

213. Article 4 provides for an exception concerning the legal entity founded abroad by a Serbian legal entity, as they are not obliged to comply with the requirements of the Serbian Law on Accounting if the regulations of the jurisdiction they are established in state that they are obliged to keep business ledgers and compile financial statements there.

214. All legal persons liable to the Law on Accounting requirements must keep the official accounting documents, business ledgers and financial statements in a well organised manner and must stipulate in an official enactment the responsible persons and the business premises for their keeping, as well as the method of keeping accounting documents (Article 28). Article 28 of the Law on Accounting requires that all accounting records are kept on the business premises of the legal person, and by a professional (i.e. licensed accounting service provider as listed in the Register of Accounting Service Providers), or with the legal person's related entity which may have been entrusted with the responsibility to compile and keep the accounting documents of the legal person concerned. The designation of the professional or of the related entity must be recorded under a general act of the legal person and registered with the SBRA. According to the Companies Act (Article 19) and the Law on Endowments and Foundations (Article 21), all legal persons must have their seat in Serbia. In addition, the persons to whom ledgers and accounting documents have been entrusted for safekeeping should also have their seat in the territory of Serbia.

215. The Law on Accounting imposes on large entities, parent legal entities and public entities to abide by the International Financial Reporting Standards (IFRS) for the purposes of recognition, valuation, presentation and disclosure of positions in financial statements. Small and medium entities are not obliged to apply the IFRS but may opt to use it (Article 24 and 25).

216. The determination of entities as large, medium, small or micro depends on the following cumulative conditions: average number of employees, net turnover and size of the balance sheet, as determined in the annual financial statements. A large entity has on average more than 250 employees, a net turnover of more than EUR 40 000 000 in RSD equivalent, and the size of balance sheet of more than EUR 20 000 000 in RSD equivalent, whereas a micro one has on average not more than 10 employees, a net turnover of less than EUR 700 000 in RSD equivalent, and the size of balance sheet of less than EUR 350 000 in RSD equivalent. Anything that is neither large nor a small or micro would be medium entities.

217. In line with this segregation, regular annual financial statements of the following should be submitted as audited accounts:

- legal entities with total income realised over the previous business year exceeding EUR 4.4 million
- medium legal entities
- public companies regardless of their size
- parent companies submitting consolidated accounts.

218. Since January 2021, Serbia has been implementing a public Register of Financial Statements. All legal persons subject to the Law on Accounting shall provide their financial statements and accompanying documentation such as the Statistical Report compulsory for all legal persons, and, where applicable, consolidated annual financial statements, extraordinary financial statements and for joint stock companies which have to undergo audit of their financial statements, the management report and audit report. All information must be submitted online to the SBRA by 31 March of the following year or at the prescribed date depending on the specific circumstances (i.e. legal persons subject to audit or legal persons with a different financial year). The financial statements and the above-mentioned specific documents are therefore available through the Register of Financial Statements.

219. The timeframe for keeping official accounting documents and business ledgers depends on the nature of the document. The retention period varies between five years and indefinitely. This is in line with the standard. Underlying documents which would comprise wage bill payments list or official documents according to which data under the business ledger was entered would have to also be maintained for at least five years. In addition, their financial statements filed in the Register of Financial Statements are kept permanently.

220. Based on the requirements of the Law on Accounting to keep accounting information in the territory of Serbia (paragraph 214), accounting information is available in Serbia for most relevant persons. However, there are no specific obligations to maintain accounting records in Serbia under the Law on Accounting where a Serbian resident acts as a trustee of a foreign trust. The practice yet mitigates this gap when the trustee is a professional subject to tax obligations (see part on Tax Law below).

Companies Act and Law on Endowment and Foundations

221. Article 225 of the Companies Act puts the responsibility of proper keeping of a commercial company's ledgers and accuracy of financial statements on the director of the said company. There is no specific accounting record keeping requirements under the Companies Act in respect of General or Limited Partnerships.

222. The Law on Endowment and Foundations also obliges the foundation or endowment, including foreign ones, to submit the annual financial report to the SBRA, in accordance with the law governing accounting and auditing (see paragraphs 212 to 220).

Tax Law

223. Article 37 of the LTPTA states the general requirements for all taxpayers to keep books of accounts and records for taxation. A taxpayer includes all persons covered by the Law on Accounting.

224. Under the LTPTA, the terms “book of accounts” and “records for taxation” are not explicitly defined. However, Serbia interprets “book of accounts” in line with article 12 of the Law on Accounting which prescribes all pieces of business ledgers which should be maintained by a legal entity in the scope of the Law on Accounting. For “records for taxation”, Serbia considers it to be wider as it would entail all records providing a comprehensive recording of the business events of the taxpayer and will serve as the basis to prepare its books of accounts. It would therefore include underlying documentation necessary to justify expenses and income, assets and liabilities that are the basis of a taxable profit. Article 117d of the LTPTA ensures that upon receipt and processing of a tax return, other statements are also verified. This would include taxable income sheet. Accuracy and completeness of the whole documents encompassed in the tax return in accordance with the LTPTA have to be checked and any deficiencies should be notified to the taxpayer. If no actions are taken by the taxpayer as a result of this notification, the tax auditor considers the tax return was not submitted and relevant sanctions apply.

225. The issuance of a TIN launches the acquisition of the status of taxpayer and can only be made to a legal entity, an individual or a fund. It appears that a foreign trust is therefore not within the scope of the LTPTA. According to Article 38, a taxpayer has to file a tax return, which is a taxpayer’s report on revenues received, expenses executed, profit, property, transactions in goods and services and other transactions relevant for tax assessment. However, Serbian authorities have indicated that where a resident of Serbia is acting as a trustee of a foreign trust, such resident should keep two separate books of accounts and records for taxation, in order not to be taxed on the income that relate to the assets it is managing on behalf of the foreign trust. Serbian authorities believe that in practice, this should ensure that accounting information on foreign trusts is available in Serbia is some cases. However, gaps exist when none of the assets of the trust are located in Serbia. In such cases, the trustee may not derive reportable income for tax purposes and will therefore not be obliged to keep books of accounts and records for taxation. There are also no means to assess whether there are any trustees resident in Serbia that manage a foreign trust, as there are no legal requirements to declare this status to any authorities or when opening a bank account. In practice, this issue is likely to be only a small gap as trusts are not a commonly administered in Serbia. The tax authority reported it has not encountered a person acting as a trustee of a foreign trust. During the onsite visit, professionals who are likely to act as trustees seemed

familiar with trusts, but also confirmed that foreign trusts are rare, and it is not common to find residents acting as trustees of foreign trusts.

226. Considering the legal gap in respect of availability of accounting records where a Serbian resident is a trustee of a foreign trust, **Serbia is recommended to establish an obligation to maintain reliable accounting records, including underlying documentation, with a record retention period of at least five years for trusts with Serbian resident trustees in all circumstances**.

Inactive entities

227. In Serbia, inactive companies are defined as those which do not have any activity although they are registered in the Business Register. Under the Law on Accounting, a legal person with no business events, nor data on assets and liabilities in its business books has the obligation to submit a statement of inactivity to the SBRA instead of a regular annual financial report. There are no legal requirements that prescribe a maximum timeframe for which a legal entity may file such statement of inactivity and therefore retain its status of inactive entity. There were 10 879 entities which filed a statement of inactivity as at 31 December 2021, representing 8% of the total 128 860 registered legal entities. Below is a breakdown of the statements of inactivity filed during the review period.

Total statement of inactivity per years during the review period

		2019		2020		2021	
	Number of entities that submitted inactivity statements for three years consecutively	Total number of registered legal entities	Total number of statements of inactivity	Total number of registered legal entities	Total number of statements of inactivity	Total number of registered legal entities	Total number of statements of inactivity
Limited Partnership	32	196	41	184	43	163	35
General Partnership	208	1 160	279	1 096	251	982	247
JSC	21	857	45	807	44	764	29
LLC	5 805	121 064	10 341	122 372	9 875	125 136	10 208
Branches	24	615	43	694	68	753	80
Foundations	104	752	158	787	172	827	201
Endowments	69	197	72	223	76	235	76
Total	6 263	124 841	10 979	126 163	10 529	128 860	10 879

228. The LTPTA does not provide for the possibility of submitting a declaration of inactivity, but the taxpayer is obliged to submit a tax return with their taxable income to the Tax Administration, within the time limit and in the manner prescribed by the Law on Corporate Income Tax, regardless of whether in the business year he had any business events and whether he had data on assets and liabilities in the business books. However, taxpayers who are inactive in the sense of the provisions of the Law on Accounting, and who have submitted a declaration of inactivity to the SBRA are allowed to select the option "due to inactivity" when submitting a tax return for the calculation of profit tax, and thus inform the Tax Administration that they have submitted a declaration of inactivity to the SBRA, that is, that in the business year for which the tax return and taxable income are submitted, they had no business events, i.e. data on assets and liabilities, and therefore no obligation to pay taxes.

229. Serbia reported that as of 2021, there were 9 976 inactive taxpayers. About 45% of these inactive taxpayers submitted their corporate income tax returns; 28% of them were VAT registered taxpayers and 73% of those were audited as they had filed nil VAT returns which represents a risk indicator for the Tax Administration.

230. The annual obligation to file both a statement of inactivity and a tax return ensures that the population of inactive entities is somehow kept under control. However, given the relatively low compliance rate of 45% in filing returns, and the lower number of audits conducted, the risk exists that accounting information of legal entities self-declared as inactive are not always maintained. Further, it cannot be ruled out that entities inactive in Serbia might have activities, including holding or transacting in assets, outside of Serbia. Serbia should monitor inactive companies to ensure that accounting information on all companies is always available in line with the standard (see Annex 1).

231. Since 2019, the SBRA has instituted compulsory liquidations of legal entities when those failed to submit to the Register of Financial Statements their annual financial statements up to the end of the previous business year for the two consecutive business years preceding the year in which the financial statements are submitted. As explained under Part A.1, paragraph 97, compulsory liquidation both dissolves the legal entity, and renders the shareholders of an LLC or JSC or limited partners in a general or limited partnership responsible for the liabilities of the legal entity up to the amount received from the liquidation surplus – the aggregate net liability once the assets have been sold – even after deletion from the company register (CA, Article 545). The SBRA authorities explained that this is much more effective than the existing misdemeanour sanctions and that it enables the Register to be cured from non-compliant companies. The SBRA

also confirmed that the only case where the legal entity would be able to be reinstated is when the Court rejects the request to proceed with compulsory liquidation. This has not yet happened in practice.

232. Foundations, endowments, and foreign entities not registered with SBRA cannot be the subject of a compulsory liquidation for being inactive. In these cases, the only sanctions available for non-maintenance of accounting records are penalties ranging from RSD 100 000 to RSD 3 000 000 (EUR 854 to EUR 25 641) and imposed by the competent court (Article 57 of the Law on Accounting) or if the tax authorities during their audits find non-compliance with accounting record keeping requirements. Sanctions for failure to comply with the Law on Accounting requirements have been initiated (see table below).

Request from SBRA for initiating Misdemeanour Proceedings against the Endowments and Foundations for failure to comply with the Law on Accounting

Years	Number of filed misdemeanor requests
2019	97
2020	93
2021	97
Total	**287**

Companies that ceased to exist

233. In Serbia, a legal person may cease to exist through liquidation, forced liquidation, bankruptcy or status change resulting in dissolution. In case of bankruptcy and liquidation, the liquidator or bankruptcy administrator is responsible under the Article 543 paragraph 4 for keeping the accounting records for the duration of the prescribed retention period under the Law on Accounting (from 5 years to 20 years depending on the type of accounting records). In the voluntary dissolution, the CA requirements apply, and the appointed liquidator will have to maintain the records until the retention period prescribed under the CA and to which the legal entities which ceased to exist was obliged by, elapses. Some accounting records of legal persons which have ceased to exist (financial statements) are available permanently with the SBRA. The underlying documents will be kept in line with the requirements explained under the paragraph above. However, none exist for a foreign trust managed by a Serbian resident trustee. As a consequence to the lack of legal requirement to maintain the accounts of a foreign trust in the first place, a Serbia resident trustee does not have any obligation to retain accounting information of a trust which would have ceased to exist for a period of five years. **Serbia is recommended to establish an obligation**

to maintain reliable accounting records, including underlying documentation, with a record retention period of at least five years for trusts with Serbian resident trustees in all circumstances.

234. Serbia confirmed that it is not possible for a legal person to re-domicile in another country and maintain its legal personality in Serbia. If a re-domiciliation case occurs, the legal person will be considered as having ceased to exist and rules described above will therefore apply.

A.2.2. Oversight and enforcement of requirements to maintain accounting records

235. According to the Law on Accounting, the Tax Administration for legal entities and the NBS for financial institutions, are the two competent authorities to supervise the correctness of business changes recorded in business ledgers, both in scope of their respective audits. The SBRA remains competent to conduct verification process of the submitted financial statements. This comprises checking that the financial statements filed are complete and arithmetically correct or that it has been classified in accordance with the legal requirements, and finally that all documentation has been provided. When deficiencies are identified, Article 47 states that the SBRA shall issue a notice to the legal entity that is published on the SBRA's website within the Register of Financial Statements. In the review period, the SBRA has published over 106 000 notices on its website.

236. The legal person has 30 days from the date of publication of the notice on the SBRA's website to remedy the deficiencies. If not, the SBRA will publish the inaccurate financial statements with the label "inaccurate financial statements" in the register. Among the 106 000 notices published, 88 000 were rectified, but in the 18 000 other cases, SBRA published the financial statements with deficiencies. This may affect the operations of the person in breach, since it stops benefiting from creditworthiness services. SBRA authorities informed that judicial proceedings may also be started for most significant omissions (i.e. if the financial statements were submitted in a way that is not allowed by the Law on Accounting or if the submitted statements are not annual statements as defined by Law).

237. Sanctions are the same whether information has not been maintained in line with the legal requirement, whether the information has not been kept for the duration prescribed, and whether the legal person has not designated a person in charge of keeping the accounting records. They range between RDS 100 000 (EUR 854) and 3 000 000 (EUR 25 641) and can only be imposed through initiating a petition before the competent Court, which then decides to confirm the sanction or not. However, Serbia could not precisely identify how many petitions were sent on specifically failure to

comply with the Law on Accounting since the records do not distinguish the reasons for the petition to be filed.

238. According to Article 546 of the Companies Act, a company that fails to submit to the competent register the annual financial statements up to the end of the previous business year for the two consecutive business years preceding the year in which the financial statements are submitted will be subject to forced liquidation. The following table shows the forced liquidations undertaken for failure to submit financial statements during the review period.

Total legal entities which underwent a compulsory liquidation during the review period

	2019	2020	2021
Limited liability company	22 120	3 979	3 106
Partnership (general)	558	8	61
Partnership (limited)	67	1	13
Joint Stock Companies (private)	85	2	36
Total	22 830	3 990	3 216

239. At the end of 2021, 30 036 legal persons (23%) were liquidated for failure to submit their financial statements. The breakdown per years of the review period shows that the number of compulsory liquidations is decreasing and evidences the deterring role of this sanction. It also ensures that the Business Register is updated by removing non-compliant legal persons (see paragraphs 96 to 104). The SBRA's powers of sanctions are therefore effectively exercised.

240. Another critical part of the overall supervision of accounting records keeping obligation is played by the Tax Administration. In accordance with Article 123 of the LTPTA, tax audit shall be a procedure of reviewing and determining the legality and regularity of the compliance with the tax liability, as well as the procedure of checking the accuracy, completeness and compliance with the law, or other regulations, the data reported in the tax return, taxable income, accounting reports and other records of the taxpayer. Tax auditors met during the onsite visit explained that when auditing a taxpayer, auditors will always verify the accuracy of the financial statements being filed with the Register of Financial Statements by comparing them with the balance tax sheet content. If any inconsistencies are noted, the auditor will request for the book of accounts and different records for taxation, including the underlying documentation, that have to be maintained in accordance with the Law on Accounting.

241. If during an audit procedure a taxpayer is unable to provide the requested documentation demonstrating the basis on which a given business event occurred, and which affects the assessment of the tax liability, the taxpayer is ordered to make entry of all accounting documents in its book of account. If the taxpayer fails to do so, misdemeanor proceedings are initiated. During the review period, the Tax Administration initiated 533 petitions at misdemeanor Court to penalise taxpayers which did not provide books of accounts and records of taxation as they should have in line with Article 44 of the LTPTA.

242. The Department for Strategic Risks of the Tax Administration analyses compliance of the taxpayers in the area of registration, filing of tax returns, accuracy of data reported in tax returns and timely payment of taxes. There is therefore an automated curing system which corrects the minor inconsistencies and enables prioritisation of risks in a more effective manner. The risk prioritisation is then based on a risk matrix which evaluates the probability of the occurrence of a certain risk ranked in five levels (insignificant, minor, medium, high and extreme) and the severity of the consequence, should the risk have occurred. A tax compliance plan is then adopted and helps in generating the annual audit plans.

243. During the review period, the rate of tax return filed was around 97%, and 49 740 audits were conducted, covering 33% of the registered taxpayers. As noted, tax audits are conducted based on risk-assessment with the intention of raising deterrence and promoting compliance.

244. Among sanctions imposed on taxpayers for failure to provide requested information on time, none of the noted irregularities brought to light a default on the obligation to keep books of accounts and records of taxation according to the Law on Accounting. The Tax Administration explained that they would only initiate misdemeanor proceedings when the taxpayer would not provide requested information within a reasonable period of time following the request, although the information would be provided after the deadline set in the request, for as long as this would not have any impact on the tax liability. Accordingly, 924 misdemeanor proceedings were initiated for legal entities which did not submit requested book of accounts, documentation and records for taxation within a reasonable time at the request of the Tax Administration, as well as failure to respond to the call of the Tax Administration for clarification and provision of information and notices affecting the determination of the factual situation and which led to inaccurate liabilities. More than 1 730 misdemeanor proceeding were initiated for legal entities who provided incorrect information in tax returns or taxable income which led to inaccurate liabilities. During audit, accuracy of the books of accounts were also checked and between April 2019 and

March 2022, the Tax Administration issued 254 reports according to which taxpayers concerned were asked to update their accounting records.

245. In addition to tax audits, there are deeper investigations carried out. In accordance with Article 135 of the LTPTA, the Tax Police is responsible to detect tax crimes and stop their perpetrators. These are cases where taxpayers may have evaded tax by submitting forged documents of relevance for taxation, such as accounting records. Practice showed that main crimes related to accounting records and tax evasion is the use of fictitious accounts or duplicate records for instance, as well as establishment of business documentation that is not recorded in books of account. In the period under review, the Tax Police submitted 3 803 criminal charges and 110 supplementary criminal charges to the competent prosecutor's offices, according to which the payment of taxes in the total amount of over RSD 41 million (EUR 350 427) was avoided.

Availability of accounting information in EOIR practice

246. During the review period, Serbia received 42 requests pertaining to accounting information, including one request relating to a legal entity which was under bankruptcy proceedings. Serbia was able to provide an answer with the requested information in all cases. No peers indicated any concerns in this regard.

A.3. Banking information

Banking information and Beneficial ownership information should be available for all account holders.

247. Serbia has in place a legal framework that requires banks to collect account information on their customers, including specific types of information on transactions, for a period of ten years.

248. The National Bank of Serbia maintains several registers ensuring availability of banking information in Serbia: two registers are maintained by the National Bank, the Single Register of Accounts for legal entities and entrepreneurs which is also interconnected to the Unified Register of Taxpayers maintained by the Tax Administration, and the Register of accounts of natural persons. These two registers ensure availability of information on identity of account holders and details on the accounts, such as bank account number, date it was set up and balance for both legal entities and individuals in Serbia.

249. The record keeping obligations relating to banks that have ceased to exist are governed by the Law on Banks which provides that the National

Bank of Serbia will appoint the Deposit Insurance Agency to be the liquidator of the bank that ceased to exist and ensure the keeping of the records in line with the Companies Act requirements (between 5 and 20 years). In addition, all records that have to be supplied to the National Bank in line with the Law on Payment Services and are kept indefinitely by the National Bank.

250. Serbia is undertaking risk-based supervision on banks and has issued sanctions for failure relating to records keeping obligations and BO identification and verification. Those sanctions can be administrative or criminal in nature and are dissuasive enough.

251. Other measures have also been implemented that support the availability of account information in Serbia. Serbia has put in place policy measures to encourage businesses and individuals to conduct financial transactions through AML obliged persons, in particular banks, and Serbia prohibits the unauthorised provision of payment services.

252. The conclusions are as follows:

Legal and Regulatory Framework: In place but certain aspects of the legal implementation of the element need improvement

Deficiencies identified/Underlying factor	Recommendations
The AML legal and regulatory framework does not provide for a specified frequency for banks to update beneficial ownership information, although in practice AML obliged persons explained they conduct a review of their customer due diligence every year when the customer is high-risk, every two years when the customer is medium-risk and every five years for low-risk customers. Although the National Bank of Serbia confirmed it checked that the accounts would be reviewed at the frequency specified in the internal acts of the bank, it is not clear whether there is an obligation to specify the frequency in the internal acts. This means that adequate, accurate and up-to-date information may not always be available with banks.	Serbia is recommended to ensure that up-to-date beneficial ownership information on all bank accounts in line with the standard is available.

Practical Implementation of the Standard: Largely Compliant

No issues have been identified in practice. However, once the recommendation on the legal framework is addressed, Serbia should ensure it is applied and enforced in practice.

A.3.1. Record-keeping requirements

253. Serbia has put in place legal and policy measures to increase the proportion of financial transactions taking place through bank accounts, contributing to the effective implementation of EOIR.

254. All legal persons in Serbia who incur a tax liability must register with the tax authority and all legal persons must provide a tax identity number when opening a bank account. In addition, there are restrictions on cash transactions in Serbia which prohibit the sale of goods, services or real estate of more than EUR 10 000, acting as a de facto requirement for business to use their bank accounts to process larger transactions (AML/CFT Law, Art. 46). Serbia has also put in place incentives (i.e. Serbia’s Law on Payment Services has placed some requirements on the bank to provide basic bank accounts with no or limited charges) to encourage individuals using bank accounts to conduct bank transactions, rather than use cash, enabling a greater proportion of transactions in the country to be available via the banking system. There is a prohibition on providing unauthorised payment services, with fines applicable for both legal and natural persons carrying out the unauthorised activity (Law on Payment Services, Art. 182).

Availability of banking information

255. Banking information for all account holders is available in Serbia.

256. Banks are AML obliged persons in Serbia, in accordance with the AML/CFT Law (AML/CFT Law, Art. 3). They are therefore required to keep information on their customers, business relations and transactions for a period of ten years from the date of termination of the business relationship or execution of the transaction whichever is sooner (AML/CFT law, Art. 4, 95 and 98). Information on transactions includes information on the individual conducting the transaction (name and surname, date and place of birth and representative if the transaction is carried out on behalf of someone else), the date and time of the transaction, the amount and currency and the method used to conduct the transaction (Art. 99).

257. According to the Law on Bankruptcy and Liquidation of Banks and Insurance Undertakings, the Deposit Insurance Agency is responsible for overseeing the bankruptcy and liquidation of banks and is the appointed bankruptcy and liquidation administrator. The Article 22 of the Law on Bankruptcy and Liquidation of Banks and Insurance Undertakings states that the provision of the Law governing bankruptcy of companies apply as well to the banks and insurance undertakings, except for specific provisions which do not entail records keeping obligations of the liquidation and bankruptcy administrator. Article 110 the Law of Bankruptcy of Companies therefore applies to the Deposit Insurance Agency which has to keep the records of the bankruptcy debtor. According to the Law on Banks (Chapter 6, Section 2, Article 131), the Deposit Insurance Agency shall be appointed administrator with the rights and obligations determined by the law governing companies. Article 543 of the CA states that upon completion of the liquidation, the liquidator or a person chosen by it should maintain the records of the legal

entity which has ceased to exist in Serbia and for the duration of the retention period as prescribed under the CA or the Law on Accounting. Information will therefore be maintained for at least 5 years, as this is the minimum retention period stated under the CA and the Law on Accounting.

Beneficial ownership information on account holders

258. The standard was strengthened in 2016 to specifically require that BO information be available in respect of all account holders. The legal framework defined under Section A.1.1 ensures availability of BO information for all account holders and in line with the standard. Sanctions are effective proportionate and dissuasive.

259. The definition of beneficial owner is contained in both the AML/CFT Law and in the LCRBO, and covers the key elements in line with the standard. See paragraphs 103 to 107. The banks displayed a general understanding of the concept of control, providing examples of the analysis undertaken to identify and verify the beneficial owner. However, some representatives sometimes took all board members of companies to be the beneficial owner (by virtue of control) without closer inspection and a more nuanced determination of the natural person that may be controlling the entity and therefore the beneficial owner.

260. Banks are required to conduct CDD on the beneficial owner of customers when establishing a business relationship, as described in section A.1.1 above, collecting the name and surname, date-of-birth and place of residence and address of the natural person that is the beneficial owner (Art. 8 and 99 para 1 item 13). Customer information, including information on the beneficial owner, is required to be kept for ten years from the date of termination of the business relationship. This information is updated on the basis of risk (see also paragraph 132). However, no frequency for updating CDD/BO information is specified in law or in the binding Guidance. Serbia explained that this would be specified in the banks internal acts. In practice, most frequent periods are five years for low risk, two years for medium risk and up to one year for high-risk customers, as confirmed during the onsite visit by the bankers interviewed. NBS also confirmed that it monitors that reviews are conducted in line with the risk assessment as stated under the internal acts of banks. However, there is no set minimum frequency notified to the AML obliged persons for high, medium or low-risk customers and NBS would only supervise that banks' internal acts prescribe periods for updating CDD in the scope and frequency that corresponds to the estimated degree of risk of money laundering and terrorist financing, as well as whether the bank acts in accordance with their internal acts. There does not seem to be any minimum expectations being communicated to the AML obliged persons on what the cycle of review should entail in high,

medium and low risks. There has been no clear evidence either of remedial measures taken by NBS when the AML obliged person is deviating from it. Therefore, **Serbia is recommended to ensure that up-to-date beneficial ownership information on all bank accounts in line with the standard is available**.

261. As described in paragraph 123, third parties can carry out CDD on behalf of AML obliged persons, consistent with the requirements in the AML/CFT law (Art. 30 and 31). They must submit the information gathered without delay to the bank (Art. 32).

262. Fines of between RSD 1 million and RSD 3 million (EUR 8 547 to EUR 25 641) can be applied by the NBS to the legal person, and RDS 50 000 to RSD 200 000 (EUR 427 to EUR 1 709) to the responsible natural person of the AML obliged person for failing to keep information on customers and transactions for a minimum of ten years (Art. 117).

Oversight and enforcement

263. Supervisors in Serbia are conducting supervisory activities of payment institutions. Section A.1.1 contains more detailed information on the approach taken by the NBS in its supervision of these entities which are mostly banks.

264. During the review period, NBS carried out nine on-site inspections in banks, and ten follow-up inspections for the purpose of checking previously required banks take corrective measures. Fines were issued during the reporting period for failures to comply with AML/CFT requirements, with fines totalling RSD 12.7 million (EUR 108 547) issued to five banks, and fines totalling RSD 1.91 million (EUR 16 324) issued to members of the executive boards of banks. None of those fines relate specifically to a breach of the obligation to keep records of accounts held by the bank, including financial and transactional information. Although banks were found to have identified the beneficial owners of clients, four banks did not identify the beneficial owner from separate sources (i.e. verify the beneficial owner) on 27 occasions (see also paragraph 129). Monitoring of those banks to ensure that the deficiencies were addressed is deemed adequate as NBS followed-up with warning letters and administrative fines totalling RSD 12.7 million (EUR 108 547).

Availability of banking information in EOIR practice

265. Five countries reported that they had requested banking information from Serbia during the review period, requesting information on 15 accounts in total. One peer highlighted that out of the four banking requests it sent

to Serbia, it did not receive any information in response in one case. As further explained in Part C, although Serbia's Competent Authority sent the requested bank information, the response was not received by the peer (likely to be due to interrupted postal services during the COVID-19 pandemic). In the three other cases, the peer received answers which it found satisfactory.

266. All other banking requests received by Serbia were responded to and seemed to have satisfied all requesting peers who provided input.

Part B: Access to information

267. Sections B.1 and B.2 evaluate whether competent authorities have the power to obtain and provide information that is the subject of a request under an EOI arrangement from any person within their territorial jurisdiction who is in possession or control of such information, and whether rights and safeguards are compatible with effective EOI.

B.1. Competent Authority's ability to obtain and provide information

Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information).

268. In Serbia, the Competent Authority has wide access powers, which it uses on a regular basis to access relevant information from various sources, and which enabled it to respond to EOI requests it has received during the review period.

269. Serbia has both criminal and administrative sanctions at its disposal to compel the production of documentation for EOI purposes by the taxpayers. However, when a request is made to third parties, the only sanctions available are of criminal nature, enforcement of which has to be decided by the Court.

270. The AML/CFT Law provides the lifting of secrecy obligation so AML obliged persons can provide information to certain authorities, which do not comprise the Tax Administration. The Competent Authority explained that since the tax law and the AML/CFT Law have the same value, and that the tax law provides an exception to the AML/CFT Law, it should be able to use its access powers under Article 45 to request BO information from an AML obliged person. AML obliged persons interviewed did not raise any concerns with this interpretation. Although a BO Register exists, it would not cover the full extent of all BO information that can be requested.

271. Regarding the practice of the Tax Administration in accessing information, the tax audit procedure was frequently used while not legally required to obtain the requested information. Although the Tax Administration considered this procedure more efficient to compel the production of information, it also resulted in an extension of the timeline for obtaining the information. However, the responses were still sent in a timely manner.

272. The conclusions are as follows:

Legal and Regulatory Framework: In place

No material deficiencies have been identified in the legislation of Serbia in relation to access powers of the competent authority.

Practical Implementation of the Standard: Compliant

No issues in the implementation of access powers have been identified that would affect EOIR in practice.

B.1.1. Ownership, identity and banking information

Accessing information generally

273. In Serbia the Competent Authority is the Ministry of Finance which was therefore in charge of handling incoming and outgoing requests until the function was recently delegated to the Tax Administration. With regards to the administration of the requests made under the multilateral Convention on Mutual Administrative Assistance in Tax Matters (Multilateral Convention) it was delegated on 10 May 2021 while with regards to the administration of requests made under the DTCs, it happened on 28 April 2022, through a letter from the Minister to the Director General of the Tax Administration.

274. The Ministry relies on the Tax Administration to collect relevant information as well as the intelligence to which it has direct access. The functions of the Tax Administration for which it may use its access powers entails the implementation of any law, including the international tax agreements and the Double Tax Conventions (Article 160 8) and 14) of the LTPTA).

275. The Department for International Co-operation and Exchange of Information (i.e. the EOI unit), which is responsible to administer the EOI function in the Tax Administration, has direct access to various registers maintained in Serbia, which are used as the main source of information. The Competent Authority can notably rely on the Unified Register of Taxpayers maintained by the Tax Administration, and which consolidates information relevant to the tax affairs of any taxpayer. This register is populated

in real-time with information from other authorities such as the SBRA and the NBS. The register gives to the Competent Authority direct and full-time access to legal and beneficial ownership information, financial statements and bank account numbers information. Other public databases relevant for EOIR purpose comprise the BO Register, the Register of Financial Statements, the Single Register of Accounts for Legal Entities and Entrepreneurs, and the Register of bank account numbers of natural persons. Those databases offer a broad source of information to the Competent Authority but will not include underlying documentation of accounting records or contracts for instance. During the review period, the Competent Authority had to seek information from external sources (i.e. taxpayers and third parties) in 75 cases to respond to EOI requests (64% of requests received and not declined). In all cases, the information holder, taxpayer or third-party, submitted the information and the effectiveness of the access powers of the Tax Administration was demonstrated.

276. When information requested is not readily available in the databases, the Tax Administration uses its domestic access powers. The Tax Administration has several legal provisions which it can use to obtain information, either from the taxpayer directly, or from third parties i.e. banks, auditors or government entities. The LTPTA contains the general access powers at the disposal of the Tax Administration, which do not require any special procedure to be followed and are wide in scope. The article mainly used for EOI purposes is Article 45 on Providing Information, which reads as follows:

> The taxpayer shall provide, at the request of the Tax Administration and within a reasonable time limit specified by it, all available information necessary for establishing the facts relevant for taxation. The Tax Administration may request other persons, business entities, banks, government authorities and organisations, territorial autonomy authorities and local government authorities to provide, within a reasonable time limit specified by the Tax Administration, available information, as well as data relevant for undertaking actions within the scope of competences of the Tax Administration.

277. Serbia explained they do not have a set timeframe and that appreciation of a reasonable time limit is on a case-by-case basis but should not be longer than 60 days. The scope of persons that can be requested information from is wide and the Competent Authority has the power to request any taxpayer directly for information, to the extent that this information is necessary to establish the facts relevant for taxation, and directly from third parties such as banks or other government authorities which may retain information on other persons relevant for EOI purposes.

278. The scope of information that can be accessed by the Tax Administration under Article 45 is also wide and covers any data that would be relevant for the Tax Administration to undertake actions which are in its scope of competencies, including EOI (see section B.1.3 below). The terms "necessary to establish the facts relevant for taxation" are widely interpreted by Serbian Authorities as including taxation levied in another jurisdiction. This interpretation has never been challenged.

279. While it is simpler to use the general access powers where no audits have to be launched to request information from a taxpayer, the favoured legal basis chosen by Serbia to request information from the taxpayers directly was Article 127 of the LTPTA, to compel the production of information during a tax audit. The Competent Authority clarified that Article 127 is generally perceived by taxpayers as more compelling and is therefore more effective. During the review period, 54 audits were launched to respond to EOI requests (i.e. for 30% of EOI requests which were not declined). In the EOI manual, when a tax audit is performed, the tax auditor is expected to provide the needed information within 60 days. The process of obtaining information through tax audits ordinarily takes more time to respond to requests compared to situations where the information is available with the tax authorities. In more than half of the cases where information requested took longer than 90 days to be provided, this was collected in the scope of an audit. Nevertheless, in general, as seen under the timeliness statistics table under element C.5, the procedure of gathering tax information through tax audits has not unduly impacted the timeliness of responding to requests. In most situations, such requests were answered within 180 days.

Accessing information on entities undergoing bankruptcy proceedings

280. A peer highlighted that in one particular instance (pertaining to a request sent outside of the review period), the Serbia Competent Authority was not able to obtain the information relating to a legal person that was in bankruptcy proceeding.

281. Parts A.1 and A.2 clarify that information relating to the business operations of a person should be available even after it was put under bankruptcy.

282. The Law on Bankruptcy does not contain any restriction for the bankruptcy administrator to submit information on the bankruptcy debtor if the Tax Administration was to request it. There is also no confidentiality provision which would be inconsistent with Article 45 of the LTPTA. From the discussion with the Competent Authority during the onsite visit, it emerged that the situation was due to a lack of experience that led the officer to

reject the request based on a misinterpretation of Article 88 of the Law on Bankruptcy on Suspension of Proceedings, which reads as following:

> As of the entry into effect of legal consequences of opening of bankruptcy, all judicial proceedings against the bankruptcy debtor and its assets shall be suspended, as shall all administrative proceedings initiated at the request of the bankruptcy debtor and the administrative and tax proceedings with respect to establishing the pecuniary obligations of the bankruptcy debtor.

283. This provision suggests that any proceedings that the Tax Administration could have started to establish the tax liability of the debtor prior to the launch of the bankruptcy procedure should be suspended with the said launch. The term "proceedings" is restrictive and should apply in cases where there is a court case initiated. This should therefore not affect the ability of the Tax Administration to request information to the liquidator which is compelled by law to keep the business records relating to activity of the bankruptcy debtor before the launch of the procedure. In case the liquidator does not provide the requested information, sanctions explained under Part B.1.4 would apply.

Accessing ownership information

284. There is a combination of sources available to the Tax Administration to obtain ownership information. The Unified Register of Taxpayers contains the updated information from the Business Register maintained by the SBRA and data required to be submitted by a person which has to register with the Tax Administration (see Part A.1.1). In practice, the EOI officers have direct access to the Unified Register of Taxpayers from their computers.

285. Since 31 December 2018, Serbia has been implementing a BO Register which is maintained by the SBRA. As authorised user of the database, the Tax Administration is granted access to this register, and may consult it whenever required with no further procedure to follow. In case the requested information is on BO from a financial institution, the Tax Administration will have to make a request to the NBS which is the authority responsible to maintain BO information in such case as there is no direct access being granted in this case.

286. According to the Competent Authority, if the Tax Administration wishes to cross check the information from the register, or obtain the BO underlying documentation, or if the identity information of the beneficial owner is not available in the register, it may obtain it either from the entity itself or from an AML obliged person. It may request the BO information from the legal entity which is legally obliged to fill in the BO information to the BO Register, using the powers it has under Article 45 of the LTPTA.

287. The Competent Authority may also request BO and underlying documentation from AML-obliged persons which are covered by the powers of Article 45. However, there is a concern that the confidentiality requirements of the AML-obliged person under Article 91 of the AML Law do not provide for any exceptions for the case of a request for information by the Tax Administration. In practice, Serbia did not use its access powers towards an AML obliged person to collect BO information. However, the Competent Authority explained that since the two laws have the same value, and that the tax law provides an exception to the AML/CFT Law, the Competent Authority should be able to use its access powers under Article 45 to request BO information from an AML obliged person. AML obliged persons interviewed did not raise any concerns with this interpretation and confirmed they would share BO information if the Tax Authority was requesting for same. The Competent Authority, nevertheless, added that they would favour retrieving the information from the BO Register.

288. In case the EOI request requires underlying documents on ownership information from a person which is not registered with the SBRA, other sources of ownership information would be available. The Tax Administration may collect information directly from the taxpayer by opening an audit or request the information from a third party, such as lawyers, accountants, tax advisors, notaries, local Self-Government Units, commercial banks, or the NBS when the subject of the request is a financial institution. In practice, and during the review period, Serbia did not have to approach third parties to access legal or BO information but explained that should they receive one, they would obtain the data from the BO Register.

289. Article 37 paragraph 1 of the LTPTA requires any taxpayer to maintain its records for taxation in Serbia. Paragraph 3 of the same article specifies that the taxpayer will be obliged to provide books of account and records of the entity over which it has control at the request of the tax administration.

Accessing banking information

290. The Unified Register of Taxpayers is interconnected with the Single Register of Accounts for legal entities and entrepreneurs of the NBS which contains relevant banking information which is helpful in handling a request, by enabling the Competent Authority to respond to the request, or pointing out to which commercial bank in Serbia complementary information needs to be sought from. In cases where the information sought is to check whether a person has a bank account in Serbia, or to verify who is the account holder of a given bank account, the Tax Administration is able to check this information internally. This register is relevant in case the account holder is a legal entity.

291. If the account holder is a natural person, the Tax Administration uses the Register on accounts of natural persons which is maintained by the NBS. NBS grants access to a few designated employees of the Tax Administration upon receiving a specific request from the Director General of the Tax Administration to the NBS. Such access has been granted to the Head of the EOI Unit. This facilitates access to banking information on accounts of natural persons in a timely manner.

292. While certain requests may be limited to identifying an account holder or verifying the existence of a bank account for a given person under investigation, the requests often go further and cover bank statements, contracts, or loan agreements for instance. In most cases, the information available through these two registers enables the Competent Authority to identify the bank from which more information needs to be requested. In such situations, the Tax Administration uses its access powers under Article 45 of the LTPTA to request information from the bank, but when the bank cannot be identified the Competent Authority goes to the taxpayer.

293. In practice, when accessing information from the bank, the Competent Authority needs to include at the minimum the name, surname and a third identifier such as the date of birth or the national identification number (NIN) for a natural person or tax identification number (TIN) for a legal entity subject of a request, or the bank account number on which information is sought. Although the banks were unanimous on the fact that they will not be able to process a request from the Tax Administration that would only provide the name and the surname of a natural person or the entity name of a legal person on whom information is requested, the Competent Authority confirmed that they would search their Unified Register of Taxpayers in order to find the passport identification number or TIN of the persons and follow up with a request to the banks. They also explained that when searching first the Unified Register of Taxpayers, often it did not result in enough information to identify with certainty the person on whom the information should be provided.

294. During the review period, the Competent Authority went back four times to the requesting partner to obtain additional information to ensure the person under investigation was the one found in the results. In one case, additional information could not be provided and the case was withdrawn by the treaty partner. In one case no additional information was provided but the Competent Authority corrected a spelling mistake and was able to obtain and send the information. In one case the additional information was not provided and the request was declined.

295. When the minimum information can be provided, the Competent Authority asks the information to the bank rather than to the taxpayer directly because banks are used to such type of request and the response

time is therefore shorter. This smooth co-operation between banks and the Competent Authority was confirmed during the onsite visit and the banks interviewed seemed proficient with the process. During the review period, Serbia received 15 requests for banking information. In one case, it only had to gather information from the registers. In the remainder, it requested the information from banks in ten cases and from taxpayers in four cases. The Competent Authority explained it went to the taxpayer when the request contained other information than only banking information and that it was therefore necessary to launch an audit. The access powers of the Tax Administration are adequate to obtain banking information and aligned with the standard.

B.1.2. Accounting records

296. Serbia has accessed accounting information from the powers it derives under the LTPTA. Similar to ownership and banking information, the Unified Register of Taxpayers is a primary source of accounting information for the Tax Administration. Indeed, financial statements filed in the Register of Financial Statements maintained by the SBRA are automatically submitted once a year in the Unified Register of Taxpayers. This way, the Competent Authority has a direct access to the financial statements for all persons subject to filing of financial statements requirements with the SBRA. To obtain accounting information of entities which are not compelled to submit financial statements in the Register of Financial Statements,[24] the Tax Administration uses its domestic powers, either in the course of an audit launched on the taxpayer or by request to third parties.

297. As previously mentioned, Article 37 of the LTPTA requires any taxpayer (i.e. resident legal entity, permanent establishments of non-resident legal entities, entrepreneurs, funds, and resident taxpayer's permanent establishments abroad) to keep books of account and records for taxation and to submit them upon request of the Tax Administration. The LTPTA allows records from a related party to a Serbian taxpayer to be kept abroad. Article 37 specifically refers to the fact that where the taxpayer keeps books of account and records for taxation abroad with persons over which the taxpayer exercises control or influence, the accounts and records should still be provided. Serbia clarified that this Article means that accounting records of the related party should be made available to the Serbian Tax Administration should there be a request.

24. For instance in the case of a foreign entity which does not have a branch in Serbia.

298. The Competent Authority may also choose to request information to third parties such as certified accountants and auditors. Article 46 provides for the following:

> Information on facts of relevance for taxation may be withheld by:
>
> 1) the taxpayer's family members, within the meaning of the law governing personal income tax;
>
> 2) a member of clergy, attorney at law, tax advisor, auditor and doctor in regard to what the taxpayer has confided in them or what they have learned in this capacity, which relates to the taxpayer's tax liability.
>
> 3) Information on facts relevant for taxation can also be withheld by assistants of the persons referred to in paragraph 1, item 2) of this Article, as well as persons participating in professional activity as a part of training towards acquiring a title.
>
> The persons referred to in paragraph 1 of this Article shall decide on the right to withhold information.

299. This article clearly states that an attorney-at-law, tax advisors, auditors have the discretion to decide on the right to withhold the information they hold on their clients. However, given the restrictive interpretation of the Tax Administration (see paragraph 327), a lawyer, auditor or tax advisor may therefore refuse to testify about facts relevant for taxation, if justified reasonably.

300. The accountants are not covered by and therefore do not have any right to withhold accounting information that they would have come in possession of during the course of their function. As showed under part A.2, statutory audit in Serbia is mandatory for regular annual financial statements of large and medium legal entities. The auditors have to keep records which enabled them to draw their audit report for six years from the year audited (Article 37(2) of the Law on Auditing). In addition, the Law on Accounting requires that the subject person designates a registered accounting service provider to compile financial statements and keep accounting documents. In this context, auditors and certified accountants could therefore be another source of information that the Competent Authority may use to obtain accounting records, including underlying documents for the entities which are subject to external auditing. During the onsite, accountants and auditors confirmed they would provide information they hold to the Competent Authority if requested. The Competent Authority explained that it directly sought accounting information from auditors or accountants in two instances out of 42 during the review period. Usually the information would

be gathered from the taxpayer which would in turn ask its accountant to gather the information.

B.1.3. Use of information gathering measures absent domestic tax interest

301. Article 16 of the Constitution of the Republic of Serbia (International relations) states that once ratified, international treaties are fully integrated into the domestic legal order. They do not need to be transposed and are directly applicable. The Multilateral Convention and the DTCs are international treaties and have a force of law in Serbia.[25]

302. Article 160(8) and (14) of the LTPTA states the different area of competencies the Tax Administration has, and within which its domestic powers may be exercised:

> The Tax Administration shall: […]
>
> (8) ensure implementation of double taxation treaties; […]
>
> (14) perform other activities as provided in the law; […]

303. Serbian Authorities confirmed that "performing activities as provided in the law" should be interpreted widely as to include all laws of Serbia for which the Tax Administration has some binding obligations. Therefore, considering that the Multilateral Convention and the DTCs are directly applicable and form part of the Law of Serbia, the Tax Administration is able to use its information gathering measures provided by the LTPTA, even in the absence of domestic tax interest.

304. Moreover, the EOI manual implemented by the EOI unit expressly mentions that regardless of the existence of a domestic tax interest, a request for information, including bank information and information held by fiduciaries, is foreseeably relevant and should be responded to. The officials of the EOI unit interviewed on this matter during the onsite visit confirmed that they do not check the existence of a domestic tax interest to validate a request.

305. Based on Serbia's legal framework and its practice, as supported by the peer inputs, there are no concerns with regards to providing information requested that related to persons who were not resident in Serbia and with no tax obligations towards the Tax Administration.

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25. Serbia is not Party to any TIEA but nothing prevents it to enter in such EOI instrument.

B.1.4. Effective enforcement provisions to compel the production of information

306. The standard requires effective enforcement provisions, including sanctions for non-compliance, to be applicable upon refusal or failure to supply the requested information.

307. Firstly, the Tax Administration can apply to the Court for the imposition of a range of financial sanctions to dissuade and penalise taxpayers and third parties which do not abide by the requirements to provide the information requested (Articles 179 and 180 of the LTPTA). The sanctions depend on the person in breach:

- A fine ranging from RSD 100 000 to RSD 1 000 000 (EUR 854 to EUR 8 547) for a misdemeanour shall be imposed on a legal entity which fails to comply with Article 45. A representative of the legal entity in breach of Article 45 shall in addition be sanctioned with a fine ranging from RSD 10 000 to RSD 50 000 (EUR 85-427).
- A fine from RSD 100 000 to RSD 2 000 000 (EUR 854 to EUR 17 094) shall be imposed for a misdemeanour on a bank that fails to provide available information as requested by the Tax Administration under Article 45 paragraph 1
- A fine ranging from RSD 5 000 to RSD 150 000 (EUR 43 to EUR 1 282) for a misdemeanour shall be imposed on an individual, who is not a sole trader, for failure to comply with Articles 45 or 127.
- A fine of RSD 10 000 to RSD 100 000 (EUR 85 to EUR 854) will be imposed on a person responsible for a misdemeanour in a bank, state authority and organisation, authority of territorial autonomy and local self-government for failure to provide available information, as well as data of importance under Article 45 paragraph 1.

308. The Tax Administration made 432 applications for failure to comply with Article 45 of the LTPTA but none related to EOIR matters. No granular statistics are kept on the application of fines by courts for these tax offences.

309. Secondly the Tax Administration has powers of search and seizure under Article 130 of the LTPTA. The Tax Administration can temporarily seize books of account, records, other documents or instrument. This is particularly relevant if the Tax Administration suspects that a taxpayer concerned by an EOI request intends to destroy records for instance. Tax auditors may also inspect dwellings of the taxpayer if this is pre-authorised by a Court.

310. Finally, Article 135 grants the responsibility of detecting tax crime to the Tax Police. The notion of tax crime encompasses criminal offences defined by the law of Serbia and includes tax evasion. For EOI purposes,

where a case of tax evasion is suspected outside of Serbia (and the requesting jurisdiction has stated the actions it has taken and the reasons for which it is suspected that a tax crime is occurring), the Tax Police may therefore, upon decision of the public prosecutor, summon and examine a suspect, including bringing him/her in by force; search an apartment, business or other premises, means of transport and persons and temporarily seize items which could serve as evidence in criminal proceedings for tax crimes. In order to implement the search procedure, a court order needs to be obtained.

311. Those search and seizure powers available to the Tax Administration guarantee that in situations requiring such acts to be taken, information may be obtained. In practice the recourse to these powers was not needed for any EOI cases.

B.1.5. Secrecy provisions

312. The standard requires that jurisdictions do not decline an EOI request on the basis of its secrecy provisions (e.g. bank secrecy, professional secrecy).

Bank secrecy

313. In line with Article 46 of the Law on Banks, a bank secret is a business secret. It encompasses the following:

- data known to a bank relating to personal data, financial condition and transactions, as well as to ownership or business relations of the clients of such bank or another bank
- data on balances and flows on individual deposit accounts
- other data obtained by the bank in operation with clients.

314. Article 47 of the Law on Banks imposes the obligation of keeping bank secrecy on the bank, its members, shareholders and employees as well as on the external auditor of the bank and other persons who, due to the nature of the work they perform, have access to information that is considered as bank secret. These persons cannot disclose this information to third parties or use them against the interests of the bank and its clients, nor can they allow third parties to access such data. An exception nevertheless exists, since the bank may disclose bank secret information to third parties if the written consent of that client is obtained, or if otherwise prescribed by the Law on Banks or another law.

315. Article 48 of the Law on Banks prescribes the exceptions where banks can disclose bank secret data without requiring the written consent

of the concerned client. The exceptions cover the case of a request made by the Tax Administration, pursuant to regulations governing the activities within its field of competence. As mentioned in Part B.1.3, this field of competence includes EOI.

316. During the onsite visit, interviewed representatives of banks confirmed they were used to receiving requests from the Tax Administration, and did not raise any concerns as to bank secrecy. They confirmed they had a good communication established with the Tax Administration. They explained that when they receive a request, there is no indication as to the purpose of the domestic request, just the reference to the legal provision enabling the request to be made, the timeline (i.e. 10 days) to respond and the information requested. On this point, they confirmed that they would always need a third identifier of the person on which information is sought. With only a name and a surname they would not be able to process the request (see above "Accessing banking information"). It is not their practice to inform the client of a request received by the Tax Administration.

317. In practice, and out of the 15 requests for banking information Serbia received during the review period, the Competent Authority went 10 times to the banks. In all cases it obtained the requested information with no issues. This was confirmed by the peers.

Professional secrecy

318. In Serbia, all domestic laws have the same legal value and should all be in line with the Constitution. Professional secrecy laws therefore have the same value as the LTPTA, under which the Competent Authority is empowered to access information for EOIR purposes. Serbia confirmed that when the content of two laws of same value do not align, the law setting out an exception to the general principles set out in another law should be the one to apply. Serbia considers that in the case of the professional secrecy law, the LTPTA should apply. Professionals interviewed during the onsite visit have the same interpretation as they have provided information and would continue to do so when requested by the Tax Administration.

319. The professional secrecy is covered under the following:

- Law of Accountants
- Law on Advocacy and Code of Professional Ethic of the Lawyers
- Law on Public Notaries

320. These laws impose an obligation to keep secret information that a professional would have learnt or obtained from a client or his/her authorised representative, in the exercise of his/her functions.

321. Subsection 114 of the Law of Accountants allows for the disclosure of information when it is required by law. The law provides for examples:

(i) Production of documents or other provision of evidence in the course of legal proceedings; or

(ii) Disclosure to the appropriate public authorities of infringements of the law that come to light;

322. Both examples seem too restrictive to be applied in the scope of an EOI request, as an EOI request is usually not exercised in the course of a legal proceeding, and there may also not be any demonstrated infringement of the law yet. However, those are examples, and Article 45 of the LTPTA does not restrict to whom the Tax Administration may request information and therefore, should have no difficulties in accessing information from the accountants.

323. Based on Article 20 of the Law on Advocacy, it appears that the scope of lawyer's professional secrecy covers everything entrusted to the lawyer by his/her client or his/her client's authorised representative. This is regardless of whether legal assistance is provided or not. Yet, Article 14 of the Code of Professional Ethic of Lawyers, which defines the scope of the professional secrecy, applies specifically to information received in connection with the representation, which would therefore be in line with the standard.

> 14.2. The duty of confidentiality applies equally to:
>
> 14.2.1. data, documents (files, items, documents, electronic, sound or video, records and recordings) and deposits that were communicated, shown or handed over to the lawyer in connection with the representation, regardless of whether the documents and deposits are in the law office, or, by order or under the supervision of a lawyer, temporarily placed in another place;
>
> 14.2.2. confidential information that the lawyer learned from the person whose representation he did not accept (the party), or from the opposite party, who, before starting the procedure before the competent authority, approached him for the purpose of settlement or mediation.

324. Finally, Article 16.3 of the Code of Professional Ethic of Lawyers states a lawyer is obliged to warn the client of his legal obligation to record and transfer certain data to the competent authority in certain legal cases, before the client entrusts them to him.

325. Notaries' duty to keep secrecy is in line with the standard as it may be lifted in favour of administrative authorities or other competent

authorities, including the Tax Administration when a request for information is made under the LTPTA. Article 57 of Law on Public Notaries states the following:

> The notary public and the persons employed by the notary public are obliged to provide [information he has learned in the performance of his activities] to the court, administrative authority or other competent authority before which the proceedings are conducted, in accordance with the provisions of the law governing those proceedings.

326. Article 46 of the LTPTA states the following:

> Information on facts of relevance for taxation may be withheld by:
>
> 1) the taxpayer's family members, within the meaning of the law governing personal income tax;
>
> 2) a member of clergy, attorney at law, tax advisor, auditor and doctor in regard to what the taxpayer has confided in them or what they have learned in this capacity, which relates to the taxpayer's tax liability.
>
> 3) Information on facts relevant for taxation can also be withheld by assistants of the persons referred to in paragraph 1, item 2) of this Article, as well as persons participating in professional activity as a part of training towards acquiring a title.
>
> The persons referred to in paragraph 1 of this Article shall decide on the right to withhold information.

327. Serbia clarified that this article should be read in line with the principles according to which a person cannot be asked to answer questions that would put this person, a blood relative to serious embarrassment, significant property damage or criminal prosecution, or that would violate the right or obligation to keep a secret established in accordance with the law and regulations governing the confidentiality of data (i.e. professional secrecy). A lawyer, auditor, tax advisor may therefore refuse to testify about facts relevant for taxation, if justified reasonably.

328. In practice, the interpretation of the scope of the professional secrecy that can be opposed to the Tax Administration is in line with the standard. The representatives of the Bar Association, the Association of Accountants and Auditors, Tax Advisors (falling under the scope of the Law on Accounting) and the representative of public notaries, all confirmed that their respective legal secrecy obligations would not be an impediment to furnish information to the Tax Administration in case there would be a

request. The Bar Association's representative explained that upon entering into a relationship with a client, he would always inform the client that according to his legal obligations he may have to furnish information to the Tax Administration upon request and that there shall be no confidentiality breach in that respect. He confirmed that this would be the unique time he would raise this with his client, and that if a request was made to him, he would not have to inform his client or request his approval. This practice was confirmed by accountants, tax advisors and auditors.

329. The Bar Association representative particularly confirmed that should a request from the Tax Administration come on ownership, including BO information, or accounting records of a client which would have confided these documents to him outside the scope of preparing the defence of his client in a legal proceeding, he would provide the information to the Tax Administration. This is therefore in line with the standard.

330. The Competent Authority indicated that it never had to request the relevant information from a lawyer during the period under review for EOI purposes. But the Tax Administration did request accounting records to same when a lawyer acts as proxy of the taxpayer in the scope of their domestic framework. Professionals interviewed during the onsite visit confirmed they are used to receiving requests from the Tax Administration for domestic tax purposes. Professional secrecy is not an impediment for the Competent Authority to accessing information and would not prevent EOI.

B.2. Notification requirements, rights and safeguards

> The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information.

331. Serbia's domestic legislation provides that when personal data is directly sought from a natural person under foreign investigation or examination, this natural person must be notified of the request. Personal data includes name, surname, date of birth, residence address, marital status, email address, but also any information that would identify indirectly the natural person such as accounting and banking records. There are no legal exceptions to this prior notification for EOI request when the requesting partner would formally ask the Serbian Competent Authority from not notifying the taxpayer (i.e. where the request is urgent and where notifying the person could undermine the chances of success of the investigation).

332. A general right to appeal a decision of the Tax Administration exists and will apply to the exchange of information.

333. The conclusions are as follows:

Legal and Regulatory Framework: In place but certain aspects of the legal implementation of the element need improvement

Deficiencies identified/Underlying factor	Recommendations
Serbia's domestic legislation provides that when personal data is sought directly from a person under foreign investigation or examination, this person must be notified of the request. This would not be the case if personal data is not obtained directly from the taxpayer. In the limited cases where the Law on Personal Data Protection will apply, there is no legal exceptions to this prior-notification for an EOI request for which the requesting partner would have formally asked the Serbian Competent Authority from not notifying the taxpayer (i.e. where the request is of a very urgent nature or the notification is likely to undermine the chances of success of the investigation).	Serbia is recommended to ensure that appropriate exceptions exist to the prior notification of the person concerned by an exchange of information request (i.e. in urgent cases or in cases in which informing that person is likely to undermine the chance of the success of the investigation conducted by the requesting jurisdiction).

Practical Implementation of the Standard: Largely Compliant

No issues have been identified in practice. However, once the recommendation on the legal framework is addressed, Serbia should ensure it is applied and enforced in practice.

B.2.1. Rights and safeguards should not unduly prevent or delay effective exchange of information

Notification and exceptions

334. In Serbia, the LTPTA does not provide for the obligation to notify the taxpayer subject of the request neither prior the exchange nor after. However, when ratifying the Multilateral Convention, Serbia made a declaration that the Competent Authority may have to notify the taxpayer before being able to exchange the information in some cases. The law governing this pre-notification is the Law on Personal Data Protection (LPDP). Both Articles 23 and 24 of the LPDP provide for prior-notification of the taxpayer whenever the taxpayer is a natural person and his/her personal data is to be handled by any public authority. Article 23 deals with situations where personal data is collected from the natural person to whom the data pertains and requires notification of such person. Article 24 deals with situations when such data is collected from a person/source other than the natural person to whom the data pertains. It also requires notifying such natural person. However, Article 24 provides for an exception to this

prior-notification when the collection of the personal data and its subsequent exchange are expressly laid down by the law providing for the appropriate measures to protect the legitimate interests of the person to who the data relates. Serbia explains that they consider the LTPTA which provides for tax secrecy of the information obtained by the Tax Administration in the scope of its functions, would be sufficient to justify this exception.

335. The scope of the personal data whose transfer should be brought to the attention of a taxpayer is limited to information relating to an identified or identifiable natural person, directly or indirectly, such as a name and an identification number, location data, an online identifier in electronic communication networks or to one or more characteristics of the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person. It results that an information which would enable identification of the natural person subject of the investigation would be personal data. This could include invoices, and bank statements for instance. However, Serbia also confirmed that in practice it never had to provide prior-notification. In 64 cases where requests pertaining to personal data were received, Serbia always used its databases. Hence, in practice, Article 23, dealing with prior notification of the natural person to whom the data pertains, would not apply in most situations. Instead, Serbian authorities would obtain the information from their own databases or from third parties and in such situations Article 24 with its associated exception to prior notification will apply.

336. Article 40 of the LPDP provides for further exceptions to this notification procedure. Inter alia, this provides for exception from prior notification in situations when the transfer of the information would help in prevention, investigation and discovery of criminal offences, prosecution of perpetrators of criminal offences or enforcement of criminal sanctions, including prevention and protection against threats to public security. Serbian authorities have indicated that for requests pertaining to criminal tax matters, prior notification would not be needed by virtue of this exception. However, situations where EOI requests pertain to civil matters and an exception to prior notification is sought by the treaty partner due to urgency of the request or where notification of the investigated person could potentially undermine the chances of success of the investigation are not explicitly covered by these exceptions. Nevertheless, Serbia explained that if they had to implement this prior-notification procedure, they would first consult with the requesting jurisdiction to inform that the requested information can only be obtained from the natural person concerned and that they may need to disclose the name of the treaty partner, the EOI purpose as well as sufficient background information contained in the EOI request. Serbia clarified that the prior-notification would not contain information going beyond what the standard allows (see paragraph 383). The request in respect of such information will

be processed only upon agreement from the treaty partner. Should the partner disagree with any information to be included in the notification, Serbia will not proceed with the notification to gather such information. Serbia will provide the requesting jurisdiction with the partial information available, if any, and will close the request.

337. The EOI manual refers to the procedure to be followed when a notification to a taxpayer is required under the LPDP and does not include exceptions where the requesting partner asks to not notify the taxpayer. Although the likelihood of implementing the LPDP' provisions seems limited to civil tax matters where personal data would be collected from the individual taxpayer to whom the information relates, the lack of exceptions from prior notification when a treaty partner asks to refrain from notifying the taxpayer is not fully in line with the standard. Furthermore, the EOI manual also does not sufficiently guide the EOI officials to apply the existing exceptions. Therefore, **Serbia is recommended to ensure that appropriate exceptions exist to the prior notification of the person concerned by an exchange of information request (**i.e. **in urgent cases or in cases in which informing that person is likely to undermine the chance of the success of the investigation conducted by the requesting jurisdiction)**.

338. Apart from the above-mentioned requirements under the LPDP, the Competent Authority never discloses to the information holder the EOI purpose of its request. The risk that the holder of the information may inform the person concerned of the existence of a request is therefore limited since the holder him/herself is not aware of the purpose of the request. In addition, as mentioned in paragraph 316, in practice the banks do not inform their clients of an existence of a request from the Tax Administration.

Appeal rights

339. According to the LTPTA, the taxpayer can appeal a tax act as defined under Article 34 of the LTPTA. The exercise of access powers, regardless of whether it is under the scope of an audit or not, falls under the category of tax acts that can be appealed against. An appeal must be filed within 15 days from the date of receipt of the tax act. The appeal does not have a suspensive effect on the request for information. If there is no auditing procedure or the information holder is not a taxpayer, an appeal is possible against the decision imposing a fine for not providing information upon the request of the Tax Administration. However, the Tax Administration has not experienced such an appeal in the context of EOI. When the appeal of a taxpayer is dismissed by the Ministry of Finance, which is the second instance authority (Article 165 of the LTPTA), the taxpayer may appeal this decision before the Administrative Court. Peers did not report cases were

domestic rights and safeguards prevented effective EOI with Serbia and no such cases were identified during the peer review.

340. Appeal rights in Serbia would therefore not unduly prevent or delay effective exchange of information.

Part C: Exchange of information

341. Sections C.1 to C.5 evaluate the effectiveness of Serbia's network of EOI mechanisms – whether these EOI mechanisms provide for exchange of the right scope of information, cover all Serbia's relevant partners, whether there were adequate provisions to ensure the confidentiality of information received, whether Serbia's network of EOI mechanisms respects the rights and safeguards of taxpayers and whether Serbia can provide the information requested in an effective manner.

C.1. Exchange of information mechanisms

Exchange of information mechanisms should provide for effective exchange of information.

342. In Serbia, the legal authority to exchange information derives from DTCs and the Multilateral Convention. Serbia has an extensive EOI network covering 155 jurisdictions through 68 DTCs[26] and the multilateral Convention on Mutual Administrative Assistance in Tax Matters (Multilateral Convention) (see Annex 2).

343. Among these EOI relationships, nine are not covered by the Multilateral Convention and ten are not in force as they are pending ratification of either the bilateral instrument or Multilateral Convention by the treaty partners, although Serbia ratified all its EOI instruments. One of the seven EOI relationships in force and not in line with the standard has recently signed the Multilateral Convention.

344. Nine EOI relationships are not in line with the standard.[27] Accordingly, most of Serbia's EOI relationships meet the standard.

26. The Treaty signed with the Philippines in 1989 is not in force and renegotiations will be needed to bring it in force.
27. Belarus, Egypt, Guinea, Iran, Libya, Democratic People's Republic of Korea, Palestinian Authority, Sri Lanka and Zimbabwe.

345. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the EOI mechanisms of Serbia.

Practical Implementation of the Standard: Compliant

No issues have been identified that would affect EOIR in practice.

Other forms of exchange of information

346. Serbia has not yet committed to implementing automatic exchange of information, neither in relation to the Common Reporting standard, nor in relation to the Country-by-Country Reporting standard. However, during the review period, Serbia used spontaneous exchanges with its treaty partner. Ten peers reported having exchanged spontaneous information with Serbia. Serbia has also entered into two regional Agreements on Co-operation and Mutual Assistance. The first one on indirect taxation with Bosnia Herzegovina, Bulgaria, North Macedonia and Montenegro concluded in 2006, the second with the Federation of Bosnia and Herzegovina, Bosnia and Herzegovina, Slovenia and Montenegro. Finally, Serbia entered into a Memorandum of Understanding with the Italian Financial Police in the field of information co-operation in 2012.

C.1.1. Standard of foreseeable relevance

347. The Multilateral Convention and all of Serbia's DTCs contain articles for EOI purposes that provide for exchange of information that is "foreseeably relevant" or "necessary" to the administration and enforcement of the domestic laws of the contracting parties concerning taxes covered in the international agreements. The OECD Model Tax Convention recognises in its commentary to Article 26 that the term "necessary" allows the same scope of exchange of information as does the term "foreseeably relevant". A majority of the DTCs that are in force in Serbia were signed before 2012 and use the word "necessary". The Competent Authority interprets the terms of "necessary" and "foreseeably relevant" in line with the standard.

348. Under the EOI manual, Serbia has developed some internal guidelines on how to understand the concept of foreseeable relevance. The EOI manual reflects the Commentary of Article 26, i.e. information should be exchanged to the widest possible extent with the exception of fishing expeditions; foreseeable relevance is applied at the time the request is made; and all

foreseeably relevant information is subject to exchange of information, regardless of the existence of a domestic tax interest or the application of the dual criminality principle. Discussion during the onsite visit confirmed that EOI officials had good knowledge of the standard of foreseeable relevance in EOIR.

Clarifications and foreseeable relevance in practice

349. The Serbian Competent Authority interprets and applies its EOI instruments in conformity with the Standard of foreseeable relevance and adopts the practice of seeking clarifications where requests are not sufficiently clear. In ten instances requests for clarifications were made by the Serbian Competent Authority to the requesting treaty partners. In six cases, the Competent Authority obtained the clarifications but in two instances it still considered that the response from the partner was not sufficient to meet the standard and hence the requests were declined. In all other cases, requested information was provided, except in one case as the peer replied explaining that it did not have further information to provide and would consider the case closed.

350. Clarifications were sought because of absence of connection between the information requested and the taxpayer concerned by the tax investigation, lack of precision in the information requested, inconsistent information in the background, or no reference to the period covered by the tax investigation. Among the peers concerned and those who submitted peer-input, none raised concerns on those clarifications as not being in line with the Standard.

351. In four cases, the peers did not respond by providing the information sought in the clarification. However, in one case Serbia still managed to retrieve and provide the information by correcting an apparent mistake in the original request. In the three other cases, in the absence of further information from the treaty partners, Serbia declined the requests.

352. The Competent Authority declined four requests because those were not meeting the standard of foreseeable relevance, such as lack of sufficient background information to identify the taxpayer concerned and establish a link between the information requested and the person who was subject of the investigation. Three requests were declined for lack of legal basis underpinning the request (i.e. it was not signed by the competent authority and the EOI legal instrument did not cover taxes[28] that were investigated).

Group requests

353. Serbia's EOI agreements and domestic law do not contain language prohibiting group requests. The EOI manual defines group requests as

28. Serbia reserved the right to not provide any form of assistance in relation to taxes of other parties in the categories listed under Article 2, part 1.b of the Multilateral Convention, and real estate tax is one of those.

requests which do not identify the taxpayers individually and explains that the standard of foreseeable relevance may be met in certain conditions. These conditions include all key elements to allow for foreseeable relevance in accordance with the standard. Particularly, it was confirmed that Serbia would be able to access information from the registers maintained by the National Bank of Serbia, should the information requested entail banking information, and this even if there are no identifiers (i.e. name, surname, date of birth, National Identity Number, TIN, or bank account number).

354. Serbia has never received any group requests and has never made any, but the Competent Authority is equipped to process those, should the situation arise.

C.1.2. Provide for exchange of information in respect of all persons

355. Out of Serbia's 68 DTCs, 59 are complemented by the Multilateral Convention, therefore providing for EOI in respect of all persons. Among the nine DTCs that are not complemented by the Multilateral Convention, two with Sri Lanka and Zimbabwe are restricted by Article 1 (Persons Covered) of the DTC, to persons resident of one or both Parties. Nevertheless, both DTCs also provide for an exchange of information necessary for the implementation of the domestic tax laws of the jurisdictions. Serbia confirmed that, to the extent that the Sri Lanka and Zimbabwe domestic laws are applicable to residents and non-residents, Serbia will be in a position to exchange information in respect of all persons, including non-residents in line with the principle of reciprocity. However, in practice, there has never been any EOI requests from Sri Lanka and Zimbabwe so far.

356. During the review period, one request covered a taxpayer which was neither resident of Serbia nor of the requesting jurisdictions. The information was provided to the requesting partner.

C.1.3. Obligation to exchange all types of information

357. Out of Serbia's 68 DTCs, 59 are covered by the Multilateral Convention which ensures that the requested jurisdiction shall not decline to supply the information requested solely because it is held by a financial institution, nominee or person acting in an agency or fiduciary capacity, or because it relates to ownership interests in a person. None of the nine DTCs not covered by the Multilateral Convention contains the language of Article 26(5) of the OECD Model Tax Convention, which explicitly provides for a similar obligation. Nevertheless, the absence of this language does not automatically create restrictions on exchange of banking information since the commentary to Article 26(5) indicates that while the addition of paragraph 5 in 2005 represents a change in the structure of the Article, it should

not be interpreted as suggesting that the previous version of the Article did not authorise the exchange of such information. Serbia confirmed that in line with the Constitution of Serbia, the commentary to Article 26 is considered as forming part of the international agreement and adopted rules of international law, and hence, there will be no limitations from Serbia with regards to exchanging such type of information, even in the absence of this paragraph.

358. However, the exchange of banking information in respect of the nine DTCs will be subject to reciprocity and will depend on the domestic limitations (if any) in the laws of these treaty partners. There may be a concern since none of them are Global Forum members and/or have undergone peer reviews. It is therefore uncertain that some or all have legal restrictions to access banking information for EOI purposes under their domestic laws. In order to address the potential limit to exchange of information with these partners, Serbia should ensure all its EOI relationships are in line with the Standard (see Annex 1).

C.1.4. Absence of domestic tax interest

359. All but nine of Serbia’s EOI relationships are covered by the Multilateral Convention which contains the explicit obligation to exchange information, including in situations where the requested jurisdiction does not need the requested information for its own domestic tax purposes. Thus, all these EOI relationships meet the standard. The nine DTCs not supplemented by the Multilateral Convention do not contain a similar explicit obligation. Serbia explained that this should not be a concern because there are no domestic tax interest restrictions on Serbia’s powers to provide information to another contracting party in EOI cases, particularly since the international treaties establishing the legal obligation to exchange of information supersede any other laws in Serbia. Serbia applies the provisions of the treaties abiding by the reciprocity principle (Article 157 of the LTPTA) and therefore, their application of the DTCs would depend on the domestic limitations (if any) in the laws of its treaty partners. The situation is uncertain, as those treaty partners are not Global Forum’s members and/or have not been assessed against the Standard. Therefore, Serbia should ensure that all its EOI relationships are in line with the Standard (see Annex 1).

360. In practice, the Competent Authority confirmed that as long as a request is foreseeably relevant, the information is obtained through domestic measures under the LTPTA, whether or not the DTC includes an explicit obligation to exchange the information in situation where there is not any domestic tax interest. No issues have been raised from the peers during the review period and Serbia provided information on addresses, income, bank details and information on the ownership of movable/immovable property to its treaty partners for which the DTC did not contain that explicit obligation.

C.1.5 and C.1.6. Civil and criminal tax matters

361. All of Serbia's EOI instruments provide for exchange of information in both civil and criminal tax matters. In addition, there are no such provisions in Serbia's instruments nor domestic law which would indicate that a dual criminality principle (i.e. the principle that information in criminal tax matters can only be exchanged if the conduct is considered a crime in both treaty partner jurisdictions) would restrict EOI for tax purposes.

362. Serbia has provided information in response to all EOI requests for civil and criminal tax matters, and the process of exchanging information is the same, regardless of a criminal tax matter or civil tax matter. No issues have been raised from the peers during the review period.

C.1.7. Provide information in specific form requested

363. There are no restrictions in Serbia's EOI agreements or domestic laws that would prevent it from providing information in a specific form (for example, depositions of witnesses and authenticated copies of original records) and should be able to provide the requested information in the form required by the treaty partner. However, no peers ever requested Serbia to provide information in a specific form.

C.1.8. and C.1.9. Signed agreements should be in force and be given effect through domestic law

364. Serbia signed and ratified 68 DTCs, 3of which are still not in force as they have not been ratified by the treaty partners.

365. Most of the DTCs were concluded by the Socialist Federal Republic of Yugoslavia before 1992 and have continued to apply to Serbia as legal successor of this country.

366. In Serbia, Article 97 of the Constitution is the basis on which Serbia enters into international agreements, including DTCs. Treaty negotiations are undertaken by the Ministry of Finance, based on a model treaty that follows Article 26 of the OECD and UN models. Upon completion of the treaty negotiations, a report is sent to the Government and the DTC is prepared for signature. The heads of both delegations will then sign the DTC, which is sent back to the Government which then prepares the Bill of ratification for presentation before the Parliament. Once ratified, the DTC forms part of the Serbian legal system and supersedes the other Serbian laws. The letter of notification that the treaty has been ratified is then sent to the treaty partner and the DTC enters into force when the notification from the treaty partner is received by Serbia. From the end of negotiation, the signature and ratification steps usually take less than eight months. Indeed, the Government

usually approves the signed DTC within a month and the ratification itself takes around six months. The notification letter is then sent by the Ministry of Foreign Affairs within few days from the ratification date.

367. Serbia has ratified all the DTCs signed and is awaiting the notification of three partners.

368. The table below summarises the outcome of the analysis under Element C.1 in respect of Serbia's EOI mechanisms.

EOI mechanisms

Total EOI relationships, including bilateral and multilateral or regional mechanisms	155
In force	145
In line with the Standard	138
Not in line with the Standard	7[a]
Signed but not in force	10
In line with the Standard	7[b]
Not in line with the Standard	3[c]
Total bilateral EOI relationships not supplemented with multilateral or regional mechanisms	9
In force	6
In line with the Standard	0
Not in line with the Standard	6
Signed but not in force	3
In line with the Standard	0
Not in line with the Standard	3[c]

Notes: a. Belarus, Egypt, Iran, Libya, Democratic People's Republic of Korea, Sri Lanka. The EOI relationship with Viet Nam is counted as in force not in line since the Multilateral Convention has not been ratified yet by this jurisdiction.

b. Gabon, Honduras, Madagascar, Papua New Guinea, Philippines, Togo and United States.

c. Guinea, Palestinian Authority and Zimbabwe.

C.2. Exchange of information mechanisms with all relevant partners

> The jurisdiction's network of information exchange should cover all relevant partners, meaning those jurisdictions who are interested in entering into an information exchange arrangement.

369. Serbia has an extensive EOI network covering 155 jurisdictions through 69 DTCs and the Multilateral Convention. Serbia's EOI network covers a wide range of counterparties including its main trading partners, all EU and all OECD members.

370. Serbia does not currently have a specific programme for negotiation of EOI agreements, particularly since it is a party to the Multilateral Convention. However, where the ongoing negotiations concern DTCs with an EOI provision which is not in line with the Standard, Serbia confirmed it would include amendments of same in the negotiation process. There are 11 new DTCs which are in the pipeline for negotiations, five of which are treaties being negotiated with existing DTC partners. None cover the EOI relationships not in line with the Standard (see Element C.1).

371. No Global Forum member has indicated that Serbia refused to negotiate or sign an EOI instrument with it. As the standard ultimately requires that jurisdictions establish an EOI relationship with all partners who are interested in entering into such relationship, Serbia should continue to conclude EOI agreements with any new relevant partner who would so require (see Annex 1).

372. The conclusions are as follows:

Legal and Regulatory Framework: in place

The network of information exchange mechanisms of Serbia covers all relevant partners.

Practical Implementation of the Standard: Compliant

The network of information exchange mechanisms of Serbia covers all relevant partners.

C.3. Confidentiality

The jurisdiction's information exchange mechanisms should have adequate provisions to ensure the confidentiality of information received.

373. Serbia's EOI instruments contain the confidentiality provisions for safeguarding all exchanged information under international agreements. In addition, Serbia's laws and administrative procedures ensure that information received under an EOI mechanism is treated as confidential and is disclosed only to the extent permitted by the agreement.

374. In practice, the Competent Authority has encountered no cases of breach of confidentiality in relation to EOIR and peers have not raised any concerns in this regard.

375. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the EOI mechanisms and legislation of Serbia concerning confidentiality.

Practical Implementation of the Standard: Compliant

No material deficiencies have been identified and the confidentiality of information exchanged is effective.

C.3.1. Information received: disclosure, use and safeguards

Obligations of confidentiality

376. All of Serbia's EOI instruments have confidentiality provisions to ensure that the information exchanged will be treated as secret in the same manner as domestic information and disclosed only to persons authorised by the agreements.

377. The domestic legislation of Serbia protects the confidentiality of information on taxpayers, including information exchanged under international agreements. Those are covered under the LTPTA, the Code of Conduct for Civil Servants and the Rules of Conduct of Tax Officials and Officials of the Ministry of Finance. The two former sources have a legally binding effect and may trigger enforcement of sanctions for the non-compliant officials.

378. Every document, individual piece of information or data or other facts about the taxpayer obtained by officials and all other persons participating in a tax procedure, misdemeanour, pre-investigation or judicial proceedings is considered confidential (Article 7, LTPTA). The receipt of EOI-related information is therefore protected as part of the tax procedure and confidentiality obligations apply for both tax officials and external contractors, or temporary staff if any. The law clearly states that the obligation to keep data confidential continues after their employment, or after the capacity in which a person came to know about the confidential information ends.

Exceptions to the obligations of confidentiality

379. The Terms of Reference, as amended in 2016, clarified that although it remains the rule that information exchanged cannot be used for purposes other than tax purposes, an exception applies where the EOI agreement provides that the information may be used for such other purposes under

the laws of both contracting parties and the competent authority supplying the information authorises the use of information for purposes other than tax purposes. In Serbia's case, all of Serbia's EOI relationships covered under the Multilateral Convention would provide for this possibility, whereas only certain DTCs[29] envisage this possibility. Serbia's domestic laws provide exceptions to the obligation to keep tax information confidential. Those exceptions are found in the LTPTA when information is delivered to foreign competent authorities in the process of exchange of information and mutual legal assistance provisions (Article 7). The Law on Data Secrecy regulates the exchange of secret data of Serbia with countries with which it has signed an international agreement (including an EOI agreement) and states that the exchange of classified data with foreign states shall be carried out through the Council Office, unless it is otherwise prescribed by a special law or an international agreement. Serbian Authorities indeed confirmed that sharing of information received under its EOI mechanisms will only be in accordance with the provisions of the relevant agreements notwithstanding what is contained in the domestic law. In the period under review, Serbia reported that there were no requests where the requesting partner sought Serbia's consent to utilise the information for non-tax purposes, and similarly Serbia did not request its partners to use information received for non-tax purposes.

380. In accordance with Article 24(6) of the LTPTA, a taxpayer is entitled to have access to data regarding tax assessment and collection kept on him/her by the Tax Administration and to demand modification of incomplete or incorrect data. The Tax Administration does not consider that a foreign EOI request forms part of data regarding tax assessment and collection and therefore will never provide access to the request itself.

381. As explained under Element B.2 Notification requirements, rights and safeguards, there is one specific situation where the LPDP provides for the prior-notification of a natural person to whom the data relates when personal data has to be collected from such natural person directly. This legal requirement is limited to civil tax matters and has never occurred in practice, since Serbia never had to obtain personal information on a natural person directly from such person and always used the Article 24 exception, as explained under paragraph 334.

382. Nevertheless, in a situation where the Competent Authority were to obtain personal information from the natural person concerned, a legal requirement exists under the LPDP that when notifying the individual, the handler (i.e. Tax Administration) has to provide information on the purpose of intended processing and the legal basis for the processing; and on the recipient. This means that in such a situation, the prior-notification would

29. DTCs with Hong Kong (China), Japan, San Marino and Singapore.

contain the legal basis in the LTPTA and the international agreement on the basis of which it is collected. Since a requirement exists that the requesting jurisdiction should have an appropriate level of data protection, Serbia explained that the notification will also contain the data and the basis for which the jurisdiction requested the data, to justify the purpose of using the data (foreseeable relevance stated in the request).

383. Serbia explained that should they have to implement this prior-notification procedure, they would proceed to gather the information only after duly consulting with the requesting jurisdiction, informing the treaty partner that the requested information can only be obtained from the natural person concerned and to obtain such information they may need to disclose the name of the treaty partner, the EOI purpose as well as sufficient background information contained in the request. Serbia clarified that should this occur, it would have a restrictive approach and only disclose in the notification that the requesting treaty partner "needs the information for implementing its domestic tax law in relation to a specific tax", without giving details of the specific tax or the type of investigations being carried out. The request in respect of such information will be processed only upon agreement from the treaty partner. Should the partner disagree with any information to be included in the notification, Serbia will not proceed with the notification to gather such information, Serbia will provide the requesting jurisdiction with the partial information available, if any, and will close the request. Given that in practice, this has never happened, Serbia should ensure that it duly consults with the requesting treaty partners each time a prior-notification containing details from the EOI request needs to be sent under Article 23 of the LPDP while obtaining personal information from the natural person to whom the information pertains. If the requesting treaty partner agrees with the prior-notification, Serbia should ensure that the content of the prior-notification does not exceed what is authorised by the standard (see Annex 1).

Sanctions for breaching domestic obligations of confidentiality

384. Unauthorised use or publication of confidential information is a sanctionable breach under the domestic laws governing confidentiality in Serbia.

385. Article 169h-a of the LTPTA states that disciplinary procedures should be taken in accordance with the Law on Civil Servants. The latter prescribes administrative sanctions ranging from warnings to a fine from 20 to 30% of the full-time salary of the sanctioned employee, depending on the seriousness of the violation. Where the violation is particularly serious, additional sanctions can be applied, such as a four-year ban on promotion, a demotion to a lower grade, termination of the employment relationship. In addition, Article 98 of the Law on Data Secrecy states that a breach of

confidentiality that concerns secret data marked "CONFIDENTIAL" will be punished by imprisonment from three months to three years.

386. Therefore, Serbia's EOI network and regulatory framework protects the confidentiality of information exchanged.

C.3.2. Confidentiality of other information

387. Serbia confirmed that all communications with requesting jurisdictions are confidential. Furthermore, these provisions cover the request for information itself, background documents and any other document reflecting such information. While collecting information from an external source (i.e. the taxpayer or a third party), the information disclosed will only be on the domestic legal basis used to request the information (articles 45 or 127 of the LTPTA) and the number of days the person had to provide the information.

Confidentiality in practice

Human resources

388. The conditions of employment as a civil servant, including employees of the Tax Administration, involve background checks to verify the criminal records of the potential recruit and his/her work history (Article 45, Law on Civil Servants).

389. During the hiring process, whether it involves tax officials (including EOI officials), or third parties (such as service providers, contractors), a confidentiality statement will be signed. The statement reiterates the obligation to maintain confidentiality and the consequences of the breach, as well as the duration for which the access to confidential information is granted.

390. To ensure that Tax Administration officials are kept abreast of their confidentiality obligations, training on the topic of data protection and processing are organised by the National Academy for Public Administration. During the review period, three trainings were conducted and 17 Tax Administration officials (including tax auditors and EOI officials) participated.

Physical and IT security and access

391. General access to premises is granted based on an electronic access control system. Each employee has a personal and unique electronic card with a printed picture and the indication of first and last name. Contractors have a visitor access card. Each card gives a specific level of access to certain offices. In order to enter the EOI unit, the necessary credential should be granted, and it is strictly forbidden to lend or borrow one's

personal card to access offices which are not part of one's personal credentials. When the employment relationship ends, the electronic card must be returned and a form signed to confirm the asset was given back.

392. The EOI unit has its own office, with a camera surveillance system posted in front of the main office door. Access is granted to the staff working for the Department for International Co-operation and Information Exchange, which includes staff from the Division for -rdination of international co-operation and programming of projects financed from EU funds and development aid and staff from the EOI unit. Access to public is strictly forbidden, while access to any Tax Administration officials who is not part of the authorised staff is granted by the Head of the Department for International Co-operation and Information Exchange. The EOI unit offices are locked with keys which are kept in a safe cabinet in the office of the Head of the Department.

393. In accordance with Article 11 of the Code of Conduct for Civil Servants, which describes how information should be handled, the access to information is based on a need-to-know principle. The employee cannot request access to information that he/she would not need for the performance of his/her duties. When the employee has access to the information, the use of the information must be prescribed under the Code of Conduct of Civil Servants as adopted in 2008 by the High-Council of Officials. Accordingly, anything that is not prescribed should be not accessible to the employee.

394. All Tax Administration employees are granted a unique identifier that, together with a password, gives access to the Tax Administration IT network. This identifier is given upon employment and put out of use when the user leaves the Tax Administration. The Human Resource department is in charge of allocating the necessary access to officials, from their employment, throughout the course of their employment if the official changes position, and upon termination. The IT Department monitors the automatic access of officials to the Tax Administration network in accordance with the relevant access level. When employment is terminated or the access level changed, the access is automatically removed.

Labelling and handling of confidential information within the Tax Administration

395. The access to EOI information is based on a need-to-know principle as only the EOI officers and the Head of the overseeing department have access to the Excel spreadsheet which records all the information about outgoing and incoming requests as well as files containing original requests, or correspondence with holders of information, and the requesting jurisdiction. Since the Excel spreadsheet is hosted under the parameters of the system used by the whole Tax Administration, the same level of protection applied, i.e. they are marked "confidential".

396. The Excel spreadsheet is password protected and access limited to EOI unit officers, including the Head of the Department for International Co-operation and Information Exchange. All users within the Tax Administration have a personal identifier and password which enable the said user to log in to the Tax Administration system, which hosts the Excel spreadsheet. Every attempt to log in by unauthorised officials is monitored by the IT Department which investigates and then escalates the case to the Internal Control Department. There have been no such cases relating to exchanged information in practice. However, a Tax Administration employee got a warning for having attempted to access domestic information on a public personality which did not relate to his/her duties.

397. Requests received are usually already stamped with the requesting jurisdiction's Competent Authority seal. In line with the process explained in part C.5, the EOI officials open a folder with the request (including the cover letter and all attached information). If the request was transmitted electronically, EOI officers print hard copies of the request to then be placed in the relevant case file stored in the secured cabinet. In case the requests are not labelled with the confidentiality stamp, Serbia would add their own to it.

398. Serbia confirmed that all communications with requesting jurisdictions are confidential, especially data about persons handling the request (contact persons). This information, or information indicating the reason for the request of information (i.e. whether domestic or EOI purposes) is never revealed to the taxpayer, a third party or the organisational unit since the law does not require to justify the reason for the request of information. No special circumstances for releasing such information are foreseen. Only the necessary elements for the identification of the person to whom the request refers (name and surname, address, national identification number, tax identification number) and a description of the requested information is submitted to the information holder or the organisational unit. This was confirmed by the stakeholders interviewed during the onsite visit.

399. In the case that the Competent Authority needs the assistance of the tax auditors, it may have to provide background documents that were part of the request. The EOI officer therefore prints the document, ensuring that only necessary documents are forwarded and that none of those contain information likely to disclose the identity of the requesting jurisdiction's Competent Authority. In addition, those documents are stamped with the relevant confidentiality text if not already affixed by the requesting jurisdiction.

400. When sending the responses to a request, the cover letter and each page of the document attached to the response is stamped with the following clear and visible text, in Serbian and English: "This information is furnished under the provisions of a tax treaty and its use and disclosure are governed by the provisions of such tax treaty". This practice was

also followed by the Ministry of Finance when it was the sole Competent Authority.

401. When the Competent Authority sends a request, the exact same procedures as described above apply. Upon receipt of the response from the requested jurisdiction, the EOI officer affixes the Serbian text on confidentiality of treaty-exchanged information on each piece of relevant information before forwarding it to the auditor by mean of an internal mail. Only necessary information for the investigation of the auditor is forwarded and the response of the requested competent authority will never be shared.

402. Once the case is closed, the file is stored for five years. Archiving is carried out in accordance with the degree of secrecy. If it is confidential, like EOI requests and related information, it remains archived in the EOI unit or in a part of the joint archive that is physically separated and secured against unauthorised access. After these five years, information is securely destroyed.

Mode of transmission of the information

403. During the review period, Serbia used mainly ordinary physical mail when sending their EOI responses and requests. Although the Standard does not prescribe any method of transmission, it requires that adequate measures be put in place to ensure effective protection of confidentiality.

404. In one case, the response sent by Serbia via ordinary mail was not delivered. The requesting partner has as of date not located it, and it was never returned to the Competent Authority in Serbia as undelivered. Serbia has addressed this by amending its EOI manual with the following changes to its transmission policies:

405. The first transmission method, if agreed with the treaty partner, is that any correspondence in relation to an EOI request should be via secured email, including transmission of responses, if size of the documents permits.

406. If physical mail needs to be sent, a registered mail with tracking number will be used.

407. These are positive steps that should ensure confidentiality of information sent to treaty partners.

Incident/Breach management

408. After a breach of confidentiality has been notified, the Department of Internal Control takes the lead and launches an internal control procedure to determine the factual situation, and depending on the outcome, if necessary, initiates a disciplinary procedure for failure to act in accordance with

the legal provisions described above. When criminal sanctions are required, the Department will escalate the case to the prosecutor's office.

Exchange of information in practice

409. During the review period, there were no cases where confidential information related to EOI had been improperly accessed, used or disclosed, and the peers have not raised any concerns in this regard. Both regulatory framework and practice aligned to ensure that the confidentiality of EOI related information is maintained at all times.

C.4. Rights and safeguards of taxpayers and third parties

The information exchange mechanisms should respect the rights and safeguards of taxpayers and third parties.

410. The Standard specifies that requested parties should not supply information in response to a request in certain identified situations, in particular those where an issue of trade, business or other secret may arise. Among other reasons, an information request can be declined where the requested information would disclose confidential communications protected by attorney-client privilege.

411. In addition to the Multilateral Convention, all of Serbia's DTCs contain an equivalent provision which permits a jurisdiction to decline to exchange information where the information is covered by attorney-client privilege, a trade, business industrial, commercial or professional secret, and information the disclosure of which would be contrary to public policy (*ordre public*). The LTPTA does not suggest anything to the contrary.

412. The term "professional secret" is not defined in the EOI agreements and therefore it derives its meaning from Serbia's domestic laws. Serbia's domestic laws define the meaning of professional secret under the respective professional governing laws, such as the Law on Advocacy, the Code of Professional Ethic of the Lawyers, the Law on Public Notaries and the Law on Auditing. All laws impose an obligation to keep secret information that the concerned professional would have learnt or obtained from a client or his/her authorised representative, under the exercise of his/her functions.

413. Serbia explains that although all general laws in Serbia have the same value, the content of the LTPTA is an exception to Law governing the professionals, and should therefore not be restricted in its application by any provisions of the Law governing the professionals, which scope may be more restrictive than the Standard. Serbia indicated that there have

been no cases so far in which the information needed to be obtained from a professional and no peers raise any concerns.

414. Serbia enacted the LPDP in November 2018. According to this law, and when personal data is collected from the natural person to whom the data pertains, information can only be transferred to a country which is deemed as having adequate level of data protection rules. The list of countries deemed as having an adequate level of data protection rules does not cover all treaty partners of Serbia. The Article 65 of the LPDP provides for some exception when the handler (i.e. the Tax Administration) has provided adequate measures to protect such data and if the person to whom the data relates to has been provided with enforceability of his rights and effective legal protection. The appropriate measures of protection referred in the Article can be satisfied when a legally binding act drawn up between public authorities exist. Serbia confirmed that this would capture all international agreements, including the Multilateral Convention.

415. During the review period, Serbia received requests on personal data, but none had to be collected directly from the individual to whom this information pertained, and therefore Serbia did not face the situation where it had to check whether this partner has measures in place enabling an adequate level of protection. Although these do not concern cases covered by a prior-notification, two requests received after the review period, coming from partners not part of the list of Countries deemed to have an adequate level of data protection rules were handled and answered. This being said, given that those cases do not concern situations covered under Article 23 of the LPDP, Serbia should monitor that it is able to exchange information with all its treaty partners in line with the standard including those treaty partners that are not specified in the LPDP list of countries deemed to have an adequate level of data protection rules (see Annex 1).

416. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the information exchange mechanisms of Serbia in respect of the rights and safeguards of taxpayers and third parties

Practical Implementation of the Standard: Compliant

No material deficiencies have been identified in respect of the rights and safeguards of taxpayers and third parties.

C.5. Requesting and providing information in an effective manner

> The jurisdiction should request and provide information under its network of agreements in an effective manner.

417. In Serbia, the review period from 1 April 2019 to 31 March 2022, can be split in two sub-periods during which the exchange process was different.

- From 1 April 2019 to 9 May 2021, the sole Competent Authority was the Minister of Finance, but access powers were exercised by the Tax Administration.
- From 10 May 2021 to 28 April 2022, their task was shared between the Minister of Finance, competent for all requests covered by a double taxation agreement, and the Director General of the Tax Administration, to whom competence has been delegated for all requests covered under the Multilateral Convention.
- The Competent Authority portal has been updated to reflect the details of the newly delegated Competent Authority.

418. Since April 2022, i.e. after the review period, all EOI requests have been handled under the authority of the Director General of the Tax Administration.

419. The Competent Authority in its current structure and organisation became fully operational after the review period, and despite the two-layered processes in place between May 2021 and April 2022, the impact on the quality or timeliness of responses remained limited. Indeed, during the review period, Serbia received 123 requests from 23 partners: 1 was withdrawn by the treaty partner, 6 were declined for valid reasons, 79 were responded within 90 days (representing 64% of the requests), cumulatively 105 within 180 days (85%) and cumulatively 116 within a year (94%). Peers were satisfied with the responses provided by Serbia and express comfort in communicating with the Serbian Competent Authority.

420. A dedicated EOI function within the Tax Administration was established for the first time in 2021 when authority to handle requests under the Multilateral Convention was delegated by the Ministry of Finance. This recent establishment resulted in certain practices being implemented late in the review period. The sending of status updates when no full response could be sent within 90 days of receipt of a request started at the end of December 2021. This is reflected in the peer input received. **It is therefore recommended that Serbia monitors that a status update is systematically sent where a full response is not provided within 90 days, including when a partial response is provided**.

421. Overall, and in less than two years, Serbia has improved its EOIR practice with the establishment of a separate EOI unit within the Department for International Co-operation and Exchange of Information of the Tax Administration. The EOI unit, comprising three full time officials (i.e. a Chief of Division and two full time staff) undertakes the EOI day-to-day work and applies set processes that have improved with practical experience since May 2021. Those processes have been documented in the EOI manual that has been published in October 2022. A series of trainings attended by the EOI officials enabled them to be proficient with the standard, and manage the handling of EOI smoothly.

422. The conclusions are as follows:

Legal and Regulatory Framework

This element involves issues of practice. Accordingly, no determination has been made.

Practical Implementation of the Standard: Compliant

Deficiencies identified/Underlying factor	Recommendations
Serbia did not always provide status updates to treaty partners systematically. The Competent Authority explained that in some cases it considered the partial responses it sent to the treaty partners as status updates. However, the practice of sending status updates systematically where Serbia was not able to provide complete information within 90 days started from December 2021 towards the end of the review period.	It is therefore recommended that Serbia monitors that a status update is systematically sent where a full response is not provided within 90 days, including when a partial response is provided.

C.5.1. Timeliness of responses to requests for information

423. During the review period, Serbia received 123 requests seeking a wide range of information: 42 requests pertained to accounting information, 16 to ownership information, 15 to banking information and 138 to other information, out of which 64 related to personal data (i.e. address and identity information of a natural person). Serbia answered 94% of them within one year.

424. The most significant of Serbia's EOI partners for incoming and outgoing requests were Austria, France, Norway, the Slovak Republic and Slovenia. The number of requests received by Serbia throughout the review period varies between 33 to 45 requests each year. Most requests for ownership information and accounting records were with regards to legal persons. Serbia did not receive any requests on foreign entities or partnerships.

425. The following table relates to the requests received during the period under review and gives an overview of response times of Serbia in providing a final response to these requests, together with a summary of other relevant factors affecting the effectiveness of Serbia's practice during the period reviewed.

Statistics on response time and other relevant factors

		1 April to 31 December 2019		2020		2021		1 January to 31 March 2022		Total	
		Num.	%	Num.	%	Num.	%	Num.		Num.	%
Total number of requests received	[A+B+C+D+E]	33	100	45	100	39	100	6	100	123	100
Full response: ≤ 90 days including		20	60.6	28	62.2	29	74.4	2	33.3	79	64.2
≤ 180 days (cumulative)		27	81	36	80	37	94.8	5	83.3	105	85.4
≤ 1 year (cumulative)	[A]	30	90.9	43	95.6	37	94.8	6	100	116	94.3
> 1 year	[B]	3	9.1	2	4.4	1	2.6	0	0	6	4.9
Declined for valid reasons		0	0	4	8.9	2	5.1	0	0	6	4.9
Requests withdrawn by requesting jurisdiction	[C]	0	0	0	0	1	2.6	0	0	1	0.8
Failure to obtain and provide information requested	[D]	0	0	0	0	0	0	0	0	0	0
Requests still pending at date of review	[E]	0	0	0	0	0	0	0	0	0	0
Outstanding cases after 90 days		13		17		9		4		43	
Status update provided within 90 days (for outstanding cases with full information not provided within 90 days, responses provided > 90 days)		0	0	2	11.8	1	11.1	4	100	7	16.3

Notes: Serbia counts one request per taxpayers covered under the request, i.e. if a partner jurisdiction is requesting information about 4 persons in one request, Serbia counts that as 4 requests. If Serbia received a further request for information that relates to a previous request, with the original request still active, Serbia will count the additional request as a new request.

The time periods in this table are counted from the date of receipt of the request to the date on which the final and complete response was issued.

426. Serbia reports that when information is readily available in the various databases to which the EOI officials have direct access, the information is collected and exchanged within less than 90 days. This would involve ownership information that can be extracted from the Unified Register of Taxpayers, the Business Register and the BO Register, the financial statements which are kept in the Register of Financial Statements, the bank account numbers of legal persons accessible through the Single Register of Accounts for Legal Entities and Entrepreneurs of the National Bank of Serbia. For the bank account numbers of natural persons, although this

information is not readily available, it is easily accessible on demand from the Director General of the Tax Administration to the NBS.

427. When the information was not internally accessible, such as bank statements, evidencing documents of bank transactions, contracts, underlying documentation for ownership and accounting records, such information would be requested from third parties or from the taxpayer directly. In the first instance, if the information holder is a bank, a state government agency, or another third party other than the taxpayer, the EOI unit official in charge of the request sends it directly to the holder of the information and an answer is expected within 10 days. During the review period, the Competent Authority obtained the requested information in the prescribed timeframe.

428. If the information-holder is the taxpayer, generally an audit on the said taxpayer would be launched by the Tax Administration organisational unit under which the taxpayer falls. This is not a legal requirement. However, it is the most frequently used practice, particularly when there are complex cases. As far as a taxpayer is concerned, a tax audit is seen as being more effective than a domestic request which would arise outside of an audit context. Hence, once the audit is launched, the Competent Authority should receive the information within 60 days, or a status update of the advancement of the audit with an estimation of how long it would take to obtain the information. In practice, an audit is usually finalised within 30 days, after which the auditor would finalise its audit report and send it to the Competent Authority within 7 days. Out of the 43 cases which were not responded to within 90 days, 26 were cases where the information needed to be obtained through an audit. During the onsite visit, auditors interviewed explained that they treat those requests with the high priority. The sending of an audit report informing the Competent Authority of the status of the information gathering is not yet systematic and may be the result of insufficient resources. Since 2020, the Competent Authority has started the procedure of sending reminders and urgency letters to tax auditors tasked with gathering information through tax audits. During the review period, 16 reminder letters were not followed up on and urgency letters were accordingly sent. Eventually, all were responded with the requested information. Serbia should ensure that internal procedures provided for in the EOI manual are fully implemented to ensure timely responses from the auditors or a status update where they are gathering the information (see Annex 1).

429. During the review period, Serbia declined six requests, either because they did not meet the conditions of validity (3 cases) or did not meet the threshold of foreseeable relevance (3 cases). In three cases, there was either no legal basis to pursue the request (the taxes covered by the request were not direct taxes covered under the EOI instrument) or it was not signed by the Competent Authority in two cases the lack of information to identify

the taxpayer did not enable Serbia to obtain the information, and in one case, Serbia explained that the link between the information requested, and the person subject of the investigation was not clearly established. In all cases, Serbia notified the requesting partner within 30 days to explain their grounds for rejecting the request. In four cases, Serbia gave the requesting partner the possibility to submit new information, but the requesting partner did not, and Serbia concluded that the request should be declined.

430. In addition to the four cases where clarifications were asked but eventually declined, Serbia also requested clarifications in five other instances, each time to different peers. In four cases, Serbia obtained the clarifications they asked for and were able to proceed with responses. In one case, the peer did not send any additional information, but the request could still be responded to. The name was misspelled in the original request, and during a last attempt, the Competent Authority successfully identified the taxpayer subject of the request, by matching a differently spelled but close name with the date of birth. The information was therefore gathered and sent. Peers who provided inputs did not highlight any issues specific to the request for clarifications sent by Serbia, nor did they note that requests were rejected on the wrong grounds. In one case, the peer responded by explaining that they did not have further information to provide and considered the case closed. The clarifications concerned obtaining more information to facilitate identification of the taxpayer natural person, as only the name and the surname were provided and from the search in the database, returned too many results. Serbia explained that they usually need at least a third piece of identification data to be able to ensure the correct person under investigation is identified. The Competent Authority confirmed that they would conduct the search with the elements provided but that in the event the search would provide several results, the tax identification number, a national identity number, a passport number or a registration number (in case it is a legal person) would be needed.

431. Serbia reported that there were no pending responses to requests for information. However, three peers reported that they had not received responses to one of their requests to Serbia. After cross-checking with Serbia, it appeared that two requests respectively sent in 2020 and end of 2021 were not received by Serbia and that one response sent by Serbia was not received by the peer concerned. The likely disruption of postal services during the COVID-19 pandemic may be a plausible explanation in two cases (request sent in 2020 to Serbia and response sent in 2020 by Serbia). In the case of the request sent at the end of 2021, this is a one-off instance with the peer, and it does not seem the matter was due to a systemic issue on the Serbian side. Following the peer inputs received, Serbia swiftly contacted the three peers. The two requesting peers agreed to resend their requests, which Serbia has since then received and responded. Concerning

the response not received, since the peer had closed the case in June 2022, Serbia did not offer to resend the information. Against this background, the Serbian Competent Authority took proactive actions and amended its processes. Since February 2023, the favoured method of communication is through secured electronic channel, instead of ordinary mail. Where electronic transmission is not possible though, Serbia will use registered mail with tracking number.

Status updates and communication with partners

432. The process of sending status updates requires that, where complete requested information could not be provided within 90 days of receipt of the request, but the Competent Authority continues to try obtaining the said information, the EOI officer issue an update or an interim reply every 90 days until a final response can be sent. This practice of status updates started only in December 2021. Hence it was not implemented for most of the review period. Serbia therefore provided status updates in only 7 cases out of the 43 cases for which a full response was provided in more than 90 days, i.e. status updates were sent in 16% of cases. During the onsite visit, Serbia explained that although the introduction of status updates came late in the review period, they were sending partial response within 90 days throughout the whole review period and considered this as a form of status update. Although partial responses are a positive practice since information provided may help the treaty partner progress in the tax investigation for which the information is requested, they cannot be seen as replacing a status update, if they do not provide any information on the actions they have taken to obtain the missing information or at least an indication that Serbia has been working on gathering the remaining requested information and will be providing it to the peer. All peers who made inputs confirmed that generally Serbia did not advise them of the status of the request when a response could not be provided within 90 days, unless they specifically requested it. **It is therefore recommended that Serbia monitors that a status update is systematically sent where a full response is not provided within 90 days, including when a partial response is provided**.

C.5.2. Organisational processes and resources

433. During the review period and shortly after, the Serbian Competent Authority underwent some profound transformations, with two consecutive delegations of authority from the Minister of Finance to the Director General of Tax Administration. Some delays in sending responses before the full delegation of authority were due to a complex organisation and lack of resources in the Ministry of Finance service responsible for managing the responses for signature by the Minister of Finance. However, those

delays did not significantly affect the timeliness of responses. In addition, and although it is newly established, a lot of efforts have been dedicated to equipping adequately the new EOI Unit which is leading the effective management of EOI in Serbia since 2022.

Organisation of the Competent Authority

434. For the two first years of the review period, the Ministry of Finance was the sole Competent Authority (see paragraph 417). From April 2019 to May 2021, the Ministry of Finance was handling the requests received from treaty partners. To accomplish this task, the Head of Tax Treaties Division in the Fiscal System Department within the Ministry of Finance forwarded the request to the Tax Administration along with a translated copy of the request in Serbian. This could take a couple of days or months, as the letter could only be sent by one person, who had a very wide portfolio of responsibilities, including EOI. The Tax Administration was then using their access powers to collect the requested information and forward same to the Ministry. This could take between one day if all information was gathered from the internal databases, or more if an audit had to be launched, or if a third party had to furnish the information. There was no prescribed timeframe for the Tax Administration to send their response, but in practice the Tax Administration applied the same procedure as applied today. Upon receipt of the response letter of the Tax Administration by the Ministry of Finance, a formal cover letter was prepared by the Head of Tax Treaties Division and then sent to the State Secretary for signature. The Serbian authorities confirmed this process could take a couple of days to a couple of months. Despite the limited resources available in the Ministry, and the lengthy internal procedure, 64% of the responses were sent within 90 days and 85% within 180 days.

435. Since May 2021, the Tax Administration has worked towards setting up an independent EOI unit which is in charge of handling and managing the EOI requests. It is located within the Division for Co-ordination of European Integration Affairs, Administrative Co-operation and Information Exchange in the Department for International Co-operation and Information Exchange, which is under the direct supervision of the Director General of the Tax Administration. The EOI unit was formed four years ago and its location in the organisational structure of the Tax Administration has contributed to an effective management of EOI process.

436. The competent authority of Serbia is identified to EOI partners via the secured Global Forum Competent Authorities site and information have been updated since the delegations of authority took effect.

Resources and training

437. The Competent Authority is headed by the Head of the Department for International Co-operation and Exchange of Information. The day-to-day EOI function is carried out in the EOI Unit, in which three full time employees are working.

438. The employees in the team have good knowledge of English language. Each staff is proficient with the national laws and regulations administered by the Tax Administration, the Multilateral Convention and DTCs, and the EOIR standard. The supervisory functions currently occupied by the Head of the Department for International Co-operation and Exchange of Information and the Chief of Division require at least nine years of experience whereas the administrative functions currently occupied by the Advisor for EOI with five-year experience and an Associate for EOI recruited less than a year ago. In addition, procedural knowledge for establishing a system of information exchange with member states of European Union, and some knowledge of European Union are required.

439. The interviews conducted with EOI officials during the onsite visit confirmed their knowledge about the standard. Their functions are supported with an EOI manual in use since October 2022.

440. No specific internal training activities were organised for EOI unit staff during the review period. However, in September 2020 and for two years, Serbia benefitted from an induction programme delivered by the Global Forum Secretariat which enabled staff to build capacity and develop skills on handling EOI requests. During the review period, EOI officials attended five virtual trainings on EOI, the Global Forum Competent Authority meetings as well as the Plenary Meeting of the Global Forum, where topics of relevance on EOI are discussed. Although the EOI unit is recent, it continues to take measures to enhance its functioning and practices.

441. By the end of 2023, the whole Tax Administration will move to new premises, where the EOI unit will be better equipped (i.e. shredders and printers only for the EOI unit) to facilitate the management of the EOI function. In addition, two more positions are budgeted for within the EOI unit. While the personnel allocated to the EOI Unit was sufficient to manage the flow of requests made and received during the review period, those additional positions illustrate the proactiveness of the Tax Administration in ensuring that the EOI unit can function to its full extent.

442. Overall, the resources allocated to the EOI unit in Serbia are adequate.

Incoming requests

443. In Serbia, the process of responding to a request for exchange of information can be divided into the following steps:

- Step 1: logging the request
- Step 2: validating the request
- Step 3: working the request
- Step 4: responding to the request.

444. Step 1 starts with the receipt of the request from a foreign competent authority. It should be addressed to the Head of the Department for International Co-operation and Exchange of Information, who is the Competent Authority in Serbia. The request is then forwarded to the Chief of Division, who verifies the name and contact details of the competent authority in the requesting jurisdiction before allocating it to an EOI officer. Once the request is allocated, the EOI officer creates a new request entry in the Activity Log Excel spreadsheet. The entry captures the details of the case such as the date of receipt, requesting jurisdiction, reference number attributed by it and details of the type of information requested.

445. The EOI officer acknowledges receipt of the request using a template that is shared via a secured e-mail within seven days. Often the request needs to be translated into Serbian to facilitate its internal process. The request is therefore immediately translated by the EOI officer or the officer in charge of translation in the Department for International Co-operation and Information Exchange. Since this is performed internally, within the Department, this step does not cause undue delay. If the request is not submitted in English, the requesting jurisdiction is asked to provide a translation in English.

446. Step 2 is then undertaken by the Head of Department who checks the validity of the request. This includes checking the legal basis, the scope of this legal basis, foreseeable relevance, including checking the background information and whether the person subject of the investigation is sufficiently identified, and the required statements to ensure all domestic means were exhausted, the request is in conformity with its law and administrative practices and is further in conformity with the agreement on the basis of which it is made, and the requested information would be obtainable under its laws and the normal course of its administrative practice in similar circumstances

447. If all is in order, the relevant information is recorded in the Activity Log. If not, the request will not be acted upon. The Competent Authority may reject the request on the following grounds: the request does not have any

legal basis or it has one, but it does not cover the period or taxes or person (see section C.1.2) on which the information is requested; the request is not signed by a competent authority; the request should have been referred to another jurisdiction (i.e. when the nexus between information in Serbia and the person under investigation in the requesting jurisdiction is not demonstrated); a letter for additional information or clarification is sent to the requesting jurisdiction because the information submitted is insufficient to proceed with gathering the information.

448. The Competent Authority clarified that if it is determined that part of the request is valid, the case is processed in order to provide information related to that part of the request. If the letter for additional information or clarification remains unanswered or the additional information or clarification still does not suffice to proceed, the request is declined, and the requesting jurisdiction is notified within 15 days. However, in practice, the Competent Authority confirmed that it would do its utmost to communicate with the partner and reach out to find a positive outcome for both parties.

449. Upon the start of step 3, all elements of step 2 have been clarified and a local file is opened. The EOI officer records whether the request is urgent or whether the taxpayer subject of the request should not be notified.

450. Under step 4, if the information is available from internal databases, a response is prepared by the Chief of Division and signed by the Head of Department, before being sent to the requesting jurisdiction. Otherwise, the EOI officer requests the information from the holder of the information (e.g. another state institution, organisational unit, bank), using the template available for each. If the request is addressed to a bank, another state institution, or third party other than the taxpayer, the information holder has 10 days to provide the requested information. If the request is addressed to the organisational unit which will collect the information from the taxpayer, a partial or full response or status update is expected within 60 days.

451. Close monitoring of the progress of a request is undertaken by the EOI officer in charge. Reminders are issued after 15 days to banks, state institutions, other third parties (it is estimated that from the date of receipt of the request, and if the information holder complies with the 10-day timeframe, 15 days minimum would be needed for a complete response to reach the EOI officer), and after 30 days to the organisational unit. These are proactive mitigating measures taken by the EOI unit to maximise the chances of receiving a response on time. If no response is yet received, an urgency letter is sent after 30 days for the information holder other than the organisational unit and after 60 days to the organisational unit. In practice, the Competent Authority sent 4 letters of urgency to third parties and 16 to the central organisational unit in the Belgrade's office which then disseminated them to field offices. In the four letters sent to third-parties,

responses were obtained in less than 20 days in three cases and within 30 days in one case, after the urgency letters were sent. As the procedure of urgency letters started in 2020, and that all were sent in 2020 and first half of 2021, the authority adopted a more lenient approach and did not penalise the third parties. No letters for urgency have been sent after April 2021. In the 16 instances where requests were made to the organisational unit, responses were obtained within less than 120 days from the issuance of the urgency letter in all but one case, where it took more. The EOI manual provides that in case of no responses within the 60 days with no reports on why there is a delay, the Head of Department should address a letter to the Assistant Director of the organisational unit in breach with a note that a notification will be forwarded to the Internal Control Department about non-compliance with the deadlines set within the internal request. In practice, and despite these 16 cases over the review period, the Competent Authority never escalated any cases to the Assistant Director. The Competent Authority explained that the procedure was quite new and that auditors did not think of sending a status update after 60 days. Serbia should ensure that internal procedures provided for in the EOI manual are fully implemented to ensure timely responses from the auditors or a status update where they are gathering of the information (see Annex 1).

452. This monitoring is done manually by the EOI officer in charge of the case. The EOI officer therefore checks the deadlines and enters any progress, correspondence, and exchanges in relation to the case in the Excel spreadsheet. Given the number of cases received in a year by Serbia during the review period, a manual check was reasonable.

453. If under step 4, information could not be obtained and there are no chance of successfully obtaining it, a response is prepared to inform the requesting authority, as soon as possible, that the information cannot be provided and the reasons why it cannot be provided. In practice, there has been one case where the Competent Authority had to send such a type of letter (see paragraphs 280 and 281). The auditor confused the impossibility to open an audit on an entity in liquidation proceedings and the request of information maintained by the bankruptcy administrator. After the EOI unit was formed in July 2019, the Competent Authority offered to re-submit the information, but this was declined by the requesting partner who has then completed its audit successfully. In order to prevent any similar situation from happening in future, the EOI manual was recently updated and a paragraph was added to confirm that when information have to be obtained on a legal person or bank which is under bankruptcy proceedings, information should be obtained from the administrator of the bankruptcy.

454. If information is obtained, once the answer is ready to be sent, it is translated into English and signed by both the head of the Department and the Chief of Division. During the whole review period, Serbia sent most

of their EOI responses through ordinary mail (i.e. 93.5% of the responses sent by ordinary mail) and sometimes by encrypted emails (6.5%). From peer inputs (see paragraph 431), the Competent Authority discovered that responses to some requests were not received by the peers. After cross-checking, it appears that Serbia never received the requests in two instances while in one case, Serbia responded but the response was never received. Although the proportion of concerned cases is limited (i.e. 3 requests out of 123 in total), in February 2023 Serbia decided to change the mode of transmission of requests and responses to favour electronic transmissions where possible. When not possible due to the size of the information to be shared being over 10GB, Serbia would use registered mail with a tracking number. According to the latest version of the EOI manual, Serbia will also follow up on feedbacks with its peers more regularly, so as to ensure the response was indeed received.

455. Serbia advised that no practical difficulties have been encountered when obtaining and exchanging information in order to respond to an EOI request, except the case mentioned in paragraph 89. Peers neither raised any practical difficulties nor were any identified during the peer review.

Outgoing requests

456. The process for outgoing requests begins with the receipt of a draft request from a tax auditor of the organisational unit. The Competent Authority has developed a wide range of template forms that is available to tax auditors. Therefore, it is expected that the draft request will be made using the relevant form. The EOI manual carefully describes the process to be followed. It contains a checklist of the elements that the tax auditor should check prior to sending the request to the EOI unit. This includes a valid legal basis, identification of the requested jurisdiction, checks that periods and taxes covered by the requests are also covered by the international instrument, approval of the officer’s manager on the need for a request, request has been approved by the officer’s manager, information provided is sufficient and the request is clear and specific; what means were used to obtain the information by the officer, and elements to demonstrate why the request is “necessary” or “foreseeably relevant”.

457. The manual also insists on the importance of attaching relevant documentation that will help the competent authority of the requested jurisdiction to understand the relevance of the requested information. If the draft request from the officer does not pass the validation test by the EOI unit, the draft is rejected and the organisational unit is informed. However, where the validation test is not met because the submitted information is insufficient for further processing of the case, then, depending on the circumstances, a letter is sent to the organisational unit for the submission of additional

information so that the request can be processed, or it explains the reason for the request not being processed (e.g. not enough information to identify the taxpayer, or the reason why information requested is not clear).

458. Once all requirements are checked and that the EOI unit is satisfied, the request can be pursued, a file is opened, allocated with a reference number. The EOI officer fills out the EOI request form. It is then signed by the Head of Department and addressed to the competent authority of the requested jurisdiction along with all accompanying documents.

459. From the date it is sent to the date a response is received from the peer, the EOI officer follows up firstly after 30 days if no acknowledgment of receipt was received from the requested jurisdiction, then after 90 days if no status update is received, and finally at regular intervals until a response is received.

460. When responses are received, the EOI officer verifies the received information, and drafts a response letter to the auditor from whom the request originated. Documents attached to the response are not always sent to the auditor unless the document in its form as received by the partner is needed by the auditor to conduct his investigation. The answer is also translated into Serbian by the officer in charge of translation in the Department. If the answer appears incomplete, in consultation with the organisational unit, the Competent Authority may decide to resubmit a request for additional information.

461. Serbia requires the auditor to provide feedback when the requested jurisdiction so requests. In case the requested jurisdiction does not request so, auditors would send their feedbacks on a spontaneous basis.

462. During the review period, Serbia sent 64 EOI requests. Inputs from peers which have received EOI requests from Serbia confirmed that the requests met the standard of foreseeable relevance and were complete. In three cases, the requested jurisdictions asked for clarifications (i.e. in 4.3% of the cases). A case related to a mistake in the legal basis provided while the two other cases related to a lack of precision in the information requested. All requests for clarification were responded to within the deadline set by the requested partner and ended in a positive manner as the information was then provided.

C.5.3. Unreasonable, disproportionate, or unduly restrictive conditions for EOI

463. No unreasonable, disproportionate or unduly restrictive factors for EOI, were identified under Serbia's legal framework or practices, other than the ones analysed in the previous section of this report.

Annex 1. List of in-text recommendations

The Global Forum may identify issues that have not had and are unlikely in the current circumstances to have more than a negligible impact on EOIR in practice. Nevertheless, the circumstances may change, and the relevance of the issue may increase. In these cases, a recommendation may be made; however, it should not be placed in the same box as more substantive recommendations. Rather, these recommendations can be stated in the text of the report. A list of such recommendations is reproduced below for convenience.

- **Element A.1.1**: Serbia should ensure there are effective, proportionate and dissuasive sanctions for lawyers' failure to conduct CDD, including the identification and verification of the BO (paragraph 123).
- **Elements A.1.1, A.1.3 and A.1.5**: Serbia should reinforce its outreach activities and enhance its supervision to ensure that there is an accurate understanding of the beneficial ownership requirements and risks, and that up-to-date BO information is available throughout the course of the business relationship (paragraphs 134, 164 and 196).
- **Element A.1.4**: Serbia should therefore ensure that identity and beneficial ownership information is available when a foreign trust is not administered by an AML obliged person or a trustee with taxable income (paragraph 177).
- **Element A.1.4**: The Bar Association should monitor the implementation of the requirements related to BO information by lawyers and apply appropriate sanctions in case of failure (paragraph 178).
- **Element A.2.1**: Serbia should monitor inactive companies to ensure that accounting information on all companies is always available in line with the standard (paragraph 230).
- **Element C.1**: Serbia has currently nine DTCs which are not in line with the standard and not supplemented by the Multilateral Convention. In order to address the potential limit to exchange of information with these partners, Serbia should ensure all its EOI relationships are in line with the Standard (paragraphs 358 and 359).

- **Element C.2**: Serbia should continue to conclude EOI agreements with any new relevant partner who would so require (paragraph 371).
- **Element C.3.1**: In the prior-notification notice that Serbia has to issue when personal data on a natural person is requested from that person, certain information such as the name of the requesting jurisdiction may be disclosed. Serbia should ensure that it duly consults with the requesting treaty partners each time a prior-notification containing details from the EOI request needs to be sent under Article 23 of the LPDP while obtaining personal information from the natural person to whom the information pertains. If the requesting treaty partner agrees with the prior-notification, Serbia should ensure that the content of the prior-notification does not exceed what is authorised by the standard (paragraph 383).
- **Element C.4:** Serbia should monitor that it is able to exchange information with all its treaty partners in line with the standard including those treaty partners that are not specified in the LPDP list of countries deemed to have an adequate level of data protection rules (paragraph 415).
- **Element C.5**: No sanctions were imposed on auditors that did not follow the internal procedure set when a response to a request from the Competent Authority could be not provided within 60 days. Serbia should ensure that internal procedures provided for in the EOI manual are fully implemented to ensure timely responses from the auditors or a status update where they are gathering of the information (paragraph 428 and paragraph 451).

Annex 2. List of Serbia's EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Albania	DTC	22-12-2004	17-05-2005
2	Armenia	DTC	10-03-2014	03-11-2016
3	Austria	DTC	07-05-2010	17-10-2010
4	Azerbaijan	DTC	13-05-2010	01-12-2010
5	Belarus	DTC	30-01-1998	24-11-1998
6	Belgium	DTC	21-11-1980	26-05-1983
7	Bosnia and Herzegovina	DTC	26-05-2004	02-06-2005
8	Bulgaria	DTC	14-12-1998	10-01-2000
9	Canada	DTC	27-04-2012	31-10-2013
10	China (People's Republic of)	DTC	21-03-1997	01-01-1998
11	Croatia	DTC	14-12-2001	22-04-2004
12	Cyprus[30]	DTC	29-06-1985	08-09-1986
13	Czech Republic	DTC	11-11-2004	27-06-2005
14	Democratic People's Republic of Korea	DTC	25-12-2000	05-06-2001

30. Note by Türkiye: The information in this document with reference to "Cyprus" relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Türkiye recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Türkiye shall preserve its position concerning the "Cyprus issue".

    Note by all the European Union Member States of the OECD and the European Union: The Republic of Cyprus is recognised by all members of the United Nations with the exception of Türkiye. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

	EOI partner	Type of agreement	Signature	Entry into force
15	Denmark	DTC (+ protocol)	15-05-2009	248-12-2009
16	Egypt	DTC	31-07-2005	05-04-2006
17	Estonia	DTC	24-09-2009	14-06-2010
18	Finland	DTC	08-05-1986	18-12-1987
19	France	DTC	28-03-1974	01-08-1975
20	Georgia	DTC	04-04-2012	09-01-2013
21	Germany	DTC	26-03-1987	03-12-1988
22	Ghana	DTC	25-04-2000	ratified by Serbia, but not in force
23	Greece	DTC (+ protocol)	11-11-2008	08-06-2010
24	Guinea	DTC	22-10-1996	ratified by Serbia, but not in force
25	Hong Kong (China)	DTC	27-08-2020	30-12-2020
26	Hungary	DTC	20-06-2001	13-12-2002
27	India	DTC	08-02-2006	23-09-2008
28	Indonesia	DTC	28-02-2011	13-12-2018
29	Iran	DTC	07-12-2004	16-12-2011
30	Ireland	DTC	23-09-2009	16-06-2010
31	Israel	DTC	22-11-2018	25-10-2019
32	Italy	DTC	24-02-1982	03-07-1985
33	Japan	DTC	21-07-2020	05-12-2021
34	Kazakhstan	DTC	28-08-2015	24-11-2016
35	Korea	DTC	22-01-2016	17-11-2016
36	Kuwait	DTC	02-04-2002	08-05-2003
37	Latvia	DTC	22-11-2005	19-05-2006
38	Libya	DTC	12-11-2009	08-06-2010
39	Lithuania	DTC	28-08-2007	12-06-2009
40	Luxembourg	DTC	15-12-2015	27-12-2016
41	Malta	DTC	09-09-2009	16-06-2010
42	Moldova	DTC	09-06-2005	23-05-2006
43	Montenegro	DTC	20-07-2011	21-12-2011
44	Morocco	DTC	06-06-2013	19-04-2022
45	Netherlands	DTC	22-02-1982	06-02-1983
46	North Macedonia	DTC	04-09-1996	22-07-1997

	EOI partner	Type of agreement	Signature	Entry into force
47	Norway	DTC	17-06-2015	18-12-2015
48	Pakistan	DTC	21-05-2010	21-10-2010
49	Palestinian Authority	DTC	27-04-2012	ratified by Serbia, but not in force
50	Poland	DTC	12-06-1997	17-06-1998
51	Qatar	DTC	02-10-2009	09-12-2010
52	Romania	DTC	16-05-1996	01-01-1998
53	Russia	DTC	12-10-1995	09-07-1997
54	San Marino	DTC	16-04-2018	08-10-2018
55	Singapore	DTC	05-04-2021	16-08-2021
56	Slovak Republic	DTC	26-02-2001	15-10-2001
57	Slovenia	DTC	11-06-2003	31-12-2003
58	Spain	DTC	09-03-2009	28-03-2010
59	Sri Lanka	DTC	07-05-1985	22-03-1986
60	Sweden	DTC	18-06-1980	16-12-1981
61	Switzerland	DTC	13-04-2005	05-05-2006
62	Tunisia	DTC	11-04-2012	03-06-2013
63	Türkiye	DTC	12-10-2005	10-08-2007
64	Ukraine	DTC	22-03-2001	29-11-2001
65	United Arab Emirates	DTC	13-01-2013	02-07-2013
66	United Kingdom	DTC	06-11-1981	16-09-1982
67	Viet Nam	DTC	01-03-2013	18-10-2013
68	Zimbabwe	DTC	19-10-1996	ratified by Serbia, but not in force

Convention on Mutual Administrative Assistance in Tax Matters (as amended)

The Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the Multilateral Convention).[31] The Multilateral Convention

31. The amendments to the 1988 Convention were embodied into two separate instruments achieving the same purpose: the amended Convention (the Multilateral Convention) which integrates the amendments into a consolidated text, and the Protocol amending the 1988 Convention which sets out the amendments separately.

is the most comprehensive multilateral instrument available for all forms of tax co-operation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

The original 1988 Convention was amended to respond to the call of the G20 at its April 2009 London Summit to align it to the standard on exchange of information on request and to open it to all countries, in particular to ensure that developing countries could benefit from the new more transparent environment. The Multilateral Convention was opened for signature on 1 June 2011.

The Multilateral Convention was signed by Serbia on13 June 2019 and entered into force 1 December 2019 in Serbia. Serbia can exchange information with all other Parties to the Multilateral Convention.

The Multilateral Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), Antigua and Barbuda, Argentina, Armenia, Aruba (extension by the Netherlands), Australia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belgium, Belize, Benin, Bermuda (extension by the United Kingdom), Bosnia and Herzegovina, Botswana, Brazil, British Virgin Islands (extension by the United Kingdom), Brunei Darussalam, Bulgaria, Burkina Faso, Cabo Verde, Cameroon, Canada, Cayman Islands (extension by the United Kingdom), Chile, China (People's Republic of), Colombia, Cook Islands, Costa Rica, Croatia, Curaçao (extension by the Netherlands), Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Estonia, Eswatini, Faroe Islands (extension by Denmark), Finland, France, Georgia, Germany, Ghana, Gibraltar (extension by the United Kingdom), Greece, Greenland (extension by Denmark), Grenada, Guatemala, Guernsey (extension by the United Kingdom), Hong Kong (China) (extension by China), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man (extension by the United Kingdom), Israel, Italy, Jamaica, Japan, Jersey (extension by the United Kingdom), Jordan, Kazakhstan, Kenya, Korea, Kuwait, Latvia, Lebanon, Liberia, Liechtenstein, Lithuania, Luxembourg, Macau (China) (extension by China), North Macedonia, Malaysia, Maldives, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Moldova, Monaco, Mongolia, Montenegro, Montserrat (extension by the United Kingdom), Morocco, Namibia, Nauru, Netherlands, New Zealand, Nigeria, Niue, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Poland, Portugal, Qatar, Romania, Russia, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Singapore, Sint Maarten (extension by the Netherlands), Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Türkiye, Turks and Caicos Islands (extension by the United Kingdom), Uganda, Ukraine, United Arab Emirates, United Kingdom, Uruguay and Vanuatu.

In addition, the Multilateral Convention was signed by the following jurisdictions, where it is not yet in force: Gabon, Honduras, Madagascar, Papua New Guinea (entry into force on 1 December 2023), Philippines, Togo, United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010) and Viet Nam (entry into force on 1 December 2023).

Annex 3. Methodology for the review

This review is based on the 2016 Terms of Reference and conducted in accordance with the 2016 Methodology for peer reviews and non-member reviews, as approved by the Global Forum in October 2015 and amended in 2020 and 2021, and the Schedule of Reviews.

The evaluation is based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as at 4 August 2023, Serbia's EOIR practice in respect of EOI requests made and received during the three-year period from 1 April 2019 to 31 March 2022. Serbia's responses to the EOIR questionnaire, inputs from partner jurisdictions, as well as information provided by Serbia's authorities during the on-site visit that took place on 17-19 January 2023 in Belgrade, Serbia.

Review	Evaluation team	Period under review	Legal framework	Date of adoption by the Global Forum
Round 2 Combined Phase 1 and Phase 2	Danny Goh, Singapore Pille Lepik, Estonia; Neil Everitt and Aurore Arcambal of the Global Forum Secretariat	1 April 2019 to 31 March 2022	4 August 2023	3 November 2023

List of laws, regulations and other materials received

Company Law

Constitution

Code of Professional Ethic of the Lawyers

Law on Civil Servants

Code of Conduct for Civil Servants

Decision on Guidelines for the Application of the Provisions of the Law on the Prevention of Money Laundering and Terrorism Financing for Obligors Supervised by the NBS

Guidelines for identifying the Beneficial Owner of the Customer and Guidelines for entering the Beneficial Owner of a Registered Entity into the Centralised Records

Law of Accountants

Law on Accounting

Law on Advocacy

Law on Archival Material and Archival Activities

Law on Associations

Law on Auditing

Law on Bankruptcy

Law on Bankruptcy and Liquidation of Banks and Insurance Undertakings

Law on Bankruptcy on Suspension of Proceedings

Law on Banks

Law on Capital Markets

Law on Central Records of Beneficial Owners (Official Gazette of the RS, Nos. 41/18, 91/2019 and 105/2021)

Law on Cooperatives

Law on Corporate Income Tax

Law on Data secrecy

Law on Endowments and Foundations

Law on the Execution of Payment and of Legal Persons, Entrepreneurs and Natural Persons not performing a Commercial Activity.

Law on Foundations of Property

Law on Payment Services

Law on Personal Data Protection

Law on Personal Income Tax

Law on the Prevention of Money Laundering and Financing of Terrorism

Law on the Procedure of Registration with the Serbian Business Registers Agency

Law on Property Taxes

Law on Public Notaries

Law on the Serbian Business Registers Agency

Law on Tax Procedure and Tax Administration (LTPTA)

Law on Value Added Tax

Money laundering risk assessment and Terrorist financing risk assessment

Rulebook on the Content of the Business Entities Register and documents required for registration

Rulebook on the content, the procedure for registration and administration of the Register of Associations

Rulebook on the detailed content and method of keeping the Register of Endowments and Foundations

Rulebook on the methodology to comply with the AML/CFT Law

Rules of Conduct of Tax Officials and Officials of the Ministry of Finance

Authorities interviewed during on-site visit

Ministry of Finance

SBRA

NBS

APML

Securities commission

Tax Administration

- Competent Authority
- Tax Auditors
- IT department

Bar Association

Bankers Association

Public Notaries representatives

Accountants and Auditors Association

Tax Agents representative

Annex 4. Serbia's response to the review report[32]

Serbia would like to express gratitude to the whole Global Forum team. Firstly, for providing Serbia with technical assistance that allowed us to prepare for the first peer review. That process allowed Serbian authorities to get familiar with the process and be ready for the official review.

Furthermore, Serbia is grateful to the assessment team for their guidance and patience. The support they provided to Serbian authorities has been invaluable in this process. Working together as a team allowed us to go through the process smoothly.

Exchange of information on request is used frequently in Serbia. For that reason, Serbia has been dedicated to providing necessary technical, legislative and operational measures for the smooth implementation of the EOIR standard.

Serbia expresses its agreement with the content of the report. Serbia is particularly pleased with the positive findings in the report, highlighting the progress made in enhancing transparency in tax matters in our jurisdiction.

Regarding the recommendations made in the report, Serbia accepts them and expresses its willingness in addressing them.

In conclusion, Serbia wants to reaffirm its commitment to continuous improvement in the field of EOIR.

32. This Annex presents the Jurisdiction's response to the review report and shall not be deemed to represent the Global Forum's views.

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request SERBIA 2023 (Second Round)

The Global Forum on Transparency and Exchange of Information for Tax Purposes is a multilateral framework for tax transparency and information sharing, within which over 160 jurisdictions participate on an equal footing.

The Global Forum monitors and peer reviews the implementation of international standard of exchange of information on request (EOIR) and automatic exchange of information. The EOIR provides for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. All Global Forum members have agreed to have their implementation of the EOIR standard be assessed by peer review. In addition, non-members that are relevant to the Global Forum's work are also subject to review. The legal and regulatory framework of each jurisdiction is assessed as is the implementation of the EOIR framework in practice. The final result is a rating for each of the essential elements and an overall rating.

The first round of reviews was conducted from 2010 to 2016. The Global Forum has agreed that all members and relevant non-members should be subject to a second round of review starting in 2016, to ensure continued compliance with and implementation of the EOIR standard. Whereas the first round of reviews was generally conducted as separate reviews for Phase 1 (review of the legal framework) and Phase 2 (review of EOIR in practice), the EOIR reviews commencing in 2016 combine both Phase 1 and Phase 2 aspects into one review. Final review reports are published and reviewed jurisdictions are expected to follow up on any recommendations made. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

This peer review report analyses the practical implementation of the standard of transparency and exchange of information on request in Serbia, as part of the second round of reviews conducted by the Global Forum on Transparency and Exchange of Information for Tax Purposes since 2016.

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