

**THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY
SERBIA**

ARTICLE 6

PREVENTIVE ANTI-CORRUPTION BODIES

SERBIA (FOURTEENTH MEETING)

The interlinkages between preventive and law enforcement approaches

(Within the purview of the Republic Public Prosecutor's Office)

The Republic of Serbia made a significant step forward in the fight against corruption by introducing specialized law enforcement and justice authorities for suppression of corruption and by advancing modalities for inter-agency cooperation in the Law on organization and competence of state authorities in suppression of organised crime, terrorism and corruption, which became effective on the 1st March 2018.

Namely, this law stipulates the establishment of the Special Departments for Suppression of Corruption in the Higher Public Prosecutor's Offices in four regional centers, with competence for corruption, economic crime and money laundering cases, committed at the territory of their respective regions. In addition to that, the law stipulates the establishment of the four special court departments in the same regional centers and the establishment of the police unit for combatting corruption. The Prosecutor's Office for Organized Crime and corresponding police and court departments retain their competence for high and serious corruption offences.

In accordance with this law, the new specialised anti-corruption law enforcement and justice authorities were established and started with work on the 1st March 2018.

Furthermore, this law introduces the tools for advancing inter-agency cooperation between the authorities mandated with prevention and repression of corruption, such as the task forces.

According to the Law on organization and competence of state authorities in suppression of organised crime, terrorism and corruption, the task forces may be established by the decision of the public prosecutor, at the Prosecutor's Office for Organized Crime and at the Special Departments for Suppression of Corruption at the Higher Public Prosecutor's Offices, for the purpose of working on detection and prosecution of the criminal offences which are subject of work of the task force. The task forces are led by the public prosecutor or deputy public prosecutor.

The composition of the task force, the mode of operation, the task, the period for which it is established and other issues significant for the work of the task force shall be regulated in the decision on the task force establishment.

The composition of the task force members depends on the subject of work defined by the decision on the establishment of the task force and can include the employees of state and other authorities.

Pursuant to the above-mentioned, the employees of the Agency for the Prevention of Corruption can be appointed to the task force, if needed, but only upon their consent and the consent of the director of the Agency for the Prevention of Corruption.

In addition to that, in order to further enhance the cooperation with 13 preventive authorities listed in the Law on organization and competence of state authorities in suppression of organised crime, terrorism and corruption, the Republic Public Prosecution Office concluded the agreements on cooperation with 9 listed state authorities, including the Agreement on Cooperation with the Agency for the Prevention of Corruption signed on 31 December 2021.

The subject of this Agreement is the implementation of the Law on organization and competence of state authorities in suppression of organised crime, terrorism and corruption, in order to facilitate, accelerate and improve mutual cooperation through the electronic exchange of data between the Agency for the Prevention of Corruption, the Prosecutor's Office for Organized Crime and the Special Departments for Suppression of Corruption at the Higher Public Prosecutor's Offices, in organized crime and corruption cases, including detection and financial investigation of the assets upon the Law on the seizure and forfeiture of assets derived from crime. The Agreement also regulates in greater detail the cooperation modalities such as the liaison officers and the task forces, as well as other ways of communication.

Also, the cooperation between the Agency for the Prevention of Corruption and the Public Prosecutor's Office takes place in accordance with the Art. 86 and Art. 101 of the Law on Prevention of Corruption, i.e. the Agency for the Prevention of Corruption submits the crime report to the Public Prosecutor's Office in the case public officials don't report property or provide false data on property and income with intent to conceal data on property or income.

(Within the purview of the Ministry of Interior)

The Anti-Corruption Department, Crime Police Directorate, participates in the work of the Working Group for the development of the Anti-Corruption Strategy and the Action Plan for the

implementation of this Strategy. During 2022, no new Strategy was adopted, but Operational Plan for the Prevention of Corruption in Areas of Special Risk (adopted on 30 September 2021) was defined as a strategic document that will be valid for this area until the adoption of the new Strategy.

The Anti-Corruption Department participates in the work of the Coordination Body for the implementation of the Operational Plan for the Prevention of Corruption in Areas of Special Risk, in the Special Working Group for drafting the proposals for the improvement of planning documents for the prevention of corruption in local self-government units.

In 2022, twenty agreements on cooperation were signed with the Tax Police, Ministry of Finance, in the area of joint action and investigation of criminal offences related to corruption.

In its everyday work, the Anti-Corruption Department has operational cooperation with foreign police institutions in the exchange of operational information regarding the prevention and detection of criminal offences with elements of corruption.

In 2022, the Anti-Corruption Department, together with the Republic Public Prosecutor's Office, the Prosecutor's Office for Organized Crime, and the Higher Public Prosecutor's Office, participated in the development of the Manual for the formation of Task forces, which was adopted in the middle of the last year. During 2022, the Anti-Corruption Department participated in 7 Task forces.

In 2022, the Anti-Corruption Department worked on the preparation of the Analysis of risks and threats from criminal offences with elements of corruption for the positions of police officers in the mentioned Department.

Financial investigation unit which is integral part of Service for Combating Organized Crime constantly improves cooperation with other state authorities such as Ministry of Finance, Tax department, Republic Geodetic Authority and others, organizing meetings, adopting procedures and protocols in order to facilitate and accelerate joint actions. For confidential reasons, contact persons have been designated in each government authority.

In accordance with the Instruction of the Agency for the Prevention of Corruption on the implementation of training in the field of prevention of corruption and strengthening of integrity number 014-110-00-0002/20-01 dated 29 December 2020 and the Training Program in the field of preventing corruption and strengthening integrity number 014-153-03-0004/20-1 dated 2 September 2021, police officers of the Ministry of Interior conducted the training entitled "Ethics and Integrity".

In 2022, UNODC organized multiple seminars and trainings attended by the representatives of Prosecutor's Office, police, procurement office, judiciary, etc. Direct link between the representatives of different authorities, which facilitates cooperation and information exchange, has been a prominent best practice.

Cooperation with the supreme audit institutions in the prevention of and fight against corruption

(Within the purview of the Agency for Prevention of Corruption)

Prevention stands for detection and elimination of sources (factors) of risk for the occurrence of corruption (normative, institutional, procedural and personal) through the design and application of appropriate measures for managing respective risks. As the pillar of the APC's activity, it entails identifying the phenomena and situations that provide opportunities for corrupt behaviour. These opportunities do not necessarily lead to acts of corruption but are ever-present in the form of temptation for those who work in such environments. In addition to identification, preventive activities include the design and establishment of mechanisms with the purpose to eliminate the opportunities for corruption before they lead to corrupt behavior.

The APC is also entrusted with the competencies aimed at establishing and implementing oversight and control over the proper and purposeful use of public authority bestowed to officials so they can take care of the protection of public interest in the areas in which they carry out their duties.

Risk assessment is an area of pivotal importance when it comes to the possibilities of achieving synergy of efforts of anti-corruption bodies and audit institutions which should be focused on strengthening the accountability, transparency, and integrity of public sector entities.

On the other side, audit institutions are of utmost importance for detection of corruption by identifying and monitoring vulnerable areas and focusing their efforts on the areas conducive to corruption. Through improvement of this risk-based approach anti-corruption and audit bodies can tackle irregularities and lack of integrity in a comprehensive and properly structured manner.

One of the main roles of the APC is to contribute to improving the transparency of disposing of public funds as one of the main sources of financing of political entities as well as build capacities of political entities to manage finance in a responsible and transparent way, and to present relevant reports (both annual financial and election campaign reports) in accordance with the law and principles of good governance.

The Law on Financing of Political Activities stipulates that the APC may, after the control of the financial reports of a political entity, forward a request to the State Audit Institution to audit these reports (those that were also the subject of the APC's control). After completion of audit, if the State Audit Institution finds irregularities in the work of a political entity, it notifies the APC thereof, but only for those that were the subject of the audit. Acting upon these notifications on suspicion of violation of the Law on Financing of Political Activities, the APC submits the requests for initiating misdemeanour proceedings to the competent court.

In the field of conflict of interest, after pursuing audit of consolidated financial reports of the final statement of accounts and regularity of work of the local self-government units, the State Audit Institution refers significant information with evidence to the APC as to determine existence of conflict of interest of public officials in these local self-government units. Based on the respective information, the APC initiates proceedings against the pertinent public officials due to various violations of the conflict of interest related provisions of the Law on Prevention of Corruption.

THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED

BY SERBIA

ARTICLE 6 UNCAC

PREVENTIVE ANTI-CORRUPTION BODY OR BODIES

SERBIA (FIFTH MEETING)

Mandates of anti-corruption body or bodies in respect of prevention (art.6)

Background information

In accordance with the UN Convention, the Anti-Corruption Agency was established (Official Gazette of RS, No. 97/2008, 53/2010, 66/11-CC and 67/13-CC) as an autonomous and independent state authority with numerous preventive, control and oversight competencies.

The Law on the Anti-Corruption Agency entered into force on 4 November 2008 thus enabling the establishment of a new institution of the Republic of Serbia to fight corruption. The Anti-Corruption Agency (ACA) was found in accordance with international standards, especially Article 6 of the UN Convention against Corruption and specific recommendations from the GRECO.

ACA became operational as of January 2010 and has preventive and operational competences in several areas — resolving conflict of interest of public officials in Serbia, controlling the asset declarations of public officials, controlling the funding of political parties, supervising the implementation of the National Anti-Corruption Strategy and corresponding Action Plan, dealing with complaints and whistle-blower charges, fulfilling international obligations, monitoring the implementation of integrity plans, achieving cooperation with all governmental and non-governmental organizations and coordinating international anti-corruption efforts of relevant state institutions in Serbia. In addition, ACA institutes proceedings and pronounces measures in case of violation of the Law, monitors and coordinates the operation of state authorities in the fight against corruption, maintains the register of officials, register of officials' property and income, provides professional assistance in the anti-corruption area, cooperates with other state authorities in drafting the anti-corruption legislation, introduces and implements anti-corruption training programmes, conducts surveys, monitors and analyses statistics and other data about corruption.

For conducting activities within its competences, ACA is accountable to the National Assembly, to which it is required to file annual work report that shall include a report on the implementation of the National Anti-Corruption Strategy and related Action plan. Both reports includes detail analysis of the key shortcomings within the areas falling

under ACA competencies. Moreover, both reports includes conclusions and specific recommendations to the competent state authorities. According to the NA Rules of Procedure, within 30 days upon submission of the report, relevant NA committees have to discuss ACA report and to formulate conclusions/ recommendations that are to be considered/adopted at the first NA session. Having in mind the oversight/scrutiny function of the NA, after considering ACA report, recommendations for improvement of the state of corruption have to be sent to all relevant state institutions.

For additional information please see http://www.acas.rs/sr_cir/component/content/article/229.html

The bodies of the Agency are the Board (consisting of nine members) and the Director. The Board is appointing and dismissing the Director of ACA, deciding on appeals against Director's decisions imposing the measures in accordance with this law, adopting the annual work report of ACA, supervising the work and property of the Director, proposing the budget for ACA, adopting rules of procedure for its work and performing other tasks stipulated by the law. Term of office of a Board member is four years, and same person may be a member only twice.

The Director is representing ACA, managing the work, organizing and ensuring legal and efficient performance of ACA, making decisions on violations of the law and imposing measures, preparing an annual report of ACA's work, preparing draft budget, adopting general and individual acts, deciding on rights, duties and responsibilities of the employees, carrying out decisions of the Board and performing other duties specified by the law. Director's term of office is five years, and same person may be a director only twice.

ACA has professional services managed by the Director, notably the Sector for Prevention, Sector for Operational Affairs, Sector for Complaints and Branch Offices, Sector for General Affairs, Department for Resolving Conflict of Interests, Department for Control of Financing Political Subjects, International Cooperation Department and Public Relations Department.

Resources for work are allocated from the budget of the Republic of Serbia, as well as other sources. However, in order to implement activities envisaged in the Law on Anti-Corruption Agency, ACA still mostly relies on the donors' support.

In addition, very important role of the Agency is to coordinate the state bodies in the fight against corruption. In 2013 ACA intensified/targeted efforts re this important task by initiating regular meetings (at the highest level) of public authority organs, having significant role in prevention and suppression of corruption. Seven meetings were held so far. The purpose of these meetings is to discuss on the ongoing disputable but also future anti-corruption issues, since efficient fight against corruption require sector approach supported with joint actions. The representatives/heads of Commissioner for Inhumation of Public Importance, Ombudsman, Slate Audit Institution, Republic Commission for the Protection of Rights in Public Procurement Procedures, Republic Broadcasting Agency, National Assembly, National Bank of Serbia, First I kpuly Prime Minister's Cabinet

Office, Ministry of Health, Ministry of Justice and Public Administration, Ministry of Interior, Public Prosecutor's Office, High Misdemeanor Court, Administration for the Prevention of Money Laundering, Public Procurement (Mice, Tax Administration, Business Registers Agency and Security Information Agency attended the respective meeting.

Corruption Prevention Mechanisms implemented by the ACA

1. Monitoring of the National Anti-Corruption Strategy and related Action plan

ACA is responsible for monitoring of the National Anti-Corruption Strategy (NACS) and related Action Plan (AP). From its establishment in 2010, ACA has prepared three reports on the implementation of the old NACS and AP and one on the implementation of the new NACS and AP. Once the new NACS for the period 2013-2018 and the Action plan' had entered into force, the ACA drafted Guidelines for reporting on the implementation and monitoring the implementation of the NACS and Action plan, entailing detailed instructions for responsible entities in terms of creating reports, indicators as well as propose of the reporting form. It was expected that the Guidelines will facilitate and unify the reporting process, thus simplifying the process of monitoring the implementation of the Strategy, The Guidelines were sent to all responsible entities in the Action plan and displayed at ACA's website. At the end of March 2014, **ACA created Report on the implementation of the Strategy and Action plan for 2013, encompassing also Report on implementation of the activities for the first four months of the implementation of the NACS and AV. The pertinent report was submitted to the National Assembly on March 31, 2014, as an annex to the Annual Report on the work of the ACA. In the first reporting period the ACA assessed fulfilment in terms of 47 activities. Half of them, i.e. 24 were fulfilled in conformity with the indicator, 10 activities were not fulfilled in conformity with the indicator and the ACA couldn't assess the fulfilment of 13 activities for various reasons, mainly due to lack of information. According to data of the ACA, out of 24 fulfilled activities, 20 (more than 4/5) were fulfilled in accordance with the method and deadline envisaged in the Action plan and 4 were implemented in due time, but not in accordance with the method envisaged in the Action plan.**

2. Corruption risk assessment in legislation

In the framework of corruption risk analysis of draft legislation and especially in order to strengthen regulatory integrity and eliminate potential corruption risks, in late 2012 ACA has developed the Methodology for corruption risk assessment in legislation. The methodology represents an internal act of the Agency, and in view of the existing legal framework, opinions and recommendations for elimination of corruption risk, which are prepared by the Agency, as the result of an analysis of regulations, are not binding for the proposers of laws and other regulations. According to the applicable regulations, proposers of laws and other regulations are not obliged to submit the drafts and bills of laws to the Agency for an opinion, so that the Agency shall only analyse those drafts of laws and other regulations submitted for public debate. Up to now, the Agency has prepared 23 opinions of drafts of laws, 2 reports on analysis of corruption risk in the existing legal framework governing the field of health care and accreditation procedure and selection of textbooks at schools and 1 initiative for harmonisation of the Regulation on Fees for Use of Cadastre and Survey Data and rendering of services by the geodetic Institute of the Republic of Serbia with the provisions of the Law on State Survey and Cadastre. The opinions about drafts of laws are submitted by the Agency to the proposer

of the law concerned (to the competent ministry), the Government and the National Assembly and are published at ACA web-site. Since the competent state bodies have no obligation to take into account any opinion and recommendations of the Agency, the effects of risk analysis on the drafts of regulations prepared by the Agency are very modest.

For this reason, the Strategy and the Action Plan prescribe a series of new measures and activities that should improve and strengthen the effects of this mechanism for assessment of corruption risk. The new NACS and AP prescribe that the Law on ACA is to be changed in the near future together with the both Rules of the procedures of the Government and the National Assembly introducing this important AC tool in the legislative drafting system. It is planned that ACA is to develop methodology for analysis of corruption risk in regulations and the proposers of regulations will be obliged to use methodology even on the occasion of drawing up normative acts so that the elements that might generate, in real life, corruptive incitements or behaviours are eliminated. Any bill of law must contain in its statement-of-reasons an analysis of corruption risk as evidence that the proposer had applied methodology on the occasion of drawing up the text of law. The Government will be obliged to submit all bills of laws and regulations to ACA for an opinion. Within 10 days ACA will submit to the Government an opinion about the analysis of corruption risk in the bill of law, including recommendations for their elimination. The Government will be obliged to submit to the National Assembly, together with the bill of law, the ACA opinion of on analysis of corruption risk in the text of bill of law. According to the AP, after the adoption and publication of methodology, the Agency shall organise and carry out the training on the application of methodology for the proposers of laws, as well as for those that propose and adopt regulations at the level of local self-government and territorial autonomy.

3. Integrity Plan

An integrity plan is one of anti-corruption mechanisms, namely of preventive mechanisms for the implementation of risk assessment for the occurrence and development of corruption. An integrity plan is a mechanism to strengthen institution integrity, i.e. the document which is created as the result of self-assessment of exposure of an institution to risks for occurrence and development of corruption and other irregularities, and which contains measures for prevention, reduction and elimination of identified risks. By drawing up an integrity plan the institution shall assess possible threats, problems, chain of events that may lead to corruption before corruption takes place. An internal check-up of the institution functioning is performed, regulations are assessed in order to see whether they are such to prevent or enable corruption, as well as quality of human resources and practice (organisation), method of decision-making, what the extent of discretion powers is in key fields of the institution functioning (public procurements, finances, human resources, information...), which is the first step towards the improvement of the institution integrity. The Law on the Anti-Corruption Agency prescribes an obligation for the state bodies, organisations, bodies of territorial autonomy and local self-government, public agencies and public companies to adopt their own integrity plans. The Agency adopted and published the Guidelines for the preparation and implementation of integrity plans (Official Gazette of 1?S, no. 80/10).

In the process of preparation and implementation of integrity plans the Agency has consulting and control roles. The consulting role of the Agency is reflected in the preparation of the Guidelines for the preparation and implementation of integrity plans, which defines the structure of plans, method of preparation in stages, performance of certain tasks, deadlines for preparation, method of preparation monitoring and implementation method, as well as the training of persons appointed to prepare integrity plans at the institutions. In the course of 2012 approximately 3,950 representatives of the state institutions were trained on integrity plans (notion, significance and method of preparation).

According to the records of the Agency, the total number of the institutions that are obliged to prepare their integrity plans amounts to 4,483. In order to provide quality preparation and implementation of integrity plans by such a large number of obligors, the Agency developed 69 models of integrity plans (in the form of web application) suitable for various types of institutions. In the preparation of a draft (model) of integrity plans working groups took part, which consisted of the representatives of various state institutions (109 members in total), classified to 14 systems (political system, judiciary system, police system, system of public administration and local self-government, defence system, system of finances, system of economy and agriculture, system of social policy, health care system, system of education and science, system of culture and sports, system of environment and infrastructure, system or data protection, human resources and public interest and system of public companies). The contents of the draft of integrity plans have been made through 2 processes 1) based on the collection of data, proposals and suggestions submitted to the Agency by the members of working groups, formed with the aim to prepare the draft and 2) analysis of data obtained from researches for verification and supplement of the contents of the draft of integrity plans.

The result of the above mentioned processes is 69 prepared drafts of integrity plans in total, which are classified to systems. For example, for system of health care 4 drafts of integrity plans were prepared and for those types of institutions that belong to the systems concerned in respect of their competences: the Ministry of Health, health centres, clinical centres/hospitals, the Health Insurance Fund of the Republic of Serbia.

A draft of integrity plan contains identified risk fields/processes, and within each process individual and concrete risks were defined, which may endanger efficiency and quality of implementation of the process concerned, as well as the measures for prevention/reduction of recognised risks. Based on such a model, each institution shall carry out self-assessment or the mentioned risks that may happen with it or that have already been happening and what measures are to be undertaken in order to prevent them.

The structure of integrity plan: Common areas (Management of Institution, Management of Finance, Management of Public Procurements, Management of Documentation, Management of Human Resources, Security); Area of ethics and personal integrity (Conflict of Interest, Taking Presents, I affective Response in Respect of Corruption Claims on Ethically and Professionally Inadmissible Acts, Protection of Employees

Reporting Corruption, Ethically and Professionally Inadmissible Acts); Specific areas/competences (they refer to concrete competences of institutions, e.g. Local self-government system - area/competence: construction-urban planning projects).

The control role of the Agency implies monitoring and supervision of preparation and implementation of integrity plan, whether an integrity plan has been made, quality and objectivity of the prepared integrity plan and level of application of measures for improvement of integrity. The Agency will assess whether an institution prepared its integrity plan in quality and objective manner in two ways –visiting the institution concerned, namely directly controlling a certain number of institutions that had prepared integrity plans and based on comparative analysis of the results of the researches by the beneficiary of services on the institution functioning.

The procedure of drawing up an integrity plan at the institutions shall have 3 stages, as follows: 1) preparation stage, 2) stage of assessment and evaluation of the existing conditions and 3) plan of measures to improve integrity. It is important to stress that the process of preparation of integrity plan is implemented systematically and the time prescribed for its preparation is 13 months, as well as that the all employees are included in the stage of assessment and evaluation of the existing conditions. It was done with the aim to make the most detailed and objective review of the conditions at the institutions and to propose adequate measures to give expected results. The deadline for drawing up integrity plan expired on 31 March 2013. Within this first cycle, integrity plans were prepared by 2,121 institutions, namely by about 50 % of them.

The integrity plan is prepared every third year. The preparation and implementation of integrity plans in cycles makes it possible to monitor the progress of institutions in strengthening their integrity and anti-corruption capacities, respectively. Also, in this way the Agency will be able to monitor the pattern of phenomena, causes, occurrence and change of risks defined in integrity plan, in the public sector or the Republic of Serbia, and to give recommendations for system prevention of corruption and other irregularities.

Based on an analysis of prepared integrity plans, we get comprehensive and precise picture of the conditions of institutional integrity at the state level. In view of the fact that the institutions are classified to 14 systems and that they had prepared their integrity plans based on a model in web application, by means of statistical and content analysis of data base, it is easy to establish what risks had been identified, which of them are most frequent in which system and in which field of functioning of the institution they are present — whether they are in finances, management, human resources or some other field. It is in this way that it is the best to observe system difficulties opening space for corruption and render adequate recommendations for their solution.

The role of the ACA within the process of adopting and implementing the integrity plan, as a mechanism for corruption prevention as well as strengthening integrity of public sector, is twofold -consultative and controlling one. Thanks to the support of the ACA, out of 4483 public authority bodies, 2121 developed their integrity plans and submitted it to the ACA. The control function of the ACA in terms of integrity plans pertains to the

assessment of the objectivity of integrity plans. The ACA has previously drafted methodology based on which the objectivity is assessed through visiting institutions. After discussion with the employees and managers, as well as analysis of the legal framework and citizens' complaints, ACA drafts reports on conducted control, entailing findings and recommendations in terms of amending the existing integrity plans so as to eliminate or mitigate corruption risks. From September 2013 till April 2014. ACA visited 28 different public authority bodies, and 20 more institutions throughout Serbia are to be visited in order to pursue control of the objectivity of adopted integrity plans on the basis of representative sample.

4. Researching integrity of public authority bodies from the perspective of service users

ACA conducted researches based on empirical determination of service users' experiences in the systems of healthcare, local self-government and judiciary. The basic hypothesis in drafting research was that stronger institutional integrity of public authority bodies and their employees stands for a higher level of services delivered to citizens, i.e. enables them to deliver services to the citizens in a sensible and rational manner, to fulfil their purpose in terms of meeting the needs and interests of citizens for which they had been established and basically exist. Researches, having been conducted in three systems and according to the number and type of subjects involved as well as social activities they pursue and the impact of these activities on the society, can be deemed to be representative example of the whole public sector functioning, indicate that the environment wherein the public authorities operate is prone to occurrence and development of corrupt practice. The ACA publicly presented the findings of these researches and invited the competent institutions to take the results of analysis as well as recommendations within the reports, drafted after researches into account, when defining anti-corruption public policies.