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Serbia New Growth Agenda:

Removing regulatory barriers to competition

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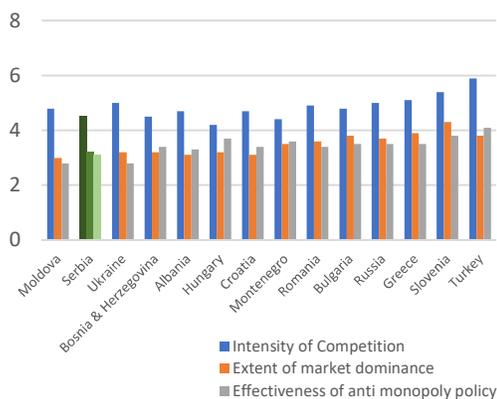
I. Introduction

1. Serbia needs productivity gains to advance the “New Growth Agenda”. If Serbia wants to accelerate the pace of convergence, it will not only need to mobilize labor and capital, and increase their quality, but also raise productivity (combine factors of production more efficiently). One way of improving productivity is to reduce regulatory barriers faced by the private sector. The World Bank’s Country Economic Memorandum “New Growth Agenda” finds that if Serbia designed a plan to lower barriers to the level of Germany and implemented this plan over 20 years, it could grow one percentage point faster each year. Historically, Serbia has paid significant attention to regulatory reforms that reduce transaction costs for businesses. Looking forward, it can put more emphasis on reforms that foster competition.

2. Competition between firms raises productivity. Competition means that firms challenge each other and by doing so – create new and expand existing markets. If the process is intact, efficient firms enter markets and grow, and inefficient firms shrink and exit. Empirical evidence suggests that competition contributes to economic growth through four main channels: 1) by forcing firms to innovate; 2) by allowing productive firms to gain market share; 3) by allowing firms to obtain inputs at more competitive prices; and 4) by directing resources to the most productive firms and sectors.¹ Competition results also in lower prices, more choice, and better deals for consumers, including products frequently bought by low-income households (e.g., food staples).²

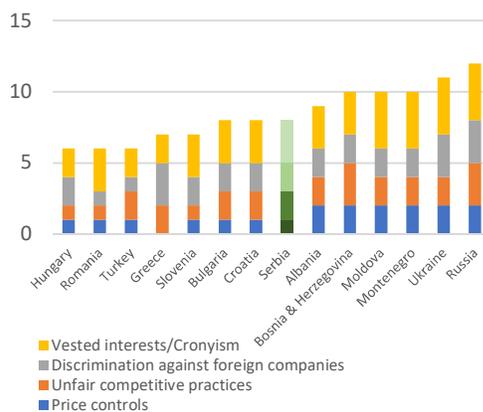
3. Serbia falls behind comparator countries and the regional average regarding the perception of competition in the economy. According to the World Economic Forum, business executives perceive competition as less intense in Serbian markets than in other countries in the region. Markets appear also to be more dominated by individual firms (Figure 1). According to the Economist Intelligence Unit, investors associate weak competition in Serbia with business risks from vested interests, unfair practices, and discrimination (Figure 2).

Figure 1: Perceptions about market competition



Note: (Scale is 1-7 (best), from most to least restrictive of competition);
Source: Adapted from Global Competitiveness Index 2017 -2018

Figure 2: Business risks related to weak competition



Note: Highest risk per area = 4. Maximum total level of risk = 16
Source: Economist Intelligence Unit

¹ See for instance Aghion, P., et al. 2005. Competition and innovation: An inverted-U relationship. *The Quarterly Journal of Economics*, 120(2), pp. 701-728. Baldwin, J. 1995. *The Dynamics of Industrial Competition: A North American Perspective*. Cambridge: Cambridge University Press. Nickell, S.J., 1996. Competition and corporate performance. *Journal of Political Economy*, 104(4), pp.724-746. Barone, G. and Cingano, F., 2011. Service regulation and growth: evidence from OECD countries. *The Economic Journal*, 121(555), pp. 931-957.

² See the following publication for a summary of the literature on the impact of more competitive markets and competition reforms on productivity, growth and inclusion: World Bank; Organization for Economic Co-operation and Development. 2017. *A Step Ahead: Competition Policy for Shared Prosperity and Inclusive Growth*. Washington, D.C.: World Bank.

4. Governments can take steps to foster competition. Competition can be limited by market characteristics, firm behavior, and government interventions. Examples of inherent market characteristics are supply- or demand-side economies of scale or information asymmetry. Examples of anti-competitive firm behavior include collusion on prices and abuse by dominant firms. Anti-competitive government interventions include regulatory barriers in sectors and other policies, such as subsidies and direct state participation in markets that distort the level playing field. Governments can foster competition by rolling back or avoiding anti-competitive interventions, and by encouraging competition where it is constrained by market forces, for example, by putting in place rules that curb market power of dominant firms and breaking up cartels. A comprehensive competition policy framework rests therefore on three pillars: i) pro-competition sectoral regulation; ii) competitive neutrality, and iii) antitrust regulation and enforcement (Figure 3).

5. An effective way to foster competition and raise productivity is to review and reform product market regulations and other government interventions. Product markets are markets for production inputs (other than capital and labor), and final goods and services. Since competition in product markets is framed not only by the characteristics of the market and by firm behavior, but also by government interventions, competition authorities and regulators around the world look for ways in which to achieve the policy objectives of regulation with the least possible harm to competition. These actions can translate into tangible results at economy, sector, and market level. In Australia, the implementation of the National Competition Policy increased GDP by at least 2.5 per cent during the 1990s.³ In Ukraine, eliminating between 2001 and 2007 restrictions to competition in services led to 3.6 per cent increase in total factor productivity in the manufacturing sector.⁴ In South East Asia, breaking up the trucking cartel on the Bangkok–Vientiane route and opening it to Thai companies, reduced logistics costs by 30 per cent.⁵

Figure 3: A comprehensive competition policy framework

Minimize distortions from market characteristics, firm behavior, and government interventions through:		
1) Pro-competition sectoral regulation	2) Competitive neutrality	3) Antitrust regulation and enforcement
Reform policies that strengthen dominance (e.g., lack of access to essential facilities, restrictions to the number of firms, statutory monopolies, bans towards private investment)	Ensure competitive neutrality including vis-à-vis SOEs	Combat abusive conduct by companies that have a dominant position
Eliminate government interventions that facilitate collusion or increase costs of competing (e.g., price controls, mandatory membership in industry boards)	Control state aid	Tackle cartels and other types of restrictive agreements
Reform government interventions that distort the level playing field by discriminating or granting high levels of discretion		Prevent anticompetitive mergers

Source: adapted from Kitzmüller M. and M. Licetti. 2012. *Competition Policy: Encouraging Thriving Markets for Development*. Viewpoint Note No. 331. Washington, D.C.: World Bank Group.

6. This note outlines barriers to competition in product markets based primarily on the screening of Serbian regulations using the OECD Product Market Regulation methodology and

³ The estimate of 2.5 per cent is conservative and reflects productivity and price changes in key infrastructure sectors in the 1990s. Australian Productivity Commission. 2005. *Review of National Competition Policy Reforms*. Canberra.

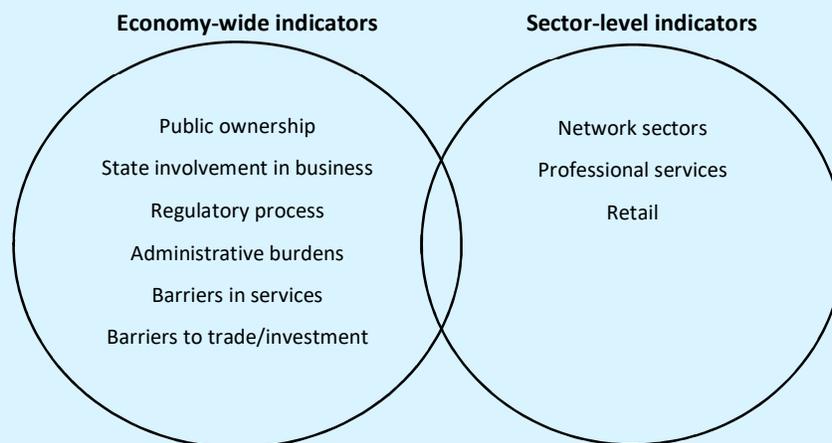
⁴ The Ukrainian government liberalized the regulation of banking, insurance, telecommunication, information and business services. Shepotylo, O. and Vakhitov, V. 2015. Services liberalization and productivity of manufacturing firms: Evidence from Ukraine. *Economics of Transition*, 23(1), pp.1-44.

⁵ Arnold, J. 2005. Trade and Transport Facilitation in Laos. Washington, DC: World Bank.

comparison to regulations in the OECD. The note focuses on topics covered by the 2018 OECD-WBG product market regulation (PMR) indicators such as regulation of network industries, professional services, state-owned enterprises, and restrictions on foreign businesses. The OECD-WBG product market regulation indicators are a screening tool that measure the degree to which regulations promote or inhibit competition. The indicators rely on qualitative information on over 1,000 features of economy-wide and sectoral regulations (see Box 1). The qualitative information is collected and coded based on a standardized questionnaire and later aggregated into quantitative scores that run from 0 (least restrictive) to 6 (most restrictive) using standardized weights. The analysis in this note relies on primary data for Serbia collected by the World Bank Group and comparative data for other countries collected by the OECD. To ensure comparability across countries the data is current as of January 1, 2018. The data has been collected throughout 2018 and the indicators included in this report are as of July 2019. The PMR indicators for Serbia have been calculated as part of the partnership between OECD and WBG Markets and Competition Policy Team and the primary data has been collected in collaboration with more than 30 public and private institutions in Serbia.

Box 1: Structure of the 2018 OECD-WBG Product Market Regulation indicators

The 2018 Product Market Regulation (PMR) indicators capture information on economy-wide and sector-level barriers to competition (see Venn diagram). Economy-wide aspects include: public ownership (e.g., scope and governance of SOEs); state involvement in business operations (e.g., public procurement, price controls), the regulatory process (e.g., regulatory impact assessment, consultations), administrative burdens (e.g., licensing), barriers in service and network sectors (e.g., access to networks, occupational regulation), and barriers to trade and investment (e.g., tariffs, FDI restrictions). Sector-level information includes barriers in network sectors (energy, transport, e-communications, water), professional services and retail (including the retail of medicines). Since the sectors covered by the PMR are closely connected to economy-wide outcomes, some sectoral information feeds also into economy-wide indicators, and some economy-wide information into the sector-level indicators (hence the overlapping area in the Venn diagram).



Source: WBG Markets and Competition Policy Team based on OECD information.

7. Based on the analysis of PMR indicators, state participation in markets, gaps in the regulatory process, and barriers in services are the main drivers of the level of restrictiveness of the regulations in Serbia. At the economy level, most restrictions are induced by: (i) weak SOE governance, inadequate state aid control, and relatively wide scope of public ownership in segments where private operations are viable; and (ii) gaps in the systems in place to design and assess regulations, particularly regarding their impacts on markets and the private sector. At the sectoral level, while reforms are taking place, markets are not yet fully contestable due to problems with unbundling (electricity, gas), access to infrastructure (rail transport, telecom), tariffs (electricity, gas),

price controls (pharma, legal services), formal powers of incumbents (road transport, professional services) and state aid (air transport). Sections II and III of this report explain the findings and section IV proposes recommendations to address identified gaps.

II. Economy-wide obstacles to competition

8. Serbia has worked to improve its framework for enabling competition in markets since the 1990s. A Competition Law was introduced in 2005, creating the Commission for Protection of Competition (CPC). The framework was revamped in 2009 and amended in 2013 to further align it to the EU standards. The CPC has gained significant experience in the enforcement of competition rules (Box 2). At the same time, the state has reduced the number of state-owned enterprises (SOEs) through several waves of privatization that started in 1991 and resulted in privatization of well over two thousand SOEs. About 600 SOEs remain in the hands of the state, many in input and network industries that are important for value chains. To ensure the level playing field between the public and the private sector, efforts were made to improve corporate governance of SOEs, unbundle vertically integrated companies in network sectors and introduce state aid control. Important regulatory reforms have taken place in energy, transportation and telecommunications to allow for more competition in market segments where private participation is commercially viable.

Box 2: Enforcement of competition rules by the Commission for Protection of Competition

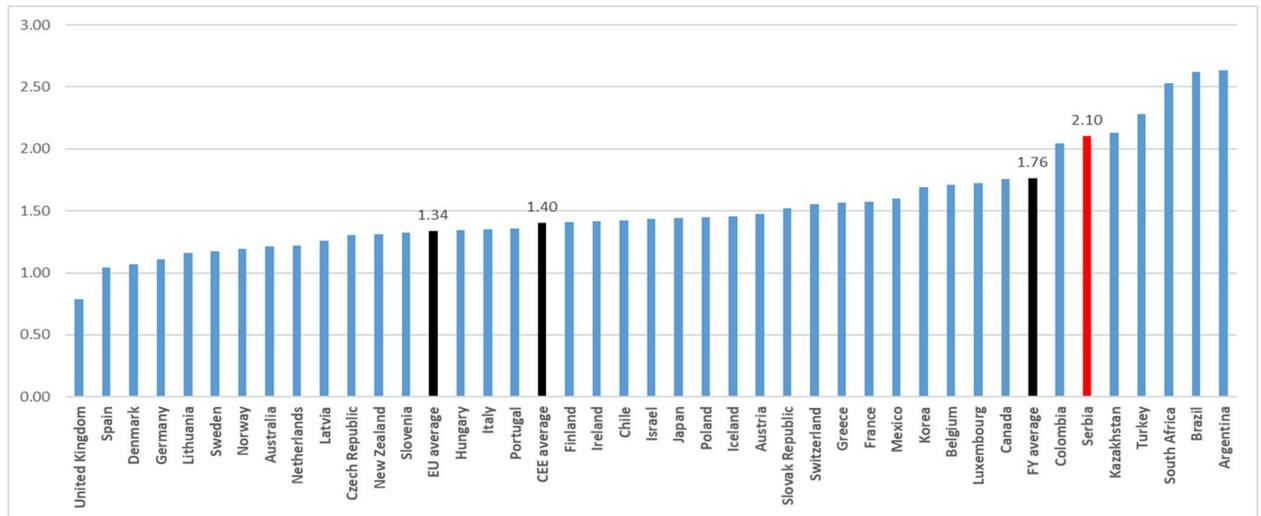
The CPC has developed a robust decisional practice in the enforcement of competition rules. Between 2014 and 2019, the Commission reviewed yearly on average 120 mergers and 15 competition infringement cases, of which most dealt with restrictive agreements. The CPC has set a track record of enforcing competition rules against both private sector companies and SOEs. For example, CPC rendered behavioral measures in abuse of dominance cases initiated against the incumbent SOEs in the rail and telecom sector. In 2018, after several retrials the CPC rendered a landmark decision against Elektrodistribucija Srbije a.d., the incumbent SOE in electricity distribution, and imposed a EUR 3.5 million fine for abuse of dominance which was one of the highest fines ever imposed by the CPC on a single company. The EU Progress Report noted in 2019 that “[the Commission’s] investigations of large private and public companies contributed to improving its credibility and public image”.

9. Reforms are still underway and some restrictions on competition remain. The OECD-WBG Product Market Regulation (PMR) indicators show that Serbian markets are more restricted than markets in 34 out of 35 OECD⁶ and EU countries for which comparable indicators are available (including all countries in Central and Eastern Europe). Serbia has also more restrictive regulatory environment than four countries which were formerly republics of Yugoslavia and for which there is comparable data (Figure 4).⁷ Serbia lags on Product Market Regulation indicators more than on measurements of the ease of doing business (Figure 5). Yet, like all EU candidate countries, Serbia needs to satisfy the Copenhagen criteria, including the economic criteria of a “functioning market economy and the capacity to cope with competition and market forces” and the institutional criteria of “capacity to effectively implement the *acquis* and the ability to take on the obligations of membership”.

⁶ Turkey is the only OECD country with more restrictions than Serbia.

⁷ Slovenia, Croatia, North Macedonia and

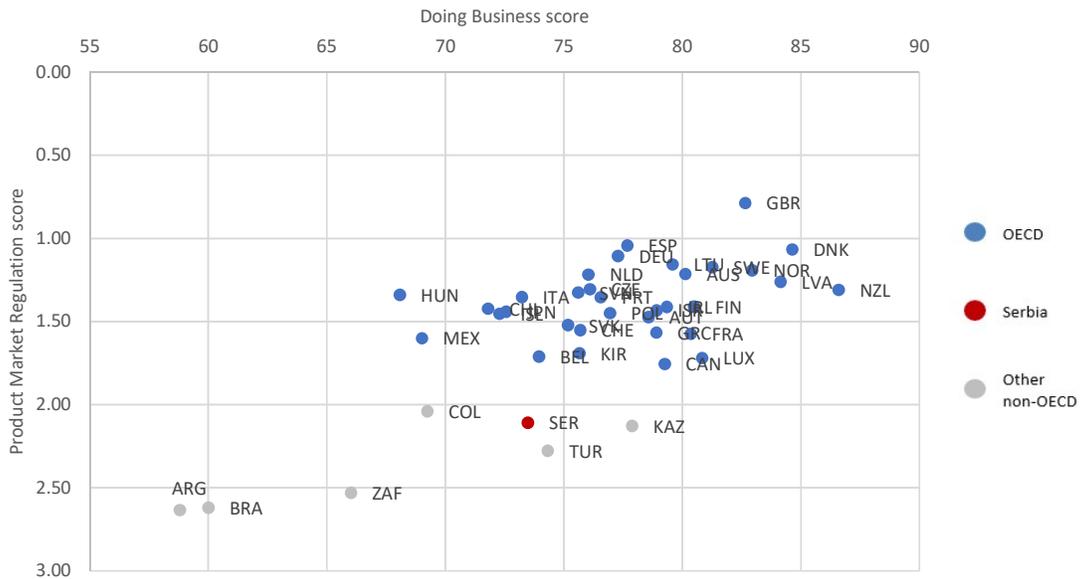
Figure 4: Economy-wide PMR Score for Serbia and EU/OECD countries



Source: OECD PMR database and OECD-World Bank Group PMR database

Note: Scale is 0–6, from least to most restrictive, 2018 data. CEE average represents the following countries in Central Eastern Europe: Poland, Hungary, Czech Republic, Slovakia, Croatia and Slovenia. FY average represents Serbia, Croatia, Slovenia and North Macedonia. EU average excludes missing data for Estonia, Romania, Bulgaria, Malta and Cyprus.

Figure 5: PMR vs Doing Business score for OECD and non-OECD countries



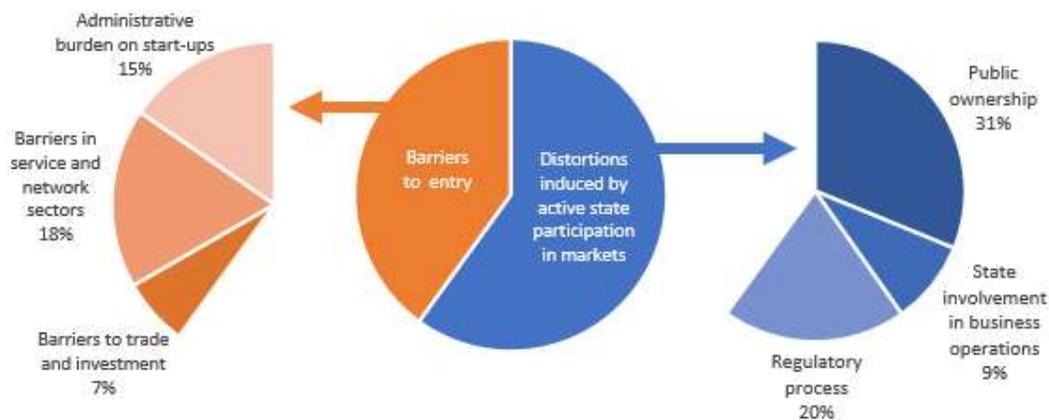
Source: World Bank Group Doing Business database. OECD PMR database and OECD-World Bank Group PMR database

Note: PMR scale is 0–6, from least to most restrictive. Doing Business scale is from 0 to 100, from most to least burdensome. Both 2018 data.

10. Most market restrictions are caused by active state participation in markets (Figure 6). The 2018 PMR methodology distinguishes between two categories of anti-competitive barriers: barriers to firm entry and distortions induced by active state participation in markets. The latter category accounts for 60 per cent of all restrictions captured by the product market regulation indicators in Serbia. Most restrictions are induced by two types of state involvement in markets: (i) weak SOE governance, inadequate state aid control, and relatively wide scope of public ownership in market where private participation is usually viable, and (ii) gaps in the systems and policies in place to design

and assess regulations, particularly with regard to their impacts on markets and the private sector. Barriers in services and network sectors and administrative burdens on start-ups are the main barriers to firm entry according to the PMR indicators. Each of these categories are discussed in more detail in the following sections.

Figure 6: Components of economy-wide PMR score for Serbia

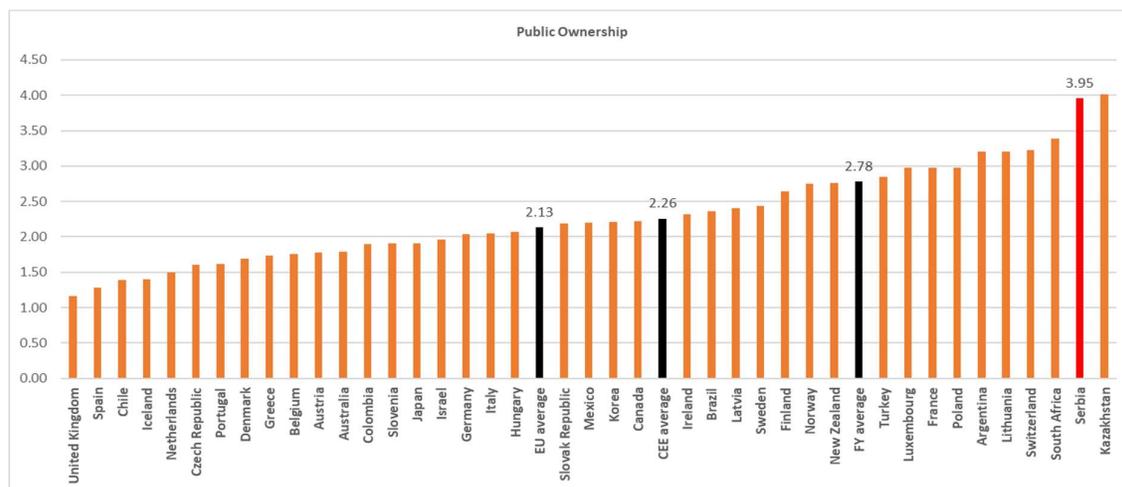


Source: OECD-World Bank Group Product Market Regulation database

A. Public ownership

11. Serbia scores high in the PMR public ownership sub-indicator (Figure 7). The high score is mainly driven by the number of sectors with SOEs (Figure 8). In addition, difficulties in ensuring competitive neutrality between private and public operators (through enforcement of state aid rules, for example) and issues related to corporate governance of SOEs add to the challenges posed by public ownership. While determining the degree of state involvement in markets is the prerogative of each country, it is good practice to limit state involvement to the extent needed to address specific market failures and when the benefits of such intervention are greater than the costs.

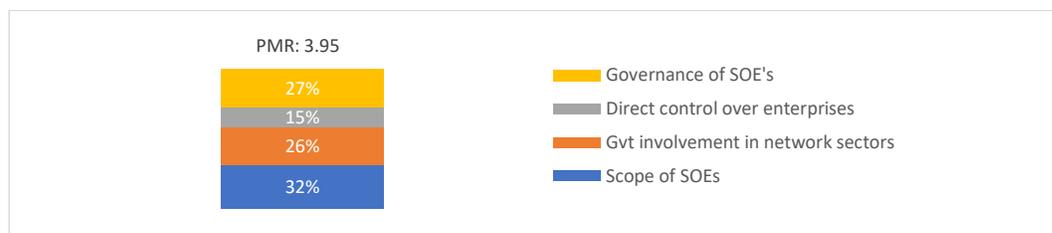
Figure 7: PMR sub-indicator for public ownership



Source: OECD PMR database and OECD-World Bank Group PMR database

Note: Scale is 0–6, from least to most restrictive of competition, 2018 data. CEE average represents the following countries in Central Eastern Europe: Poland, Hungary, Czech Republic, Slovakia, Croatia and Slovenia. FY average represents Serbia, Croatia, Slovenia and North Macedonia. EU average excludes missing data for Estonia, Romania, Bulgaria, Malta and Cyprus.

Figure 8: Decomposition of PMR sub-indicator for public ownership



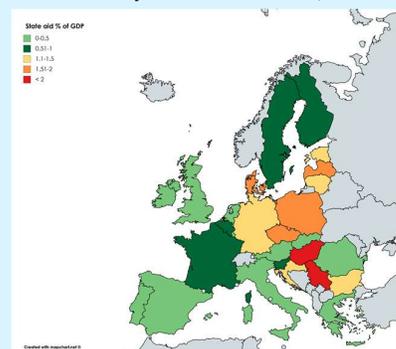
Note: PMR scale is 0–6, from least to most restrictive of competition, 2018 data. % reflects contribution of each sub-indicator to the overall public ownership PMR score. Source: OECD-World Bank Group Product Market Regulation database

12. The Law on State Aid Control is not rigorously enforced. Control of state support measures is a necessary safeguard for competition, free trade, and fiscal prudence. State support measures can be used to privilege SOEs, which can damage long-term private sector-led growth. However, the Law on State Aid Control has not been rigorously enforced (see Box 3). Access to financial resources (state guaranties or state credits) which are not available to the private sector are often made available to failing SOEs, making it difficult for the private sector to compete on equal grounds. Although transfers might be needed to cover public service obligations, it is unclear whether adequate methodologies and processes are implemented to estimate the level of transfers so that potential market distortions are minimized. Furthermore, not all state aid measures have been analyzed considering their effects on markets and competition.

Box 3: State aid in Serbia

State aid is large compared to EU countries. Between 2015 and 2017, state aid amounted on average to 2.3 per cent of GDP, more than three times higher than the EU average. In 2017, only Hungary, out of all EU member states, had levels of state aid comparable to Serbia.⁸ The European Council recommended as part of the Lisbon Strategy that state aid not exceed 1 per cent of GDP in EU countries. This share was below 1 per cent for most of EU countries including Romania. It was between 1 and 1.5 per cent for Croatia and Bulgaria (see map). Furthermore, sectoral aid – aid which generally implies distortions between sectors – accounted for 38 percent of all aid in 2017 compared to less than 6 percent in the EU.

State aid as % of GDP in EU and Serbia, 2017



Source: European State Aid Scoreboard, Serbian Commission for State Aid Control

State aid in Serbia, 2015-2017

State Aid in EUR	2015	2016	2017
Total in EUR	863 million	750 million	792 million
% of GDP	2.58 %	2.20 %	2.15%
State aid per employee	455	392	400
State aid per capita	122	107	103

⁸ It should be noted that data is not fully comparable as data for Serbia is shown in aggregate and includes state aid to railways. Assuming, based on CSAC reports, that the volume of reported state aid did not exceed 2.2 billion RSD, Serbia would still spend more than two per cent of GDP on state aid.

Some state aid is not reported. For example, the CSAC has approved only ex post several sovereign guarantees issued to secure EPS loans. No public record is available to confirm that the CSAC has reviewed and approved the most recent sovereign guarantees provided to EPS and Srbijagas in 2018. The EU 2019 Progress Report Serbia notes that “the control of state aid is weak and its granting non-transparent (...), decisions to grant state aid are not regularly notified ex ante, (...) while granting of state aid seems to favour market incumbents and large investors.”

Until recently, the Commission on State Aid Control was not independent. Under the State Aid Control Law of 2009, the CSAC was affiliated with the Ministry of Finance, the largest aid grantor, and four out of five members of the CSAC were appointed by aid-granting ministries. The Commission had also limited resources to exercise its mandate and focused these resources on minor cases.⁹ The Commission did not take a single decision prohibiting state aid, nor conditional decision or a decision in favour of recovery.¹⁰ In October 2019, the Serbian Parliament passed a new Law on State Aid Control, establishing the CSAC as a separate and independent body, with its own budget and offices. Members are elected by Parliament for a five-year term and prohibited from holding other appointments. The Law will apply from January 2020.

13. Governance of SOEs in Serbia departs in some respects from international best practice. Not all SOEs are incorporated as joint stock or limited liability companies subject to the private Company Act.¹¹ Additionally, some strategic actions of SOEs, including mergers, equity issues and restructuring plans must be reviewed and/or cleared in advance by the government.¹² The government rarely recalls interim managers after the end of their one-year term.¹³ For companies not incorporated under the Companies Act (*javna preduzeća*), CEOs and Supervisory Boards are appointed by the government.¹⁴ Non-competitive and competitive activities of SOEs are not separated in all sectors and full implementation is lagging in other, allowing SOEs to cross subsidize and influence their competitive market behavior.¹⁵

14. Serbia looks back to several waves of privatization, but state ownership continues to be wide-spread. The first privatization law was adopted in 1991,¹⁶ followed by individual privatizations in 1994 and 1997. A systematic approach to privatization began in 2001. Currently, the privatization process is conducted under the umbrella of the 2014 Law on Privatization.¹⁷ As of 2018, ownership by the state is more widespread than in most countries covered by the PMR indicators. The state controlled companies in many sectors where private operations are viable (Figure 9). SOEs are active in financial services and light manufacturing (furniture, cables, car parts, etc.), among others.¹⁸ SOEs

⁹ Recent CSAC decisions concern mostly state aid granted by local municipalities to companies in the media sectors (local radio and TV stations). In 2018 the CSAC issued 43 decisions to allow state aid granted by local municipalities in the media sector while during the same period it issued only 20 decisions related to other aid.

¹⁰ Commission Staff Working Document, Serbia 2019, Report Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2019 Communication on EU Enlargement Policy, see pg. 64

¹¹ The 2016 Law on Public Enterprises (LPE) [*Закон о јавним предузећима (Сл. гласник РС бр. 15/2016)*] regulates the status of public SOEs and other SOEs which perform activities of general interest and not the Company Act. Still, the LPE lays down that provisions of Company Act which regulate limited liability companies should apply accordingly if any issue related to public SOEs is not regulated by the LPE (Article 76 of the LPE).

¹² Article 69, para 1, points 6, 7 and 8 of the LPE.

¹³ The appointment of interim managers is limited to a non-renewable one-year term by article 52 of the LPE.

¹⁴ The Government appoints CEOs for the public SOEs that it establishes (Article 24 of the LPE). For public SOEs established by the province or local municipality, this authority is determined by the Charter of the Province or local municipality.

¹⁵ No general rule on separation is in place. Yet in some sectors by specific laws separation is mandated. Notable example is the energy sector which regulates separation in different energy segments e.g. 2014 Energy Act Articles 98-99 [*Закон о енергетици (Сл. гласник РС бр. 145/2014 и 95/2018)*].

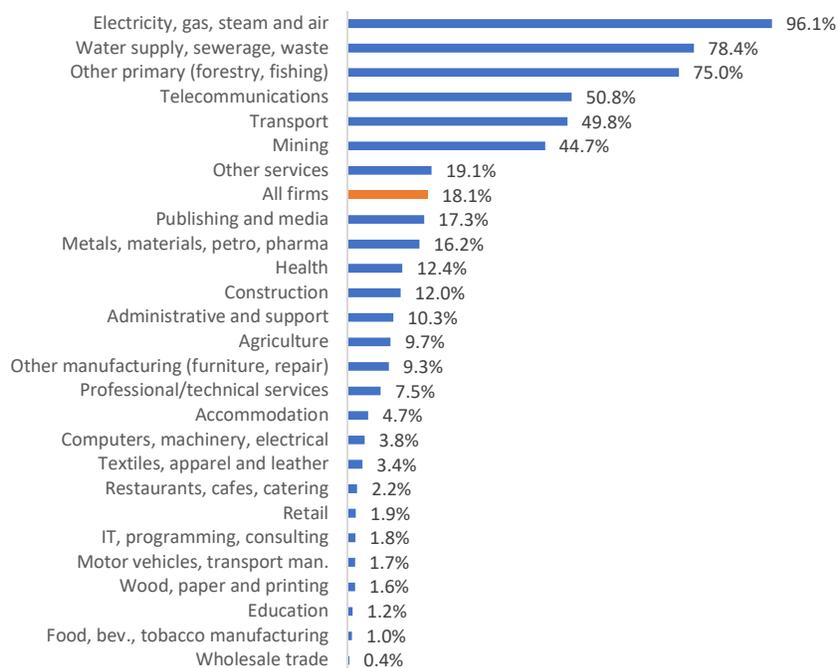
¹⁶ 1991 Law on conditions and procedures to turn public ownership into other forms of ownership [*Закон о условима и поступку претварања друштвене својине у друге облике својине - Службени Гласник Републике Србије Бр.48/91*].

¹⁷ 2014 Law on Privatization [*Закон о приватизацији (Службени Гласник РС бр. 83/2014, 46/2015, 112/2015 и 20/2016)*].

¹⁸ The largest insurance company in the country Dunav Osiguranje a.d., one of the largest banks – Komercijalna Banka a.d.; FAP korporacija a.d. Priboj, Trayal korporacija a.d. Kruševac, Ikarbus a.d. Beograd-Zemun producing vehicles / vehicle parts; Hip Petrohemija a.d. a chemical company, etc.

dominate infrastructure sectors but competition from private operators has emerged in some markets (e.g., rail cargo or renewable energy generation). While governments decide on the extent of their direct participation in markets, from the economic perspective it is important to understand its rationale and value-for-money implications. For example, it would be more efficient if direct participation by government is focused on activities related to market failures, such as natural monopolies in some energy and transportation markets, and on creating conditions to crowd in the private sector in other activities.

Figure 9: Share of employment in sectors with state-owned enterprises in Serbia



Source: World Bank Group. 2019. Serbia Country Economic Memorandum: The New Growth Agenda." Washington, D.C.: The World Bank. Calculations are based on Business Register Agency and Central Registry data.

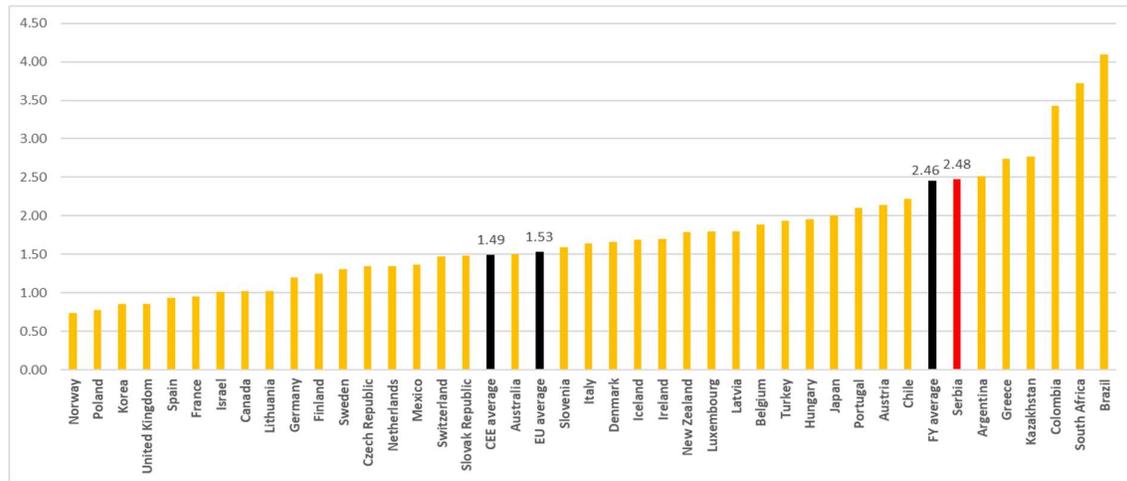
Note: The shares represent employment in firms with at least 20 percent state ownership.

15. The forestry sector provides an example of market distortions induced by state ownership. The wood and furniture sector in Serbia has one of the highest export growth rates (13 per cent annually). However, its growth is constrained by the process of allocation of timber managed by the state-owned forest management company Srbijasume. According to market participants, the process of allocating raw wood to buyers does not follow market rules. In addition, a large SOE in furniture production is reported to gain advantage over private sector competitors through state subsidies.

B. Regulatory process

16. The process for setting and reviewing rules and regulations appears to be more restrictive than in OECD countries, but on par with other countries in the region (Figure 10). Gaps in stakeholder consultations contribute the most to Serbia's sub-indicator, followed by gaps related to the assessment of regulatory impact on competition (Figure 11). These gaps allow interest groups to use the regulatory process for protection and individual gain.

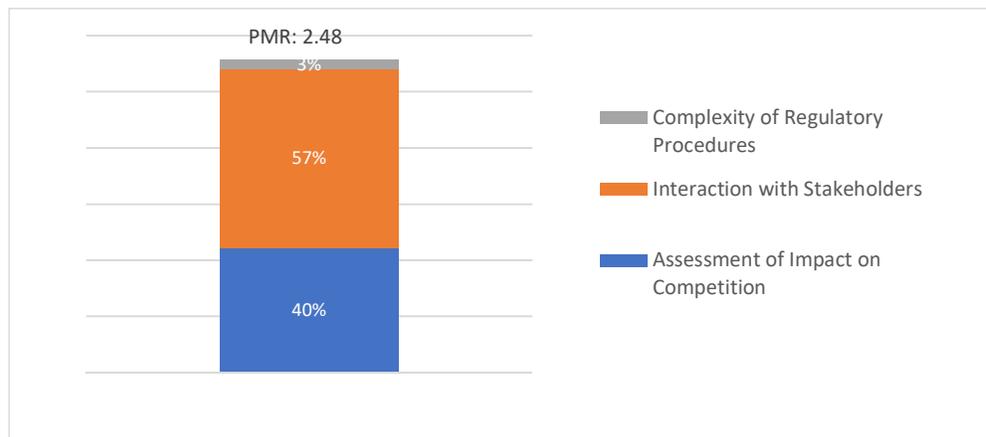
Figure 10: PMR sub-indicator for the design and assessment of regulations



Source: OECD PMR database and OECD-World Bank Group PMR database.

Note: Scale is 0–6, from least to most restrictive of competition, 2018 data. CEE average represents the following countries in Central Eastern Europe: Poland, Hungary, Czech Republic, Slovakia, Croatia and Slovenia. FY average represents Serbia, Croatia, Slovenia and North Macedonia. EU average excludes missing data for Estonia, Romania, Bulgaria, Malta and Cyprus.

Figure 11: Decomposition of PMR sub-indicator for design and assessment of regulations



Source: OECD-World Bank Group PMR database.

Note: Scale is 0–6, from least to most restrictive of competition, 2018 data.

17. Several reforms have been implemented in 2018 to improve the regulatory process. In 2018, new laws were adopted to make the design of laws and subordinate regulations more transparent and evidence-based.¹⁹ However, these laws have been adopted after the cut-off date for the PMR data collection (January 2018). As a result, the current PMR score reflects the fact that in January 2018 regulators were not required to assess the impact of draft bylaws or other subordinate rules. Also, prior to 2018 there were no rules on lobbying. The implementation of regulatory impact assessment remains a challenge, as for instance the impact of draft laws on competition is rarely analyzed.

¹⁹ Law on lobbying was adopted in November 2018, the Law on the Planning System requiring RIA on subordinate laws was adopted in April 2018.

Currently, the Serbian competition and better regulation authorities are working together to remedy this.²⁰

18. The Government should build on the regulatory reforms of 2018. Currently, there is no requirement to conduct public consultations when preparing a new bylaw. While efforts are made to ensure that new draft laws are publicly consulted, there is little guidance on how consultations should be conducted. There is also no guidance on regulatory impact assessment for secondary regulations. No complete database of permits and licenses is available but the e-registry program is underway and the Law on Registry of Administrative Procedures with by-laws is planned.

C. Barriers in service and network sectors²¹

19. In some network sectors, retail prices are set in a way that does not allow for competition between market players. In Serbia, existing players in network sectors are usually SOEs. Economies of scale and network effects restrict competition and generally justify tariff-setting by economic regulators in these sectors. However, tariffs do not always take into account the “efficient competitor” benchmark or a methodology that would mimic competitive results. In the electricity sector, for example, price increases have taken place to reflect costs and investment needs, but many customers continue to purchase electricity at below competitive prices.²² This can deter entry of private operators. Increased competition could lead to efficiency gains and social safeguards could be put in place to protect vulnerable customers from price hikes. In the case of renewable energy, where feed-in-tariffs (FiT) have been successful in attracting investment, other more market-oriented mechanisms to set the FiT such as auctions or a premium over market prices could be explored to reduce the burden on consumers. In gas, price regulation is not imposed on par with the most efficient distributor standard. In water, prices are regulated but, apart from payment of environmental pollution fees,²³ no regard is given to the environmental costs of water provision for different types of users (farms, manufacturing firms, power plants, households).

20. Difficulties in access to essential infrastructure also limit competition. Despite progress in unbundling and other regulatory reforms, access to essential facilities should be improved in practice. For example, problems with the allocation of paths are affecting the use of railways infrastructure. Only one out of 16 licensed companies is able to provide regular cargo transportation services on Serbia Railways infrastructure and compete effectively with the incumbent SOE.²⁴ In

²⁰ The Commission for Protection of Competition and the Public Policy Secretariat signed a Memorandum of Understanding (MoU) in July 2019. The MoU foresees close collaboration in identifying and assessing regulations with potential impact on markets and competition.

²¹ This section includes also a discussion of state involvement in business operations.

²² See for example the Energy Community report on Serbia, retail market of electricity available at <https://www.energy-community.org/implementation/Serbia/EL.html>: “The regulated price of guaranteed supply is still below a competitive and economically justifiable price, which does not provide sufficient incentive for customers to change their supplier. In practice, essentially all customers that are entitled to guaranteed supply are using this right and thus are still supplied by EPS.”

²³ 2010 Water Law (LW) [Закон о водама: (Сл. гласник РС) 30/2010-81, 93/2012-27, 101/2016-9, 95/2018-388, 95/2018-267 (др. закон)] sets out the obligation to pay the specific fee for environment pollution. This fee should be paid in case of (a) performing certain activities (such as abstraction, distribution and purification of rain or wastewater through the system of public sewerage) or (b) is done by certain persons (ex. owner of a floating object). See Articles 164-168 of the LW.

²⁴ According to Ministry of Construction Transport and Infrastructure as of September 2018, sixteen railway undertakings have been licensed to provide cargo transportation services while only four private cargo operators have signed a contract with the infrastructure manager. Some of the licenses awarded are cargo operators to perform ‘services for their own need’ (i.e. to carry their own cargo). The lead private sector market player is Kombinovani Prevoz while other private sector participants (such as Eurorail logistics and Neo Cargo Logistics) have signed the contracts with the infrastructure manager only during 2018.

telecommunications, mobile and broadband operators lack sufficient information on infrastructure availability and on the technical grounds for denying access to infrastructure.

21. Retail prices are also regulated in non-infrastructure sectors. The retail prices of non-prescription medicines are regulated, in addition to prices of prescription-only medicines that are reimbursed through public insurance. The price-setting process for new drugs is reported to be burdensome and to delay the supply of new products in the market. The prices of legal services are also regulated and some providers cannot advertise their services.²⁵

22. In some cases, market regulations allow incumbents to vet entrants. For example, firms wishing to open a new bus routes between two Serbian cities are required to coordinate their plan with existing operators represented in the Chamber of Commerce. Professional service providers, such as architects and engineers, need to obtain authorizations from professional chambers to practice their profession.²⁶

D. Administrative burdens on start-ups

23. Processes for business start-ups in Serbia have been simplified. According to *Doing Business 2019*, Serbia has a 92.59 distance-to-frontier (DTF) score on the ease of starting a business and ranks 40th among 190 economies covered by *Doing Business*. This score puts Serbia above the average for Europe and Central Asia (DTF 90.02).²⁷ PMR scores confirm this assessment. The process for setting up of a limited liability company or a sole trader is not scored as restrictive (PMR score of 0.88). Many businesses can register via a one stop shop set up at the Serbian Business Registry Agency (SBRA). The costs for starting up a business are low. The minimum share capital required is only \$1. The “silence is a consent” rule is in place; a business is registered if the SBRA does not respond to a notification.²⁸

24. However, some licensing procedures and approvals remain complex. Some business licenses are not granted by the SBRA. Currently, there is no obligation to keep a count of the number of permits and licenses required to start up or operate a business. The program for establishing the single e-Registry of all administrative procedures is still under implementation. The reallocation of powers and responsibilities between government departments and/or between levels of government is currently not used as a mechanism to reduce compliance costs and administrative burdens imposed on businesses. The “silence is consent” rule is usually not applied in the case of all licenses and approvals. The Administrative Act complicates the implementation of notifications since a reply from government is always needed.²⁹

²⁵ Article 5 of the 2011 Law on Public Notaries [Закон о јавном бележничтву 2011 (Сл. гласник РС бр. 31/2011, 85/2012, 19/2013, 55/2014 - 93/2014, 121/2014, 6/2015 и 106/2015)] and article 15 of the Ethics Codex of Public Notaries prohibit advertising of notary services.

²⁶ Please see 2009 Law on Planning and Construction on different types of licencing [Закон о планирању и изградњи (Сл. гласник РС бр. 72/2009-105, 81/2009-76 (исправка), 64/2010-66 (УС), 24/2011-3, 121/2012-14, 42/2013-37 (УС), 50/2013-23 (УС), 98/2013-258 (УС), 132/2014-3, 145/2014-72, 83/2018-18)]

²⁷ Data on ease of doing business in the Republic of Serbia is available on the following link: <https://www.doingbusiness.org/content/dam/doingBusiness/country/s/serbia/SRB.pdf>.

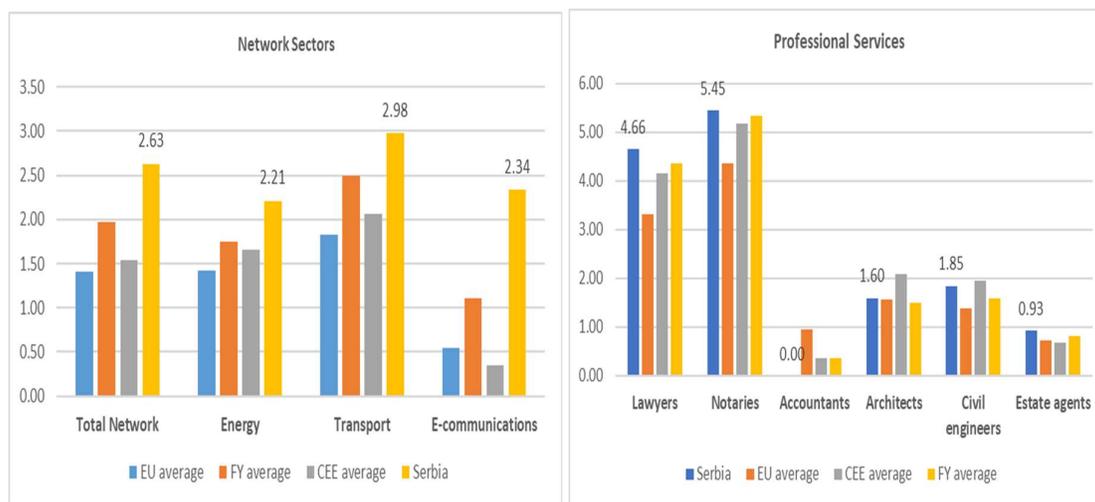
²⁸ Please see Article 19 of the Law on the Procedure of Registration with the Serbian Business Registers Agency [Закон о поступку регистрације у Агенцији за привредне регистре (Сл. гласник РС бр. 99/2011-9, 83/2014-22)]. Also, comprehensive information on registration processes and fees are available at the website of SBRA at <http://www.apr.gov.rs/>.

²⁹Based on Article 151 of the 2016 Law on General Administration Procedure [Закон о општем управном поступку: (Сл. гласник РС бр. 18/2016-10, 95/2018)], if an administrative body does not reply to a party request for a license within the prescribed deadline, it is deemed that the request has been denied.

III. Obstacles to competition in key sectors

25. Product market regulation in network sectors and professional services appears more restrictive than in comparator countries (Figure 13). Regulatory restrictions and limited competition in these sectors are likely to affect the quality and prices of inputs for other economic activities, such as manufacturing, construction, tourism, and constrain the productivity of the Serbian economy.³⁰

Figure 12: PMR sub-indicators for network sectors and professional services



Source: OECD PMR database and OECD-World Bank Group PMR database

Note: Scale is 0–6, from least to most restrictive of competition, 2018 data. CEE average represents the following countries in Central Eastern Europe: Poland, Hungary, Czech Republic, Slovakia, Croatia and Slovenia. FY average represents Serbia, Croatia, Slovenia and North Macedonia. EU average excludes missing data for Estonia, Romania, Bulgaria, Malta and Cyprus.

A. Energy

26. The electricity market is *de iure* open, but *de facto* not fully contestable in certain segments where competition is feasible. The new Energy Act was adopted in 2014³¹ and set the foundations for vertical separation and open energy markets. Although legal unbundling has been initiated in 2015 and completed in 2017,³² functional unbundling does not appear to have been fully implemented.³³ Moreover, price regulation for certain market segments could be improved to mimic competitive results and improve contestability. For example, protected retail tariffs that were designed to shield

³⁰ Western Balkans Regular Economic Report, Reform Momentum Needed, World Bank Group, 2019, pg. 41.

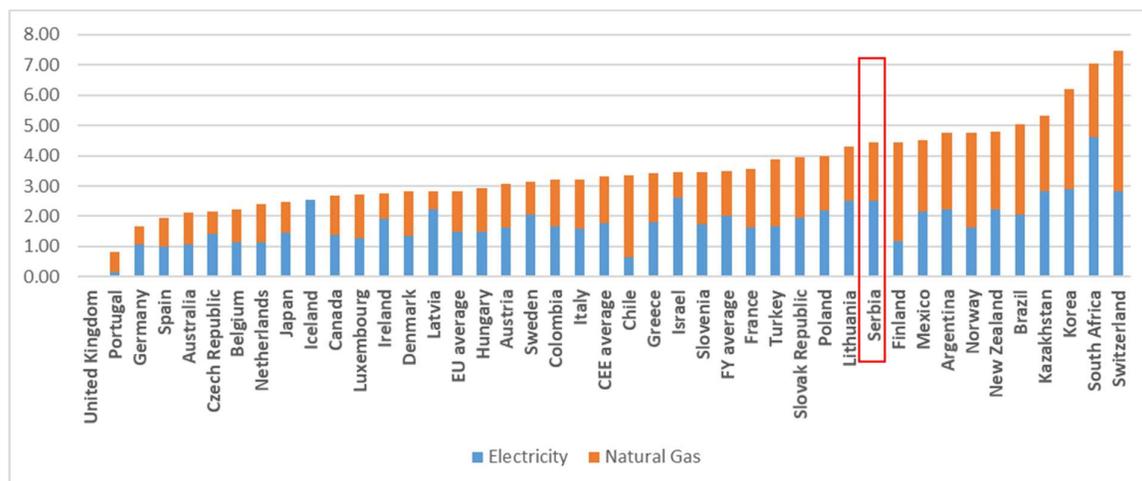
³¹ Please see 2014 Energy Act [Закон о енергетици (Службени Гласник РС број 145/2014 и 95/2018)].

³² The process of unbundling of the dominant SOE JP Elektroprivreda Srbija a.d. (EPS) was initiated in 2015. During the process EPS was separated into (i) Elektromreže Srbije a.d. (EMS) - an electricity transmission company, (ii) Elektrodistribucija Srbije a.d. (EPS Distribucija)- the electricity distribution company, and (iii) EPS that was restructured to consist of eight company branches. Seven out of eight EPS branches operate in the electricity generation sector (HPPs or TPPs branches) while the eighth branch is a retail supplier EPS Snabdevanje. For more on restructuring of EPS please see <http://eps.rs/lat/Pages/statusne-promene.aspx>.

³³ See EU Energy Community report on unbundling <https://www.energy-community.org/implementation/Serbia/EL.html>. The Energy Community is an international organization bringing together the European Union and Albania, Bosnia and Herzegovina, Georgia, Kosovo, North Macedonia, Moldova, Montenegro, Serbia, and Ukraine. The main objective of the organization is to extend the EU internal energy market rules and principles to countries in South East Europe, the Black Sea region and beyond on the basis of a legally binding framework.

residential customers from high market prices are also applied to medium-sized and large firms.³⁴ As a result, no efficient electricity supplier is able to offer such low prices and compete effectively. There is little customer switching.³⁵ In electricity generation, renewables are increasing their participation but there is room to improve the mechanism of FiT to make them more market-oriented for example through auctions or premium on market prices. Serbia's *Doing Business* ranking on *Getting Electricity* is also a sign of inefficient market outcomes in the energy sector. Getting electricity in Serbia is more costly and takes longer than in most countries in Europe and Central Asia. Supply is also less reliable and tariffs less transparent than in other countries in the region.

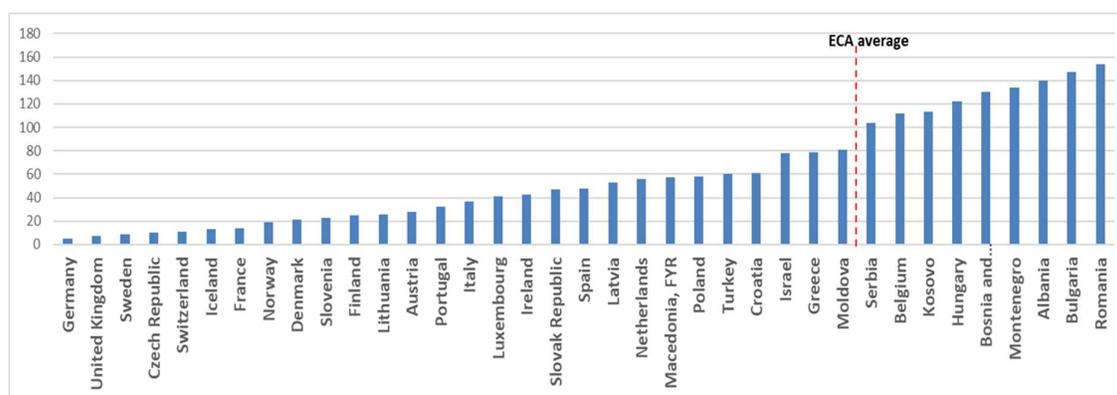
Figure 13: PMR sub-indicator for energy



Source: OECD PMR database and OECD-World Bank Group PMR database

Note: PMR Scale for each sub-indicator (Electricity and Natural Gas) is 0–6, from least to most restrictive of competition. The chart shows the cumulative PMR score for electricity and natural gas sub-indicators for each country/region. CEE average represents the following countries in Central Eastern Europe: Poland, Hungary, Czech Republic, Slovakia and Slovenia. FY average represents Serbia, Croatia, Slovenia and North Macedonia. EU average excludes missing data for Estonia, Romania, Bulgaria, Malta and Cyprus.

Figure 14: Ease of getting electricity in European countries (Doing Business rank)



Source: World Bank Doing Business database

³⁴ All households and “small” customers are entitled to guaranteed supply under regulated prices. “Small” customers include commercial businesses with up to 50 employees, 10 million EUR turnover, 1kV voltage level and annual consumption of 30000 kWh (Article 190, Article 2, point 37 Energy Act).

³⁵ See EU Energy Community reports on retail market available at <https://www.energy-community.org/implementation/Serbia/EL.html>.

27. In the gas sector transmission has not been *de facto* unbundled from distribution. The gas market has structurally changed with Gazprom purchasing the majority (51%) of shares in Naftna industrija Srbije a.d. Novi Sad (NIS). NIS is the only producer and operator of the only oil refinery in the country. It is jointly controlled by Gazprom and the Government of Serbia. Srbijagas a.d. a vertically integrated SOE started the process of separating its transmission and distribution activities in 2016. However, the newly created operators do not yet have the capacity to perform transmission or distribution activities independently.³⁶ In the transmission sector, in addition to Srbijagas transmission network, Yugorosgas a.d. (of which Gazprom owns 50%) is constructing a separate gas transmission network. Yet, there is limited competition between Srbijagas and Yugorosgas a.d. as Gazprom network covers the south of the country while Srbijagas covers transmission in the north. Key new transmission lines that are to be constructed are exempt from third party access and vertical separation requirements based on the approval of the Energy Agency.³⁷ Protective retail tariff regulation provide little incentives for customer switching.³⁸

B. Electronic communications

28. Regulatory reforms helped to open e-communication markets, but barriers to competition remain. The Electronic Communication Act of 2010 abolished the system of telecom licenses and introduced a general authorization regime.³⁹ Mobile termination rates have dropped recently as the Regulatory Agency for Electronic Communication changed the benchmark model for calculation of termination rates to the long-run incremental cost model (LRIC). However, barriers to competition remain. First, while fixed number portability is regulated, there is no obligation, regulation or plan to solve the technical challenges posed by numbers that are analogue and outdated digital switchboards that do not support the porting process. Second, trading of spectrum is prohibited,⁴⁰ and spectrum has been awarded in recent tenders to incumbents. Third, market players report that access to essential facilities is hampered (particularly the use of cable ducts). Denied access requests restrict entry and reinforce the dominant position of incumbents. Fourth, infrastructure deployment is restrained by rules on environmental impact assessment for radio base stations coupled with inconsistency in enforcement of the rules by local governments.

29. Market outcomes are suboptimal. According to the EU Digital Economy and Society Index (DESI) Serbia scores significantly lower on connectivity (the deployment of fixed and mobile broadband infrastructure and its quality) than EU countries (see Figure 17).⁴¹ Also, in terms of prices Serbian mobile and fixed termination rates as reported in 2018 (MTR of 1.2 and FTR of 0.48 eurocents per minute) are higher than the EU average rates, as well as rates in Macedonia, Croatia and Slovenia.⁴²

³⁶ See EU Energy Community reports on gas unbundling at <https://www.energy-community.org/implementation/Serbia/GAS.html>

³⁷ Please see decision March 5, 2019 the Energy Agency from <https://www.aers.rs/Index.asp?l=1&a=541&id=233&tvid=1>

³⁸ See EU Energy Community reports on gas retail market at <https://www.energy-community.org/implementation/Serbia/GAS.html>, also for gas regulated prices apply to all households and small customers. A small customer is any customer with consumption of less than 100.000 m³ (please see Energy Act Article 2 points 28).

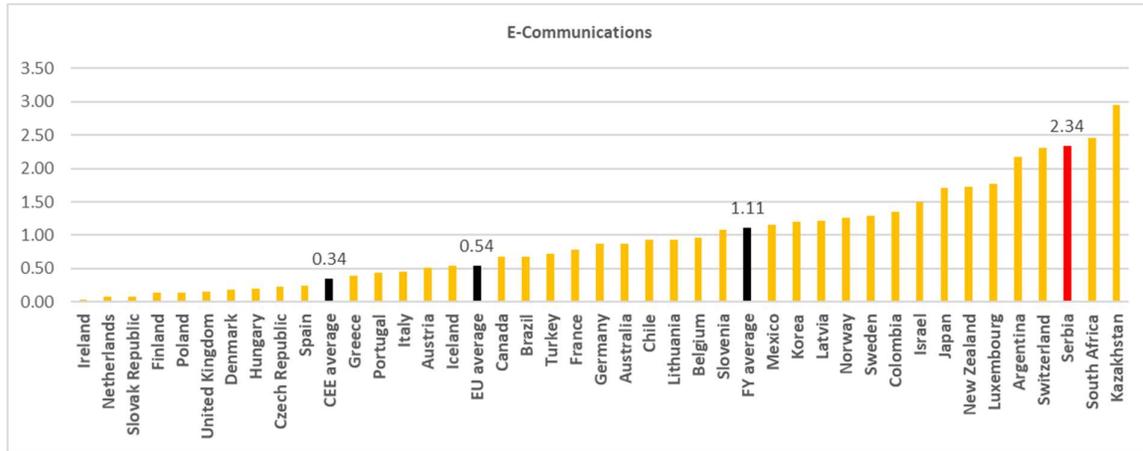
³⁹ 2010 Electronic Communications Act [Закон о електронским комуникацијама (Сл. гласник РС бр. 44/2010, 60/2013 - одлука УС, 62/2014 и 95/2018)]

⁴⁰ 2010 Electronic Communications Act Article 93.

⁴¹ The connectivity index measures the deployment of deployment of fixed and mobile broadband infrastructure and its quality

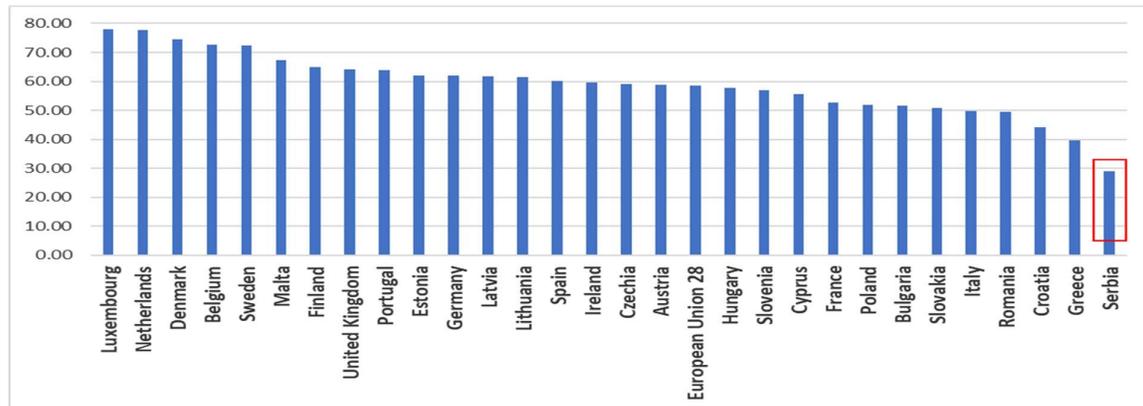
⁴² Croatia: MTR 0.62 and FTR 0.1 eurocents per minute, Macedonia MTR 1.02 and FTR 0.59 eurocents per minute, Slovenia MTR 1.2 and FTR 0.48 eurocents per minute. Data on MTR and FTR for Europe published by Body of European Regulators for Electronic Communication and available at https://berec.europa.eu/eng/document_register/subject_matter/berec/reports/8306-termination-rates-at-european-level-july-2018.

Figure 15: PMR sub-indicator for electronic communications



Source: OECD PMR database and OECD-World Bank Group PMR database
 Note: Scale is 0–6, from least to most restrictive of competition, 2018 data. CEE average represents the following countries in Central Eastern Europe: Poland, Hungary, Czech Republic, Slovakia, Croatia and Slovenia. FY average represents Serbia, Croatia, Slovenia and North Macedonia. EU average excludes missing data for Estonia, Romania, Bulgaria, Malta and Cyprus.

Figure 16: Digital Economy and Society (DESI) connectivity index for European countries



Source: European Commission and Sector Regulator (RATEL) Market Review Report for 2017

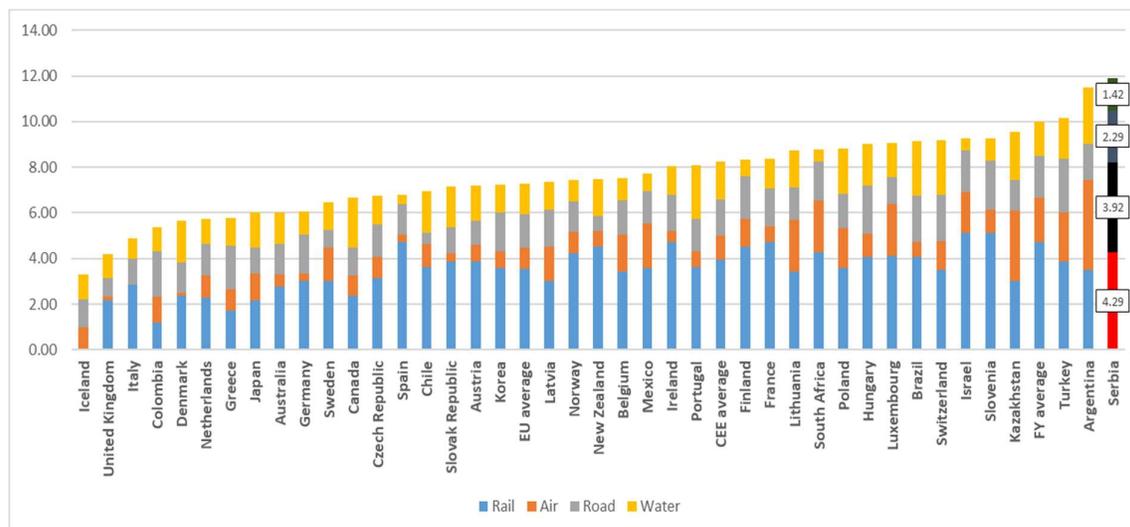
C. Transport

30. Regulatory restrictions and state aid appear to hamper the development of transport in Serbia. The rail and air transport sectors rank as more restrictive than the road and water sectors in Serbia. While restrictive regulations and high level of state participation is common in the rail sector across OECD countries, Serbia’s scores in the air transport sector are well above the OECD and the EU average (Figure 18).

31. In the airlines sector, state aid granted for restructuring purposes does not appear to have been effective. In 2013, the Government of Serbia agreed to sale a share package (49% share) in Air Serbia a.d. to Etihad Airways P.J.S.C. The sale was accompanied with a large restructuring plan. Under the plan, the government agreed to take over the debts of Air Serbia up to 2014. In addition, the government provided the investor with a sovereign guarantee, co-financed loans, direct and indirect

subsidies.⁴³ The support has been approved by the Commission for State Aid Control. The restructuring plan foresaw that Air Serbia would become profitable within three years.⁴⁴ However, yet in 2019, there is no clear evidence that Air Serbia could operate profitably without the support of state subsidies.⁴⁵ Furthermore, state support to Air Serbia could further distort air transport markets and discourage operation of other players, including low-cost carriers.⁴⁶

Figure 17: PMR sub-indicator for transport



Source: OECD PMR database and OECD-World Bank Group PMR database

Note: PMR Scale for each sub-indicator (Rail, Air, Road, Water) is 0–6, from least (0) to most restrictive (6) of competition. The chart shows the cumulative PMR score for transport sub-indicators for each country/region. CEE average represents the following countries in Central Eastern Europe: Poland, Hungary, Czech Republic, Slovakia, Croatia and Slovenia. FY average represents Serbia, Croatia, Slovenia and North Macedonia. EU average excludes missing data for Estonia, Romania, Bulgaria, Malta and Cyprus.

32. In rail transport, access to essential facilities is improving but challenges remain. The vertically integrated SOE has been unbundled in 2016 and private sector operators have obtained licenses to transport cargo. However, so far only one private sector operator has been able to compete effectively with the SOE on one type of cargo. The regulatory framework and implementation of access to essential facilities could be improved to allow other players to follow suit, for example the process to define the infrastructure operator' Network Statement or the process for granting an *ad hoc* train path.⁴⁷ There are issues with the allocation of train paths and management of timetables given that paths and times are set to meet SOEs historic demands which in practice are often not used.⁴⁸ On the demand side, market participants report that some firms allow only SOEs to transport cargo for their suppliers and customers, limiting the ability of new players to compete.

⁴³ For instance, the government co-financed shareholder loans for the improvement of certain specific segments of Air Serbia's operations (line and light maintenance, catering, and ground services). The government provided also indirect support by waiving revenue from airport charges at the state-owned Belgrade airport.

⁴⁴ Please see Decision of the State Aid Commission for the allowing the restructuring plan available at <http://www.kkdp.gov.rs/doc/arhiva/Air%20Serbia.pdf>

⁴⁵ Please see 2018 statement of President Vučić on Air Serbia <http://rs.n1info.com/English/NEWS/a393869/President-believes-Air-Serbia-can-be-positive-without-subsidies.html>

⁴⁶ In July 2019, Air Serbia was the sole bidder for subsidized flights to 12 international destinations from Nis airport.

⁴⁷ Railways Law (*Official Gazette of the Republic of Serbia*, no. 41/2018), Article 2. Infrastruktura železnice Srbije Network Statement 2019, part 1.11 on pp 16 and 17 (available in Serbian on the following link: http://infrazs.rs/izjavaMreza/izjava%20o%20mrezi%202019_1.pdf?jezik=lat).

⁴⁸ Interviews with market participants, November 2018

Box 4: Ridesharing prohibition in Serbia

The LRTP amendments brought about two broad sets of restrictions regarding:

- (i) Hired cars with drivers. The amendment included the prohibition of using ICT applications to offer ride-sharing services.
- (ii) Taxi services. The amendment included quantitative restrictions on the number of taxis and fixed prices of taxi services.

Changes to the LRTP were adopted in late 2018 and strong enforcement action against new ridesharing models have followed soon after, causing unrest, protests and conflicts among taxi operators, ridesharing platforms and public authorities.

Regulation allowing innovative ridesharing models has proven to work to the benefit of customers in the EU countries. For example, 2016 European Commission 'Study on passenger transport by taxi, hire car with driver and ride-sharing in the EU' found that consumers who switched from taxi to car hire with driver services did so because of cheaper price, lower waiting time, booking-friendliness and overall better quality of service. Moreover, the users who have switched to hired cars with driver have confirmed that they would be interested in using taxis if the quality and price of the service were aligned to those of hired cars with driver.

A 2018 OECD study 'Taxi, ride-sourcing and ride-sharing services - Background Note by the Secretariat' on ride-sharing services found that these services offer benefits to consumers in terms of price, availability, quality and convenience. Ride-sharing is typically cheaper than taxi service. For instance, a study carried out in Stockholm in 2015, estimated that a trip of 10 kilometres for 15 minutes cost approx. 20-30% less with UberX than a taxi company.

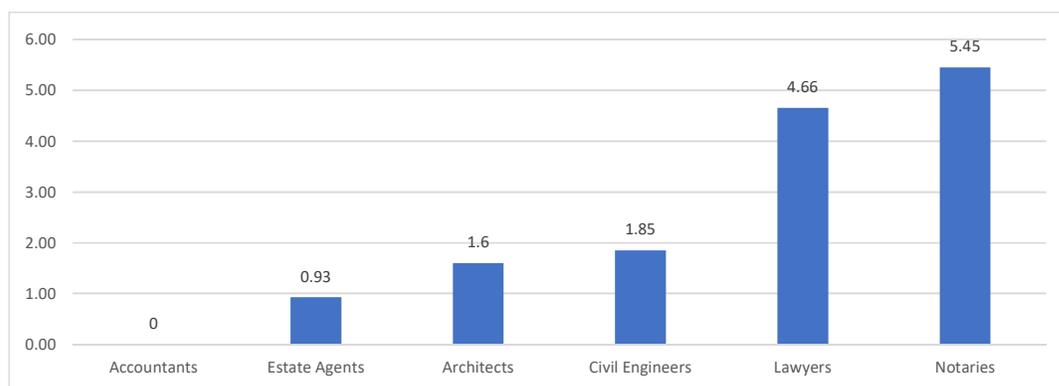
33. In road transport, some regulations limit market contestability. In trucking, there is a prohibition of free secondary trading of permits for international routes which discourages entry and expansion of medium-size players. In intercity bus transport, incumbents represented by the Chamber of Commerce (CoC) play a vital role in regulating the market. The opening of new connections effectively requires the approval of the Chamber. The CPC has recently investigated seven cases of breaches of competition law committed by bus operators and bus station owners.⁴⁹ In intracity passenger transport, a 2018 change in the Law on Road Transport of Passengers prohibited the use of ridesharing (see box 4).

D. Professional services

34. The legal professions are the most heavily regulated profession among the professions covered by the PMR. Figure 19 shows that the entry and conduct requirements for notaries and attorneys are highly restrictive. The PMR scores for Serbia are also high compared to the OECD average and comparator countries (Figure 20).

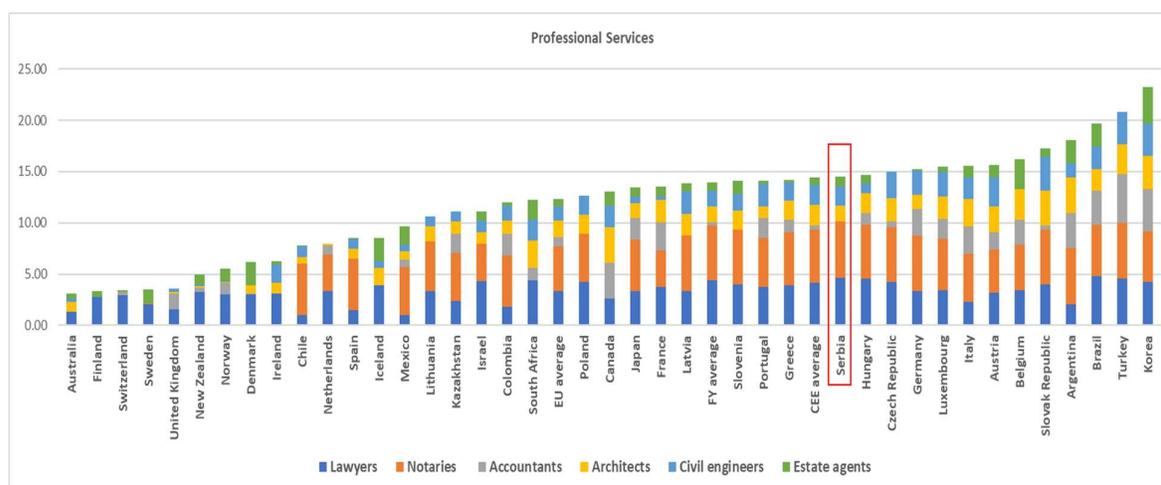
⁴⁹ See Commission for Protection of Competition website <https://www.kzk.gov.rs>

Figure 18: Decomposition of the PMR sub-indicator for professional services



Source: OECD-World Bank Group PMR database

Figure 19: PMR sub-indicator for professional services



Source: OECD PMR database and OECD-World Bank Group PMR database

Note: PMR Scale for each sub-indicator (Lawyers, Notaries, Accountants, Architects, Civil engineers, Estate agents) is 0–6, from least (0) to most restrictive (6) of competition. The chart shows the cumulative PMR score for professional services sub-indicators for each country/region. For the Notaries sub-indicator, the comparability is limited and no value are shown for Australia, Canada, Denmark, Finland, Iceland, Ireland, New Zealand, Norway, Switzerland and United Kingdom. CEE average represents the following countries in Central Eastern Europe: Poland, Hungary, Czech Republic, Slovakia, Croatia and Slovenia. FY average represents Serbia, Croatia, Slovenia and North Macedonia. EU average excludes missing data for Estonia, Romania, Bulgaria, Malta and Cyprus.

35. Restrictions on entering and practicing the notary and attorney professions can limit quality, raise prices, and harm consumers and businesses that rely on legal services. Attorneys and notaries are required to register as members of the professional chamber and fees can discourage formal participation in the profession (see box 5). Notaries also face quantitative and territorial restrictions: the number of notaries allowed to practice is limited by law and notaries can only practice the profession in the area for which they are appointed. Providing legal services as a limited liability company is not allowed. Non-lawyers and non-notaries cannot have ownership-type interest in a law/notary firm and vice versa. All forms of advertising and marketing are prohibited. Fees are regulated and are set as binding maximum prices for all activities. Professional chambers engage in price setting.⁵⁰

⁵⁰ See 2011 Attorney Act [Закон о адвокатури (Службени Гласник РС број 31/2011 и 24/2012)] and 2011 Notary Act [Закон о јавном бележничтву (Службени Гласник РС број 31/2011, 85/2012, 19/2013, 55/2014, 93/2014, 121/2014, 6/2015 и 106/2015)]

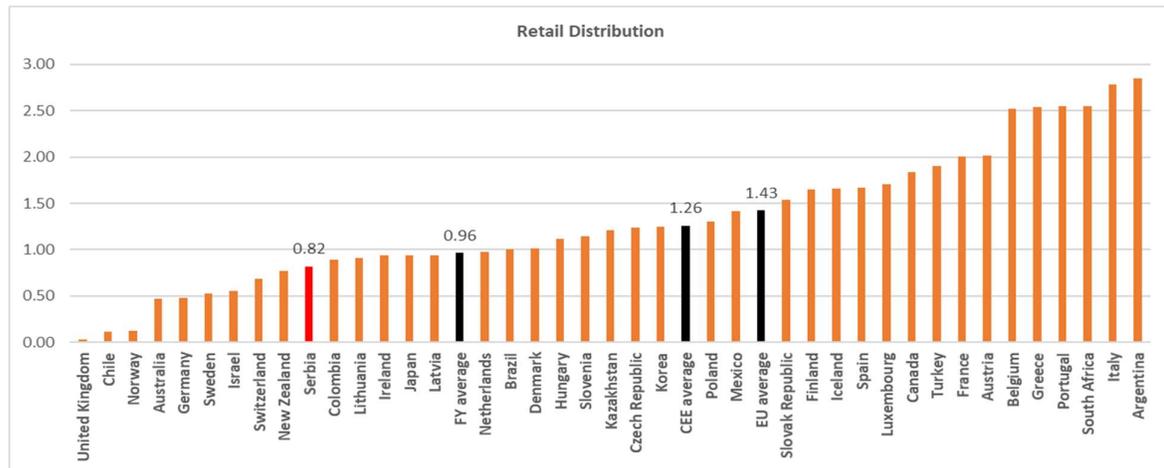
In 2014, the Commission for the Protection of Competition initiated proceedings against the Serbian Bar Association for increasing the registration fee for attorneys to EUR 5000. The high fee limited entry into the market as every qualified professional wishing to practice as an attorney had to pay EUR 5000 for registering with the Bar. In 2018, the Commission dropped the case against the Bar Association for lack of evidence.

E. Retail

36. There are no significant entry barriers in retail (including for pharmacies). Serbia appears to have less restrictive market regulations in the retail sector than the average OECD country, although there have been attempts in 2018 to impose quantitative restrictions on private pharmacies by setting minimum distances and minimum number of inhabitants to open a new outlet. Registration and licensing are not required to launch operations as a retail outlet. There are no restrictions on promotions and discounts in retail outlets. On retail of pharmaceuticals there are no quantitative restrictions or restrictions on opening hours.

37. However, the prices of prescription medicines are regulated and retail channels are controlled. Price regulation covers prescription medicines reimbursed by the country’s sole payor, the Serbian Health Insurance Fund, and medicines not covered by public health insurance. The margins of wholesalers of medicines and pharmacies are also regulated. Price regulation complicates entry into the market as new drugs cannot be offered until the Government of Serbia has set their maximum prices. In addition, online sales of prescription medicines are not allowed.

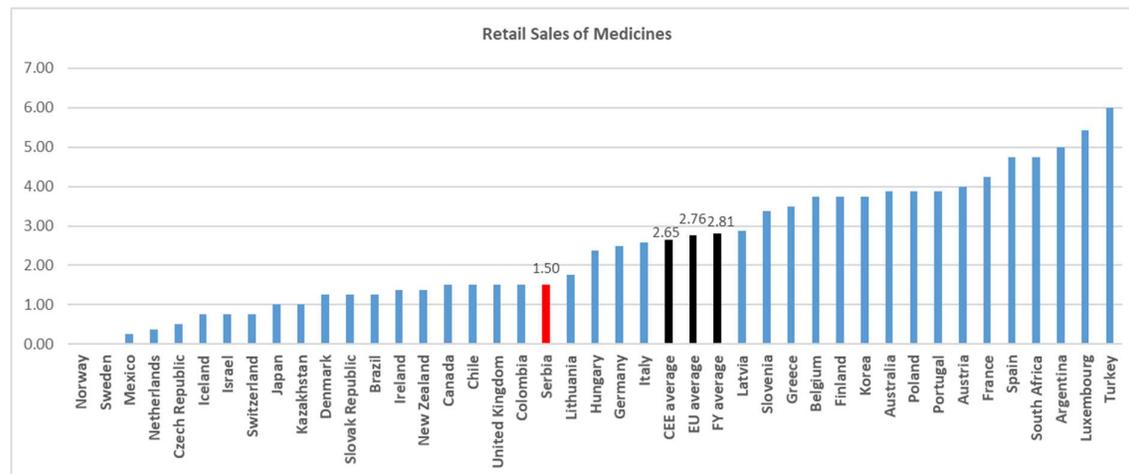
Figure 20: PMR sub-indicator for retail distribution



Source: OECD PMR database and OECD-World Bank Group PMR database

Note: Scale is 0–6, from least to most restrictive of competition, 2018 data. CEE average represents the following countries in Central Eastern Europe: Poland, Hungary, Czech Republic, Slovakia, Croatia and Slovenia. FY average represents Serbia, Croatia, Slovenia and North Macedonia. EU average excludes missing data for Estonia, Romania, Bulgaria, Malta and Cyprus.

Figure 21: PMR sub-indicator for retail sales of medicines



Source: OECD PMR database and OECD-World Bank Group PMR database

Note: Scale is 0–6, from least to most restrictive of competition, 2018 data. CEE average represents the following countries in Central Eastern Europe: Poland, Hungary, Czech Republic, Slovakia, Croatia and Slovenia. FY average represents Serbia, Croatia, Slovenia and North Macedonia. EU average excludes missing data for Estonia, Romania, Bulgaria, Malta and Cyprus.

IV. Reform recommendations

38. The PMR indicators offer Serbia the opportunity to identify areas to launch broad-based reforms to promote competition and productivity. The comparison of the restrictiveness of product market regulations in Serbia and OECD countries reveals a wide array of obstacles to competition. These obstacles include economy-wide and sectoral challenges. Yet, the PMR indicators are limited in scope and allow to uncover only the “tip of the iceberg” of potential restraints to competition. The indicators should be therefore considered as a screening tool and an entry point for more in-depth analysis of economy-wide competition barriers as well as sector-specific challenges.

39. The following stand out as the top three challenges from the review of PMR indicators:

- a. **State participation in markets.** The scale and scope of public ownership, coupled with shortcomings in SOE governance, weak design and enforcement of state aid control (particularly of support to SOEs), and command-and-control regulation in services, unlevel the playing field for the private sector.
- b. **Regulatory governance.** The lack of transparency in the process of developing laws, weaknesses in stakeholder consultations, and gaps in the implementation of regulatory impact assessment, regulatory simplification, and administrative burden reduction programs, create an environment where interest groups can influence the regulatory process and promote policies that protect incumbents.
- c. **Barriers in service and network sectors.** There has been progress in the unbundling of electricity, railways and gas, but there are still regulatory and implementation barriers that limit private sector participation in certain segments where it is usually viable (such as electricity supply and rail cargo transport). Rules to foster competition between telecom providers are needed to allow for effective access to infrastructure. State subsidies in electricity, air and rail transport can further limit competition if not subject to appropriate state aid control. Entry for legal service providers (attorneys, notaries) is restricted, and conduct regulations on prices and advertising limit incentives to improve the quality of services.

40. Table 1 summarizes reform recommendations for the short-to-medium and long term.

Area of Focus	Details	Short to Medium Term	Long Term
1. Economy-wide			
1.1. Ensure a level playing field between SOEs and private enterprises			
1.1.1. Corporatization of SOEs	Improve rules on corporate governance at SOEs including: <ul style="list-style-type: none"> manner of appointment of CEOs and boards in public companies [javna preduzeća], separation between competitive and not competitive activities. 	√	
1.1.2. Review state aid control regulations	Ensure independence of Commission on State Aid Control Set up a comprehensive registry of state aid. Conduct an analysis of gaps in state aid regulation. Review and where necessary correct existing tax and investment incentives to align them with state aid rules	√ √ √	√
1.1.3. Implement state aid regulations	Allocate appropriate resources for state aid control Ensure that all state aid grantors regularly report aid to the State Aid Commission. Raise capacity of the State Aid Commission to examine critical aid to monitor that approved aid is granted and utilized in line with the State Aid Commission decision. Raise awareness of state aid rules.	√ √	√ √
1.1.4. Privatization	Complete privatization processes particularly in manufacturing industries where private sector participation has proven viable and the rationale for state participation is not clear		√
1.2. Improve the quality of the rulemaking process			
1.2.1. Address gaps in stakeholder consultation process	Require public consultations when preparing a new bylaw. Develop guidance on public consultations regarding new laws.	√ √	
1.2.2. Strengthen the Regulatory Impact Assessment of laws and bylaws	Develop guidance on regulatory impact assessment for secondary regulations. Ensure adequate assessment of laws and bylaws impact to competition by: <ul style="list-style-type: none"> (i) Consulting the CPC on draft laws and bylaws that could have effect on competition; (ii) Require the law/bylaw drafter to address issues raised by the CPC (e.g. require a reply to an opinion issued by the CPC); Raise capacity at the CPC and at institutions drafting laws/bylaws as well as Public Policy Secretariat of the Government on conducting competition regulatory impact assessments.	√ √	√
1.2.3. Regulate interaction with public officials in the regulatory process	Implement the recently enacted Law on Lobbying and the following requirements: <ul style="list-style-type: none"> interest groups register in a public registry; identity of the interest groups which were consulted in each regulatory process is made available to the public; 	√	

		<ul style="list-style-type: none"> the names of the members of permanent advisory bodies involved in regulatory processes at national level are disclosed and public. 		
1.3. Lower barriers for entry				
1.3.1. Simplify rules and reduce administrative burden	<p>Improve the systems for award of specific permit/licenses issued by local or national government authorities (and not the Serbian Business Register Agency) by improving access to information on processes, efficiency in award and clarity on costs, time and effort.</p> <p>Introduce a complete count of the number of permits and licenses required to start up or operate a business.</p> <p>Use reallocation of powers and responsibilities between government departments and/or between levels to reduce compliance costs and administrative burdens imposed on businesses.</p> <p>Widen the application of the "silence is consent" rule for permits and licenses issued by local or national government authorities and consider amending the Administrative Law to allow for notifications</p>		√	
1.4. Support CPC in enforcement of competition laws				
1.4.1. Improve competition rules	<p>Improve the new draft Competition Law to:</p> <ul style="list-style-type: none"> reset the merger control rules and allow the CPC to focus on reviewing mergers that have market effects in Serbia; provide a solution that would secure the financial stability and financial independence of the CPC; further align the rules on antitrust and abuse of dominance with the EU <i>acquis</i>. 	√		
1.4.2. Ensure effective competition law enforcement	<p>Build further capacity at CPC and provide for broader support to the CPC in:</p> <ul style="list-style-type: none"> detection and investigation of cartels and anticompetitive agreements particularly in public procurements, monitoring markets and assessments to identify enforcement or advocacy actions to boost competition in markets 			√
2. Sector-specific				
2.1. Complete reforms in the energy sector	<p>Complete the processes of unbundling vertically integrated companies in gas and in electricity.</p> <p>Using an efficient competitor test, assess the impact of relevant tariffs in electricity and gas have on competition and readjust level and/or scope of application to allow more competition.</p>		√	√
2.2. Complete reforms in e-communication	<p>Require fixed number portability for all numbers.</p> <p>Allow trading of spectrum and ensure that spectrum is licenced out in tenders open to all competition.</p> <p>Ensure access to essential facilities (clarify right of denial on technical grounds and ensure cost-based fees).</p> <p>Ensure requirements for infrastructure deployment are proportionate and applied consistently across the country</p>	√	√	√
2.3. Complete reforms in transport	<p>Rail: Improve the infrastructure operator's Network Statement so to allow greater access (<i>ad hoc</i> lines, schedules etc.).</p> <p>Road cargo: ensure that the system for allocation of the limited number of permits for cross-border cargo transport makes permits</p>	√	√	

	available for new market players and allow free secondary trading of permits.	√	
	Taxis: allow use of ridesharing and relax the quantitative and price restrictions.	√	
	Buses: abolish timetable coordination and move decision-making powers from the Chamber of Commerce to the Ministry.	√	
	Air: monitor whether state aid is granted in line with state aid control regulations, reassess and adjust levels to allow for more competition.		
2.4. Professional services			
2.4.1.	Reform entry and conduct regulations for notaries and attorneys	Reduce the powers of professional chambers to set prices.	√
		Relax quantitative and territorial restrictions of notaries.	√
		Allow more flexible legal forms for provision of legal services including: <ul style="list-style-type: none"> • establishment of limited liability company; • allow non-lawyers and non-notaries to hold ownership-type interest in a law/notary firm; • allow advertising and marketing. 	√
2.4.2.	Reform entry requirements for engineers and architects	Relax licensing requirements and chamber membership requirement for entry into the profession.	√
		Widen recognition of foreign qualifications.	
2.5. Retail			
2.5.1.	Reform market regulations for retail of pharmaceuticals	Simplify and fast-track registration requirements for new pharmaceuticals.	√
		Allow sale of pharmaceuticals online.	
		Abolish price regulation for prescription drugs not reimbursed by the Health Fund.	√
			√

List of acronyms and abbreviations

Acronyms and Abbreviations	
CEO	Chief Executive Officer
CCSA	Commission for Control of State Aid
DTF	Distance to Frontier
EPS	JP Elektroprivreda Srbije a.d.
Etihad Airways P.J.S.C.	Etihad
EU	European Union
EUR	euro
FTR	Fixed Termination Rate
GoS	Government of Serbia
LLC	Limited Liability Company
MTR	Mobile Termination Rate
OECD	Organization for Economic Cooperation and Development
PMR	Product Market Regulation
SOE	State Owned Enterprises
TS	Telekom Srbija a.d.
USD	United States Dollar

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