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United Nations Office on Drugs and Crime

Country Review Report of Bosnia and Herzegovina

Review by the former Yugoslav Republic of Macedonia and
Trinidad and Tobago of the implementation by *Bosnia and
Herzegovina* of articles 5-14 and 51-59 of the United Nations
Convention against Corruption for the review cycle 2016-2021

I. Introduction

1. The Conference of the States Parties to the United Nations Convention against Corruption was established pursuant to article 63 of the Convention to, inter alia, promote and review the implementation of the Convention.
2. In accordance with article 63, paragraph 7, of the Convention, the Conference established at its third session, held in Doha from 9 to 13 November 2009, the Mechanism for the Review of Implementation of the Convention. The Mechanism was established also pursuant to article 4, paragraph 1, of the Convention, which states that States parties shall carry out their obligations under the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and of non-intervention in the domestic affairs of other States.
3. The Review Mechanism is an intergovernmental process whose overall goal is to assist States parties in implementing the Convention.
4. The review process is based on the terms of reference of the Review Mechanism.

II. Process

5. The following review of the implementation by Bosnia and Herzegovina of the Convention is based on the completed response to the comprehensive self-assessment checklist received from Bosnia and Herzegovina, and any supplementary information provided in accordance with paragraph 27 of the terms of reference of the Review Mechanism and the outcome of the constructive dialogue between the governmental experts from North Macedonia and Trinidad and Tobago, by means of telephone conferences and e-mail exchanges and involving, inter alia, the following experts:

Bosnia and Herzegovina:

- Mr Mevludin Dzindo, Assistant Director in the Agency for the Prevention and Coordination for the Fight against Corruption.
- Mrs Dzenana Pinjo, Expert Advisor for International Cooperation in the Agency for the Prevention and Coordination for the Fight against Corruption.
- Jelena Turanjanin, Expert advisor for data collection, research and analyses, Agency for the Prevention of Corruption and Coordination of the Fight against Corruption.
- Vladica Babić, Assistant Director in Sector of Prevention of Corruption, Agency for the Prevention of Corruption and Coordination of the Fight against Corruption "Focal Points:
- Adnan Dlakić, Expert advisor for Combating Corruption, Ministry of Security of Bosnia and Herzegovina."

Former Yugoslav Republic of Macedonia:

- Mr Vladimir Georgiev, State Adviser, Programs and International Cooperation, State Commission for Prevention of Corruption.
- Ms Elena Dimovska, Junior Associate for Coordination of Anti-Corruption activities, Ministry of Justice, the former Yugoslav Republic of Macedonia

Trinidad and Tobago:

- Mr Ian Rampersad, Senior Legal Executive, International Law and Human Rights Unit, Ministry of the Attorney General.
- Ms Kristi-Ann Baggan, Legal Counsel, Ministry of the Attorney General and Legal Affairs of Trinidad and Tobago, the International Law and Human Rights Unit.

Secretariat:

- Ms. Lindy Muzila, Crime Prevention and Criminal Justice Officer, UNODC
- Mr. Constantine Palicarsky, Crime Prevention and Criminal Justice Officer, UNODC

6. A country visit, agreed to by Bosnia and Herzegovina, was conducted from 2 October to 6 October 2017.

III. Executive summary

1. Introduction: Overview of the legal and institutional framework of Bosnia and Herzegovina in the context of implementation of the United Nations Convention against Corruption

Bosnia and Herzegovina signed the United Nations Convention against Corruption on 16 September 2005 and ratified it on 26 October 2006. According to the Dayton Agreement, Bosnia and Herzegovina is a State consisting of two entities, each with a high degree of autonomy: Republika Srpska and the Federation of Bosnia and Herzegovina. In addition, the District of Brčko operates as a single administrative unit under the sovereignty of Bosnia and Herzegovina.

Bosnia and Herzegovina's implementation of chapters III and IV of the Convention was reviewed in the second year of the second cycle, and the executive summary of that review was published on 25 September 2015 (CAC/COSP/IRG/I/4/1/Add.23).

The criminal legislation and legislation on criminal procedure are adopted at the State, Entity and the Brčko District level. Each of them has their own criminal code and criminal procedure code. Entity and Brčko District laws are enforced solely by the courts of the entities and Brčko District, while the legislation at the State level is enforced by the Court of Bosnia and Herzegovina.

From the constitutional standpoint, the current system is a highly decentralized federal system where each Entity has its own constitution, president, government, parliament and judiciary.

The specificity of the governance system and the fact that the federal Constitution was a result of the Dayton process and an integral part of the peace agreement creates a number of peculiarities. The Convention is not one of the 15 international treaties which constitute a part of the Constitution of Bosnia and Herzegovina and are listed in Annex II to the Constitution. Nevertheless, as the Convention has been signed and ratified, the country is under the obligation to ensure the compliance of the domestic legal order with the provisions of the Convention.

The most important institutions for the prevention and countering of corruption are the Agency for Prevention of Corruption and the Coordination of the Fight against Corruption and the anti-corruption bodies at Entity and canton level.

2. Chapter II: Preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

Bosnia and Herzegovina has adopted a written anti-corruption strategy at the State level; strategies are also adopted by Republika Srpska, by the Federation of Bosnia and Herzegovina (FBiH), by the Brčko district and some of the individual cantons. In BiH there is a total of 13 anti-corruption strategies and 13 anti-corruption action plans.

The State anti-corruption strategy has been developed in coordination with the entities and the civil society and was adopted by the Government on 7 July 2015. The Strategy is accompanied by an Action plan for its implementation.

The Agency for Prevention of Corruption and the Coordination of the Fight against Corruption (APIK) is the main preventive anti-corruption body at State level in Bosnia and Herzegovina. The Agency is independent and autonomous and reports to the BiH Parliamentary Assembly.

APIK is responsible, inter alia, for drafting the Anti-Corruption Strategy and the Action Plan for the prevention of corruption, coordination and supervision of their implementation; coordination of the work of public institutions in preventing corruption and conflicts of interest; monitoring of conflicts of interest; cooperation with international organizations; the development of educational programs for the prevention of corruption and the fight against corruption. For a more efficient implementation of the Anti-Corruption Strategy, institutions and agencies at all levels, public agencies and other bodies of public authority are obliged to cooperate with APIK.

At the Entity level two specialized bodies with preventive functions are established - the Anti-Corruption team of the FBiH Government and the Commission for implementation of the Anti-Corruption Strategy of the RS. In 2016 the Commission for prevention of corruption and coordination of activities to combat corruption of the Brčko district was appointed.

Other bodies which play a role in the prevention of corruption include the Commission for Deciding on Conflicts of Interest, the Central Electoral Commission, entities level anticorruption bodies, the Ministry of Finance, the FIU in the Ministry of Security and the National Audit Office. The legislation provides these bodies with the necessary independence to carry out their tasks effectively.

Bosnia and Herzegovina informed the Secretary-General on October 25, 2017 that the Agency for the Prevention of Corruption and the Coordination of the Fight against Corruption as the designated prevention authority under Art. 6 paragraph 3 of the Convention.

Bosnia and Herzegovina actively participates in various anti-corruption initiatives and programmes. It is a member of GRECO and a State party to the agreement establishing the International Anti-Corruption Academy (IACA). Bosnia and Herzegovina participates in the Regional Anti-corruption Initiative, which is based in Sarajevo.

Public sector; codes of conduct; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

The Law on Civil Service in the institutions of Bosnia and Herzegovina regulates the legal status of civil servants in institutions at State level. The legislation proclaims that the recruitment and the professional career advancement of a civil servant are based on open competition and merit. The civil service is based on the principles of legality, transparency and publicity, accountability, efficiency and effectiveness, professionalism and impartiality.

The Law on Civil Service in the institutions of Bosnia and Herzegovina does not differentiate the positions with respect to the risk of corruption. Rotating individuals within jobs in the civil service is only possible through promotion, internal or external transfer but is otherwise not practiced.

The bodies which manage the civil service include the institutions of Bosnia and Herzegovina, Ombudsmen, Civil Service Agency of Bosnia and Herzegovina and the Civil Service Appeal Board.

The Civil Service Agency is providing training to the public officials with anti-corruption responsibilities.

The Central Election Commission (CEC) is responsible for the control over political party financing. CEC also collects declarations on the assets of the candidates for elected office at the level of BiH, entities and elected members of governmental bodies at all other levels of government based on a special form. The completed forms are made available to the public. CEC submits an annual report to the Parliamentary Assembly of BiH.

Rules for recusal and disqualification of public officials in cases of a conflict of interest are set out in the Law on Conflict of Interest in the Governmental institutions of Bosnia and Herzegovina. The Commission for Deciding on Conflict of Interest decides as to whether a certain action or omission constitutes a violation of the provisions of the legislation and maintains a registry. It also submits annual report to the Parliamentary Assembly of BiH.

Bosnia and Herzegovina reported that codes of conduct were adopted for MPs, for judges and prosecutors, for the employees of APIK and for civil servants. As part of the training organized by the Civil Service Agency of BiH, training courses are organized on Ethics in Public Administration and Code of Conduct for Civil Servants.

The Law on Whistleblower Protection in the Institutions of BiH provides for a protected whistleblower status to the individuals who reported corruption. In the event of adverse treatment of the reporting person (e.g. cancellation of employment contract, suspension from work, degrading to a lower-ranked position), sanctions can be imposed. Similarly, sanctions are provided for knowingly submitting a false report.

The Law on Civil Service in the Institutions of BiH (Art. 54-58), and the Regulations on disciplinary accountability of civil servants in the institutions of BiH legally regulate the disciplinary procedures, responsibilities, measures, etc. At the request of the institutions of BiH, the Civil Service Agency of BiH conducts the first instance disciplinary proceedings for serious breaches of official duty.

To strengthen the integrity of the judiciary and prosecution service, a Code of Ethics for judges and prosecutors of Bosnia and Herzegovina, a Framework Action Plan of the Court in the Fight against Corruption, an Integrity Plan and an Ordinance on the internal reporting of corruption and protection of persons who report corruption in the Court of BiH as well as an Integrity Plan of the Prosecutor's Office of Bosnia and Herzegovina were adopted. Violations of anti-corruption standards contained in the above code may entail disciplinary sanctions.

For other officials of the Prosecutor's Office of Bosnia and Herzegovina, the anti-corruption standards of conduct are prescribed by the Code of Conduct of employees in the Prosecutor's Office of Bosnia and Herzegovina. Non-compliance with the provisions of the said Code may entail disciplinary liability.

Public procurement and management of public finances (Art. 9)

Bosnia and Herzegovina has a decentralized procurement system, with individual ministries and agencies responsible for their own procurement. The Department of Public Procurement is the body responsible for the overall coordination of procurement in Bosnia and Herzegovina and for providing advice to contracting authorities. The legal framework complies with the relevant EU directives.

The distribution of information relating to procurement procedures and contracts, including information on invitation to tender and relevant or pertinent information on the award of contracts is public, allowing potential tenderers sufficient time to prepare and submit their tenders. All procurement notices, contract award notices, public procurement cancellation notices, voluntary ex ante transparency notices and prior information notices are published on the public procurement portal and in the Official Gazette. The bidding documentation establishes the minimum criteria

required for candidates with regard to their capacity, economic and financial standing, and technical expertise.

At Entity level, the Federation of Bosnia and Herzegovina Law on Budgets requires budget users to introduce a system of internal control. In Republika Srpska, a Budget Framework Paper (BFP) is adopted for a period of three years and is reviewed annually. The BFP contains macroeconomic projections and forecasts of budget funds and expenditures for the next year and the next two fiscal years. The General Audit Office is authorized to audit all institutions financed from the budget, funds and other off-budget institutions established by law.

Public reporting; participation of society (arts. 10 and 13)

While Bosnia and Herzegovina has adopted the necessary legislation on access to information at State and Entity levels, there are repeated concerns about the effectiveness of both proactive disclosure of information and responding to requests from citizens.

Since 2014, Bosnia and Herzegovina is a member of the Open Government Partnership, an international initiative, which aims to provide an international platform for domestic reformers committed to make their governments more open, accountable and responsive to citizens.

The information on the structure, functions and operations of the ministries and agencies is readily available on their respective internet sites.

Private sector (Art.12)

Bosnia and Herzegovina legislation at State and Entity levels prohibits the establishment of off-the-books accounts and requires all subjects of the Law on prevention of money laundering and financing of terrorist activities to know their clients, determine the beneficial owners, the purpose and the intention of the business relationship. Transactions may be refused and suspicious transactions should be reported to the FIU.

All companies are required to keep the information and documentation pertaining to the client, business relationship and transactions for 10 years.

Both the State and Entity level legislation prohibit the making of off-the-books or inadequately identified transactions Recording of non-existent expenditure; entry of liabilities with incorrect identification of their objects; use of false documents; and intentional destruction of bookkeeping documents earlier than foreseen by the law are a criminal offense.

Measures to prevent money-laundering (Art. 14)

The anti-money laundering legislative framework is harmonized with relevant international and regional conventions and standards, and special attention is given to the FATF recommendations, Warsaw Convention and EU Directives. Money laundering in Bosnia and Herzegovina is mainly governed by the Law on the Prevention of Money Laundering and Financing of Terrorist Activities (AML law), the Banking laws (such as the Law on the Banking Agency of Republika Srpska and the law on Banking agency of the Federation of Bosnia and Herzegovina), the Criminal Codes (CC) as well as a number of regulations. The criminal procedure code and criminal codes of the State, the two entities, and the Brčko District have been harmonized and contain similar money laundering provisions (BiH CC - Article 209; FBiH CC - Article 272; RS CC - Article 280; and BD CC - Article 265). As a result, the Ministries of Interior of the Federation, Republika Srpska as well as the Brčko District Police have jurisdiction over combating money laundering, together with the State of Bosnia and Herzegovina.

The central bank in Bosnia and Herzegovina has financial oversight of the banking sector. In addition, the State of BiH, two entities and Brčko District, maintain separate bank supervision, regulatory and enforcement bodies (the Federation of Bosnia and Herzegovina Banking Agency and the Republika Srpska Banking Agency). These regulations are harmonized at Entity and district level, and are consistent with the AML law. The AML law establishes a list of financial and non-financial institutions subjected to this regime (Art. 4). Supervisory authorities of these institutions are listed under Art. 80 of the AML law. Reporting entities are required to identify their customers, including occasional ones, as well as all beneficial owners (Art. 6 and 7 AML law). They are also required to set up the risk profile of their clients and implement an appropriate risk management system (Arts. 5-7 AML law).

A risk-based approach is in principle carried out pursuant to risk assessment guidelines established by the Financial Intelligence Department (FID) and bylaws issued by competent supervisory bodies. There are no corresponding guidelines for Brčko District as it does not have any licensed banks on its territory.

Bosnia and Herzegovina recently underwent a national risk assessment with the assistance of the World Bank, to identify, assess, and understand the ML/TF risks within its jurisdiction, which was adopted by all levels of governance. Bosnia and Herzegovina has established a financial intelligence unit, called the Financial Intelligence Department (FID). This unit is a member of the Egmont Group of FIUs and has concluded several memoranda of understanding with national and international institutions to share information received domestically as well as internationally, although such memoranda are not a pre-requisite to sharing information (Art. 55 AML law).

Article 71 of the AML law on Cross-Border Transfer of Cash and Art. 7 and 22 of the Indirect Taxation Authority (ITA) law, create an obligation for the Indirect Taxation Authority and the BiH Border Police to cooperate with the competent authorities of Republika Srpska, the Federation of Bosnia and Herzegovina and the Brčko District in the supervision and control of the cross border transfer of cash and financial instruments. The ITA pursuant to Art. 71 of the AML law provides an obligation of declaration of every cross-border transfer of cash or its equivalents exceeding 20.000,00 BAM (approximately 10 000 EUR). The FID is in the process of developing and implementing a Decision on the Data, Records Keeping and Means of Provision of Data Relating to the Transfer of Cash Across the Border for the electronic reporting on the transfer of cash and financial instruments across the border. Foreign exchange operations in Bosnia and Herzegovina are under the jurisdiction of the entities and the district, and are therefore governed by their respective jurisdictions, but have been harmonized to ensure consistency in reporting.

Arts. 31-34 of the AML law and Art. 21 of the Decision on Minimum Banking Standards to Prevent Money Laundering and Financing of Terrorist Activities has specific requirements for electronic transfers and money remitters which are in line with the Convention.

2.2. Successes and good practices

- The development of a written anti-corruption strategy and action plan at State level, which is linked to the BiH entities' Anti-Corruption Strategies and Action Plans with the "umbrella" Anti-Corruption Strategy 2015-2019 at the level of BiH (art. 5)
- The establishment of specialized anti-corruption bodies at Entity level, tasked with preventive and policy-coordination functions.

- Adoption of specialized legislation to protect the persons reporting corruption in good faith at State level.

2.3. Challenges in implementation

- Ensure that authorities at Entity level consider implementing the good practices found at the State level in respect of development and monitoring of anti-corruption strategies and action plans (Art. 5);
- Ensure that the necessary material, human and financial resources are available to APIK and other anti-corruption bodies on Entity and Cantonal level for carrying out their functions (Art. 6);
- Ensure that BiH best practices (models) for recruitment, hiring, retention, promotion and retirement of civil servants and other non-elected public officials are identified, harmonized and firmly established in the institutions at all levels (Art. 7 (1));
- Improve monitoring of political party financing and election campaigns funding (including introduction of measures and instruments that will make receipt of donations and other sources of income, as well as payment of expenditure, traceable). Harmonize and unify the legal framework on financing political parties and election campaigns (Art.7 (3));
- With the aim of increasing transparency and accountability of public office holders, consider on-line publication of information of the assets and interests of elected officials, executive office holders and advisors who falls under the LCI, as well as of public servants if applicable, with due respect of the personal data protection legislation (Art. 7 (4));
- Strengthen the legal framework and supervision over the conflict of interest, including harmonizing the legislation on conflicts of interest at all levels. Ensure necessary independence and impartiality of the Commission on Deciding of Conflict of Interest (CDCI) as a body in charge of the implementation of the Law on Conflict of Interest in the government institutions of Bosnia and Herzegovina through revising selection and appointment procedures of the members of the CDCI. (Art. 7 (4), 8 (5) and 12 (2)(e));
- Consider undertaking further activities to promote the application of codes of conduct (Art. 8 (2));
- Adopt the necessary legislation to establish protected reporting channels for whistleblowers at all levels of power and governance at all entities, cantons and municipalities of BiH (Art. 8 (4));
- Strengthen the public procurement system and consolidate the actions to combat corruption in the field of public procurement through mandatory publication of public procurement plans on the public procurement portal (Art. 9(1));
- Consider incorporating, in the ongoing and planned upgrades (improvements) of the E-public procurement system more details regarding the public procurements including establishing and publishing a database of decisions that will include all previously made procurement decisions (Art. 9 (1));
- Ensure that records on implemented contracts are published on the public procurement portal (Art. 9(1));
- Consider implementing further activities to improve budget transparency, such as publishing at all levels of the draft Budget, designed to present key public finance information to a general audience, and the mid-year review, as

well as to identify good practices and to implement them at all levels. (Art. 9(2));

- Raise awareness and build capacities for implementation of international standards in internal audit and internal control, especially by provision of training for public sector organizations at all levels on the topics of risk management and timely and effective reaction to irregularities and fraud, with the emphasis on implementation of related managerial responsibilities (Art. 9(2));
- Clarify legal prohibition on receiving gifts and prescribe precise meaning of the terms “occasional gift” and “gift of minor value” (Art. 12);
- Consider introducing harmonized legislation at all levels to ensure that all records of any Entity spending public funds are retained for an agreed number of years, with timetables for the destruction of main ledgers and supporting records also agreed. The legislation should address areas of risk and vulnerability as well as prescribe offences associated with relevant documentation (such as cash payments; recording of non-existent expenditure; the entry of liabilities with incorrect identification of their objects; the use of false documents; and the unauthorized destruction or tampering with bookkeeping documents) (Art. 12 (3)); Consider taking measures for the training of the staff which work in internal audit departments in private enterprises in order to ensure their proper and legal compliance in accordance with international auditing standards and for easier recognition of suspicions of corruptive actions in the private enterprises working (Art. 12); Consider undertaking measures to promote administrative culture within the institutions that will adopt and implement principles of proactive transparency, such as measures to improve the knowledge of public officials on the principles of proactive transparency (Art. 13 (b));
- Consider explicitly adopting a Risk Based Approach (Art. 14(1)(a));
- Continue efforts to establish and strengthen reporting on the transfer of cash and financial instruments across the border (Art. 14(2));

3. Chapter V: Asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; agreements and arrangements (arts. 51, 56 and 59)

The asset recovery regime in Bosnia and Herzegovina is in its early stages of development. The Convention may be directly applied, however its application is yet to be demonstrated in practice given the absence of clear procedures demonstrating its application between the four jurisdictions as well as actual cases. The legislative framework consists of legislation at all four levels of government. At State level asset recovery is covered by the criminal procedure and evidence act, the criminal code and other laws, while at Entity and district level there are specific laws in place regarding confiscation of unlawfully acquired property, and those regulating asset management. (See the cycle 1 report for asset management in Bosnia and Herzegovina.

A number of law enforcement, financial and judicial institutions play a role in the asset recovery process in BiH at all four levels. In addition, specialized and independent institutions have been established with the mandate of recovering and managing recovered assets, such as the Federal agency for the Management of Seized Assets of Federation of BiH and the Asset Recovery Office and the Asset

Management Agency of Republika Srpska. These independent institutions do not have mechanisms in place to ensure domestic inter-agency coordination.

In Brčko district, management of assets is conducted by the Office for Public Property Management of the District. Apart from Republika Srpska, BiH has not yet had any cases both domestically and internationally. Results in Republika Srpska to date include 13m USD in managed or seized assets, 7m USD in confiscated assets, and 5.5m USD in domestic asset returns.

Article 26 of the law on Mutual Legal Assistance in Criminal Matters provides that authorities may, subject to reciprocity, spontaneously share information if they consider that the disclosure of such information could assist in initiating investigations or criminal proceedings or if it could lead to a request for legal assistance by that State.

Bosnia and Herzegovina has ratified the Police Cooperation Convention for Southeast Europe and is a signatory to the Second Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters. In addition, Bosnia and Herzegovina has concluded bilateral agreements with a number of countries on police cooperation in international criminal matters, most of which relate to joint investigation teams.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

Beneficial owners are defined under Article 3 AML law. The text provides definitions of high-risk profile persons, in particular of Politically Exposed Persons (PEPs), including both domestic and foreign PEPs in Art. 3 AML law.

The Central Bank of Bosnia and Herzegovina co-ordinates the activities of the Bosnia and Herzegovina Entity Banking Agencies which are in charge of bank licensing and supervision. These institutions take measures to prevent risks related to the use of new technologies (Art. 2). Moreover, financial institutions subjected to AML measures use various screening tools for profiling clients. Foreign PEPs and United Nations Security Council Resolutions are included in the screening tools. Following the AML law and the Circulars from supervisory authorities, it is required to put in place enhanced due diligence mechanisms relating to transactions carried out by high-risk customers (Arts. 23(2), 27(2) and 33 AML Law and Arts 4,8 and 10 of the Ordinance on the Implementation of the Law on the Prevention of Money Laundering and Financing of Terrorist Activities).

Reporting entities are required to keep information, data and documentation for ten years from the date of an operation or the date of termination of their relations with customers, the date a client was identified at a casino/an entertainment room or when the client accessed the safe (Art. 77 of the AML law).

The establishment of “shell banks” is prohibited (Arts. 36 and 83(dd) AML law). Financial institutions shall also refrain from establishing or maintaining correspondent banking relationships with any fictitious financial institutions and verify that their correspondents abroad are subject to the same obligation (Arts. 36 and 24(d) and (e) AML law, and Art. 18 of the Decision on Corresponding Banking Relationships).

There is a system of annual asset declarations in place for high level officials at State level, although the level of details provided are limited. Declarations are not published and are made exclusively for the law on conflict of interest. Procedures are not yet in place for sharing the declarations with competent domestic and international law enforcement authorities, and none have been shared to date. However, access may be granted on the basis of the freedom of access to information law. It is not clear if there are sanctions for non-compliance, save for elected officials (Art. 19.9 and 19.10 of the Election Law of BiH). Brčko District does not have asset declaration systems in place for their public officials.

Obligated entities are required to make Suspicious Transaction Reports (STRs) to the FID, which is based under the supervision of the State Investigation and Protection Agency (Art. 4 and Art. 38 AML law). The FID is a law enforcement type FIU with a broad range of powers, and is also tasked with promoting cooperation between the competent authorities of the State of BiH, the Federation of BiH, Republika Srpska and Brčko District in the area of the prevention of money laundering as well as the competent authorities of other States. The FID itself currently cooperates well, and has full access to databases of all jurisdictions in Bosnia and Herzegovina, although details of such cooperation are not explicitly provided in any text. In case of non-compliance, entities can get financial penalties by their supervisory entities (Art. 83 AML law). The FID receives, analyses and investigates STRs then forwards them to the competent prosecuting and investigating authorities (Art. 55(3)).

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

Natural and legal persons are entitled to initiate civil action, sue for compensation and be recognized as legitimate owners of property acquired through an offence established in accordance with the Convention (Art.193 of the Criminal Code of Bosnia and Herzegovina). Its extension to foreign States is provided for in the Federation and Republika Srpska (Art. 25(1) of the Law on Civil Procedure), as well as Brčko District (40 paragraph 1 of the Law on Civil Procedure). Bosnia and Herzegovina has also never had a case involving a foreign State as a civil party.

The Brčko District, the Federation and Republika Srpska legislation allow the direct enforcement of foreign judgments and orders for confiscation (Art. 32 of the Law on Forfeiture of Illegally Acquired Assets of the Brčko District and Art. 37 of the Law on Forfeiture of Proceeds of Criminal Offences in the Federation of Bosnia and Herzegovina, and Arts. 73-77 of the RS Law on Seizure and Confiscation of Proceeds of Crime). A mechanism for transfer of confiscated assets to the requesting country is planned to be introduced by the State through the amendments to the Law on International Legal Assistance in Criminal Matters, providing details on the institutional involvement and manner of transfer. Bosnia and Herzegovina has not yet has such a case in the context of corruption offences.

Confiscation of proceeds and instrumentalities of money laundering is provided (Art. 209(5) Bosnia and Herzegovina Criminal Code), including when the crime is committed outside Bosnia and Herzegovina or if the funds are of foreign origin. The provisions allow the consideration of objective factual circumstances in assessing the fate of bona fide owners (Art. 209(6) Bosnia and Herzegovina Criminal Code).

The Bosnia and Herzegovina legislation at State level, provides for the possibility of non-conviction based forfeiture (Article 110a of Expanded Confiscation of Property Gain Acquired Through Perpetration of Criminal Offence). Similarly, Art. 5 of the Law on Forfeiture of Proceeds of Criminal Offences of the Federation of Bosnia and Herzegovina provides a special procedure for forfeiture of property in cases where the offender cannot be prosecuted due to death, absconding of the defendant. However, this article does not address mere absence of defendants. In Republika Srpska, Art. 30 of the Law on Seizure and Confiscation of Proceeds of Crime provides for the seizing and confiscating the assets, when the offender cannot be subjected to criminal procedure, is unable to participate in the procedure due to mental illness, is beyond the reach of prosecuting authorities and court, and in case of his death. In Brčko district, Article 5 of the Law on Forfeiture of Illegally Acquired Assets also provides a special procedure allowing forfeiture in cases where circumstances exclude criminal prosecution.

The enforcement of foreign interim measures such as freezes and seizures of property in Bosnia and Herzegovina may take place following a Court order (Arts.

65, 66, 72, 218 of the Criminal Procedure Code of Bosnia and Herzegovina). Further, in case of emergency, Bosnia and Herzegovina has a mechanism to temporarily preserve property for confiscation through prosecutorial orders (Art. 72(3) of the Criminal Procedure Code of Bosnia and Herzegovina) as well as through the FID (Art. 58 of the AML Law). However, there is no legislation specifically addressing how the enforcement of interim measures requested by a foreign State party are carried out.

Bosnia and Herzegovina does not require a treaty to render international cooperation. However domestic provisions seem to not cover all mutual legal assistance forms as established by the Convention. Accordingly, domestic legislation does not specify measures to be taken prior to lifting provisional measures.

The rights of bona fide third parties Art. 55(9) are protected in Bosnia and Herzegovina at all levels (Bosnia and Herzegovina State Criminal Code Arts 74 and 111; Federation of Bosnia and Herzegovina Art. 78 of the Criminal Code; Republika Srpska Art. 62 of the Criminal Code; Brčko District Art. 3(3) and 23 of the Law on Forfeiture of Illegally Acquired Assets.

Although a singular dedicated legal and institutional framework for the management of confiscated assets does not yet exist, they have been established at Entity and district level. In the Federation of Bosnia and Herzegovina there is the Law on Forfeiture of Proceeds of Criminal Offences, which established the FBiH Agency for Management of Forfeited Criminal Proceeds. In Republika Srpska there is an Asset Management Agency established by the Criminal Assets Recovery Act. In Brčko district, there is the Law on Forfeiture of Illegally Acquired Assets as well as the Office for Public Property Management of the District tasked with the management of assets.

Return and disposal of assets (art. 57)

Although there are laws and procedures governing the domestic return of assets (Article 110 of the Criminal Code of Bosnia and Herzegovina and Articles 193-195 of the Criminal Procedure Code of Bosnia and Herzegovina), there is no specialized law that specifically mentions and provides procedures for the disposal and return of assets to other States in the case of offences under this Convention, including with deductions of reasonable expenses. A draft amendment is underway to address these lacuna. Consequently, Bosnia and Herzegovina has not yet returned assets internationally or concluded any agreements for the final disposal of confiscated property.

3.2. Successes and good practices

- The definition of politically exposed persons includes domestic politically exposed persons (art. 52 (1))

3.3. Challenges in implementation

- Consider adopting measures to clarify the practical aspects asset recovery at all four jurisdictional levels such as through the development of asset recovery guides and putting in place domestic inter-agency coordination mechanisms. (Art. 51).
- Strengthen mechanisms on the level of reporting, by both banking and non-banking sectors. (Art 52).
- Ensure that all reporting entities, including non-financial, use the screening tools in order to assess the customers risks (art. 52 par. 2).
- Consider establishing effective asset disclosure systems for appropriate public officials in the Federation of Bosnia and Herzegovina, Republika Srpska, and Brčko District. Put in place appropriate sanctions for non-compliance, and consider putting in place procedures for sharing the declarations with competent domestic and

international law enforcement authorities at all four jurisdictional levels (Art. 52(5)).

- Adopt the necessary measures to allow confiscation for all Convention's offences, and take measures to allow the direct enforcement of foreign judgments and orders for confiscation at State level (Arts. 54 and 55).
- Continue efforts to put in place a mechanism for transfer of confiscated assets to requesting countries (Art. 54 and 55).
- Consider including the absence of defendants as a basis for exercising non-conviction based forfeiture in the Federation of Bosnia and Herzegovina (Art. 54(1)(c)).
- Monitor that in practice, when Bosnia and Herzegovina receives a request for confiscation of proceeds of crime, it will permit submission of the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such order is granted, give effect to it (Art. 55 par. 1).
- Take steps to specify measures to be taken prior to lifting provisional measures including providing the requesting State Party an opportunity to present its reasons in favour of continuing the measures (Art. 55(8)).
- Take measures to return confiscated assets to the requesting State Party in the case of Convention offences (Art. 57).
- Consider adopting measures to clarify the practical aspects of the FID's cooperation between all four jurisdictional levels, including access to databases and external information sources (Art. 58).

Technical assistance needs identified to improve implementation of the Convention

- Capacity building and training (Arts. 52-57).
- Legislative assistance and model laws (Arts. 52-57).

IV. Implementation of the Convention

A. Ratification of the Convention

Please provide information on the ratification/acceptance/approval/accession process of the United Nations Convention against Corruption in your country (date of ratification/acceptance/approval of/accession to the Convention, date of entry into force of the Convention in your country, procedure to be followed for ratification/acceptance/approval of/accession to international conventions, etc).

Bosnia and Herzegovina signed the United Nations Convention against Corruption in BiH on 16/09/2005 and ratified the same on 26/10/2006.

B. Legal system of Bosnia and Herzegovina

Please briefly describe the legal and institutional system of your country.

Dayton Agreement established Bosnia and Herzegovina as a state consisting of two Entities, each with a high degree of autonomy: The Republika Srpska (RS) and the Federation (FBiH) and Brčko

District of BiH (BD BiH). There are ten Cantons in the Federation of BiH. Brčko District of BiH functions as a single administrative unit under the sovereignty of Bosnia and Herzegovina.

From the viewpoint of the constitutionality, the current system has the characteristics of a much decentralized federal system in which each Entity has its own constitution, president, government, parliament and judiciary. Criminal legislation and criminal procedure legislation were adopted at the level of BiH, Entities and Brčko District. The laws of Entities and Brčko District apply exclusively in the courts of the Entities and Brčko District. The legislation at the state level applies in the BiH State Court.

Bosnia and Herzegovina belongs to the group of countries in which the civil law is applied, and court decisions are binding for all its citizens. The hierarchy of norms consists of: 1 International treaties, 2 The Constitution of BiH, 3 Laws, 4 By-laws.

Model of criminal proceedings in Bosnia and Herzegovina is of a mixed character. There are elements of both the inquisitorial and adversarial proceedings. An investigation is carried out at the request of an authorized prosecutor, by the order to conduct an investigation, and has three phases: investigation, proceedings before the court (the main trial, presenting the evidence of prosecution and defence, additional evidence, etc.). and the appellate procedure.

In a separate communication addressed and e-mailed to the secretariat (uncac.cop@unodc.org), please provide a list of relevant laws, policies and/or other measures that are cited in the responses to the self-assessment checklist along with, if available online, a hyperlink to each document and, if available, summaries of such documents. For those documents not available online, please include the texts of those documents and, if available, summaries thereof in an attachment to the e-mail. If available, please also provide a link to, or the texts of, any versions of these documents in other official languages of the United Nations (Arabic, Chinese, English, French, Russian or Spanish). Please revert to this question after finishing your self-assessment to ensure that all legislation, policies and/or other measures you have cited are included in the list.

In order to prepare the initial Report on self-assessment on the implementation of the UN Convention against Corruption in Bosnia and Herzegovina, we have used the relevant legal provisions of the applicable legislation in Bosnia and Herzegovina, as well as information obtained from several institutions of different levels of government in Bosnia and Herzegovina.

Unofficial translation of criminal codes and criminal procedure codes in force in Bosnia and Herzegovina can be seen at the following link:

<<http://www.legislationline.org/documents/section/criminal-codes/country/40>>

Please find enclosed an English translation of the following regulations:

- Law on mutual legal assistance in criminal matters (published in "Official Gazette of BiH" No. 53/09)
- Law on amendments and supplements to the Law on mutual legal assistance in criminal matters (published in "Official Gazette of BiH" No. 58/13)
- Law on prevention of money laundering and financing terrorist activities (published in "Official Gazette of BiH" No. 47/14)
- Law on amendments and supplements to the Law on prevention of money laundering and financing terrorist activities (published in "Official Gazette of BiH" No. 46/16)
- Election law of BiH (Unofficial consolidated text)

- Criminal assets recovery act of Republika Srpska (published in “Official Gazette of Republika Srpska” No. 12/10)
- The law on forfeiture of illegally acquired assets of Brčko district of BiH (published in “Official Gazette of Brčko district of BiH” No. 29/16)
- The law on forfeiture of proceeds of criminal offences in Federation of BiH (published in “Official Gazette of Federation of BiH” No. 71/14)
- Law on police officers of BiH (consolidated text) ü Law on Banking Agency of FBiH
- Law on Banking Agency of RS
- Law on the state investigation and protection agency (Unofficial consolidated text)
- Excerpt from Law on Amendments to the Criminal Code of the Brčko District of BiH (published in “Official Gazette of Brčko district of BiH” No. 26/16)
- Ordinance on the implementation of the law on the prevention of money laundering and financing of terrorist activities (published in “Official Gazette of BiH” No. 14/15)
- Guidelines for risk assessment and implementation of the law on the prevention of money laundering and financing of terrorist activities in insurance industry (in Federation of BiH)
- Guidelines for risk assessment and enforcement of the law on the prevention of money laundering and financing of terrorist activities in insurance (in Republika Srpska)
- Law on Party Financing <<http://apik.ba/zakoni-i-drugi-akti/Zakoni/drugi-vazniji-zakoni/?id=220>> (unofficial consolidated text 2016)

Unofficial translation of other important laws related to anti-corruption in force in Bosnia and Herzegovina, as well as an extensive list of legislation, are available at the following links:

<<http://rai-see.org/legislation-bosnia-and-herzegovina-anti-corruption-institutional-framework/>>

<<http://www.sipa.gov.ba/en/documents/laws/>>;

as well as

<http://apik.ba/zakoni-i-drugi-akti/Zakoni/drugi-vazniji-zakoni/Archive.aspx?langTag=en-US&template_id=196&pageIndex=1>

- Law on Whistleblower Protection in the Institutions of Bosnia and Herzegovina <<http://apik.ba/zakoni-i-drugi-akti/Zakoni/drugi-vazniji-zakoni/?id=253>>
- Law on Conflict of Interest in Governmental Institutions <<http://apik.ba/zakoni-i-drugi-akti/Zakoni/drugi-vazniji-zakoni/?id=216>>
- Public Procurement Law of BiH <<http://apik.ba/zakoni-i-drugi-akti/Zakoni/drugi-vazniji-zakoni/?id=230>>
- Freedom of Information Act <<http://apik.ba/zakoni-i-drugi-akti/Zakoni/drugi-vazniji-zakoni/?id=212>>
- Law On The Agency For The Prevention Of Corruption And The Coordination Of The Fight Against Corruption <http://apik.ba/zakoni-i-drugi-akti/Zakoni/Zakon_o_Agenciji/?id=397>
- Anticorruption Strategy 2015-2019

Unofficial translation of the law in relation to the private sector is available on the website of the FIC (Foreign Investors Council): <http://www.fic.ba/law-library>

Please provide a hyperlink to or copy of any available assessments of measures to combat corruption and mechanisms to review the implementation of such measures taken by your country that you wish to share as good practices.

- Anti-corruption Assessment of Laws, by Tilman Hoppe (http://rai-see.org/wp-content/uploads/2015/06/Comparative_Study-Methodology_on_Anti-corruption_Assessment_of_Laws.pdf)
- Analysis of the application of the Methodology for the corruption risk assessment - drafting and implementing integrity plans in the institutions of Bosnia and Herzegovina (<http://rai-see.org/wp-content/uploads/2015/05/Assessment-Report-on-CRA-Methodology-in-BiH-eng.pdf>), created within the project of RAI "Regional Programme on Strengthening the Capacity of Anti-Corruption Authorities and Civil Society to Combat Corruption".
- Analysis with recommendations for establishing the anti-corruption assessment of legislation in BiH (<http://rai-see.org/anti-corruption-assessment-of-laws/>), created within the project of RAI "Regional Programme on Strengthening the Capacity of Anti-Corruption Authorities and Civil Society to Combat Corruption".
- Studija sistema nacionalnog integriteta Bosna i Hercegovina 2015 (National Integrity System Assessment BiH 2015) (<https://ti-bih.org/studija-sistema-nacionalnog-integriteta-bosna-hercegovina-2015/?lang=en>) (<https://ti-bih.org/publikacije-istraganja/page/3/?lang=en>)
- Procjena snage korupcije i skrivene ekonomije u jugoistočnoj Evropi (Assessment of Corruption and Hidden Economy in Southeast Europe) (http://seldi.net/fileadmin/public/PDF/Publications/Shadow_Power/SHADOW_POWER_FINAL_2016.pdf)
- Korupcija u visokom obrazovanju: fikcija ili stvarnost (Corruption in Higher Education: Fiction or Reality?) (<http://www.itc.edu.ba/wp-content/uploads/2015/10/Corruption-in-Higher-Education-Fiction-or-Reality.pdf>)
- Izvještaj o procjeni korupcije, BiH (Corruption Assessment Report Bosnia and Herzegovina, <http://seldi.net/publications/publications/corruption-assessment-report-bosnia-and-hercegovina/>) - Research on corruption in the public sector in BiH (<http://www.account.ba/upload/documents/Istraganja%20o%20sektorskoj%20korupciji%20u%20BiH%20-%20web.pdf>), Media Development and Analysis Centre in partnership with the Association INFOHOUSE within the ACCOUNT project
- The corruption risk assessment in the security sector of Bosnia and Herzegovina, CSS (http://css.ba/wp-content/uploads/2011/06/Corruption-Risks-Assessment-in-SS_ENG.pdf)
- Manual for the implementation of the Law on the Protection of Whistleblowers in Institutions of Bosnia and Herzegovina (<http://www.codluna.ba/images/Handbook.pdf>), Author: Centar za odgovornu demokratiju COD Luna with support of US Embassy in BiH)
- Inception report prepared within the project Capacity Development for Prevention of Corruption and Creation of Strategic Documents in the Field of Fight against Corruption in BiH (Project financed by the European Union)

Please provide the relevant information regarding the preparation of your responses to the self-assessment checklist.

In order to develop the initial Report on self-assessment on the implementation of the UN Convention against Corruption in Bosnia and Herzegovina, we have used the relevant legal provisions of the applicable laws in Bosnia and Herzegovina, as well as information obtained from several institutions of different levels of government in Bosnia and Herzegovina.

We have also used the information from the following sources:

- Regular Annual Report of APIK for 2015 and 2016 (<<http://apik.ba/izvjestaji/izvjestaji-agencije>>)
- Contribution of BiH institutions to the regular annual Report on BiH in the process of European integration , according to the new reporting methodology, 2015
- Contribution of BiH institutions to the regular annual Report on BiH for the period from 01/09/2015 to the end of April 2016
- Supplement Contribution of BiH institutions to the regular annual Report on BiH for the period from 05/10/2016 to 01/08/ 2016.
- The corruption assessment report, BiH (<<http://seldi.net/publications/publications/corruption-assessment-report-bosnia-and-herzegovina/>>)
- Results of research on proactive transparency in public institutions in Bosnia and Herzegovina (<<http://www.analitika.ba/en/publications/results-research-proactive-transparency-public-institutions-bosnia-and-herzegovina>>)
- Developing proactive transparency in Bosnia and Herzegovina (<http://www.analitika.ba/en/publications/developing-proactive-transparency-bosnia-and-herzegovina-key-success-and-failure>)
- Civil Service Agency of Bosnia and Herzegovina
- State Investigation and Protection Agency (SIPA), <<http://www.sipa.gov.ba/en/documents/laws>>
- Public Procurement Agency of Bosnia and Herzegovina
- Public Administration Reform Coordinator's Office - FBiH Ministry of Finance
- Ministry of Finance and Treasury of Bosnia and Herzegovina - Ministry of Justice of Bosnia and Herzegovina
- RS Ministry of Economic Relations and Regional Cooperation
- Public Administration Reform Monitoring (PARM), <<https://ti-bih.org/projekti/monitoring-reforme-javne-uprave-parm/>>
- FBiH Tax Administration, Division of inspection, notification and investigation - Posavina Canton, Team for the Prevention of Corruption
- Regional Anti-Corruption Initiative (RAI) - The Court of Bosnia and Herzegovina
- Tuzla Canton, Team for the Prevention of Corruption - The Prosecutor's Office of Bosnia and Herzegovina
- Report of the Commission for Conflict of Interest for 2015 <<http://www.apik.ba/ozsi/izvjestaj-oradu/?id=1010>>

Please describe three practices that you consider to be good practices in the implementation of the chapters of the Convention that are under review.

Among the good practices related to the implementation of the Convention chapter, we include the establishment of the Agency for the prevention of corruption and the coordination of the fight against corruption as a preventive anti-corruption body, and the adoption of the Law on Whistleblower Protection in the Institutions of BiH, as well as improving the integrity at all levels of government in BiH.

Please describe (cite and summarize) the measures/steps, if any, your country needs to take, together with the related time frame, to ensure full compliance with the chapters of the Convention that are under review, and specifically indicate to which articles of the Convention such measures would relate.

C. Implementation of selected articles

II. Preventive measures

Article 5. Preventive anti-corruption policies and practices

Paragraph 1 of article 5

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The source of information from the legal framework is the document: - Contributions of Bosnia and Herzegovina institutions to the Regular Annual Report on BiH in the process of European integration, according to the new reporting methodology, 2015

Legal Framework:

In BiH, considering the divided jurisdiction in accordance with internal organization, criminal offenses of corruption have been defined by four criminal codes as follows: The BiH Criminal Code (BiH Official Gazette", number: 3/03, 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06, 32/07, 8/10, 47/14, 22/15 and 40/15, <<http://www.legislationline.org/documents/section/criminal-codes/country/40>>), the Federation BiH Criminal Code, the Republika Srpska Criminal Code ("RS Official Gazette", number: 49/03, 108/04, 37/06, 70/06, 73/10, 1/12 and 67/13) and the BD BiH Criminal Code ("BD BiH Official Gazette", number: 10/03, 6/05, 2/10, 47/11 and 9/13). The BiH Criminal Code, in Chapter XIX entitled "Criminal offenses of corruption and criminal offenses against official duty or other responsible duty," cover the whole range of criminal offenses from bribery, abuse of office, to lack of commitment in office and the like. In BiH, for these crimes is

applied the so-called "shared competence" in accordance with its internal organization and these criminal offenses are regulated in four criminal codes depending on the capacity of the offender or depending on whether a particular criminal offense is directed against the lawful and regular performance of official duties in BiH institutions or Entities or BDBiH.

Legal framework in the area of the fight against corruption at the national level includes the following laws: The Law on Conflict of Interest in BiH institutions("BiH Official Gazette", No.: 13/02, 16/02, 14/03, 12/04, 63/08, 18/12 and 87/13), the Law on Freedom of Access to Information in BiH("BiH Official Gazette", No.: 28/00, 45/06, 102/09, 62/11 and 100/13), and the Law on Whistleblower Protection in the Institutions of BiH(„BiH Official Gazette“ No. 100/13). "

In the Federation of BiH, the Law on fighting corruption and organized crime in the FBiH has been passed ("FBiH Official Gazette", number: 59/14). This Law shall establish in the FBiH a Special department of the Supreme Court of the FBiH and a Special Department of the Federal Prosecutor's Office of FBiH to combat corruption, organized and inter-cantonal crime, as well as determine their jurisdiction for the criminal offenses. Chief prosecutors shall initiate amendments to the criminal code and defining the criminal offenses of corruption by one head of the Criminal Code, and by then the High Judicial and Prosecutorial Council (HJPC) shall assume the obligation to define a unified list of criminal offenses of corruption, which will be unique for all prosecutors' offices in BiH. HJPC has adopted a unified list of criminal offenses of corruption from the FBiH Criminal Code (at the session held on 13 and 14 May 2015).

With regard to the introduction of stricter sanctions in the area of prevention and fight against corruption in order to achieve a stronger deterrent effect, the list of criminal offenses of corruption was composed in all four CCs in BiH, and an analysis of current penal policy in BiH is being made in order to determine the need for stricter penalties than those prescribed for the said criminal offenses in the criminal legislation in BiH.

The Criminal Code of the Republika Srpska classifies the acts of corruption and other criminal offenses against official and other responsible duties together in special chapters of the code Chapter XXVII -Criminal offenses against official duty - a total of 18 criminal offenses, and Chapter XXVIII (Criminal Offences against Justice - a total of 16 criminal offenses), and the same was reconciled with the Criminal Law Convention on Corruption and its Additional Protocol, Convention of 26 May 1997 on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (OJ C 195, 25/6/1997); Convention of 26 July 1995 on the protection of the European Communities' financial interests: (OJ C 316 of 27 November 1995 (also relevant for judicial cooperation in criminal matters) protocols; Council Framework Decision 2003/568/JHA on combating corruption in the private sector (OJ L 192, 31/7/2003, pp. 54). Some criminal offenses are also criminalized in the chapters of law on crimes against electoral rights and crimes against the economy and payment system. Prescribed incriminations are identical to the provisions of the BiH Criminal Code and are generally in line with key international documents pertaining to corruption, which have been signed and ratified by BiH. This law defined as a criminal offense an offense of abuse in the public procurement procedure, passive bribery, active bribery, influence peddling, etc. The legal framework in this area in the RS consists of the Law on Prevention of Conflict of Interest in the RS authorities („RS Official Gazette", number 73/08), and the RS Criminal Procedure Code („RS Official Gazette", number 53/12). RS Criminal Code defines the criminal offense "Influence Peddling" instead of the earlier crime of "Illegal Mediation", similarly to the amendment that was made in relation to the criminal offense "Illegal Mediation" in the Law on Amendments to the BiH Criminal Code."

"In the RS, the Law on Police Officers and Internal Affairs and the Law on Combating Corruption, Organized and Most Serious Forms of Economic Crime have been adopted" (at 9th session on 11 February 2016 RSNA was adopted, publication of the conclusion is pending,Source: Contribution

of BiH institutions to the regular annual Report on BiH for the period from 01/09/2015 to the end of April 2016).

The Law on the State Investigation and Protection Agency in Article 3 provides the tasks within the scope of the competence of the State Investigation and Protection Agency, and, among other things, stipulates the responsibility for the prevention, detection and investigation of criminal offenses falling within the jurisdiction of the Court of Bosnia and Herzegovina, as well as the collection of information and data on criminal offenses falling within the jurisdiction of the Court of Bosnia and Herzegovina, and the observance and analysis of security situation and phenomena conducive to the emergence and development of crime.

The State Investigation and Protection Agency established the Criminal Investigation Department, within which there is the Department for the prevention and detection of financial crime and corruption, which is responsible for conducting investigations of criminal offenses covered by Chapter XVIII (Criminal Offences against Economy and Market Integrity and the criminal Offences in the Area of Customs) and Chapter XIX (Criminal Offences of Corruption and Criminal Offences against Official Duty or Other Responsible Duty) of the Criminal Code of Bosnia and Herzegovina. This department employs police officers - detectives, with higher education, who, among other things, work on prevention, detection and investigation of criminal offenses of corruption contained in Chapter XIX (The Criminal Offences of Corruption and Criminal Offences against Official Duty or Other Responsible Duty) of the Criminal Code of Bosnia and Herzegovina.

At the level of Bosnia and Herzegovina (BiH) the Anti-Corruption Strategy <<http://www.apik.ba/zakoni-i-drugi-akti/strategije/?id=412>> (<http://apik.ba/zakoni-i-drugi-akti/strategije/default.aspx?id=806&langTag=bs-BA>) for the period 2015 - 2019 and the Action Plan for its implementation (the Council of Ministers, at its 6th session, held on 7 May 2015, adopted the Anti-Corruption Strategy for the period 2015-2019 and the Action Plan for its implementation, hereinafter SBPK and AP) were adopted, and the drafting thereof ensured the widest public debate in the way that the inter-departmental working group that worked on drafting SBPK and AP involved representatives of

more than 23 relevant BiH institutions from all levels of government, and the representatives of academic community and relevant civil society organizations. In addition to being adapted to the specifics of the constitutional order of BiH, the SBPK and the AP provide the basis for the lower levels to design their own anti-corruption strategies, and to adjust them to the general principles set out in this document. To avoid negative overlapping with the responsibilities of the Entities, Brčko District of BiH (BD BiH) and Cantons, SBPK and AP are not sector-oriented, given the fact that these levels of government have specific responsibilities in the sectoral areas (home affairs, justice, health, education and other). The concept of SBPK and AP provides three types of roles that the particular institutions and bodies will have in the process of implementing the SBPK and AP. The first group is composed of initiators and coordinators of activities, the second group comprises the direct implementers of planned activities, and the third group consists of the bodies that will supervise the process of implementation of activities, and monitor the fulfilment of obligations and the effects of their use. It is anticipated that all institutions and bodies will plan funds for implementation of SBPK and AP as part of their annual budget.

The Federation BiH Government adopted on 16 September 2016 the Anti-Corruption Strategy for 2016-2019 in the Federation BiH and the Action Plan for its implementation (at its 69th session held on 19/09/2016 in Sarajevo). The strategy refers to the federal government authorities and administrative organizations and legal entities in which the federal government authorities and federal administrative organizations have jurisdiction on the basis of legal and property rights. This document also covers legal entities whose funding is mostly done out of public revenues in FBiH (funds, etc.), and the companies with majority state capital in which the powers based on the

participation of state capital are performed by the FBiH authorities. As the combat against corruption must involve the widest front of activities and institutions, acting in accordance with the Anti-Corruption Strategy is suggested to all other federal institutions, including the judiciary. In addition to legal and other provisions of the relevant legislation, as a basis for the development of the Strategy we considered in particular the principles and obligations of the Federation of BiH derived from the national Anti-Corruption Strategy 2015-2019, the Reform Agenda for BiH for 2015-2018 and the updated Action Plan for the implementation of the Reform Agenda of FBiH concerning the fight against corruption. We appreciated the results and recommendations from the evaluation of the General Plan of the FBiH Government on the fight against corruption, created by the Team for monitoring and coordinating the implementation of this plan, as well as the recommendations of international and domestic actors regarding the integrity and strengthening an environment that does not tolerate corruption. Particularly relevant, in this regard, are the recommendations from the Progress Report as part of the implementation of the Enlargement Strategy of the European Union, and from the evaluation reports of the Group of States against Corruption (GRECO).

In the Republika Srpska (RS) the strategic framework for fighting corruption is the "Anti-Corruption Strategy in the RS 2013-2017" and the accompanying Action Plan, with clearly defined anti-corruption activities and deadlines for their implementation. The Strategy defines a comprehensive approach to the fight against corruption, which includes the prevention, repression, education and coordination of all institutions in the fight against corruption at the level of the RS, and anti-corruption activities are based on the approach of impartiality, transparency, measurability, expertise, impartiality and orientation to result, which are the basic principles of the UN in the fight against corruption. The realization of the planned activities from the mentioned Action Plan and the established deadlines, implement the activities foreseen in the Strategy at the level of BiH.

The BDBiH Government is responsible for the adoption of a new Anti-Corruption Strategy at the level of BD BiH. Following the adoption of the Strategy at the local level, the Judicial Commission of BDBiH will carry out the implementation of the same in the part relating to the jurisdiction of the BDBiH judiciary. Brčko District of BiH is preparing the Anti-Corruption Strategy and the Action Plan for the implementation of this strategy which will in a certain way define policies in the fight against corruption. Currently, the areas that are especially vulnerable to corruption are not covered by the action plans that would relate to particular sectors, and the prevention and fight against corruption is in fact at the level of individual organs and institutions that define their own policies in the fight against corruption and appropriate control mechanisms. Thus, at the moment there are no single dedicated policy or action plans which would include all the areas vulnerable to corruption in Brčko District of BiH.

Currently, in BiH there are a total of 8 created and adopted Anti-Corruption Strategies and the 10 Anti-Corruption Action Plans.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

HIGH JUDICIAL AND PROSECUTORIAL COUNCIL OF BiH

Activities in line with the strategies and action plans:

-regular reports on the status of activities of the Action Plan for implementation of the Anti-Corruption Strategy 2015-2019 are regularly submitted to APIK;

-in the context of the Working Group for the implementation of the priorities of the Report for Bosnia and Herzegovina for 2015 and the Action Plan - Part A - on the introduction of stricter

sanctions in the area of prevention and fight against corruption in order to achieve a stronger deterrent effect, which included the Representative of HJPC BiH, HJPC BiH has prepared and submitted relevant statistical data concerning the analysis of corruption offenses and criminal policy in this area, and is in line with the conclusions and recommendations for further action adopted by the BiH Council of Ministers in September 2016, delivered for information to all courts and prosecutors' offices in BiH;

-proposals relating to specific areas, education, activities and other forms of technical assistance and support in the fight against corruption, in connection with the fulfilment of the obligation 4.5.1 provided by the Action Plan for implementation of the Anti-Corruption strategy for 2015-2019, were submitted to APIK in November 2016.

Institutional activities

-in September 2014, the Rules on internal reporting of corruption and protection of persons who report corruption in the HJPC BiH was adopted and the Commission for the reception, recording and handling of reports of corruption in the HJPC BiH was formed;

-in June 2015, the Integrity Plan of HJPC BiH was adopted, which is compliant with the General Methodology and Guidelines for Drafting and Implementing the Integrity Plan established by APIK, which includes the Action Plan to combat corruption in the HJPC BiH;

- reports on the implementation of the Integrity Plan of the HJPC BiH are regularly submitted to APIK, and a working group of the HJPC BiH is being formed for the preparation of the Integrity Plan of the HJPC BiH for the next four years;

-in January 2017, APIK was delivered the established Action Plan to combat corruption in the HJPC BiH for the period 2016/2017, which defines the measures of legal and practical nature which, in accordance with the Anti-Corruption Strategy 2015-2019 and Action Plan for the implementation of the Anti-Corruption Strategy for 2015-2019, that the HJPC BiH will take in the future period.

(b) Observations on the implementation of the article

The BiH informed that, considering the divided jurisdiction in accordance with internal organization in BiH, criminal offenses of corruption have been defined by four criminal codes as follows: The BiH Criminal Code, the Federation BiH Criminal Code, the Republika Srpska Criminal Code and the BD BiH Criminal Code. Provided information is followed by pertinent elaboration, including anticorruption legal framework at all levels. Recognizing the importance of criminal prosecution of corruption offences and that the effective enforcement of criminal proceedings has preventive effect as a feedback, however, Article 5 of UNCAC is related to strengthening of preventive mechanisms for fighting corruption by development of effective anticorruption policies i.e. strategies.

In addition, BiH authorities provided relevant information about anticorruption policies developed at various levels of government:

1. At the level of Bosnia and Herzegovina (BiH) the Anti-Corruption Strategy 2015 - 2019 and the Action Plan for its implementation was adopted by the Council of Ministers of BiH. The Strategy and the AP provide, among other, the basis for the lower levels to design their own anti-corruption strategies, and to adjust them to the general principles set out in this document. For the purpose of drafting and development of the Strategy and AP, the inter-departmental working group was established with representatives of more than 23 relevant

BiH institutions from all levels of government, representatives of academic community and relevant civil society organizations. All implementing institutions and bodies have to plan funds for implementation of activities of the AP as part of their annual budget.

2. The Federation BiH Government adopted the Anti-Corruption Strategy for 2016-2019 in the Federation BiH and the Action Plan for its implementation, referring to the federal government authorities and administrative organizations and legal entities. The basis for development of the Strategy were in particular principles and obligations of the Federation of BiH derived from the national Anti-Corruption Strategy 2015-2019.
3. In the Republika Srpska (RS) the strategic framework for fighting corruption is the Anti-Corruption Strategy in the RS 2013-2017 and the accompanying Action Plan, with clearly defined anti-corruption activities and deadlines for their implementation. The Strategy includes the prevention, repression, education and coordination of all institutions in the fight against corruption at the level of the RS. Realization of the activities from the Action Plan and the established deadlines correlates with the activities foreseen in the Anti-corruption Strategy at the level of BiH.
4. According to the BiH response, Brčko District of BiH currently has no single policy or action plans which include all areas vulnerable to corruption, but it is underway in preparing of the Anti-Corruption Strategy and the Action Plan for the implementation of this strategy which will in a certain way define policies in the fight against corruption.
5. At Canton level (10), as reported by the BiH authorities, in five Cantons Anti-corruption strategies and in seven Cantons Anti-corruption Action plans were created and adopted. With the aim of strengthening the bodies to prevent corruption and coordination, in 2016 the APIK organized series of trainings in all Cantons in BiH to present strategic anti-corruption framework and how to draft anti-corruption and integrity plans.

BiH provided example of implementation of the activities in line with the national level Anti-Corruption Strategy 2015 - 2019 and the Action Plan by the High Judicial and Prosecutorial Council of BiH.

(c) Challenges in implementation

Ensure that authorities at Entity level consider implementing the good practices found at the State level in respect of development and monitoring of anti-corruption strategies and action plans (Art. 5);

(d) Successes and good practices

The development of a written anti-corruption strategy and action plan at State level, which is linked to the BiH entities' Anti-Corruption Strategies and Action Plans with the "umbrella" Anti-Corruption Strategy 2015-2019 at the level of BiH (art. 5)

Paragraph 2 of article 5

2. Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

When it comes to the harmonization of rules for the anti-corruption policy with EU legislation, we adopted the Draft Law on Amendments to the BiH Criminal Code (Draft Law on Amendments to the BiH Criminal Code came into force on 27 May 2015, Official Gazette no. 40/15). The rules for the anti-corruption policy have been harmonized with EU legislation in the field of active trading in influence; passive trading in influence, bribery through intermediaries and when the benefit is not intended for an official but for a third party; it also includes "foreign officials or international officials" (which is in accordance with the provisions of the Additional Protocol to the Council of Europe Criminal Law Convention on Corruption, the United Nations Convention against Corruption - UNCAC, and the recommendations of the Group of States against Corruption GRECO of May 2011). In addition, amendments were made to the provisions that deal with the confiscation and seizure of proceeds of crime and from the person to whom it was transferred (as in accordance with the provisions of the Convention of the Council of Europe on laundering, search, seizure and confiscation of the proceeds of crime).

Anti-Corruption Plans

In accordance with Article 24 of the Law on the Agency for the prevention of corruption and coordination of the fight against corruption (BiH Official Gazette, number: 103/9, 58/13), for all the institutions of BiH the conditions have been created for the timely and effective reporting on implementation of the strategic anti-corruption programs and activities. These mechanisms ensure that each institution has a certain "focal point" - the person responsible for monitoring the implementation of planned activities and strategic programs of the approved anti-corruption plan, or person in charge of reporting. The report is delivered in the form of a unified form for all the institutions/agencies of BiH. APIK has coordinated the process of innovation of plans for the fight against corruption through the organization of working-consultative meetings with representatives of institutions, by creating unified Guidelines for the development of plans for combating corruption in the institutions with public authorities of BiH (<http://www.apik.ba/zakoni-i-drugi-akti/ostali-akti/smjernice-i-preporuke/>), and giving suggestions, proposals and ultimately opinions on proposed anti-corruption plans.

Please find enclosed in a separate mail an Annex to Article 5, Paragraph 2 with the following content:

1) Tabular overview of the number of institutions at the level of BiH in which the Agency has coordinated the process of innovating the existing anti-corruption plans (PBK) as of 31/01/2016.

Integrity Plans

In addition, in all Cantons in the FBiH, and through the process of training the focal points, the Agency introduced the Guidelines for drafting the plans for combating corruption in the institutions of Bosnia and Herzegovina. On the other hand, the Agency is the key institution in charge of establishing a system of integrity plans in the institutions of BiH, as well as for overseeing the implementation of the measures and recommendations of adopted integrity plans. Accordingly, the Council of Ministers of Bosnia and Herzegovina at the 104th session held on 08/07/2014, adopted a Conclusion tasking all the institutions of Bosnia and Herzegovina to continuously cooperate with the Agency in the process of drafting and implementing plans of action against corruption and integrity plans, while the Audit Office of the Institutions of Bosnia and Herzegovina in the recommendations on the financial audit suggested to the institutions the necessity of adopting the integrity plans. As of 31/12/2016, all the institutions at the BiH level fulfilled or are in the final stage of the fulfilment of the said obligation. In order to inform all public institutions on the concept and importance of establishing integrity plans, the Agency previously drafted, adopted and published a number of documents including: Guidelines for drafting and implementation of integrity plans in the institutions of Bosnia and Herzegovina, the Methodology for drafting and implementation of integrity plans, the Model of Integrity Plan and Self-Assessment Questionnaire on integrity of the institutions of Bosnia and Herzegovina, which the institutions will use in drafting the said documents. In cooperation with the Civil Service Agency of FBiH, in the period from February to June 2015, the Agency held a series of one-day training courses on the topic: "Integrity Plans: Drafting and Implementation". Training sessions were organized in nine cities, and were intended for civil servants employed in federal and cantonal administrative bodies, as well as possible members of the working groups for drafting the integrity plans. The aim of the mentioned training was to introduce the concept, character and way of making integrity plans, and the implementation of measures envisaged in the same document.

APIK has coordinated the process of creating integrity plans through advisory role and, ultimately, gave opinions on the integrity plans made and submitted by the institutions of BiH. Following the adoption of integrity plans, the institutions were tasked to submit to the Agency at least once a year, and more often if necessary, the reports on implementation of measures and recommendations for improving the integrity proposed by the approved plans. The institutions which submitted the required information have envisaged a total of 106 measures to improve integrity within the institutions, specifically: 15 measures were provided in the field of management and leadership of the institution, 12 measures were provided in the field of public procurement, 21 measures were provided in the field of office management and data protection, 29 measures were provided in the field of human resources management, and a total of 13 measures were provided in the field of management and disposal of the material and financial resources. The institutions have also proposed the measures and recommendations in specific areas, where a total of 16 measures were provided. Under specific areas we mean those areas that are specific to each institution in particular and due to which the institution carries out the purpose for which it was founded.

Please find enclosed in a separate mail an Annex to Article 5, Paragraph 2 with the following content: 2) Tabular overview of the number of institutions in BiH in which the Agency has coordinated the process of drafting and adoption of integrity plans in the reporting period

With the aim of strengthening the fight against corruption, the Agency for Prevention of Corruption and Coordination of the Fight against Corruption (APIK) has created and submitted to the competent institutions in BiH a set of Recommendations on establishing a body to prevent

corruption and preparing strategic documents at all levels of government in BiH (the Entities, Cantons and Brčko District of BiH can specify a new or existing management structure to be responsible for the prevention of corruption, the drafting and implementation of anti-corruption strategies and action plans in the Entities or Brčko District of BiH. Certain structures will work closely with the Agency to ensure timely and effective implementation of coordinated anti-corruption policies.). With these activities the Agency fulfils the objectives set out in the framework of the Reform Agenda for BiH for the period 2015-2018 and the Anti-Corruption Strategy 2015-2019. (hereinafter the Strategy) and the Action Plan for its implementation (hereinafter the Action Plan, Strategic Objective 1, Strategic program 1.1: Determination of bodies for prevention of corruption at the levels of government where it has not been done, yet with the development of mutual cooperation and coordination between all bodies for the prevention of corruption in BiH. Action Plan for implementation of the Anti-Corruption Strategy 2015-2019.).

Please find enclosed in a separate mail an Annex to Article 5, Paragraph 2 with the following content: 3) Tabular overview of the completion of the strategic and institutional framework for the fight against corruption in BiH

Within the process of establishment of an effective mechanism for coordination of the fight against corruption in BiH and strengthening the bodies to prevent corruption, representatives of the APIK organized a series of one-day training sessions from March to May 2016 (the education was realized with financial support and assistance from the British Government, as part of the project dedicated to strengthening the communication capacities of the Agency for prevention of corruption and coordination of the fight against corruption) in all 10 Cantons in FBiH. The aim of the said training sessions was to present the key aspects of prevention of corruption, starting with the strategic framework of the fight against corruption, drafting plans for the fight against corruption and integrity plans, and mechanisms for reporting corruption and protection of persons who report corruption in the institutions with public authorities in BiH.

Whistleblower Protection

During the implementation of the Law on Whistleblower Protection in the Institutions of Bosnia and Herzegovina, following the entry into force, the APIK has received a total of 19 applications for granting the status of a protected whistleblower. In the framework of the relevant acting, an analysis showed that for 15 claims there are no conditions for granting the status of a protected whistleblower, and that in some of these cases the Law could not apply to the applicants, because they are not included in the category of persons employed in the institutions of BiH, to which the Law applies. In 4 cases the APIK has granted the status of a protected whistleblower.

The largest number of applications for granting the status of a protected whistleblower in the institutions of BiH could not be accepted because the applicants of relevant claims do not belong to the group of civil servants and employees at the state level, which is why the Law on the Whistleblower Protection in the institutions of BiH could not be applied to them, while at lower levels of government (Entities, Cantons, municipalities) no legal provisions regulating the issues of protection of whistleblowers and the elimination of harmful actions have been adopted. The Anti-Corruption Strategy 2015-2019 and the Action Plan for the implementation of the Anti-Corruption Strategy 2015-2019 provide for the creation and adoption of legislation to protect whistleblowers at all levels in BiH.

Please find enclosed in a separate mail an Annex to Article 5, Paragraph 2 with the following content: 4) Review of the situation concerning granting the status of whistleblowers (as at 31/12/2016).

INVESTIGATION AND PROTECTION AGENCY

The Law on the State Investigation and Protection in Section 3 provides tasks under the responsibility of the State Investigation and Protection Agency, among other things, stipulates responsibility for the prevention, detection and investigation of criminal offenses within the jurisdiction of the Court of Bosnia and Herzegovina as well as the collection of information and data on criminal crimes within the jurisdiction of the Court of Bosnia and Herzegovina and the monitoring and analysis of the security situation and phenomena conducive to the emergence and development of crime. The State Investigation and Protection Agency established the Criminal Investigation Department, within which there is the Department for the prevention and detection of financial crime and corruption, which is responsible for conducting investigations of criminal offenses covered by Chapter XVIII (Criminal Offences against Economy and Market Integrity and the Criminal Offences in the Area of Customs) and Chapter XIX (Criminal Offences of Corruption and Criminal Offences against Official Duty or Other Responsible Duty) of the Criminal Code of Bosnia and Herzegovina. This department employs police officers - detectives, with higher education, who, among other things, work on prevention, detection and investigation of criminal offenses of corruption contained in Chapter XIX (The Criminal Offences of Corruption and Criminal Offences against Official Duty or Other Responsible Duty) of the Criminal Code of Bosnia and Herzegovina.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

APIK publishes the information on the activities in its regular annual reports which are available on the Agency's website (<http://apik.ba/izvjestaji/izvjestaji-agencije/Archive.aspx?langTag=bs-BA&template_id=196&pageIndex=1>). On the other hand, APIK has prepared The first report on monitoring the implementation of the Anti-Corruption Strategy 2015-2019 and of the Action Plan for the Implementation of the Anti-Corruption Strategy 2015-2019 (<<http://apik.ba/izvjestaji/izvjestaji-agencije/default.aspx?id=1239&langTag=bs-BA>>). On 17/01/2017, the Agency held a presentation of "The First Report of monitoring the implementation of the Anti-Corruption Strategy 2015-2019 and of the Action Plan for the implementation of the Anti-Corruption Strategy (SBPK and AP) 2015-2019" in the building of the Parliamentary Assembly of Bosnia and Herzegovina in Sarajevo.

(b) Observations on the implementation of the article

According to the BiH response, for all institutions of BiH conditions for the timely and effective reporting on implementation of the strategic anti-corruption programs and activities have been created. This includes that each institution has a certain "focal point" or a person who are responsible for monitoring the implementation of planned activities and strategic programs and in charge to report on a unified form for all institutions/agencies of BiH. Agency for the prevention of corruption and coordination of the fight against corruption (APIK) is in charge to coordinate the

process of innovation of plans for the fight against corruption through the organization of working-consultative meetings. APIK also developed unified Guidelines for the development of plans for combating corruption in the institutions with public authorities of BiH, and has an advisory role in giving suggestions, proposals and opinions on proposed anti-corruption plans.

The APIK is in charge of establishing and monitoring of a system of integrity plans in the institutions of BiH. In this respect APIK adopted and published a number of supporting documents including: Guidelines, Methodology, Model of Integrity Plan and Self-Assessment Questionnaire on integrity of the institutions of BiH. Trainings for drafting of integrity plans were conducted.

In accordance to the Anti-Corruption Strategy 2015-2019, APIK has developed and submitted to the competent institutions in BiH a set of Recommendations on establishing a body to prevent corruption and preparing strategic documents at all levels of government in BiH.

APIK organized a series of trainings in 2016 for all 10 cantons in BiH aimed to strengthen the mechanisms for coordination of the fight against corruption in BiH and bodies for prevention of corruption, on the topics of prevention of corruption, drafting plans for the fight against corruption and integrity plans, whistle-blowers mechanisms.

APIK publishes its annual reports of the work on the Agency's website, including the first report on monitoring the implementation of the Anti-Corruption Strategy and Action plan 2015-2019.

Paragraph 3 of article 5

3. Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

A whole chapter in the SBPK and AP plans specific activities, which are aimed at reviewing the anti-corruption effects of relevant laws, especially the Law on Conflict of Interest in Governmental Institutions of BiH, the Public Procurement Law, the Law on Financing of Political Parties, the Law on Free Access to Information in BiH, and on the other hand the adopting of legislation in the field of lobbying at all levels in BiH. Based on the results of the analysis of anti-corruption effects of these laws, amendments have been envisaged to eliminate provisions that reduce their effectiveness.

When it comes to the practical application of regulations and legislation, the Agency has commenced a self-assessment of existing laws that define the work of this institution. In this regard, the Agency will forward to further procedure of considering the proposal of amendments to the Law on the Agency and the Law on Whistleblower Protection in the institutions in BiH.

The Agency within its jurisdiction monitors the implementation of laws relating to the prevention of corruption in order to improve the work of the Agency, and in terms of strengthening the legal

framework that regulates the work of the Agency. In this regard, the Agency has initiated the activities of a comprehensive self-assessment of the legal framework, in particular:

- Law on the Agency,
- Law on Whistleblower Protection.

Also, with regard to activities related to the amendment of other laws, their alignment and giving opinions on the same, the Agency has undertaken the following activities:

- Together with representatives of the EU Delegation to BiH the officials of the Agency participated in the work of the Expert Team in Brčko District of BiH in developing the legislation for the establishment of the Office for the Prevention of Corruption in the territory of BD BiH, in drafting the Law on Whistleblower Protection, and the Law on the Origin of Property, in total 4 workshops.
- At a query by a representative of the Zenica-Doboj Canton, the Agency provided its comments and opinion on the draft Law on Public Private Partnership.

In the framework of the implementation of the South East Europe Regional Programme on Strengthening the Capacity of Anti-Corruption Authorities and Civil Society Organizations to Combat Corruption and Contribute to the United Nations Convention against Corruption (UNCAC) Review Process, among other things, the introduction of assessment of how regulations facilitate corruption was planned. RAI and the Regional Cooperation Council (RCC) in 2014 developed and published a Regional Methodology for Anti-Corruption Assessment of Laws (evaluation of the laws from the standpoint of the fight against corruption). As a continuation of the activities related to the Regional Methodology, RAI intends to facilitate the introduction or strengthening of anti-corruption assessment of laws in at least three beneficiary countries by the end of 2018. Bosnia and Herzegovina wants to introduce anti-corruption assessment of laws at the state level and that it is done on explicit legal bases.

In the above context, RAI in cooperation with the Agency for prevention of corruption and coordination of the fight against corruption prepared an analysis with recommendations for the establishment of anti-corruption assessment of legislation in BiH and analysis of application of the Methodology for Corruption Risk Assessment - drafting and application of integrity plans in the institutions of Bosnia and Herzegovina.

APIK publishes the information on the activities in its regular annual reports which are available on the Agency's website (<http://apik.ba/izvjestaji/izvjestaji-agencije/Archive.aspx?langTag=bs-BA&template_id=196&pageIndex=1>). On the other hand, APIK has prepared The first report on monitoring the implementation of the Anti-Corruption Strategy 2015-2019 and of the Action Plan for the Implementation of the Anti-Corruption Strategy 2015-2019 (<<http://apik.ba/izvjestaji/izvjestaji-agencije/default.aspx?id=1239&langTag=bs-BA>>).

On 17/01/2017, the Agency held a presentation of "The First Report of monitoring the implementation of the Anti-Corruption Strategy 2015-2019 and of the Action Plan for the implementation of the Anti-Corruption Strategy 2015-2019" in the building of the Parliamentary Assembly of Bosnia and Herzegovina in Sarajevo.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

(b) Observations on the implementation of the article

The BiH authorities informed that a dedicated chapter and activities in the Anticorruption strategy and action plan 2015-2019 is aimed to review the anti-corruption effects of relevant laws, especially the Law on Conflict of Interest in Governmental Institutions of BiH, the Public Procurement Law, the Law on Financing of Political Parties, the Law on Free Access to Information in BiH, and also adoption of legislation for lobbying at all levels in BiH. Based on the results of the analysis of anti-corruption effects of these laws, amendments have been envisaged to eliminate shortcomings that prevent their effectiveness.

APIK is working on a self-assessment of existing laws that define the work of this institution and intend to forward to further procedure of considering the proposal of amendments to the Law on the APIK and the Law on Whistle-blower Protection in the institutions in BiH.

Also, with regard to activities related to the amendment of other laws and their alignment, the APIK in cooperation with representatives of the EU Delegation to BiH participated in the work of the Expert Team in Brčko District of BiH in developing the legislation for the establishment of the Office for the Prevention of Corruption in the territory of BD BiH, in drafting the Law on Whistle-blower Protection and the Law on the Origin of Property. The APIK provided comments and opinion on the draft Law on Public Private Partnership for the Zenica-Doboj Canton.

Also other measures for assessment of regulations are foreseen in BiH within the South East Europe Regional Programme on Strengthening the Capacity of Anti-Corruption Authorities and Civil Society Organizations to Combat Corruption and Contribute to the United Nations Convention against Corruption (UNCAC) Review Process, RAI and the Regional Cooperation Council (RCC). BiH intends to introduce anti-corruption assessment of laws at the state level and that it will be done on explicit legal bases. In this respect, RAI in cooperation with the APIK prepared an analysis with recommendations for the establishment of anti-corruption assessment of legislation in BiH and analysis of application of the Methodology for Corruption Risk Assessment - drafting and application of integrity plans in the institutions of BiH.

Paragraph 4 of article 5

4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The most important international documents in the area of the fight against corruption, which Bosnia and Herzegovina signed and ratified are:

- United Nations Convention against Corruption (signed on 16 September 2005, ratified on 26 October 2006)

- Council of Europe Criminal Law Convention (of 27 January 1999, signed on 3 March 2000, ratified on 30 January 2002, and is applied from 1 July 2002).
- Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) was ratified 07/09/2011. The Protocol entered into force on 01/01/2012, and it ensures that bribery of foreign jurors and arbitrators is criminalized unambiguously.
- Council of Europe Civil Law Convention on Corruption (of 4 November 1994, signed on 1 March 2000, ratified on 30 January 2002, and is applied from 1 November 2003).
- UN Convention against Transnational Organized Crime (of 15 November 2000, signed on 12 December 2000, ratified on 24 April 2002)
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism CETS No: 198 (signed on 19 January 2006, ratified on 11 January 2008)

REGIONAL ANTI-CORRUPTION INITIATIVE (RAI) Bosnia and Herzegovina is currently participating in the implementation of the South East Europe Regional Programme on Strengthening the Capacity of Anti-Corruption Authorities and Civil Society Organizations to Combat Corruption and Contribute to the United Nations Convention against Corruption (UNCAC) Review Process. The main objective of the Programme is to build and strengthen the institutional capacity and the capacity of civil society organizations from South East Europe in the prevention and fight against corruption. In order to meet the objective, the Programme covers six basic areas developed by the Regional Anti-Corruption Initiative (RAI) and the United Nations Office on Drugs and Crime (UNODC), according to their field of expertise. The Programme will directly contribute to the national anti-corruption strategies and action plans as part of the preparation of the Southeast Europe states for the second cycle of the UNCAC review process, particularly regarding the implementation of Article 5. The expected results are related to 1) introducing/strengthening the corruption risk assessment, (2) an assessment of how the regulations facilitate corruption, 3) strengthening the regional framework for cooperation in the exchange of data for the prevention of conflict of interest and registration of assets, 4) improving the knowledge of civil society organizations of the UNCAC and their capacity to contribute to the current review as well as the replication of training, 6) strengthening cooperation with the private sector, and 6) the expansion of network and cooperation with government authorities in the review process. RAI Secretariat provides assistance to relevant authorities in determining the best models adapted to the conditions in the country to assess the corruption risk and/or to estimate how regulations facilitate corruption. It will also provide assistance in the development of national methodology(ies) and provide training in the field of corruption risk assessment/estimate how much the regulations facilitate corruption. RAI will develop software tools for more efficient corruption risk assessment/estimate how much the regulations facilitate corruption.

In the above context, RAI in cooperation with the Agency for prevention of corruption and coordination of the fight against corruption prepared the Analysis with recommendations for the establishment of anti-corruption assessment of laws in BiH and the Analysis of application of the Methodology for corruption risk assessing - drafting and application of integrity plans in the institutions of Bosnia and Herzegovina.

One of the objectives of the Programme relates to the strengthening of regional cooperation in the exchange of information in the field of assets declaration and conflict of interest. As a consequence, the establishment of regional network and mechanism will provide clearer and better communication and simplify the current lengthy process involving a number of institutions. With the implementation of the activity, anti-corruption authorities from the countries of Southeast Europe will be able to formally communicate with each other in an effective manner. The competent

authorities of Bosnia and Herzegovina participate in regional meetings related to the subject topic, and have significantly contributed to the drafting of the agreement on the exchange of information between the competent authorities to prevent conflicts of interest and verify asset declarations;

The competent institutions in Bosnia and Herzegovina actively participate and contribute to regional activities and training carried out by the Regional Anti-Corruption Initiative, which relate primarily to the area of whistleblower protection, monitoring the implementation of strategic documents for the fight against corruption, specialist training in the field of financial investigations and confiscation of proceeds of crime, and strengthening integrity and preventing corruption in the judicial and police sector.

Institutions of Bosnia and Herzegovina participate in regional activities dedicated to raising citizens' awareness of the need to report and fight against corruption, for example, participation in the development and promotion of the documentary film about the importance of reporting and protection of whistleblowers (www.youtube.com/watch?time_continue=19&v=DjlfzT96EsU);

Representatives of civil society organizations from Bosnia and Herzegovina actively participate in regional anti-corruption networks such as the Coalition on Whistleblower Protection (www.see-whistleblowing.org), SELDI (<http://seldi.net/home/>) and PointPulse (<http://pointpulse.net/>).

INVESTIGATION AND PROTECTION AGENCY A representative of the State Investigation and Protection Agency is a member of the Working Group IPA National Program 2017 for Bosnia and Herzegovina - The fight against corruption and organized crime. Also a representative of the State Investigation and Protection Agency is a member of the Working Group of ICITAP and OPDAT to improve work in investigations of organized crime, corruption and financial crime (working group has not started its work yet, and it is expected to start work during the month of January 2017).

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Memoranda of Understanding and Cooperation

In the area of regional and bilateral cooperation, active engagement was initiated primarily in the implementation of activities under the Memorandum of Understanding and Cooperation signed between the Agency and the Society for International Cooperation of the Federal Republic of Germany (GIZ -Gesellschaft für internationale Zusammenarbeit, signed on 07/09/2015). Cooperation between the Agency and GIZ programme of strengthening of public institutions in BiH (SPI), will focus on the implementation of the following activities from the new Strategy:

- Improving the objective informing of the public about the work of the institutions with the promotion of positive examples of handling corruption cases;
- Developing a culture of integrity and ethics in public institutions in BiH;
- Promoting and improving proactive transparency in the work of public institutions in BiH in accordance with the standards of the Open Government Partnership.

In this regard regular working-consultative meetings are held between representatives of the Agency and GIZ, and the participation of the Agency's representatives in activities of the Inter-institutional working group for human resources management

In addition, a Memorandum of Understanding and Cooperation (MoU) was concluded with the Austrian Federal Bureau of Anti-Corruption (BAK, signed on 25/06/2014). The scope of cooperation under this Memorandum, among other things, includes the exchange of information and experience in the field of prevention of corruption and the exchange of best practices in the development of strategic documents and educational programs. The information exchange under this Memorandum will contribute to more effective prevention of corruption and facilitate the achievement of common goals. The signing was organized under the auspices of the IPA "EU Support to Law Enforcement" Project.

In June 2015, AKIP signed with HJPC and USAID (signed on 18/06/2015), through the Justice Project in Bosnia and Herzegovina (USAID Justice Project in BiH), the Memorandum of Understanding and Cooperation to strengthen the capacity of the judiciary to combat corruption, as one of the priorities for BiH arising from the recommendations of the Structured dialogue between the European Union (EU) and Bosnia and Herzegovina on the judiciary and the rule of law and the Strategy. The present cooperation, among other things, relates to: 1) preparation and implementation of strategic documents, 2) monitoring the implementation of regulations and giving opinions about their improvement, 3) collection, analysis and exchange of statistical data, 4) research and diagnostic studies -in the field of corruption prevention and combating corruption, and 5) strengthening prosecutorial capacity to improve transparency in the work and strengthening the capacity of public relations in prosecutors' offices.

On the other hand is based on the Memorandum of Understanding and Cooperation, which is related to issues in the field of prevention and fight against corruption continued cooperation on the development of guidelines for the development and implementation of plans of integrity in the judicial institutions in Bosnia and Herzegovina, as well as supporting documents: Methodological guidelines for developing integrity plans in the judicial institutions of Bosnia and Herzegovina and Model of integrity plan and special questionnaire for self-assessment of the integrity of the judicial institutions of Bosnia and Herzegovina The USAID mission in BiH, through the Justice Project, provided the signatories of the Agreement with technical and financial support, to improve the capacity of judicial institutions and AKIP to strengthen the integrity of the judiciary and the fight against corruption.

REGIONAL ANTI-CORRUPTION INITIATIVE (RAI) With the financial support of the Regional Anti-Corruption Initiative (RAI), on 17/01/2017 the Agency organized the presentation of "First Report on monitoring the implementation of the Anti-Corruption Strategy 2015-2019 and of the Action Plan for implementation of the Anti-Corruption Strategy 2015-2019" in the building of Parliamentary Assembly of Bosnia and Herzegovina in Sarajevo. On this occasion, the representatives of the institutions in BiH, authorities to prevent corruption, representatives of international and regional organizations and the media have been presented the Action Plan for implementation of the Strategy 2015-2019, which had been realized. The object of Monitoring referred to five strategic objectives detailed in 69 strategic programs, and a total of 226 activities grouped in 15 different timescales.

USAID-Justice system in BiH, <http://usaidjp.ba/#about> <<http://usaidjp.ba/>> In order to meet the recommendations of the fourth round of GRECO evaluation of BiH and strengthening the mechanisms of accountability and integrity, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina in July 2016 (at the session of the Council held on 7-8/7/2016) adopted Guidelines for drafting and implementing integrity plans in the judicial institutions in BiH (<<http://usaidjp.ba/assets/files/publication/1470215829-guidelines-for-the-preparation-and-implementation-of-integrity-plan-in-judicial-institutions-in-bosnia-and-herzegovina.pdf>>), and supporting documents Methodological guidelines for drafting integrity plans by judicial institutions in BiH and Model integrity plan, which were delivered to all judicial institutions in BiH. In addition,

there were adopted Guidelines for preventing conflicts of interest in the judiciary (<<http://usaidjp.ba/assets/files/publication/1470215593-conflict-of-interest-guidelines.pdf>>), which were provided to all judicial institutions in BiH, and internal Guidelines to determine disciplinary measures in disciplinary proceedings, prepared in cooperation with the USAID Project (<<http://usaidjp.ba/assets/files/publication/1470216400-high-judicial-and-prosecutorial-councils-guidelines-for-determining-disciplinary-measures.pdf>>).

The adopted a set of guidelines represent measures arising from recommendations of Diagnostic analysis of the integrity of the judicial sector and the possible risks of corruption and unethical behaviour in the judiciary (January 2016), conducted by the USAID JA in cooperation with HJPC and the Agency for prevention of corruption and coordination of the fight against corruption (APIK). Adoption of the said guidelines was one of priorities set out in the Reform Agenda, and is a contribution to the progress of BiH in the process of EU integration.

(b) Observations on the implementation of the article

BiH has signed / ratified all relevant international documents / conventions in the area of the fight against corruption.

BiH provided information and description of regional and international cooperation. BiH participate in the implementation of the South East Europe Regional Programme on Strengthening the Capacity of Anti-Corruption Authorities and Civil Society Organizations to Combat Corruption and Contribute to the UNCAC Review Process. The objective of the Programme, among other, is to build and strengthen the institutional capacity and the capacity of civil society organizations in the prevention and fight against corruption, as well as strengthening cooperation with the private sector.

RAI provides assistance to relevant authorities in BiH in determining the best models adapted to the national conditions to assess the corruption risk and/or to estimate how regulations facilitate corruption.

Representatives of civil society organizations from BiH actively participate in regional anti-corruption networks such as the Coalition on Whistle-blower Protection.

BiH provided information on the several MoUs signed with different international partners (GIZ, BAK, USAID) for cooperation on the topics of integrity, ethics, transparency, best practices in the development of strategic documents and educational programs, strengthening capacity of the judiciary to combat corruption etc.

BiH noted that technical assistance has already being provided to the authorities.

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

(e) Technical assistance needs

No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

The Agency has been provided technical support in the framework of the following projects:

IPA 2009: "Strengthening the capacity of BiH institutions to prevent and fight against corruption"; Within this project several important segments of support to the Agency were implemented, in the domain of:

- Creation of internal documents related to the work of the Agency;
- Support to the creation of tools in the area of prevention of corruption (the initial version of the methodology of integrity plans with supporting documents)
- Several training courses were conducted for the needs of employees of the Agency and the relevant authorities at all levels focusing on thematic units according to functional responsibilities.
- In addition to this, several important activities were undertaken to establish an anti-corruption network, which ultimately resulted in the introduction of key partners with the principles and mechanism of coordination and preparation of the Draft Memorandum of Cooperation in the field of establishing the said network.

IPA 2010: Support to Anti-Corruption (PAK) funded by the EU under the title "Strengthening anti-corruption capacities and Civil Society Organizations networks ". In cooperation with PAK Project, four two-day workshops were held with the members of the Interdepartmental Working Group for drafting the new Anti-Corruption Strategy (for the period 2015-2019) and the Action Plan for its implementation, and the proposals of the new Strategy and Action Plan were discussed, and specific recommendations given and specific anti-corruption measures identified that are included in the new Strategy and Action Plan.

The following civil society organizations (CSOs) participated within this IPA project:

University "ITC- INTERLOGOS CENTAR" The project "Obrazovanje protiv korupcije" ("Education against corruption") Association CRMA Project "Curriculum for transparency, curriculum for accountability!"

Youth centre "Vermont" The project "Transparent financing of NGOs by local authorities"

Analitika-Centre for Social Research, Centre for Public Interest Advocacy - CPI Foundation and the Centre for Investigative Reporting (CIN)

The Project "Open Public Procurement" Centre for Security Studies - BiH (CSS) The project "Mapping Corruption Risks in the Security Sector" Transparency International in Bosnia and Herzegovina (TI BiH)

The project "Strengthening integrity and good governance for the effective implementation of the Anti-Corruption Strategy in BiH from the local to the national level"

Recognizing the needs of the bodies to prevent corruption and the importance of implementation of strategic documents in the fight against corruption in BiH, the Agency has created the "Project to support capacity development for prevention of corruption and creation of strategic documents in the field of fight against corruption in BiH", and in order to provide adequate international assistance in implementation of the said processes. After the project passed all the stages of approval of the EU Delegation in BiH, it is in the initial stage of implementation. By February 2017, the Inception report was prepared on the overview of the state in the field of fight against corruption in BiH, and Glossary related to anticorruption. This project has conceptually designed the technical and expert support to bodies to prevent corruption at all levels in BiH, in order to strengthen their capacities and in the direction of effective prevention of corruption. The project "Capacity Development for Prevention of Corruption and Creation of Strategic Documents in the Field of Fight against Corruption in BiH" is funded by the Delegation of the European Union in BiH

Within the project "Strengthening communication capacities of the Agency for the prevention of corruption and coordination of the fight against corruption in Bosnia and Herzegovina" the Communication strategy of the Agency for the prevention of corruption and coordination of the fight against corruption was prepared for the period 2014 -2019. The project was implemented by the Centre for Social Research-Analitika, in cooperation with the Agency, and with the financial support of the UK Government.

Capacity Assessment of the Agency for the prevention of corruption and coordination of the fight against corruption in Bosnia and Herzegovina was carried out in the framework of the project "Strengthening of key institutions mandated with fighting against corruption in Bosnia and Herzegovina" which was supported by the Ministry of Foreign Affairs of the Kingdom of Norway and implemented by the United Nations Development Programme (UNDP) BiH.

Article 6. Preventive anti-corruption body or bodies

Paragraph 1 of article 6

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:

- (a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;*
- (b) Increasing and disseminating knowledge about the prevention of corruption.*

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Agency for the Prevention of Corruption and Coordination of the Fight against Corruption (APIK) was established by Law on the Agency for the prevention of corruption and coordination of the fight against corruption („BiH Official Gazette", number: 103/10) as an independent and autonomous administrative organisation, which reports to the BiH Parliamentary Assembly, in accordance with Article 6 of UNCAC. However, the Agency has no operational jurisdiction, and therefore is not in compliance with Article 36 of UNCAC.

For the purpose of effective and coordinated fight against corruption, in the coming period Bosnia and Herzegovina is facing two important processes. The first concerns the establishment of bodies for prevention of corruption at all levels of government where it has not been done yet, and the other, the obligation of these bodies, or levels of government, to develop their own sectoral strategies to fight corruption, and in accordance with the general principles of the Anti-Corruption Strategy for 2015-2019.

With the aim of strengthening the fight against corruption, the Agency for Prevention of Corruption and Coordination of the Fight against Corruption (APIK) has created and submitted to the competent institutions in BiH a set of Recommendations on establishing a body to prevent corruption and preparing strategic documents at all levels of government in BiH. With these activities the Agency fulfils the objectives set out in the framework of the Reform Agenda for BiH for the period 2015-2018 and the Anti-Corruption Strategy 2015-2019. (hereinafter the Strategy) and the Action Plan for its implementation (hereinafter the Action Plan). In the reporting period, several activities of a preparatory nature were undertaken in terms of the efficient determination of bodies to prevent corruption at the level of the Entities and BD BiH, and the Cantons.

In this connection, at the Entity level Anti-Corruption team of the FBiH Government and Commission for implementation of the Anti-Corruption Strategy of the RS were established.

The Decision of the Mayor of Brčko District of BiH (number: 48-001025/16 of 09/11/2016), appointed the Commission for the prevention of corruption and coordination of activities to combat corruption in accordance with Article 23 of the Law on the Prevention and Coordination of the Fight against Corruption („BiH Official Gazette", number: 103/09 and 58/13), on the basis of Article 16, items c) and o), and Article 17 paragraph (2) of the Law on the Government of Brčko District of BiH (“BiH Brčko District Official Gazette", number: 19/07, 36/07, 38/07, 2/08, 17/08, 23/08, 14/10 and 28 /12).

When it comes to the Cantons, the following bodies were formed to fight corruption:

1. Bosnian-Podrinje Canton Anti-Corruption Team
2. Herzegovina-Neretva Canton Anti-Corruption Working body
3. Sarajevo Canton Government Anti-Corruption Team
4. Central-Bosnia Canton Team for the Prevention of Corruption
5. Una-Sana Canton Government Anti-Corruption Working body
6. Herzeg-Bosnia Canton Team for the Prevention of Corruption
7. Tuzla Canton Team for the Prevention of Corruption
8. Zenica-Doboj Canton Anti-Corruption Team
9. Posavina Canton Team for the Prevention of Corruption
10. West-Herzegovina Canton Committee for Drafting the Anti-Corruption Strategy (West-Herzegovina Canton formed the Committee for Drafting the Anti-Corruption Strategy of the West-Herzegovina Canton, which is also an interim solution, until the determination of the body in accordance with Article 23 of the Law on the Agency).

The said bodies monitor, supervise and coordinate the process of implementation of anti-corruption strategic documents at the level of government at which they were formed. The Agency as the central point of coordination of the fight against corruption in BiH and the only body in the country which is professionally engaged in the prevention of corruption and coordination of the fight against corruption, has initiated the establishment of bodies at other levels of government in BiH, and created recommendations for their formation. In addition to these bodies, whose role is of a preventive nature, there are institutions with anti-corruption responsibilities in BiH that have repressive powers (police agencies, prosecutors, courts, etc.).

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Based on the expressed needs and within the process of establishment of an effective mechanism for coordination of the fight against corruption in BiH and strengthening the bodies to prevent corruption, representatives of the APIK organized a series of one-day training sessions from March to May 2016 (Education was realized with financial support and assistance from the British Government, as part of the project dedicated to strengthening the communication capacities of the Agency for prevention of corruption and coordination of the fight against corruption) in all 10 Cantons in FBiH. The aim of the said training courses is to present the key aspects of prevention of corruption, starting with the strategic framework of the fight against corruption, drafting plans for the fight against corruption and integrity plans, and mechanisms for reporting corruption and protection of persons who report corruption in the institutions with public authorities in BiH. Training involved more than 1,000 officers from different institutions.

APIK has created a standardized curriculum of training in the field of prevention of corruption and coordination of the fight against corruption in all public institutions in BiH. This program was submitted to and approved by the CSA BiH and the CSA FBiH, with which nine workshops have been organized so far, which included 260 civil servants.

Within the Project "Strengthening internal and external communication channels of the Agency" a series of training sessions was held in the field of anti-corruption for focal points of institutions with public authorities in the Cantons.

Summary of training sessions held by Cantons:

- 1) Canton Sarajevo (29/1/2016, 31/3/2016, 9/5/2016, 12/5/2016, 13/5/2016, 16/5/2016, 17/5/2016, 18/5/2016, 20/5/2016, 23/5/2016, 24/5/2016 and 25/5/2016);
- 2) Central-Bosnia Canton (7/4/2016);
- 3) Una-Sana Canton (12/4/2016);
- 4) Canton 10 (13/4/2016);
- 5) Zenica-Doboj Canton (19/4/2016);
- 6) Bosnian-Podrinje Canton (20/4/2016);
- 7) Tuzla Canton (26/4/2016);
- 8) Posavina Canton (27/4/2016);
- 9) West-Herzegovina Canton (10/5/2016);
- 10) Herzegovina-Neretva Canton (11/5/2016).

These training courses were attended by more than 830 officers. It is the beginning of the process of continuing education that will be implemented in the future period, with the aim of supporting the development of coordinated anti-corruption policies in BiH and adequate implementation of the strategic anti-corruption documents in BiH.

APIK, together with OSCE, conducted training of the employees of the security sector, justice and defence. These training courses as part of the Seminar Security Policy have been attended by 520 civil servants so far, and the last Specialist Course on building integrity in the security sector, which was financed by the OSCE, was attended by 60 participants, followed by training through workshops of Drafting the integrity plans in the Security Sector attended by about 160 people, while through the project PAK for drafting of Strategic documents in BiH training courses were attended by 240 civil servants and officers of the security sector. Then the training courses regarding corruption in BiH conducted in the NATO Centre in Butmir, and organized by PSOTC, so far have been attended by 120 officers and 190 non-commissioned officers of NATO forces; training was

also conducted with members of LOT teams in BiH, where 40 members of EUFOR were trained. Sectoral training courses held by the Agency in cooperation with NGOs, have so far been attended by 130 officers, and training courses with a variety of media were attended by 30 people, which totals to 2,320 employees at various levels of government which is a very small number compared to the vast administration.

On the official website there is "Online Course in Ethics," which has been successfully attended by 2,606 officers so far.

Topics which were trained are as follows: - Prevention of corruption in BiH;

- Coordination of the fight against corruption in BiH;

- Conflict of interest in governmental institutions in BiH ; - Protection of whistleblowers in the institutions of BiH;

- Integrity Plans as an effective means for the prevention of corruption (drafting and implementation); - Plans to combat corruption (drafting and implementation).

Each of the thematic units is organized as one-day training, in duration of 6 hours together with practical exercises included in the program, as well as all-day training that covers all the educational subjects in duration of 8 lessons with practical exercises. Specific crimes covered by the training are mainly related to the giving and receiving of gifts, abuse of office, using property of the office, negligent operation, etc.

In addition to their lecturers trained by the Agency, who carry out training of civil servants, two officers of APIK are on the list of certified trainers of CSA BiH in the field of drafting the integrity plans and whistleblower protection in the governmental institutions of BiH, i.e. the area of prevention and combating corruption and conflicts of interest at the level of the FBiH.

The training program is adapted to all civil servants, employees and officials of law enforcement agencies, both to those who have just been employed and to those who have worked for a long time.

-Within the project, on 02/02/2016, the Campaign advocating the establishment of functional cooperation mechanisms between the Government and CSOs in BiH "The bell for changes" was carried out.

-The campaign "Do not quench the sun!" was launched with the aim of raising public awareness of the fight against all forms of corruption, with an emphasis on corruption in education.

-Also in cooperation with the Ministry of Education, Science and Youth of Sarajevo Canton the Agency organized competitions for primary and secondary schools in CS for the best literary and art works on the theme "Change yourself, change the world". The best art works of students were printed in the calendar of the Agency for prevention of corruption and coordination of the fight against corruption for 2017.

-The project "Stop corruption" has specific objective of raising public awareness of citizens of Brčko District of BiH on issues of corruption.

-Within the project "Fighting corruption in public health sector", an information campaign was conducted on the harmful effects of corruption in the health sector.

The Agency does not have access to a specific budget for raising awareness about corruption.

(b) Observations on the implementation of the article

According to the Law on the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption (the Law on APIK), the APIK is independent and autonomous administrative organisation, which reports to the BiH Parliamentary Assembly. APIK serves as a central point of coordination of the fight against corruption in BiH and the only body on the national level which is professionally engaged in the prevention of corruption and coordination of the fight against corruption. APIK initiated establishment of bodies at other levels of government in BiH, and created recommendations for their formation. In addition to these bodies, whose roles are of a preventive nature, there are other institutions in BiH having repressive competences (police agencies, prosecutors, courts, etc.).

At the Entity level, respective bodies with preventive competences are: Anti-Corruption team of the FBiH Government and Commission for implementation of the Anti-Corruption Strategy of the Republika Srpska. In Brčko District of BiH, in accordance with the Law on the Government of Brčko District of BiH, the Mayor appointed the Commission for the prevention of corruption and coordination of activities to combat corruption.

At level of Cantons (10), BiH reported that in each canton there is existing preventive body named as “team” or “working body”.

All preventive bodies at state, entity and cantonal level are tasked to monitor, supervise and coordinate the process of implementation of anti-corruption strategic documents at the level of government at which they were established.

b) As mentioned in observation of the Article 5, in 2016 the APIK organized series of trainings in all Cantons in BiH to present strategic anti-corruption framework and how to draft anti-corruption and integrity plans and also on whistle-blowers protection, which included about 1000 representatives from various institutions. Beside this the APIK developed a standardized curriculum of training in the field of prevention of corruption and coordination of the fight against corruption in all public institutions in BiH. So far the APIK conducted nine workshops with total of 260 civil servants.

Aimed to support the development of coordinated anti-corruption policies and adequate implementation of the strategic anti-corruption documents in BiH, the APIK organized a number of trainings for focal points of institutions with public authorizations in the Cantons, attended by 830 civil servants. The APIK is active in providing trainings, including with support and cooperation with OSCE and CSOs. However, as it is indicated by the BiH authorities, this is a small number of trainings and trained officers in respect of the total number of the vast administration. With the aim of further broadening of anti-corruption education, at the web-site of the APIK the "Online Course in Ethics" is posted which was, at the time of the response to the self-assessment, successfully attended by 2606 officers.

In addition, BiH authorities reported several awareness campaigns on anticorruption that had been launched, including in specific sectors. Nevertheless, the APIK does not have specific budget for raising awareness about corruption. In the response for Article 13, para 1, subpara (d), BiH authorities additionally inform about the public awareness campaigns and about researches on corruption conducted by civil society organizations.

(c) Successes and good practices

The establishment of specialized anti-corruption bodies at Entity level, tasked with preventive and policy-coordination functions

Paragraph 2 of article 6

2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Agency was established as an independent and autonomous administrative organisation which reports to the Parliamentary Assembly of BiH. APIK is responsible for drafting the Anti-Corruption Strategy, and drafting the Action Plan for the prevention of corruption, coordination and supervision of the implementation of the Strategy and Action Plan; coordination of the work of public institutions in preventing of corruption and conflicts of interest; monitoring of conflicts of interest; prescribing a uniform methodology for collecting data on the financial status of public servants; acting on applications filed with the indications of corrupt behaviour; monitoring the effects of the application of laws and regulations aimed at the prevention of corruption; cooperation with scientific and professional organizations and non-governmental organizations on the issue of prevention of corruption; cooperation with international organizations, institutions, initiatives and bodies; the development of educational programs on the prevention of corruption and the fight against corruption; informing the relevant institutions and the public about the obligations on the basis of international legal acts; prescribing a uniform methodology and guidelines for drafting of integrity plans and other activities regarding the prevention of corruption. For more efficient implementation of the Anti-Corruption Strategy, institutions and agencies at all levels, public agencies and other bodies of public authority are obliged to cooperate with this institution and to submit all the necessary data and information at the request of the same.

The Agency Management was appointed in late July 2011, and started the office on 10 August 2011. After the expiry of their mandate, the Parliamentary Assembly of Bosnia and Herzegovina, at the 34th session of the House of Representatives, held on 08/01/2016, and at the 22nd session of the House of Peoples, held on 31/08/2016, adopted the Decision on the appointment of the director and two deputy directors of the Agency for prevention of corruption and coordination of the fight against corruption, number: 01,02-34-1-1932/16 of 31/08/2016 („BiH Official Gazette", number: 66/16) on the basis of which the appointees began operations in the Agency on 14/09/2016.

Budget and equipment of the Agency are scarce and limited, and therefore not development-oriented. The budget is based on experiential consumption and consists of funding for salaries and wages, allowances for employees, material costs and capital investments for the basic operations of the Agency. The Agency does not have the available budget funds for the organization of events, the implementation of projects in the implementation of the Anti-Corruption Strategy 2015-2019 and the Action Plan for its implementation.

The current regulations on internal organization of the Agency (<<http://www.apik.ba/ona/default.aspx?id=693&langTag=bs-BA>>), adopted on 20/08/2015, provided a total of 41 workplaces in the Agency, of which 33 positions are currently filled. From a total of 41 designated positions, three are appointees - director and two deputy directors, five are top civil servants, of which three assistant directors and two heads of departments. Three appointed persons, 24 civil servants and six employees are currently working in the Agency. Every new employment requires the approval of the BiH Council of Ministers and the BiH Ministry of Finance and Treasury; due to austerity measures a moratorium on recruitment in the institutions of BiH is in effect.

In the field of human resources management, the Agency is focused on two important aspects:

- raising the quality of work at a higher level and correcting identified deficiencies identified by the audit, and better organization of work processes as a way to increase efficiency in the work and achieve better results;
- training and raising the skills of employees through continuous training, seminars and other types of education.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

(b) Observations on the implementation of the article

The principal legal act for establishment of the Agency for the prevention of corruption and coordination of the fight against corruption (APIK) is the Law on the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption. According to the Law, the APIK is an independent and autonomous administrative organisation which reports to the Parliamentary Assembly of BiH. It has a broad range of preventive competences, including drafting of the Anti-corruption strategy and Action plan, coordination with other institutions, monitoring of conflicts of interest, education etc., which encompasses all relevant responsibilities for prevention of corruption.

The APIK Management was appointed and started the office on 10 August 2011. After the expiry of the mandate of the first composition of the management of the APIK, the Parliamentary Assembly of BiH adopted the Decision on the appointment of the director and two deputy directors of the APIK based on which they began operations in the APIK on 14 September 2016.

Institutions and agencies at all levels of government in BiH, public agencies and other bodies of public authority have an obligation to cooperate with the APIK and to provide all the necessary data and information as requested.

Although the APIK has crucial preventive role and a comprehensive preventive competences, the allocated budget is very limited, only for funding salaries, material costs and some capital investments. It can be considered that the APIK is currently lacking of staff, but the recruitment procedure is preconditioned with the approval of the BiH Council of Ministers and the BiH Ministry of Finance and Treasury.

BiH reported that the APIK focuses on increasing the efficiency of operations and competences of the staff through raising the quality of work and better organization of work processes, and through continuous trainings for improvement of their skills. It is recommended that necessary material resources, equipment and specialized staff of APIK, but also of other anti-corruption

bodies on Entity and Cantonal level for carrying out their functions are provided as a matter of priority.

(c) Successes and good practices

The establishment of specialized anti-corruption bodies at Entity level, tasked with preventive and policy-coordination functions.

(d) Challenges, where applicable

Ensure that the necessary material, human and financial resources are available to APIK and other anti-corruption bodies on Entity and Cantonal level for carrying out their functions

Paragraph 3 of article 6

3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Has your country provided the information as prescribed above? If so, please also provide the appropriate reference.

(b) Observations on the implementation of the article

Bosnia and Herzegovina has informed the Secretary-General that APIK will be the designated prevention authority under Art. 6 paragraph 3 of the Convention with Note Verbal No. 06-14-1-416-106/16, dated October 25, 2017.

Article 7. Public sector

Paragraph 1 of article 7

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials:

- (a) That are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;
- (b) That include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;
- (c) That promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;
- (d) That promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

MINISTRY OF JUSTICE OF BOSNIA AND HERZEGOVINA

The Parliamentary Assembly of Bosnia and Herzegovina at the session of the House of Representatives, held on 3 July 2002 and at the session of the House of Peoples held on 25 June 2002, adopted the Law on Civil Service in the institutions of Bosnia and Herzegovina ("Official Gazette of BiH", no. 19/02, 35/03, 4/04, 17/04, 26/04, 37/04, 48/05, 2/06, 32/07, 43/09, 8/10 and 40/12) regulating the legal status of civil servants in the ministries, independent administrative organizations and administrative organizations within the ministries, as well as in other institutions of Bosnia and Herzegovina established by a special law or which are assigned by separate laws to carry out administrative tasks. According to this Law, the recruitment and the professional career advancement of a civil servant shall be based upon open competition and professional skills, and the civil service shall ensure the respect and the application of the following principles: legality, transparency and publicity, accountability, efficiency and effectiveness, as well as professionalism and impartiality.

A civil servant shall be appointed to one of the following positions: 1) managerial civil servants (Senior Executive Manager and Senior Executive Manager with a special assignment, Assistant Minister, Assistant Director and Chief Inspector) and 2) other civil servants (head of internal organizational unit, senior advisor, senior official, and specialist). The Law on Civil Service in the institutions of Bosnia and Herzegovina does not categorize jobs in respect of the susceptibility to corruption. Rotating individuals within jobs in the civil service is enabled through the promotion, internal and external transfer.

As part of Chapter IX of the Law on Civil Service in the institutions of Bosnia and Herzegovina (Article 59 to 63) regulates the issues relating to the management of the civil service, which implies

the powers to decide on the specific issues of the civil service that specific bodies referred in those provisions have, namely: an institution of Bosnia and Herzegovina, Ombudsmen, Civil Service Agency of Bosnia and Herzegovina and the Civil Service Appeal Board. An institution of BiH is obliged to establish guidelines for human resources policy, including establishing concrete measures and activities which influence that civil servants are trained for the effective performance of all tasks for which they are responsible, and that all these tasks are performed correctly, legally and in a professional manner. Also, the institution manages material and financial resources at its disposal. The Ombudsman is a separate body that acts as a mediator between the head of the BiH institution and civil servants and employees. Mediation takes place when the head of the institution of BiH decides on the exercise of all rights and obligations of civil servants, which they have under the law and other regulations. Civil Service Agency of BiH is an independent administrative organization that a) provides: 1) implementation of the process of recruitment of civil servants on demand of institutions, 2) helping institutions in human resources management, organizational development, and in establishing an information system for human resources management, and 3) training and development of civil service, b) submits an annual report on the work and plan of work for the coming year to the Council of Ministers for approval, and shall publish on the official website of the Agency's its quarterly report on work, and offer a shortened version of this to the media, c) conducts surveys within the institutions at the request of the Council of Ministers, d) performs other tasks and duties stipulated in this Law. The role of this Agency is large in the overall resolution of the employment status of civil servants in the institutions of BiH, which should contribute to an objective, proper and lawful resolution of all issues relating to the employment status of civil servants from the period of recruitment in civil service, during the civil service and at the time of termination of civil service. With such work, the Agency is responsible for ensuring that all these issues in the BiH institutions are solved in the unique way and in this regard there must not be that in the same situation the law is applied in different ways and that in this way civil servants are placed in an unequal position. The Civil Service Appeals Board, in accordance with this Law and its bylaws, is responsible for reviewing all final decisions, undertakings or non-undertakings of an institution and/or the Agency, including institutions under Article 4, paragraph 1 of this Law, pertaining to the status of civil servants and upon the request of the civil servant affected by the disputed decision, undertakings or non-undertakings, if the civil servant has a clearly committed legal interest, the institution where the civil servant exercises his functions, and the Civil Service Agency of BiH. The work of the Civil Service Appeals Board is very important, because its decisions need to ensure uniform application of rules governing the rights and duties of civil servants from employment or related to employment in all BiH institutions to which the Law on Civil Service in the Institutions of BiH and bylaws apply. Regarding the criminal offenses of corruption, Article 58 of the Law on Civil Service in the Institutions of Bosnia and Herzegovina stipulates that once an order is brought against a civil servant on conducting the investigation for crimes of corruption, the institution in which the civil servant is employed shall suspend him immediately. This implies that the institution of BiH is obliged to impose a suspension at the time for its imposition, i.e. the institution of BiH is not authorized to decide whether or not to impose a suspension, but it is obliged to do so. The same is provided by Article 5, paragraph (1) of the Rules of disciplinary responsibility of civil servants in the institutions of BiH ("Official Gazette of BiH", no. 20/03 and 94/10), which reads as follows: "(1) A civil servant who commits an act which constitutes a crime of corruption or crimes against official or other responsible duties, which are harmful to the reputation of the civil service, which makes the civil servant unfit to work in the civil service where the civil servant's employment is not terminated by force of law, shall be punished by the measure of termination of employment in the civil service."

CIVIL SERVICE AGENCY OF BIH Item d)

Civil Service Agency of BiH, the Department of training, has undertaken a series of activities, starting with the assessment of the training needs of officers in the institution with anti-corruption responsibilities, and in strengthening the awareness of civil servants in all institutions of the risks of corruption, by means of harmonized training provided by the Training Catalogue of this institution, which are carried out by certified instructors of the Agency. The Agency organizes the following training courses: Ethics in Public Administration and Civil Servants Code of Conduct, Prevention and Combating Corruption, Conflict of Interest in BiH institutions, Coordination of the Fight against Corruption, Criminal Legislation and Case Law in relation to Criminal Offenses against Official Duty, Plans to Fight Corruption, Drafting and Implementation, Integrity Plans, Drafting and Implementation, and Whistleblower Protection in the institutions of BiH.

Also, the Agency has supported the project "Building Capacities to Combat Corruption in the Civil Service Structures in BiH" carried out by ZAMM media and the contracting authority is the of the Public Administration Reform Coordinator's Office, and within the project 12 civil servants of the institutions of Bosnia and Herzegovina attended a four-day training of trainers in December 2016 and will be presenters at the two-day training courses for about 250 civil servants of BiH institutions. The content of such training is as follows:

- Terms and manifestations of corruption;
- Terms and manifestations of conflict of interest; - Codes of ethics and integrity;
- Standards of transparency (including the existing mechanisms for coordination , prevention and fight against corruption at different levels of government in Bosnia and Herzegovina);
- Development of integrity plans and reporting on their implementation.

Furthermore, in the framework of the UNDP Project "Strengthening the capacity of key institutions of Bosnia and Herzegovina fighting against corruption," which is implemented with the support of the Embassy of the Kingdom of Norway, in 2016, three-day training was carried out for 25 participants from 6 institutions of Bosnia and Herzegovina.

The content of the training:

- Conflict of interest and its manifestation in the civil service and police agencies of BiH
- Identifying, reporting and eliminating conflicts of interest in the institutions/agencies of BiH
- Causes of corruption in the police agencies
- Manifestations and consequences of corrupt behaviour in Bosnia and Herzegovina
- Models of successful prevention of corrupt behaviour
- Good practice of reporting corruption and acting upon reports
- Mechanisms for reporting corruption in the institutions of BiH and the whistleblower protection

Within the Project of the European Union EU-HRM "Modernization of human resources management in the civil service" in 2015, two-day training was held on "Integrity and good governance in the civil service"

The content of the training:

- History and importance of good governance and integrity
- Shared responsibility of politicians and professional civil servants
- Connecting the integrity with HRM and leadership

- BiH policies on the program of fight against corruption and good governance
- Structure and culture of integrity policy
- Organization of the Coordinating Office for Integrity as support to the Agency to fight Corruption
- Seven pillars of integrity and good governance
- Code of conduct and risk analysis
- National integrity system
- Role of policy makers
- Role of politicians and professional civil servants

Civil Service Agency of Bosnia and Herzegovina under the project "The development of e-training for the purposes of the Civil Service/Administration in BiH", led by the of the Public Administration Reform Coordinator's Office (PARCO), proposed the creation of two new courses: Preventing and Combating Corruption and Ethics in Public Administration.

INVESTIGATION AND PROTECTION AGENCY The plan to combat corruption in the State Investigation and Protection Agency provided that the Plan and program of training for police officers, civil servants and employees of the State Investigation and Protection Agency shall plan training in the field of prevention of corruption and prevention of conflicts of interest.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

CIVIL SERVICE AGENCY OF BiH In 2016 the following training courses were held:

- Ethics in Public Administration and the Code of Conduct of Civil Servants (1 training course, 16 participants)
- Criminal legislation and case law in relation to criminal offenses against official duty
- Training for newly employed civil servants (4 training courses, 61 participants)
- Integrity Plans, drafting and implementation (1 training course, 14 participants)
- Prevention and Combating Corruption (1 training course, 18 participants)
- Conflict of interest in the institutions of BiH (1 training course, 19 participants)
- Whistleblower protection in the institutions of BiH (1 training course, 21 participants)

The Agency evaluates the said training courses within its Department of training.

(b) Observations on the implementation of the article

The Law on Civil Service in the institutions of Bosnia and Herzegovina, regulates the legal status of civil servants in the ministries, independent administrative organizations and administrative organizations within the ministries, as well as in other institutions of Bosnia and Herzegovina established by a special law or which are assigned by separate laws to carry out administrative tasks. National experts inform that according to this Law, the recruitment and the professional career advancement of a civil servant shall be based upon open competition and professional skills, and the civil service shall ensure the respect and the application of the following

principles: legality, transparency and publicity, accountability, efficiency and effectiveness, as well as professionalism and impartiality.

The Law on Civil Service stipulates promotion, internal and external transfer.

Furthermore, national experts inform that the Law on Civil Service in the institutions of Bosnia and Herzegovina (Article 59 to 63) regulates the issues relating to the management of the civil service, which implies the powers to decide on the specific issues of the civil service that specific bodies referred in those provisions have, namely: an institution of Bosnia and Herzegovina, Ombudsmen, Civil Service Agency of Bosnia and Herzegovina and the Civil Service Appeal Board.

Institutions of BiH are obliged to establish guidelines for human resources policy, including establishing concrete measures and activities which influence that civil servants are trained for the effective performance of all tasks for which they are responsible, and that all these tasks are performed correctly, legally and in a professional manner. The Civil Service Agency of BiH is an independent administrative organization that a) provides: 1) implementation of the process of recruitment of civil servants on demand of institutions, 2) helping institutions in human resources management, organizational development, and in establishing an information system for human resources management, and 3) training and development of civil service, b) submits an annual report on the work and plan of work for the coming year to the Council of Ministers for approval, and shall publish on the official website of the Agency's its quarterly report on work, and offer a shortened version of this to the media, c) conducts surveys within the institutions at the request of the Council of Ministers, d) performs other tasks and duties stipulated in this Law. In accordance with the Law on Civil Service in the Institutions of Bosnia and Herzegovina stipulates that once an order is brought against a civil servant on conducting the investigation for crimes of corruption, the institution in which the civil servant is employed shall suspend him immediately.

National experts inform that the Civil Service Agency of BiH - Training Department, has undertaken a series of activities, starting with the assessment of the training needs of officers in the institution with anti-corruption responsibilities, and in strengthening the awareness of civil servants in all institutions of the risks of corruption, by means of harmonized training provided by the Training Catalogue of this institution, which are carried out by certified instructors of the Agency. Relevant topics for training courses: Ethics in Public Administration and Civil Servants Code of Conduct, Prevention and Combating Corruption, Conflict of Interest in BiH institutions, Coordination of the Fight against Corruption, Criminal Legislation and Case Law in relation to Criminal Offenses against Official Duty, Plans to Fight Corruption, Drafting and Implementation, Integrity Plans, Drafting and Implementation, and Whistleblower Protection in the institutions of BiH.

National experts report that the Civil Service Agency has supported projects for training (including training of trainers) on relevant topics; and the plan to combat corruption in the State Investigation and Protection Agency provided that the Plan and program of training for police officers, civil servants and employees of the State Investigation and Protection Agency shall plan training in the field of prevention of corruption and prevention of conflicts of interest.

Statistics on training courses held by Civil Service Agency in 2016 is provided.

(c) Challenges in implementation

From the insight in the legislation, especially in relation to the systems for recruitment, hiring, promotion and retirement, it can be concluded that committee for selection is formed, a competition call is published, and the results of the tests are published on the bulletin board.

Nevertheless, there is a need for greater transparency, particularly in the selection process for personnel in employment, and for clear criteria regarding career promotion.

There are no clear procedures for criteria for the selection and appointment, such as proof of qualifications and references for successful candidates.

It is necessary to put an emphasis that recruitment and career are to be based on merit, with transparent policies and procedures. Also, for those who are selected to public office function it should be clearly stated which standards are expected from appointed public servants.

Clear procedures are needed in terms of procedures for selecting and job training for jobs identified as vulnerable to corruption by identifying organizational failures at a particular institution.

It seems that there is a lack of analysis of the vulnerable sectors/departments and evaluation report in relation to certain risks within the vulnerable sectors. This means that there are no procedural checks through benchmarking performance or rotation of staff, as a means of limiting the effects of corruption arising from long-term power.

Regarding the police training, clear criteria are identified for basic and continued training with established programs, but they need to undergo continuous improvement, above all in the area of reduction and suppression of corruption in the police.

It should be noted that a commitment is not satisfactory to an adequate remuneration. Through the provision of appropriate compensation for public servants, depending on the possibilities of the state, security will be achieved for employees, as well as overcoming of vulnerability to corruption.

Furthermore, it is necessary to ensure that the levels of wage are related opportunities to career advancement, qualifications and promotion for opportunities. The manner determining public sector wages and the criteria by which they are determined needs to be as transparent as possible.

Continuous evaluation of appropriate training is needed, including training in ethics and career development. The procedures for promotion or reward related to the performance should be harmonized as within public sector. It should also be consistently implemented annual evaluation of the efficiency of individual staff members for determining performance, training needs and career advancement.

Paragraph 2 of article 7

2. Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance

with this provision of the Convention.

MINISTRY OF JUSTICE OF BOSNIA AND HERZEGOVINA Article 22 of the Law on Civil Service in the institutions of BiH.

The Law on Civil Service in the Institutions of BiH provides that to be appointed as a civil servant, a person must meet the following general requirements: to be a citizen of Bosnia and Herzegovina, to be more than 18 years of age, to hold a university degree and other educational or academic qualifications of minimum level VII of professional education or higher education of the first, second or third cycle of the Bologna system of study, which is established by regulations governing the tasks of basic activities and support technical activities and conditions for their performance in the administrative bodies of the institutions of Bosnia and Herzegovina, to be medically fit for the duties assigned to the position, that he had not reached the statutory age for retirement on any grounds, or had not been granted the right to a pension of any kind, not to have been dismissed from the civil service as a consequence of a disciplinary measure at any level of governance in Bosnia and Herzegovina, refusal of taking the oath, arbitrary abandonment of the civil service or giving false and incorrect data on admission to the civil service, within three years before the date of the publication of the vacancy, that there has not been instituted criminal proceedings against that person, and not to be affected by the provision of Article IX. 1 of the Constitution of Bosnia and Herzegovina. This provision stipulates the requirements that must be met by civil servants to be able to work in the civil service in the institutions of BiH. These requirements are general, because they refer to all civil servants in all institutions of BiH and must be met cumulatively, which means that every civil servant must meet all of the listed requirements.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

(b) Observations on the implementation of the article

Bosnia and Herzegovina it adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office.

As related to the implementation of this provision of the Convention, national experts mention the Law on Civil Service in the institutions of Bosnia and Herzegovina, specifically article 22, that stipulates the general requirements that civil servants must meet cumulatively, namely:

- to be a citizen of Bosnia and Herzegovina,
- to be more than 18 years of age,
- to hold a university degree and other educational or academic qualifications of minimum level VII of professional education or higher education of the first, second or third cycle of the Bologna system of study, which is established by regulations governing the tasks of basic activities and support technical activities and conditions for their performance in the administrative bodies of the institutions of Bosnia and Herzegovina,
- to be medically fit for the duties assigned to the position, that he had not reached the statutory age for retirement on any grounds, or had not been granted the right to a pension of any kind,
- not to have been dismissed from the civil service as a consequence of a disciplinary measure at any level of governance in Bosnia and Herzegovina, refusal of taking the oath, arbitrary

abandonment of the civil service or giving false and incorrect data on admission to the civil service, within three years before the date of the publication of the vacancy,

- that there has not been instituted criminal proceedings against that person, and
- not to be affected by the provision of Article IX. 1 of the Constitution of Bosnia and Herzegovina.

In accordance with article 7 paragraph 2, States Parties are required to make a strong effort to adopt measures to prescribe criteria concerning candidature for and election to public office. These measures should be consistent with the objectives of the Convention and in accordance with the fundamental principles of the domestic law of the State party.

Persons elected to public office should uphold standards similar to those expected from appointed public officials, such as criteria that pronounce election based on merit with (transparent) policies and procedures that eliminate biases and provide support for maintenance and functioning of the constitutional arrangements of the state. Therefore, ethical and anti-corruption requirements are an integral part of (s)election of persons apt to hold public office and concern all types of elected public officials. These requirements are usually stipulated with provisions of constitutions, laws or regulations that prohibit accepting candidatures of persons with convictions for certain criminal activity, especially corruption, provisions that prescribe incompatibilities or limitations to political involvement for certain categories of public officials. Furthermore, such legal provisions may require candidates to make disclosure of their assets and interest, apply ethical code of conduct during the period of election process and may include provisions to void elections if a candidate fails to make disclosures and declarations as required by law.

Reviewing State Party takes note that on the basis of the BiH Election Law, the CEC collects declarations on total assets of the candidates for elected office at the level of BiH, Entities and elected members of governmental bodies at all other levels of government based on a special form, and makes the forms containing the total assets declarations available to public in accordance with the Law on Free Access to Information in BiH and the Law on Protection of Personal Data.

However, besides information about the general provisions for admission to civil service and about the obligation of submission of assets declaration for candidates and elected officials in the governmental bodies of Bosnia and Herzegovina, information about criteria concerning candidatures for all types of elected public officials (having in mind the definition of the term “Public official” used for the purposes of the Convention) is not provided. Therefore, at this stage it is not possible to provide complete well informed observation on the status of implementation of this provision of the Convention.

Paragraph 3 of article 7

3. Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Central Election Commission (CEC) is responsible for the implementation of the Law on Political Party Financing. For the purpose of review, control and audit of the financial statements submitted by political parties, the CEC has created the Office for Audit of Political Parties' Financing (in accordance with the provisions of Article 14, paragraph 2. of the Law on Financing of Political Parties). CEC is obliged to annually submit a report on audited financial transactions to the Parliamentary Assembly of BiH. The Ordinance on internal organization of the CEC Secretariat provides for 81 employees, of which 69 positions is currently filled, including Secretary-General of the CEC Secretariat. Furthermore, 7 members of the CEC are the full-time employees.

The Office for Audit of Political Parties' Financing has completed the review and audit of financial statements for 2013 for 101 political parties and issued audit reports, with the audit findings and the auditor's opinion on the financing of political parties in accordance with the Law on political party financing. The audit reports will be published on the CEC's website during the month of August 2015. CEC shall initiate proceedings to establish liability and sanctions against political parties that have violated the provisions of the Law on political party financing (Six political parties did not allow access to the premises for the purposes of the audit, which is why, in accordance with the Law on Political Party Financing, the political party is denied the right to stand for the next elections).

The Audit Office controls the audit reports for the year 2014 for 110 political parties that had submitted reports to the CEC, and obtains audit evidence from external sources, relevant to the issuance of audit reports with the auditor's opinion whether the political parties were funded according to the Law on Political Party Financing.

Assets declaration

On the basis of the BiH Election Law, the CEC collects declarations on total assets of the candidates for elected office at the level of BiH, Entities and elected members of governmental bodies at all other levels of government based on a special form, and makes the forms containing the total assets declarations available to public. In accordance with the Decision of the Agency for Personal Data Protection in BiH (Number: UP1 03-1-37-3-18/11 of 05/07/2011) , the CEC has removed published Assets Declarations of candidates and elected members of the authorities from the official website. Thus the forms of Assets Declaration are available to the public in accordance with the Law on Free Access to Information in BiH and the Law on Protection of Personal Data. To review the form of the Assets Declaration it is necessary to submit an application to the CEC, after which the access to the Assets Declaration of the candidate is approved in accordance with the Law on Protection of Data. So far the highest number of requests for access to the property status of candidates has been submitted by the non-governmental sector and electronic media. CEC is not responsible for the accuracy of the information contained in the form, and has no authority to act on the basis of the content specified in the Assets Declarations. There is no information whether any other institution or non-governmental sector acted on the basis of Assets Declarations, in order to prevent conflicts of interest or corruption. However, the CEC shall act in accordance with the prescribed obligation of submission of the Assets Declaration for candidates and elected officials in the governmental bodies of Bosnia and Herzegovina within the set deadlines, and initiate and conduct procedures in

case of failure to submit Assets Declarations, and impose fines for the found irregularity (in 2014, 3,514 candidates for the level of BiH and Entities has the obligation to submit the Assets Declaration at the conducted general elections. After recording the submitted Declarations, the CEC has adopted the conclusion to initiate proceedings in the case of a certified political entity and three certified candidates in the general elections of 2014, due to the failure to submit the Assets Declaration. The said proceedings are in progress. Also, the analysis of data on submitted

Declarations for the elected members of government in the General elections in 2014 is in progress, and after the completion of the procedure, actions will be taken in accordance with the established facts). "Financing of political parties in BiH is regulated by the Law on Political Party Financing ("BiH Official Gazette", No.: 95/12), Chapter 15 of the BiH Election Law, Regulations on annual financial reports of political parties („BiH Official Gazette“ No. 96/13) and the Regulations on pre-elections and post-elections financial reports of political subjects („BiH Official Gazette“ No. 96/13). Control and revision of financing of political parties is governed by the Regulations on Administrative Procedures to Review, Control and Audit Financial Statements of Political Parties ("BiH Official Gazette", No.: 103/08).

GRECO expert team analyzed the Law on Political Party Financing (in the framework of the third round of evaluation for BiH - in the area of Transparency of political party financing, the Evaluation Report on BiH was issued and adopted at the 51st Plenary Meeting of GRECO, Strasbourg, 23 to 27 May 2011), which has given nine recommendations to improve the transparency of political party financing. In its Reports (Compliance Report on BiH "The transparency of political party financing" adopted at the 61st Plenary Meeting of GRECO (Strasbourg, 14-18/10/2013) and Compliance Report on BiH "The transparency of political party financing" adopted at the 64th Plenary Meeting of GRECO, Strasbourg, 16-20/06/2014, and Compliance Report on BiH "The transparency of political party financing" for 2015, adopted at the 68th Plenary Meeting of GRECO, Strasbourg, 15-19/06/2015) GRECO clearly indicates that implementation of the recommendations depends on changes in the legislation. Two of nine GRECO's recommendations have been implemented, and one recommendation in full so that the BiH Central Election Commission (CEC) adopted two Regulations: Regulations on annual financial reports of political parties and Regulations on pre-elections and post-elections financial reports of political subjects. This has improved the transparency of financing of political parties and election campaigns which is reflected in the introduction of the option for electronic submission of financial reports by all political parties which directly contributes to timely information on the financing of political parties and campaign financing. One recommendation has been partially realized in the sense that funds from donations and membership fees, if received in cash, are paid into the bank account of the party headquarters within 10 days of receipt.

In the RS, the financing of political parties is regulated by the Election Law of the RS ("RS Official Gazette", number 34/02, 35/03, 24/04, 19/05, 24/12 and 109/12) and the Law on Political Party Financing from the Budget of the Republika, City and Municipality" („RS Official Gazette", number 65/08; Source of information on political party financing: - CONTRIBUTION OF BiH INSTITUTIONS TO THE REGULAR ANNUAL REPORT ON BiH IN THE PROCESS OF EUROPEAN INTEGRATION, ACCORDING TO THE NEW REPORTING METHODOLOGY, 2015).

"The Law on Amendments to the Law on Political Party Financing („BiH Official Gazette“ No. 41/16) has been passed. Five GRECO recommendations were built-in in this Law, while one recommendation was further improved. In addition, a provision has been built-in that a political party is obliged to publicly display the origin and manner of spending the funds collected during the preceding calendar year (accounting year). The final account and financial report containing a detailed outline of the sources of income, data on natural and legal persons who made donations,

and information on the purpose or activities for which funds have been spent, are public documents and published on the website of the political party. The Law provides fines of 500.00 to 10,000.00 KM, and for the natural person who commits the offense the penalty is 200.00 to 2000.00 KM. In terms of non-financial donations, a provision has been incorporated in this Law according to which a political party is obliged to include in its financial report all the benefits realized from the activities of entities that are in any way related to the political party or under its control.

The RS adopted the Law on Combating Corruption, Organized and Most Severe Forms of Economic Crime ("Official Gazette of the Republika Srpska", No. 39/16 of 18/05/2016; Source of information: Supplement Contribution of BiH institutions to the regular annual Report on BiH for the period from 10/05/2016 to 01/08/2016).

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Because of the violation of the Law on Political Party Financing in 2013, in 2015 the CEC financially sanctioned 21 political parties, and imposed on 6 political parties administrative measures of denial of the right to stand for the next elections.

For reasonable suspicion that 19 political parties committed tax evasion, the CEC informed the competent tax administrations, and for suspicion of misuse of public funds by one political party, a report has been filed to the State Investigation and Protection Agency (SIPA), FID. Through the Office for Audit of Political Parties' financing, the CEC conducted a review, control and audit of the annual financial statements of political parties for 2014, for which the issuance of audit reports with the audit findings is pending. As of 04/05/2016, 89 audit reports were issued. In 2016, the CEC collected data on assets from the budget, at all levels of government in BiH, allocated for the financing of political parties in 2015, which should have been made available to the public in April 2016 through the official website www.izbori.ba As of 04/05/2016, CEC received the annual financial statements for 2015 from 107 political parties. Information on the submitted financial statements of political parties within the prescribed deadline containing sources of funding, was made available to the public during April 2016 through the official website www.izbori.ba

An application for the electronic submission of financial statements by political parties has been created and the same is in the testing phase" (Source: Contribution of BiH institutions to the regular annual Report on BiH for the period from 01/09/2015 to the end of April 2016). "Through the Office for Audit of political parties' financing, the CEC conducted a review, control and audit of the annual financial statements of political parties for 2014, for which in the period from 10/05-31/07/2016 29 audit reports with the audit findings were issued, or by 28/07/2016 a total of 118 audit reports. In addition, in the period from 10/05-31/07/2016, the CEC received the annual financial statements for the year 2015 from 13 political parties. As of 28/07/2016, CEC received the annual financial statements for 2015 from 120 political parties. Also, with the application of political entities to participate in the local elections in 2016 the CEC received pre-election financial statements from political parties and independent candidates" (Source: Supplement Contribution of BiH institutions to the regular annual Report on BiH for the period from 10/05/2016 to 01/08/ 2016).

(b) Observations on the implementation of the article

With regard to the aforesaid, national experts inform that financing of political parties in BiH is regulated by the Law on Political Party Financing, Chapter 15 of the BiH Election Law, Regulations on annual financial reports of political parties and the Regulations on pre-elections and

post-elections financial reports of political subjects. Control and revision of financing of political parties is governed by the Regulations on Administrative Procedures to Review, Control and Audit Financial Statements of Political Parties. In the RS, the financing of political parties is regulated by the Election Law of the RS and the Law on Political Party Financing from the Budget of the Republika, City and Municipality.

Institution responsible for the implementation of the Law on Political Party Financing is established - the Central Election Commission (CEC). CEC is obliged to annually submit a report on audited financial transactions to the Parliamentary Assembly of BiH. On the basis of the BiH Election Law, the CEC collects declarations on total assets of the candidates for elected office at the level of BiH, entities and elected members of governmental bodies at all other levels of government based on a special form, and makes the forms containing the total assets declarations available to public.

The Office for Audit of Political Parties' Financing (created by CEC) is competent to review, control and audit the financial statements submitted by political parties.

Candidates and elected officials in the governmental bodies of Bosnia and Herzegovina are obliged to submit asset declarations to the CEC. The forms of Assets Declaration are available to the public in accordance with the Law on Free Access to Information in BiH and the Law on Protection of Personal Data. CEC is not responsible for the accuracy of the information contained in the form, and has no authority to act on the basis of the content specified in the Assets Declarations. However, the CEC shall act in accordance with the prescribed obligation of submission of the Assets Declaration for candidates and elected officials in the governmental bodies of Bosnia and Herzegovina within the set deadlines, and initiate and conduct procedures in case of failure to submit Assets Declarations, and impose fines for the found irregularity.

Financial reports

Political parties have to prepare and submit to the CEC, by 31 March every year, an annual report on their operations during the previous calendar year. Besides, political parties, coalitions and independent candidates participating in elections at all levels have to file with the CEC, at the time of submission of their application for eligibility certification, a pre-election financial report covering the period of three months prior to the date of submission of their application. Then, within 30 days of publication of the election results in the BiH Official Gazette, they have to submit to the CEC a post-election financial report covering the period between the submission of the certification application and the publication of the election results.

Option for electronic submission of financial reports by all political parties is introduced.

National experts additionally refer to GRECO reports indicating level of implementation of GRECO's recommendation regarding transparency of political party funding and needs for changes in the legislation. Detailed information about political party funding in Bosnia and Herzegovina is provided in GRECO's reports on Bosnia and Herzegovina from the Third round of evaluation - Theme II "Transparency of Party Funding".

Examples of implementation of measures to ensure full compliance with this provision of the Convention are provided, as follows:

- The Office for Audit of Political Parties' Financing has completed the review and audit of financial statements for 2013 for 101 political parties and issued audit reports, with the audit findings and the auditor's opinion on the financing of political parties in accordance with the Law on political party financing. Six political parties did not allow access to the premises

- for the purposes of the audit, which is why, in accordance with the Law on Political Party Financing, the political party is denied the right to stand for the next elections.
- The Audit Office controls the audit reports for the year 2014 for 110 political parties that had submitted reports to the CEC, and obtains audit evidence from external sources, relevant to the issuance of audit reports with the auditor's opinion whether the political parties were funded according to the Law on Political Party Financing.
 - Because of the violation of the Law on Political Party Financing in 2013, in 2015 the CEC financially sanctioned 21 political parties, and imposed on 6 political parties administrative measures of denial of the right to stand for the next elections.
 - For reasonable suspicion that 19 political parties committed tax evasion, the CEC informed the competent tax administrations, and for suspicion of misuse of public funds by one political party, a report has been filed to the State Investigation and Protection Agency (SIPA), FID.
 - Through the Office for Audit of Political Parties' financing, the CEC conducted a review, control and audit of the annual financial statements of political parties for 2014, for which the issuance of audit reports with the audit findings is pending. As of 0/05/2016, 89 audit reports were issued.
 - In 2016, the CEC collected data on assets from the budget, at all levels of government in BiH, allocated for the financing of political parties in 2015, which should have been made available to the public in April 2016 through the official website www.izbori.ba
 - As of 04/05/2016, CEC received the annual financial statements for 2015 from 107 political parties. Information on the submitted financial statements of political parties within the prescribed deadline containing sources of funding, was made available to the public during April 2016 through the official website www.izbori.ba
 - Through the Office for Audit of political parties' financing, the CEC conducted a review, control and audit of the annual financial statements of political parties for 2014, for which in the period from 10/05-31/07/2016 29 audit reports with the audit findings were issued, or by 28/07/2016 a total of 118 audit reports. In addition, in the period from 10/05-31/07/2016, the CEC received the annual financial statements for the year 2015 from 13 political parties. As of 28/07/2016, CEC received the annual financial statements for 2015 from 120 political parties. Also, with the application of political entities to participate in the local elections in 2016 the CEC received pre-election financial statements from political parties and independent candidates.
 - So far the highest number of requests for access to the property status of candidates has been submitted by the non-governmental sector and electronic media.
 - An application for the electronic submission of financial statements by political parties has been created and the same is in the testing phase.

In accordance with article 7 paragraph 3, States Parties are required to make a strong effort to take measures to enhance transparency in the funding of candidatures for elected public office and the funding of political parties.

The State Party under review has set up public bodies responsible for registering voters and managing elections, registering parties, monitoring party finances, reviewing candidate eligibility and financial disclosures, administering campaign finance laws and investigating any associated offences. Also, issues related to transparency of funding, including setting parameters for the limits, purpose and time periods of campaign expenditures, limits on contributions, identification of donors (including whether or not anonymous, overseas and third-party donations or loans are permissible, restricted or prohibited), allowable types of benefits-in-kind, the form and timing of submission and publication of accounts and expenditure by party organizations and means to verify income and expenditure; have been addressed to a certain level.

In accordance with the BiH Election Law, each citizen of Bosnia and Herzegovina who has attained 18 years of age shall have the right to vote and to be elected. To exercise his or her right to vote, a BiH citizen must be recorded in the Central Voters' Register, pursuant to the Law. The Central Election Commission of BiH is responsible for accuracy, update and overall integrity of the Central Voters Register for the territory of BiH.

Financing of political parties in BiH is regulated by the Law on Political Party Financing, Chapter 15 of the BiH Election Law, Regulations on annual financial reports of political parties and the Regulations on pre-elections and post-elections financial reports of political subjects. Control and revision of financing of political parties is governed by the Regulations on Administrative Procedures to Review, Control and Audit Financial Statements of Political Parties. In the Republika Srpska (RS), the financing of political parties is regulated by the Election Law of the RS and the Law on Political Party Financing from the Budget of the Republika, City and Municipality.

As there is no law on political parties at state level, political parties have to be established and registered separately in each Entity, according to the relevant Entity's law. Within 30 days after its establishment, each political party has to file a request for registration with the competent court of each Entity (Articles 16 of the FBiH and RS LPOs, Article 17 of the BD LPO) and to submit its founding decision, its statutes and its political programme in support of the request. Registers of political parties are kept in the registration court of each Entity.

Institution responsible for the implementation of the Law on Political Party Financing is established - the Central Election Commission (CEC).

Political parties are obliged to prepare and submit to the CEC, by 31 March every year, an annual report on their operations during the previous calendar year. A political party is obligated to publicize origin and manner of spending the fund collected throughout previous calendar year (accounting year). Statement of accounts and financial report listing in detail sources of incomes, information on natural and legal entities that made contributions, and the information about the purpose, i.e. activities for which the funds were spent, are public documents to be published on the political party's website.

Political parties, coalitions and independent candidates participating in elections at all levels have to file to the CEC, at the time of submission of their application for eligibility certification, a pre-election financial report covering the period of three months prior to the date of submission of their application certification to participate in the elections. Within 30 days of publication of the election results in the BiH Official Gazette, political parties and independent candidates are obliged to submit to the CEC a post-election financial report covering the period between the submission of the certification application and the publication of the election results. Pre-election and post-election financial reports, as well as the political parties' annual reports must contain the following information (Article 15.1, EL):

- cash available;
- all income and expenses based on: memberships, foreign contributions, contributions from natural and legal persons, in-kind contributions, income from the party's and the candidate's own assets and entrepreneurial activities, credits, loans, donations, rebates, refunds, other operating expenses, as well as other sources for the reporting period, as determined by the CEC;
- identification of the person or source of any payment and in-kind contribution (including by party members), as well as the identification of the person who received that payment, for all applications for certification must be submitted at the latest 135 days before election day (art. 4.6 and 4.10 EL) 12 amounts above 100 BAM (approx. 50 EUR), together with the date and amount of any such receipt;

- total amount of all outstanding balance and total amount of disbursements in the following categories: costs for the printing and distribution of posters, printing costs for pre-election announcements, statements and so on in the public media, organisational and operational costs for rallies, costs for printing, reproducing and delivering pre-election materials directly to voters;
- amount and nature of outstanding debts and obligations owed by or to the person who files a report and, where such debts and obligations are settled for less than their reported amount or value, a statement as to the circumstances and conditions under which such debts and obligations were extinguished.

Competent Entity agencies authorized to monitor the accounts of political parties according to the Accounting and Audit Law, as well as tax authorities, may send a request to the CEC to obtain information collected by the CEC Audit Department during its audit of financial reports of political parties.

The CEC is required by Article 12 (4), LPPF, to make all reports it receives available to the public and to take appropriate measures to provide to all citizens access to the information contained in the reports. Consequently, it publishes on its website the financial reports it receives from political parties and which contain a summary and aggregated data. According to the Law on Freedom of Information, the public may ask for all information submitted by the parties and the CEC has to grant their access to that information.

CEC is not responsible for the accuracy of the information contained in the asset declarations submitted by candidates and elected officials in the governmental bodies of Bosnia and Herzegovina, and has no authority to act on the basis of the content specified in the Assets Declarations. However, the CEC shall act in accordance with the prescribed obligation of submission of the Assets Declaration for candidates and elected officials in the governmental bodies of Bosnia and Herzegovina within the set deadlines, and initiate and conduct procedures in case of failure to submit Assets Declarations, and impose fines for the found irregularity. The forms of Assets Declaration are available to the public in accordance with the Law on Free Access to Information in BiH and the Law on Protection of Personal Data.

There are limitations to the right to be elected, including the limitation for certain professions: judges of regular and Constitutional courts, prosecutors and their deputies, attorneys and their deputies holding public office, Ombudsmen and their deputies, members of the Human Rights Courts/Chambers/Councils, members of police forces, civil servants, members of the Armed Forces of BiH, members of the Intelligence and Security Agency, and diplomatic and consular representatives of Bosnia and Herzegovina abroad who have a diplomatic status in accordance with the 1961 Vienna Convention on Diplomatic Relations, may stand as a candidate for public elected office only if they resign from their position or abide by the laws regulating their status.” (article 1.8, BiH Electoral Law).

According to the laws on accounting and auditing at Entity level, political parties with a turnover of more than 2 Million BAM or employing more than 50 employees had to hire external auditors.

External supervision of the financing of political parties and candidates for election is carried out by the BiH Central Election Commission (CEC), through its Audit Office. The CEC is an independent body which reports only to the BiH Parliamentary Assembly. In the course of its work, the Audit Office may carry out detailed financial investigations on the party’s premises, to which it is entitled access for that purpose (Article 10 (8), LPPF).

The audit of political parties’ financial reports includes the reports from the party’s headquarters and at least two lower organizational units selected by the Audit Office.

Any irregularity established by the Audit Department must be submitted to the CEC, which may carry out further investigations. The audit reports are published on the website of the CEC and in the BiH Official Gazette

The CEC is competent to impose fines or take administrative measures in case of violation by a political party, a coalition or an election candidate of the provisions of the LPPF or the EL. The CEC may reject a party/coalition/candidate's application for certification to stand for elections or withhold a party's, coalition's or candidate's right to participate in the next elections in the case of failure to submit a financial report or for refusal of access to the party's premises for inspection purposes. Aside from these sanctions, Article 15.6 of the Election Law gives the CEC a general power to enforce the Law's chapter on campaign finance, determine violations, assess civil penalties against any political party, coalition, list of independent candidates or independent candidate for non-compliance with the above-mentioned provision, or to take appropriate administrative action within its general authority under this law. Decisions of the CEC are subject to appeal, through the CEC, before the Appellate Division of the BiH. Sanctions are foreseen in Chapter 19 of the BiH Election Law. It seems that the Penalty provisions prescribe insufficient range and disproportionate sanctions.

Pursuant to article 14 paragraph (4) of the LPPF, CEC is obliged to report any suspicion of criminal offence that can be brought into connection with financing of political parties and election campaign to the competent Prosecutor's Office and other law enforcement agencies.

Pursuant to Article 3 of the LPPF, political parties may only receive private funding in the form of:

- membership fees¹;
- cash or in-kind contributions from natural and legal persons, including foreign sources;
- income generated by property owned by the political party;
- profit from enterprises owned by the political party.

Political parties may only carry out culture-related or publishing activities.

Any amount they give in excess of these fees is considered as a private contribution. Limitations for donations of natural person and legal persons are prescribed in article 6 of the LPPF, including the total amount paid to the political party by a member of the political party during one calendar year (membership fees included). Donations from anonymous sources are expressly forbidden by the LPPF (Article 8 (1), LPPF). Political parties are prohibited from getting a loan from the banks. A number of restrictions apply to the sources of private funding. According to Article 8 of the LPPF, political parties may not receive funding from state, entity and cantonal bodies, bodies of the BD, municipal and local community bodies, public institutions, public enterprises, humanitarian organizations, anonymous donors, religious communities, labour unions, associations and other non-profit organizations, which are financed by public funds regardless of the amount, legal entities in which invested capital amounts at least 25% and other states, foreign parties and foreign legal entities.

There are no specific rules or caps on private funding to political parties or candidates in the context of election campaigns other than those already mentioned in the LPPF, which also apply in that context.

¹ Only the regular amounts paid by party members in accordance with the statute of their political party are qualified as membership fees

The Election Law establishes expenses ceilings for political subjects – political parties, coalitions and candidates – taking part in election campaigns. These ceilings are calculated on the basis of the number of voters in each electoral unit by a formula prescribe in the Law. There are no restrictions on the expenditure of political parties other than in the context of election campaigns. Lack of legal provisions on encouraging the use of the banking system for receiving and dispatching funds, as well as lack of restrictions on the expenditure of political parties raise concerns on possibilities for easy circumvention of expenditure ceilings applicable during election campaigns and easy circumvention of the rules on donations and the bookkeeping requirements.

According to tax laws passed at the level of the Entities, private donations to political parties are not tax-deductible.

Direct political financing in BiH is not provided to political parties, nor to election campaigns. LPPF only provide that parliamentary groups represented in the BiH Parliamentary Assembly are entitled to receive public funding from the BiH budget. 30% of the total amount of these funds is distributed to all parliamentary groups on an equal basis, 60% are allocated in proportion to the number of seats held by each parliamentary group and the remaining 10% are distributed to parliamentary groups in proportion to the number of parliamentary seats that belong to the less represented sex.

Political parties and election candidates at Entity and lower levels are entitled to public funding from the Entities' and their lower units' budgets, in accordance with the Entities' laws (Article 3 (1) e., LPPF). In Republika Srpska, direct public financing is provided to political parties and coalitions who have members in the assemblies at Entity and lower level, as well as to political parties, coalitions and independent candidates with confirmed electoral lists. Regular financing provides for a minimum of 0.2% of budget funds to be allocated to all parties with representatives in the assemblies, as well as to independent representatives. 20% of these funds are allocated to all representatives on an equal basis, while the remaining 80% are allocated in proportion to the number of mandates won in the assembly. Public funding of election campaigns, in the proportion of 0.05% of the budget, is also allocated to political parties and candidates, in accordance with the elections regulations.

The Electoral Law foresees some forms of indirect public funding of election campaigns: the public electronic media has to provide free broadcast time for direct access by political subjects for 30 days prior to the Election Day. Details on broadcast time, duration and geographic regions covered are determined by regulations of the CEC.

There are legal provisions to deal with adjudication over contested candidatures, namely pursuant to article 6.9 of the Election Law the Appellate Division of the Court of BiH shall be competent to hear appeals against decisions of the Central Election Commission of BiH. An appeal shall be submitted to the Appellate Division of the Court of BiH no later than 2 days after a decision of the Central Election Commission of BiH is received by which the decision is taken on the implementation of this Law. Legal provisions on contested elections are also provided in the Election Law Article 5.30 -5.32 and Chapter 6.

The States Party under review is invited to take note of the relevant initiatives of regional organizations, such as the Council of Europe Recommendation No. R (2003) 4 on common rules against corruption in the funding of political parties and electoral campaigns and the Guidelines and report on the financing of political parties (Council of Europe, Venice Commission, 2001).

The current Anti-corruption Strategy 2015 – 2019 and related action plan, under Strategic objective 2, envisages relevant measures to be undertaken. The State Party under review is encouraged to implement measured under Strategic programme 2.3. "Increasing the transparency of the collection and spending of funds of political parties in BiH through accurate financial

reporting and follow-up reports” and Strategic programme 2.4. “Introduction of the obligation for political parties to report in-kind donations in the same way as financial donations”.

The State Party under review has considered taking appropriate legislative and administrative measures to enhance transparency in the funding of political parties and candidatures for elected public office and is encouraged to implement the recommendations addressed by GRECO within the Third round of evaluation - Theme II “Transparency of Party Funding”, especially in direction of harmonization and unification of the legal framework on financing political parties and election campaigns and implementation of publication requirements established by Council of Europe Recommendation Rec(2003)4 in practice and especially with regard to transparency of the accounts and activities of entities related, directly or indirectly, to political parties – or otherwise under their control.

(c) Challenges in implementation

Improve monitoring of political party financing and election campaigns funding (including introduction of measures and instruments that will make receipt of donations and other sources of income, as well as payment of expenditure, traceable). Harmonize and unify the legal framework on financing political parties and election campaigns (Art.7 (3));

Paragraph 4 of article 7

4. Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

MINISTRY OF JUSTICE OF BOSNIA AND HERZEGOVINA In order to prevent conflicts of interest, the Law on Conflict of Interest in the Governmental Institutions of Bosnia and Herzegovina ("Official Gazette of BiH", no. 13/02, 16/02, 14/03, 12/04, 63/08, 18/12 and 87/13) shall govern special obligations of elected officials, executive office holders and advisors in the governmental institutions of BiH, in exercising of the public duty. A conflict of interest is created in the event that elected officials, executive office holders and advisors have a private interest that affects or may affect the legality, transparency, objectivity and impartiality in the exercising of the public duty.

Also, the Law on Civil Service in the BiH institutions prescribes when a civil servant shall not exercise a function, an activity or hold a position, which constitutes conflict of interests with his official duties.

Article 2 of the Law on Conflict of Interest in the Governmental Institutions of Bosnia and Herzegovina: "(Code of Conduct) 1 In the exercise of public duties, elected officials, executive officeholders and advisors must act legally, effectively, impartially, honestly and they must apply the principles of responsibility, integrity, due-diligence, transparency and credibility. 2 Elected officials, executive officeholders and advisors shall be held personally responsible for their conduct in the exercise of their appointed or elected public office and they shall be politically accountable to the authority or citizens who have appointed or elected them. 3 Elected officials, executive office holders and advisors holding public office should act conscientiously and responsibly, without jeopardizing public trust and confidence, and must respect the laws and regulations governing the rights, obligations and responsibilities in the exercise of public duties. 4 In the exercise of public duties, elected officials, executive officeholders and advisors must apply the ethics of the functions they perform. 5 In the exercise of public duties, elected officials, executive officeholders and advisors must not prefer their private interest to public interest. 6 Elected officials, executive officeholders and advisors must not use the public duty for a personal gain of a person related to them. Elected officials, executive officeholders and advisors must not be in any relationship of dependence in respect of persons who might influence their impartiality. 7 Elected officials, executive officeholders and advisors as public persons must act in the interest of the citizens. 8 In the exercise of their duty elected officials, executive officeholders and advisors shall be bound to use the property, instruments of labour and financial resources entrusted to them only for the intended purpose and in an efficient manner. 9 In the exercise of public duty elected officials, executive officeholders and advisors shall receive salary and allowances for the duty they exercise in accordance with the legislation on salaries and allowances of employees in the institutions of Bosnia and Herzegovina and other regulations."

For the implementation of this Law, the Commission for Deciding on Conflict of Interest shall be established (hereinafter: the Commission). The competences of the Commission are set out in Article 17a: „1 The Commission acts on the basis of this Law, good practices, political accountability and credibility of elected officials, executive office holders and advisors. 2 The Commission makes decisions by majority vote of all members, which includes the votes of at least two members from each constituent people. 3 The Commission shall adopt Rules of Procedure. 4 The Commission gives opinions, issues instructions, prescribes forms and manner of keeping the Register for the application of the provisions of this Law. The Commission shall adopt Rules on keeping the Register, setting out the rules on keeping the Register, and on forms, as well as on other issues necessary for the functioning of the Register, and establish rules of procedure, which prescribe the implementation rules on handling the procedure and issuing decisions and compiling of reports. 5 The Commission decides as to whether a certain action or omission constitutes a violation of the provisions of this Law. The Commission's decision must be explained. 6 The Commission shall annually submit a report on its work to the Parliamentary Assembly of BiH."

Law on Amendments to the Law on Conflict of Interest in Governmental Institutions of BiH („BiH Official Gazette“ No. 87/13) provided the establishing of the Office of the Commission for Conflict of Interest in the APIK for the performance of professional, administrative and technical tasks within the competence of the Commission for Conflict of Interest. After the Council of Ministers approved (16th session of the Council of Ministers, held on 27/7/ 2015) the Ordinance on Internal Organization of APIK, on 01/09/2015 this institution officially took over the Department for the Implementation of the Law on Conflict of Interest in Governmental Institutions of BiH from the Central Election Commission (CEC). The Ordinance on Internal Organization of APIK established the Department for Conflict of Interest/Office of the Commission for Deciding on Conflict of Interest, which gave the Office and its employees a double role of performing tasks under the responsibility of APIK and professional, administrative and technical tasks under the responsibility

of the Commission for Deciding on Conflict of Interest (Report of the Work of the Commission for Deciding on Conflict of Interest for 2015 <<http://www.apik.ba/ozsi/izvjestaj-o-radu/?id=1010>>).

From the Amendments to the Law on Conflict of Interest in Governmental Institutions of BiH in 2013 to date, the Commission held 10 sessions at which it discussed a total of 98 items on the agenda. It initiated four procedures and imposed three sanctions on elected officials and advisors for violating provisions of the Law on Conflict of Interest in the Governmental Institutions, and gave 10 opinions on the possible breach of the provisions of the said Law.

Article 22 of the Law on Civil Service provides as follows: „1 A civil servant shall not exercise a function, an activity or hold a position, which constitutes conflict of interests with his official duties and in particular: a) A civil servant shall not exercise any additional remunerative activity unless authorized by the minister or head of the institution. By-laws shall determine the cases in which such an authorization may be given; b) A civil servant who has been released from office may not, within two years after the date of release of office, be employed by an employer over whom, or join a company over which, he exercised regular supervision. He shall also not receive any income from such employer or company within two years from the date of release from office; c) A civil servant, with the exception of senior civil servants, shall be considered on leave from the civil service from the moment he is certified as a candidate for a public office which is directly or indirectly elected, or from the moment when he is appointed to the position within any legislative or executive authority at any level of government in Bosnia and Herzegovina. In such case, the senior civil servant shall resign from the Civil Service; d) The civil servant mentioned under Article 16, paragraph 1, item c), with the exception of senior civil servants, shall be reinstated to the same or similar job position not later than one month after the following cases: failure to be elected, end of his term and end of his position within a legislative or executive body of authority at any level of government in Bosnia and Herzegovina; e) A civil servant shall not be a member of governing or others boards of political parties and shall not follow political parties' instructions. 2 In accordance with this Law, when appointed as a civil servant, the civil servant shall provide all information about the assets available to the civil servant or available to the members of his immediate family as well as on activities and functions performed by the civil servant and members of his immediate family. 3 All information shall be kept in the records of the Civil Service Register in accordance with data protection regulations in force in Bosnia and Herzegovina."

PUBLIC ADMINISTRATION REFORM COORDINATOR'S OFFICE

The Public Administration Reform Coordinator's Office is implementing the project "Building of capacities for combat against corruption in the civil service structures in BiH", which can be linked to Article 7. Public Sector The aim of the project: Support to the processes of democratic stabilization and public administration reform in BiH in the segment of building of professional and ethical civil service, through increase in transparency of work of the administration, strengthening of the integrity and awareness rising on the problem of corruption in work of the public services.

Specific objectives planned to be achieved through the implementation of the project include the following:

- Introducing civil servants with the concept and characteristics of corruption, public attitudes, as well as tools and instruments at their disposal to combat this phenomenon, including formal legal and regulatory framework, as well as other non-institutional mechanisms. Education of so-called focal points in the institutions for the purpose of high-quality reporting on the implementation of plans to combat corruption in public institutions and continuous cooperation with the Agency for prevention of corruption and coordination of the fight against corruption. The establishment of new channels of communication and coordination through involvement of civil servants for public

relations. Informing the public about the problem of corruption and the fight against it, and encouraging citizens to engage more actively through dialogue with the governmental institutions.

- Preparation of tools and instruments to combat corruption, primarily through a comprehensive manual for employees in the civil service/administration which will include the area of ethics, integrity and combat against corruption, including uniform guidelines for drafting the plans to combat corruption with a view to revising the existing plans, and for the purpose of promoting and publicizing them in public institutions.
- Thematic public opinion research, development and implementation of training programs on the issue of corruption in public administration. This goal involves getting to know the views of the public and specific target groups on corruption in the civil service, as well as their perception of the key issues and problems in this area, carried out with the active participation of the central units for information/public relations of governments in BiH and their training for future surveys.

INVESTIGATION AND PROTECTION AGENCY State Investigation and Protection Agency adopted a Code of Ethics for police officers of the State Investigation and Protection Agency, which regulates standards and code of conduct of police officers, ethical and legal guidelines for the exercise of professional duties, standards in terms of conflict of interest and incompatibility of functions with duties in the State Investigation and Protection Agency, and other issues of importance for this area. In this regard the Code of Ethics for Civil Servants applies to civil servants in the institutions of Bosnia and Herzegovina.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

PUBLIC ADMINISTRATION REFORM COORDINATOR'S OFFICE:

- Raised awareness of the problem of corruption in public administration, ensured greater transparency and increased public and citizens' awareness about the work of public administration bodies
- Civil servants and employees of the administration capable of applying anti-corruption measures and mechanisms of action at the occurrence of corruption and trained to implement the measures prescribed by the Anti-Corruption Strategy and Action Plan (2015-2019).
- Strengthened integrity of the civil service and developed capacities for the prevention of corruption at the level of individual institutions.
- Developed capacities of officers and public relations units for the development and implementation of specific thematic public campaigns.

The main beneficiaries of the project were the Civil Service Agency of Bosnia and Herzegovina (CSA BiH), the Civil Service Agency of the Federation of Bosnia and Herzegovina (CSA FBiH), the Civil Administration Agency of the Republika Srpska (CAA RS), the Sub-Department for Human Resources of Brčko District of BiH (PLJR BD), Ministry of Justice Bosnia and Herzegovina (BiH MoJ), the Ministry of Administration and Local Self-Governance of the Republika Srpska (RS MALSG), Ministry of Justice of the Federation of Bosnia and Herzegovina (FBiH MoA), the Secretariat General of the CoM BiH Information Service, the Bureau for Public Relations of the Government of the Republika Srpska, the Office for Public Relations of the Government of the Federation of BiH, and the Information Sector of the Government of Brčko District of BiH, as the leading institutions and administration bodies for the implementation of the public administration

reform in the areas of Human Resources Management and Institutional Communication, as well as the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption of BiH. In addition to the aforementioned, beneficiaries are all employees of the institutions and bodies of the civil service/administration at the level of institutions of BiH, the Federation of BiH, the Republika Srpska, and the Brčko District of BiH to whom the provisions of the Law on Civil Service apply by levels of governance in BiH.

As part of the PAR Strategy and the Revised Action Plan 1, issues related to the subject of this project task in the reform area of Human Resources Management has been addressed within the groups of activities: HRM 1.2 Reduce risks of conflicts of interest and improve ethics in public administration, and in the reform area of Institutional Communication in segment IK 1. Communication planning, IK 4. Human resources, IK 9. Direct communication with citizens, IK 10. Public campaigns and IK 11. Measurement of results.

In addition to completing the measures of the PAR Strategy and the Revised Action Plan 1, the implementation of this project should contribute to the fulfilment of both general and specific categories of objectives set out in the Anti-Corruption Strategy 2015-2019 and the accompanying Action Plan, adopted in 2015.

The measures of the Anti-Corruption Strategy Action Plan that this project indirectly addresses are:

1.2.4 Based on the individual competence of the bodies to prevent corruption in BiH, develop harmonized plans and programs of training for the institutions on the prevention of corruption and coordination of the fight against corruption; 1.6.2 Based on the analysis, develop harmonized plans and programs of training for the prevention and coordination of fight against corruption in all public institutions in BiH;

2.1.1 Analyze the content of all Laws on freedom of access to information in BiH for the purpose of identification of solutions that impede free access to information, as well as the need for harmonization of the laws; 2.2.1 Analyze the application of the law on freedom of access to information in BiH, in order to identify problems in practice, with the interpretation of the exceptions to the rules for free access to information; 2.2.3 Analyse the laws on freedom of access to information in BiH, in order to identify opportunities for the introduction of the partial disclosure of information;

2.8.4 Conduct a comprehensive analysis of legislation on assets declaration (applicable to civil servants), with the aim of establishing an effective system of control, processing of data from assets declarations and the elimination of obstacles for their publication;

2.6.2 Implement harmonized training for the professional development of employees in public institutions in BiH, with the aim of developing a culture of integrity and ethics;

3.1.1 Raise awareness of civil servants through harmonized training in connection with obligations to act on reports of corruption and whistleblower protection;

4.4.3 Conduct continuous training in order to promote the so-called active transparency in public institutions, and

4.4.2 According to the results of the analysis, draw up training programs on standards of objective informing of citizens about the work of public institutions.

Duration of project 12 months (May 2016 - May 2017)

Among other activities Transparency International of Bosnia and Herzegovina prepared the research Management practices in the civil service structures in Bosnia and Herzegovina <<https://ti-bih.org/praksa-upravljanja-u-strukturama-drzavne-sluzbe-u-bosni-hercegovini/>>. (<<https://ti-bih.org/praksa-upravljanja-u-strukturama-drzavne-sluzbe-u-bosni-herce>>)

(b) Observations on the implementation of the article

The Law on Conflicts of interest in the Governmental Institutions of BiH (LCI), defines a conflict of interest as a situation in which elected officials, executive office holders and advisors have a private interest that affects or may affect the legality, transparency, objectivity and impartiality in the exercising of the public duty. The Law sets out the principles of acting of elected officials, executive officeholders and advisors, which includes integrity, transparency, ethics. When it comes to civil servants, the Law on Civil Service in the BiH institutions prescribes when a civil servant shall not exercise a function, an activity or hold a position, which constitutes conflict of interests with his official duties. The Law also provides post-employment restrictions and incompatibilities of civil servants.

Under the LCI (Article 12), elected officials, executive officeholders and advisors are required to file financial reports, as provided by the law and Rules and Regulations of the Commission for Deciding on Conflicts of Interest (CDCI). The form and the content of the financial report is determined by CDCI and comprise the following data: personal details of official and close relatives, information on public office held, current income and sources of income, property, liabilities and data on other positions (public enterprises, Agency for Privatisation, private company, associations and foundations). They are also required to declare the positions held (in public enterprises, Agency for privatisation and private companies) of their close relatives, but not their assets and income. The CDCI has no competence to check the accuracy of the contents of financial reports or to publish their content². The CDCI submit annual report on its work to the Parliamentary Assembly of BiH.

In accordance with the Law on Amendments to the Law on Conflict of Interest in Governmental Institutions of BiH, the APIK established the Department for Conflict of Interest/Office of the CDCI, which gave the Office and its employees a double role of performing tasks under the responsibility of APIK and professional, administrative and technical tasks under the responsibility of the CDCI.

Pursuant to the Law on Civil Service in the BiH institutions, when appointed, the civil servant has to provide information about the assets available to the civil servant or available to the members of immediate family as well as on activities and functions performed by the civil servant and members of immediate family. All information is kept in the records of the Civil Service Register in accordance with data protection regulations in BiH.

In BiH, there is ongoing project "Building of capacities for combat against corruption in the civil service structures in BiH" on increasing transparency, strengthening of the integrity and awareness rising on corruption for the civil services, including the public. Main beneficiaries are a number of relevant institutions from all levels of governance in BiH. One of the measures of the Anti-Corruption Strategy Action Plan 2015-2019, supported by the mentioned project, is to conduct a comprehensive analysis of legislation on assets declaration for civil servants, aiming to establish an effective system of control, processing of data from assets declarations and elimination of obstacles for their publication. Another important activity supported by the project is analysis of the content and application of all laws on freedom of access to information in BiH.

² GRECO Fourth Evaluation Round, "Corruption prevention in respect of members of parliament, judges and prosecutors", Evaluation report of BiH

(c) Challenges in implementation

With the aim of increasing transparency and accountability of public office holders, it is recommended to consider on-line publication of the information on the assets and interests at least of elected officials, executive office holders and advisors who falls under the LCI, as well as of public servants, with due respect of the personal data protection legislation.

Bosnia and Herzegovina should strengthen the legal framework and supervision over the conflict of interest, including harmonising the legislation on conflicts of interest at all levels and ensure necessary independence and impartiality of the Commission on Deciding of Conflict of Interest (CDCI) as a body in charge of the implementation of the Law on Conflict of Interest in the government institutions of Bosnia and Herzegovina through revising selection and appointment procedures of the members of the CDCI.

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

The Public Administration Reform Coordinator's Office is implementing the project "Building of capacities for combat against corruption in the civil service structures in BiH". The aim of the project: Support to the processes of democratic stabilization and public administration reform in BiH in the segment of building of professional and ethical civil service, through increase in transparency of work of the administration, strengthening of the integrity and awareness rising on the problem of corruption in work of the public services.

Specific objectives planned to be achieved through the implementation of the project include the following:

- Introducing civil servants with the concept and characteristics of corruption, public attitudes, as well as tools and instruments at their disposal to combat this phenomenon, including formal legal and regulatory framework, as well as other non-institutional mechanisms. Education of so-called focal points in the institutions for the purpose of high-quality reporting on the implementation of plans to combat corruption in public institutions and continuous cooperation with the Agency for prevention of corruption and coordination of the fight against corruption. The establishment of new channels of communication and coordination through involvement of civil servants for public relations. Informing the public about the problem of corruption and the fight against it, and encouraging citizens to engage more actively through dialogue with the governmental institutions.
- Preparation of tools and instruments to combat corruption, primarily through a comprehensive manual for employees in the civil service/administration which will include the area of ethics, integrity and combat against corruption, including uniform guidelines for drafting the plans to combat corruption with a view to revising the existing plans, and for the purpose of promoting and publicizing them in public institutions.
- Thematic public opinion research, development and implementation of training programs on the issue of corruption in public administration. This goal involves getting to know the views of the public and specific target groups on corruption in the civil service, as well as their perception of the key issues and problems in this area, carried out with the active participation of the central units for information/public relations of governments in BiH and their training for future surveys.

(e) Technical assistance needs

No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

The Public Administration Reform Coordinator's Office is implementing the project "Building of capacities for combat against corruption in the civil service structures in BiH". The aim of the project: Support to the processes of democratic stabilization and public administration reform in BiH in the segment of building of professional and ethical civil service, through increase in transparency of work of the administration, strengthening of the integrity and awareness rising on the problem of corruption in work of the public services.

Specific objectives planned to be achieved through the implementation of the project include the following:

- Introducing civil servants with the concept and characteristics of corruption, public attitudes, as well as tools and instruments at their disposal to combat this phenomenon, including formal legal and regulatory framework, as well as other non-institutional mechanisms. Education of so-called focal points in the institutions for the purpose of high-quality reporting on the implementation of plans to combat corruption in public institutions and continuous cooperation with the Agency for prevention of corruption and coordination of the fight against corruption. The establishment of new channels of communication and coordination through involvement of civil servants for public relations. Informing the public about the problem of corruption and the fight against it and encouraging citizens to engage more actively through dialogue with the governmental institutions.
- Preparation of tools and instruments to combat corruption, primarily through a comprehensive manual for employees in the civil service/administration which will include the area of ethics, integrity and combat against corruption, including uniform guidelines for drafting the plans to combat corruption with a view to revising the existing plans, and for the purpose of promoting and publicizing them in public institutions.
- Thematic public opinion research, development and implementation of training programs on the issue of corruption in public administration. This goal involves getting to know the views of the public and specific target groups on corruption in the civil service, as well as their perception of the key issues and problems in this area, carried out with the active participation of the central units for information/public relations of governments in BiH and their training for future surveys.

Results to be achieved:

- Raised awareness of the problem of corruption in public administration, ensured greater transparency and increased public and citizens' awareness about the work of public administration bodies
- Civil servants and employees of the administration capable of applying anti-corruption measures and mechanisms of action at the occurrence of corruption and trained to implement the measures prescribed by the Anti-Corruption Strategy and Action Plan (2015-2019).
- Strengthened integrity of the civil service and developed capacities for the prevention of corruption at the level of individual institutions.
- Developed capacities of officers and public relations units for the development and implementation of specific thematic public campaigns.

The main beneficiaries of the project: the Civil Service Agency of Bosnia and Herzegovina (CSA BiH), the Civil Service Agency of the Federation of Bosnia and Herzegovina (CSA FBiH), the Civil Administration Agency of the Republika Srpska (CAA RS), the Sub-Department for Human Resources of Brčko District of BiH (PLJR BD), Ministry of Justice Bosnia and Herzegovina (BiH MoJ), the Ministry of Administration and Local Self-Governance of the Republika Srpska (RS MALSG), Ministry of Justice of the Federation of Bosnia and Herzegovina (FBiH MoA), the Secretariat General of the CoM BiH Information Service, the Bureau for Public Relations of the Government of the Republika Srpska, the Office for Public Relations of the Government of the Federation of BiH, and the Information Sector of the Government of Brčko District of BiH, as the leading institutions and administration bodies for the implementation of the public administration reform in the areas of Human Resources Management and Institutional Communication, as well as the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption of BiH. In addition to the aforementioned, beneficiaries are all employees of the institutions and bodies of the civil service/administration at the level of institutions of BiH, the Federation of BiH, the Republika Srpska, and the Brčko District of BiH to whom the provisions of the Law on Civil Service apply by levels of governance in BiH.

As part of the PAR Strategy and the Revised Action Plan 1, issues related to the subject of this project task in the reform area of Human Resources Management has been addressed within the groups of activities: HRM 1.2 Reduce risks of conflicts of interest and improve ethics in public administration, and in the reform area of Institutional Communication in segment IK 1. Communication planning, IK 4. Human resources, IK 9. Direct communication with citizens, IK 10. Public campaigns and IK 11.

Measurement of results.

In addition to completing the measures of the PAR Strategy and the Revised Action Plan 1, the implementation of this project should contribute to the fulfilment of both general and specific categories of objectives set out in the Anti-Corruption Strategy 2015-2019 and the accompanying Action Plan, adopted in 2015.

The measures of the Anti-Corruption Strategy Action Plan that this project indirectly addresses are:

1.2.4 Based on the individual competence of the bodies to prevent corruption in BiH, develop harmonized plans and programs of training for the institutions on the prevention of corruption and coordination of the fight against corruption; 1.6.2 Based on the analysis, develop harmonized plans and programs of training for the prevention and coordination of fight against corruption in all public institutions in BiH;

2.1.1 Analyze the content of all Laws on freedom of access to information in BiH for the purpose of identification of solutions that impede free access to information, as well as the need for harmonization of the laws; 2.2.1 Analyze the application of the law on freedom of access to information in BiH, in order to identify problems in practice, with the interpretation of the exceptions to the rules for free access to information; 2.2.3 Analyse the laws on freedom of access to information in BiH, in order to identify opportunities for the introduction of the partial disclosure of information;

2.8.4 Conduct a comprehensive analysis of legislation on assets declaration [1], with the aim of establishing an effective system of control, processing of data from assets declarations and the elimination of obstacles for their publication;

2.6.2 Implement harmonized training for the professional development of employees in public institutions in BiH, with the aim of developing a culture of integrity and ethics;

3.1.1 Raise awareness of civil servants through harmonized training in connection with obligations to act on reports of corruption and whistleblower protection;

4.4.3 Conduct continuous training in order to promote the so-called active transparency in public institutions, and

4.4.2 According to the results of the analysis, draw up training programs on standards of objective informing of citizens about the work of public institutions.

Duration of project 12 months (May 2016 - May 2017)

Article 8. Codes of conduct for public officials

Paragraph 1 of article 8

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Agency is the key institution in charge of establishing a system of integrity plans in the institutions of BiH as well as for overseeing the implementation of the measures and recommendations of adopted integrity plans. Accordingly, the Council of Ministers of Bosnia and Herzegovina, at the 104th session held on 08/07/2014, adopted a Conclusion tasking all the institutions of Bosnia and Herzegovina to continuously cooperate with the Agency in the process of drafting and implementing anti-corruption action plans and integrity plans, while the Office for Audit of the Institutions of Bosnia and Herzegovina in the recommendations on the financial audit of institutions suggested the necessity of making integrity plans. As of 31/12/2016, all the institutions at the BiH level fulfilled or are in the final stage of the fulfilment of the said obligation.

After drafting integrity plans, the institutions shall submit the same to the Agency for expert opinion and suggestions. After obtaining the opinion of the Agency, the same shall be submitted for final approval by the heads of institutions. Following the adoption of integrity plans, the institutions are tasked to submit to the Agency at least once a year, and more often if necessary, the reports on implementation of measures and recommendations for improving the integrity proposed by the approved plans. The Agency has analyzed the degree of feasibility of measures and recommendations of adopted integrity plans. There are no secured funding for the implementation of integrity plans of at all levels of government.

HJPC, in cooperation with APIK, created and adopted the Judicial guidelines, the Methodological guidelines for drafting integrity plans, the Model of Integrity Plan, which introduced the plan

integrity in all judicial institutions. In order to inform all public institutions on the concept and importance of establishing integrity plans, the Agency previously drafted, adopted and published a number of documents including: Guidelines for drafting and implementation of integrity plans in the institutions of Bosnia and Herzegovina, the Methodology for drafting and implementation of integrity plans, the Model of Integrity Plan and Self-Assessment Questionnaire on integrity of the institutions of Bosnia and Herzegovina, which the institutions will use in drafting the said documents.

INVESTIGATION AND PROTECTION AGENCY (SIPA) The State Investigation and Protection Agency adopted the Integrity Plan of the State Investigation and Protection Agency, which analyzes the weak points in the work of the State Investigation and Protection Agency, which is aimed at preventing corruption and warning of the possibility of corruption.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

On the basis of the information provided, the Agency conducted an analysis of the degree of feasibility of the proposed measures and recommendations of the integrity plans as a key document of anti-corruption character of each institution.

Twenty local self-government units (10 in FBiH and 10 in RS) started the self-assessment of susceptibility of the institutions to corruption, corruptive effect and other forms of irregularities in their work, and based on the completed assessment they developed and adopted their own integrity plans. The institutions which submitted the required information have envisaged a total of 106 measures to improve integrity within the institutions, specifically: 15 measures were provided in the field of management and leadership of the institution, 12 measures were provided in the field of public procurement, 21 measures were provided in the field of office management and data protection, 29 measures were provided in the field of human resources management, and a total of 13 measures were provided in the field of management and disposal of the material and financial resources. The institutions have also proposed the measures and recommendations in specific areas, where a total of 16 measures were provided. Under specific areas we mean those areas that are specific to each institution in particular and due to which the institution carries out the purpose for which it was founded.

(b) Observations on the implementation of the article

Measures for promotion of integrity, honesty and responsibility among its public officials were undertaken to ensure full compliance with this provision of the Convention.

With regard to the aforesaid, national experts refer to the role of APIK as key institution in charge of establishing a system of integrity plans in the institutions of Bosnia and Herzegovina (for overseeing the implementation of the measures and recommendations of adopted integrity plans).

Furthermore, national experts inform about activities undertaken by the Council of Ministers of Bosnia and Herzegovina (adoption of a Conclusion tasking all the institutions of Bosnia and Herzegovina to continuously cooperate with the APIK in the process of drafting and implementing anti-corruption action plans and integrity plans, as of 08/07/2014), by APIK (drafted, adopted and published a number of documents including: Guidelines for drafting and implementation of integrity plans in the institutions of Bosnia and Herzegovina, the Methodology for drafting and

implementation of integrity plans, the Model of Integrity Plan and Self-Assessment Questionnaire on integrity of the institutions of Bosnia and Herzegovina), by the HJPC (adopted the Judicial guidelines, the Methodological guidelines for drafting integrity plans, the Model of Integrity Plan, which introduced the plan integrity in all judicial institutions) and by the Office for Audit of the Institutions of Bosnia and Herzegovina (recommendations on the financial audit of institutions suggested the necessity of making integrity plans), in direction of implementation of the integrity plans.

Examples of implementation are mentioned, as follows:

- Conducted an analysis of the degree of feasibility of the proposed measures and recommendations of the integrity plans as a key document of anti-corruption character of each institution;
- Started self-assessment of susceptibility of twenty local self-government units (10 in FBiH and 10 in RS) to corruption, corruptive effect and other forms of irregularities in their work;
- Developed and adopted integrity plans of local self-government units, based on the completed assessment, and envisaged a total of 106 measures to improve integrity within the institutions (specifically: 15 measures provided in the field of management and leadership of the institution, 12 measures provided in the field of public procurement, 21 measures provided in the field of office management and data protection, 29 measures provided in the field of human resources management, and a total of 13 measures provided in the field of management and disposal of the material and financial resources, 16 measures provided in relation to specific areas);
- Adopted Integrity Plan of the State Investigation and Protection Agency;
- As of 31/12/2016, all the institutions at the Bosnia and Herzegovina level fulfilled or are in the final stage of the fulfilment of the said obligation.
- APIK has analysed the degree of feasibility of measures and recommendations of adopted integrity plans. There is no secured funding for the implementation of integrity plans of at all levels of government.

[Observations on the status of implementation of the article, including successes, good practices and challenges in implementation.]

Article 8 paragraph 1 requires States Parties to actively promote personal and professional standards - integrity, honesty and responsibility among their public officials. The commitment to promote integrity in public administration is mandatory.

It is found that Bosnia and Herzegovina undertakes measures to promote personal and professional standards to the possible extent that could be limited due to limited instruments within the competencies of APIK and possibly due to selection of priorities in undertaking introduced measures to promote integrity.

Anti-corruption principles are prescribed by the Law on the Agency for the prevention of corruption and the coordination of the fight against corruption (Article 7), as follows:

All public service institutions in Bosnia and Herzegovina shall base their operations on the following anticorruption principles:

- a) Equal treatment and non-discrimination. Everyone is entitled to equal access in the performance of an activity of public interest as well as to equal treatment by public servants, free from corruption.
- b) Prohibition of corrupt behavior. When carrying out their duties, public servants may not seek or accept any illicit gain for the performance of their duties.
- c) Transparency and public control. Performance of all public functions will be transparent and

subject to public scrutiny.

d) Protection provided in cases of “corruption reporting”. No person shall be punished nor in any way suffer any consequences for reporting, in good faith, what is considered by him or her an act of corruption or irregularities in the prescribed procedures.

The term “Public servants” used in the Law is defined to have the following meaning:

(a) Public servants shall include:

- 1) any person holding a legislative, executive, administrative, prosecutorial or judicial office, whether appointed or elected, whether the office is permanent or temporary, remunerated or non-remunerated, regardless of the person’s rank;
- 2) any person holding a public office, including an office in a public authority or a public company or performing public service;
- 3) any other person defined within the legal system of Bosnia and Herzegovina as a public office holder, public servant or civil servant;

Integrity plans are introduced by a provision of the Law on the Agency for the prevention of corruption and the coordination of the fight against corruption (article 10), according to which APIK is responsible i.a. to prescribe a uniform methodology and guidelines for making integrity plans and providing assistance to all public institutions in their implementation.

With the Methodology on preparation of integrity plans (and not by law), integrity plans are defined as a method for development of legal, ethical and professional quality of performance of the public institutions. The aim and the elements of the integrity plan are also not defined by law, but by the same Methodology and related guidelines. The elements of integrity plans are defined as follows:

- Analysing susceptibility of the institution to corruption incidents,
- Identifying most susceptible activities – risk assessment,
- Prevention measures to limit the possibility for corruption incidents, and
- Other elements defined with guidelines.

Other worth noting responsibilities of the Agency, in the context of implementation of this provision of the Convention, are the following:

- to develop the Anti-Corruption Strategy, and develop the Corruption Prevention Action Plan;
- to coordinate and monitor the implementation of the Strategy and the Action Plan, and provide opinions and guidelines on the matter of implementation of the Strategy and the Action Plan;
- to monitor the instances of conflict of interest, provide recommendations for the strategy of managing the conflict of interest on a case-to-case basis, and issue the guidelines for the policy of managing the conflict of interest in government institutions;
- to monitor the effects of laws and bylaws aimed at preventing corruption and
- provide opinions and guidelines on the issue of their implementation,
- initiate activities in relation to amending the current legislative arrangements and harmonize them;
- to cooperate with the national scientific and professional organizations, public media, and

NGOs on the issue of corruption prevention;

- to develop educational programs on the issue of prevention of corruption and fight against corruption, and monitor their implementation;
- to inform the competent institutions and the public of the obligations contained in international legal acts and give recommendations for their realization in relation to corruption prevention;
- to perform other activities relating to corruption prevention.

When carrying out the activities falling within its responsibility, APIK, in accordance with the Law on the Agency for the prevention of corruption and the coordination of the fight against corruption, issues anti-corruptive measures, makes recommendations and guidelines, gives opinions and raises initiatives.

Although Bosnia and Herzegovina has introduced modern methods to promote institutional integrity, it seems that the lack of legal provisions to ensure implementation of the integrity plans (clearly prescribed obligation and sanctions) is reflected in the limited power of APIK to enforce implementation of integrity plans at all levels of governance and to obtain proper resources to ensure feasibility of measures and recommendations of adopted integrity plans.

The experts of the State Party under review did not refer to other specific information related to the promotion of integrity of public officials as professional individuals, as required for the reviewing State Party to provide complete observation.

It should be considered that compliance with this provision of the Convention should be presented with information about:

- Measures undertaken to promote institutional integrity – conducting methodological risk assessments of post or activities vulnerable to corruption, adoption and regular update of risk registers and adoption and implementation of risk management strategies.
- (But also) Measures undertaken to promote correct, impartial, honourable and proper performance of public functions among all public officials. Specifically, knowledge and acceptability of the ethical rules and principles, availability of guidance (developed and adopted rules, attachment of ethical rules to employment contracts and provisions of law and bylaws) on how public officials should conduct themselves in relation to those standards and provision of supporting mechanisms and measures for awareness raising (meetings, campaigns), supporting and rewarding ethical conduct, including available individual consultations, especially trainings both on recruitment and during their careers (professional development).

The reviewing State Party commends the State Party under review for its Anti-corruption strategy 2015 - 2019 and related action plan that envisions relevant activities directed to Strategic objective 2 “Development, promotion and implementation of preventive anti-corruption activities in the public and private sectors” (specifically Strategic programmes: 5. Reducing the opportunities for abuse of discretionary powers 6. Developing a culture of integrity and ethics in public institutions in BiH 7. Harmonization of the methodology for the development and implementation of plans for the fight against corruption for public institutions in BiH and establishment of legal obligations for the development of integrity plans in all public institutions in BiH). Furthermore, in this strategic document it is stated that ethical principles, as provided in the UN and Council of Europe conventions should be codified in the laws and ethical codes. “It is equally important to familiarise the civil servants with the content of the code of conduct when hiring them. They should also be trained in the issues elaborated in the code of conduct, promoted in the communication with the staff and their mutual communication. (...) Respect of code of conduct is subject to internal and

external control and the results of its application should be published. There are ethical codes in BiH and training programmes related to integrity and ethics. However, there is a need to compare them and harmonize them on the basis of best existing practices.”

The State Party under review may also wish to consider the Recommendation of the OECD Council on Public Integrity, 26 January 2017 – C (2017) 5 as guidance in the important aspects of building and describing (presenting) of (established) coherent and comprehensive public-integrity system.

Paragraph 2 and 3 of article 8

2. In particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.

3. For the purposes of implementing the provisions of this article, each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly resolution 51/59 of 12 December 1996.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with these provisions?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with these provisions of the Convention.

At the level of the Agency for Prevention of Corruption and Coordination of the Fight against Corruption (APIK), the Code of Conduct for Employees of the Agency for Prevention of Corruption and Coordination of the Fight against Corruption was adopted (http://apik.ba/zakoni-i-drugi-akti/ostali-akti/kodeksi/Archive.aspx?langTag=bs-BA&template_id=196&pageIndex=1), which determines the standards and rules of conduct for employees in the APIK on the basis of which the employees of the Agency act in performance of official duties.

Newly employed civil servants, in accordance with the legislation, have been introduced to the Code of Conduct for employees of the Agency for Prevention of Corruption and Coordination of the Fight against Corruption, and they have signed it. The work of the staff of the Agency is regularly monitored in the context of the provisions of the Code of Conduct in the Agency.

"The High Judicial and Prosecutorial Council (HJPC) has adopted the codes of ethics for judges and prosecutors. The Office of Disciplinary Counsel shall initiate disciplinary proceedings against judges and prosecutors at all levels of government in BiH. Decisions in the initiated proceedings shall be made by First Instance and Second Instance Disciplinary Panels of the HJPC, mainly made up of judges and prosecutors, and the HJPC as a whole in the third instance proceedings. Disciplinary accountability of lawyers in the FBiH is under the jurisdiction of the Bar Association of FBiH, in accordance with the Law on the Attorney's Profession of the Federation of BiH"

(Source: CONTRIBUTION OF BiH INSTITUTIONS TO THE REGULAR ANNUAL REPORT ON BiH IN THE PROCESS OF EUROPEAN INTEGRATION, ACCORDING TO THE NEW REPORTING METHODOLOGY, 2015).

The BiH Parliamentary Assembly adopted the Code of Conduct for MPs and delegates in the BiH Parliamentary Assembly („BiH Official Gazette“ No. 84/15), which set the standards of behaviour expected from elected officials in exercising their duties. This Code had simplified the procedures of establishing the violation of the Code, an appeal, sentences, with the aim of improving the efficiency of the Code.

INVESTIGATION AND PROTECTION AGENCY State Investigation and Protection Agency adopted a Code of Ethics for police officers of the State Investigation and Protection Agency, which regulates standards and code of conduct of police officers, ethical and legal guidelines for the exercise of professional duties, standards in terms of conflict of interest and incompatibility of functions with duties in the State Investigation and Protection Agency, and other issues of importance for this area. In this regard the Code of Ethics for Civil Servants applies to civil servants in the institutions of Bosnia and Herzegovina.

CIVIL SERVICE AGENCY OF BiH At the suggestion of the Civil Service Agency of BiH, the BiH Council of Ministers adopted the Code of Conduct for Civil Servants in the Institutions of BiH. This act is a code of ethics governing the rules and principles of good conduct of civil servants in the exercising of civil service. The Code contains rules and principles of good conduct of civil servants to the citizens and in mutual relations of civil servants, as well as informing the citizens about the behaviour they are entitled to expect from public officials. As part of the training organized by the Civil Service Agency of BiH, the training courses are organized on Ethics in Public Administration and Code of Conduct for Civil Servants.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The Law on Civil Service in the Institutions of BiH* "Official Gazette", no. 19/02, 35/03, 4/04, 17/04, 26/04, 37/04, 48/05, 2/06, 32/07, 43/09, 10/08 and 40/12, and Rules on disciplinary accountability of civil servants in the institutions of BiH, have prescribed as a disciplinary measure Deliberate violation of the provisions of laws or other regulation of BiH on duty or in connection with duty or violation of the Code of Conduct for Civil Servants (Article 54, paragraph 1, item f) of the Law), or wilful violation of the provisions of the laws or other regulation (Article 10 of the Ordinance). Until now, there has been no imposition of disciplinary measures on the basis of disciplinary accountability for the said breach of official duty.

(b) Observations on the implementation of the article

Bosnia and Herzegovina reported that the BiH Parliamentary Assembly adopted the Code of Conduct for MPs and delegates in the BiH Parliamentary Assembly, which set the standards of behaviour expected from elected officials in exercising their duties.

Furthermore, the State Party under review reported that:

Codes of ethics for judges and prosecutors have been adopted by the High Judicial and Prosecutorial Council (HJPC) has adopted.

Code of Conduct for Employees of the Agency for Prevention of Corruption and Coordination of the Fight against Corruption has been adopted. Newly employed civil servants, in accordance with the legislation, have been introduced to the Code of Conduct for employees of the Agency for Prevention of Corruption and Coordination of the Fight against Corruption, and they have signed it. The work of the staff of the Agency is regularly monitored in the context of the provisions of the Code of Conduct in the Agency.

Code of Ethics for police officers has been adopted by the State Investigation and Protection Agency

Code of Ethics for Civil Servants applies to civil servants in the institutions of Bosnia and Herzegovina has been adopted by the BiH Council of Ministers. As part of the training organized by the Civil Service Agency of BiH, the training courses are organized on Ethics in Public Administration and Code of Conduct for Civil Servants.

Article 8 paragraph 2 of the Convention requires States Parties to endeavour to apply codes or standards of conduct for the correct, honourable and proper performance of public functions within their institutional and legal systems. Technical guide precisely defines standards of behaviour and codes of conduct. Standards emphasize the importance of roles undertaken by officials. They should encourage public officials' sense of professional commitment, service to the public, and responsibility to the powers and resources of their office. Standards should set out core values of behaviour expected of those in public life, including lawful conduct, honesty, integrity, non-partisanship, due process, fairness, probity and professionalism

Reforms in many countries have focused on improving management competency and making public sectors better equipped to perform their tasks. This calls for public officials to be imbued with a wider range of values than before – values mainly concerned with being efficient, purposeful and accountable. Standards often include high level values to use as a basis for making well-reasoned decisions and judgments. There are general statements that can be applied to help with specific decisions, especially where public officials have to use their discretion and make choices. For example, they may include:

- Serving the public interest;
- Serving with competence, efficiency, respect for the law, objectivity, transparency, confidentiality and impartiality, and striving for excellence;
- Acting at all times in such a way as to uphold the public trust;
- Demonstrating respect, fairness and courtesy in their dealings with both citizens and fellow public officials.

Codes will state the standards of behaviour of public officials and translate them into specific and clear expectations and requirements of conduct. These identify the boundaries between desirable and undesirable behaviour and would often be grouped in a variety of ways, e.g., according to the boundaries of key relationships, or according to groups to whom responsibilities are owed. Thus codes should address issues of public service (e.g., procedures to ensure fairness and transparency in providing public services and information) and political activities (e.g., placing restrictions on political activities and ensuring that political activities do not influence or conflict with public office duties). They will state clearly the requirements relating to both financial conflicts of interest (e.g., where a public official is working on matters in his official capacity that would affect his personal financial interest or the financial interests of those close to him) and conflicts of interest based on non-financial concerns (e.g., where a public official is working on matters that affect persons or entities with whom he has close personal, ethnic, religious or political affiliations). Codes should include clear and unambiguous provisions on acceptance or rejection of gifts, hospitality, and other benefits, especially addressing restrictions on acceptance of gifts from persons or entities that have

business with the organization, any outside employment (e.g., ensuring that outside work does not conflict with official work) and the use of government resources (e.g., using Government resources only for Government purposes, or protecting non-public information). Finally codes should deal with post-resignation and post-employment restrictions (e.g., restrictions on former public officials representing a new employer before their former agency or taking confidential information to new employers).

Article 8 paragraph 3 requires from each State Party to, where appropriate and in accordance with the fundamental principles of its legal system, take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly resolution 51/59 of 12 December 1996.

In accordance with this provision of the Convention, in all aspects during creating, improving and setting-up a code of conduct, States Parties are invited to take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly resolution 51/59 of 12 December 1996, the Council of Europe Recommendation No. R (2000) 10 on Codes of Conduct for Public Officials, which contains, as an appendix, a model code of conduct for public officials, and the Recommendation of the OECD Council on Public Integrity, 26 January 2017 - C(2017)5.

Three abovementioned documents provide standards related to the scope and structure of codes of ethics. Namely, Council of the Organisation for Economic Co-operation and Development adopted Recommendation of the Council on improving ethical conduct in the public service including principles for managing ethics in the public service. This document recommends that Member countries take action to ensure well-functioning institutions and systems for promoting ethical conduct in the public service. This can be achieved by:

- developing and regularly reviewing policies, procedures, practices and institutions influencing ethical conduct in the public service;
- promoting government action to maintain high standards of conduct and counter corruption in the public sector;
- incorporating the ethical dimension into management frameworks to ensure that management practices are consistent with the values and principles of public service;
- combining judiciously those aspects of ethics management systems based on ideals with those based on the respect of rules;
- assessing the effects of public management reforms on public service ethical conduct;
- using as a reference the Principles for Managing Ethics in the Public Service set out in the Annex to ensure high standards of ethical conduct.

In the recommendation also there are defined a set of Principles for Managing Ethics in the Public Service.

The Council of Europe Recommendation No. R (2000) 10 on Codes of Conduct for Public Officials underline that “A successful strategy for fighting corruption should be global and supported by all parties concerned, especially by those with the highest responsibilities. It should be based on prevention, education and enforcement. Each of these elements is essential, equally important and complementary. In this context codes of conduct play a part in all three elements of the strategy. Their main contribution is educational and preventive, but they also have enforcement aspects. They can be effective in changing the ethical climate in both the public and private sectors.” This recommendation contains, as an appendix, a model code of conduct for public officials. The Recommendation of the Committee of Ministers also makes clear that the recommended adoption of codes of conduct for public officials should be subject to national law and to national principles of public administration. In recommending that such codes should be based on the annexed Model

Code of Conduct, the recommendation also makes clear that the model should be adapted to meet the circumstances of the particular public service.

International Code of Conduct for Public Officials contained in the annex to UN General Assembly resolution 51/59 of 12 December 1996 contains all issues of action against corruption, such as: general principles, conflict of interest and disqualification, disclosure of assets, acceptance of gifts or other favours, confidential information and political activity.

The reviewing State Party takes note of the adopted Code of Conduct for MPs and delegates in the BiH Parliamentary Assembly, codes of ethics for judges and prosecutors, Code of Conduct for Employees of the Agency for Prevention of Corruption and Coordination of the Fight against Corruption, Code of Ethics for police officers and Code of Ethics for Civil Servants.

(c) Challenges in implementation

Consider undertaking further activities to promote the application of codes of conduct.

Paragraph 4 of article 8

4. Each State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Law on the Whistleblower Protection in the Institutions of BiH (<http://www.apik.ba/zakoni-i-drugi-akti/Zakoni/drugivaznijizakoni/LAW%20ON%20WHISTLEBLOWER> <<http://www.apik.ba/zakoni-i-drugi-akti%20/Zakoni/drugivaznijizakoni/LAW%20ON%20WHISTLEBLOWER>>.pdf) was adopted in December 2013 at the state level. This Law stipulates that the key holders of the implementation of the Law are the Agency for Prevention of Corruption and Coordination of the Fight against Corruption (APIK) and the Administrative Inspectorate of the BiH Ministry of Justice. According to the law, APIK will assign the protected whistleblower status to the individuals who reported corruption within 30 days from the date when the request for granting the status has been officially submitted. In the event that an employer in any way endangers the status of the whistleblower (by cancellation of employment contract, suspension from work, degrading to a lower-ranked position), he can be fined between 10,000 and 20,000 KM. Fines in the amount of between 1,000 and 10,000 KM are provided for reporting corruption in the institutions of BiH, who knowingly submits a false report on an act of corruption. On 12/02/2014, the Agency adopted the Rules on granting the status

of whistleblowers, eliminating harmful actions and discontinuance of protection of whistleblowers in the institutions of BiH, which regulates the conditions of providing protection and termination of protection. Also, on 08/07/2016 the Agency adopted the Rules on handling the applications filed with the indications of corrupt behaviour and irregularities, which regulates the manner of acting with these submissions, registering, classifying, analysing, recording and storing the received submissions, as well as reporting on the submissions and their status, submitting to relevant institutions and informing the applicant of the action taken. In addition, the Agency has created unified Regulations on internal reporting of corruption and whistleblower protection. APIK, in direct coordination with all institutions, on the basis of the unified Regulations, has supervised and coordinated the process of adoption of these acts (with the result that they have been adopted in 64 institutions of BiH). Furthermore, the Instructions for the implementation of the Law on the Whistleblower Protection in the Institutions of BiH was drawn up, as well as the Rules on granting the status of whistleblower, eliminating harmful actions and discontinuance of protection of whistleblowers in institutions of BiH, and the Ordinance on handling the applications filed with the indications of corrupt behaviour and irregularities.

INVESTIGATION AND PROTECTION AGENCY The State Investigation and Protection Agency has adopted the Regulations on internal reporting of corruption in the State Investigation and Protection Agency, which regulate the obligations and procedures for internal reporting of corruption. In terms of the same, the Anti-Corruption Action Plan was adopted in the State Investigation and Protection Agency, which aims to achieve zero tolerance towards corruption and improve the level of anti-corruption culture in the State Investigation and Protection Agency.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

During the implementation of the Law on Whistleblower Protection in the Institutions of Bosnia and Herzegovina, following the entry into force, the APIK has received a total of 19 applications for granting the status of a protected whistleblower. In the framework of the relevant acting, an analysis showed that for 15 claims there are no conditions for granting the status of a protected whistleblower, and that in some of these cases the Law could not apply to the applicants, because they are not included in the category of persons employed in the institutions of BiH, to which the Law applies. In 4 cases the APIK has granted the status of a protected whistleblower.

The largest number of applications for granting the status of a protected whistleblower in the institutions of BiH could not be accepted because the applicants of relevant claims do not belong to the group of civil servants and employees at the state level, which is why the Law on the Whistleblower Protection in the institutions of BiH could not be applied to them, while at lower levels of government (Entities, Cantons, municipalities) no legal provisions regulating the issues of protection of whistleblowers and the elimination of harmful actions have been adopted. The Anti-Corruption Strategy 2015-2019 and the Action Plan for the implementation of the Anti-Corruption Strategy 2015-2019 provide for the creation and adoption of legislation to protect whistleblowers at all levels in BiH.

(b) Observations on the implementation of the article

Measures and systems are established, in compliance with this provision of the Convention, to facilitate the reporting to appropriate authorities by public officials of acts of corruption that come to their notice in the performance of their functions.

With regard to the aforesaid, national experts refer to:

the Law on the Whistleblower Protection in the Institutions of Bosnia and Herzegovina, adopted in December 2013 at the state level,

the adopted Rules on granting the status of whistleblowers, eliminating harmful actions and discontinuance of protection of whistleblowers in the institutions of Bosnia and Herzegovina (as of 12/02/2014, by APIK), which regulates the conditions of providing protection and termination of protection, and

the adopted Rules on handling the applications filed with the indications of corrupt behaviour and irregularities (as of 08/07/2016, by APIK), which regulates the manner of acting with these submissions, registering, classifying, analysing, recording and storing the received submissions, as well as reporting on the submissions and their status, submitting to relevant institutions and informing the applicant of the action taken.

The national experts inform that, in addition, APIK has created unified Regulations on internal reporting of corruption and whistleblower protection. Furthermore, the Instructions for the implementation of the Law on the Whistleblower Protection in the Institutions of Bosnia and Herzegovina have been drawn up.

The abovementioned Law regulates the status of persons reporting acts of corruption in the institutions of Bosnia and Herzegovina and legal persons established by the institutions of Bosnia and Herzegovina, the reporting procedure, the obligations of the institution in regard to reporting acts of corruption, procedure for protection of the whistleblowers, and stipulates sanctions for violation of provisions of the Law.

Whistleblower is defined by the Law as a person employed in the institutions of Bosnia and Herzegovina and legal entities established by the institutions of Bosnia and Herzegovina, who due to reasonable belief or circumstance indicating to existence of corruption in any of the institutions of Bosnia and Herzegovina in good faith reports to the authorized persons or institutions any suspected acts of corruption in line with the Law.

A competent authority, according to the Law, is a superior or any other person in an institution of Bosnia and Herzegovina and a legal entity that is established by the institution of Bosnia and Herzegovina where the whistleblowers is employed, and which is in charge of monitoring the legality of work in that institution; person or body of management or administration; person or body performing the work of monitoring or audit in the institutions of Bosnia and Herzegovina; body in charge of implementing the criminal investigation and prosecution of the criminal act doers; Institution of Ombudsmen for Human Rights in Bosnia and Herzegovina; the Agency for Prevention of Corruption and Coordination of the fight against corruption;

The Law defines internal and external reporting channels.

External reporting implies reporting to:

- a) superior or to any other person, in the institution where the reporting person is employed, who is responsible for the compliance of that institution with the law, or
- b) a person or to the institution's manager who is responsible for compliance of that institution with the law;
- c) a person or a body performing supervision or audit in the institutions of Bosnia and Herzegovina.

The Law further stipulates that internal reporting (disclosure) shall be done in the manner as specified by the institution's internal by-law.

Reporting directly to the institution's manager is also considered as internal reporting in the event that:

- a) The manager of an institution has not issued the institution's internal by-law; or
- b) The procedure for internal reporting is not known, namely if the information on the service, body or person responsible for receiving and considering is not visibly displayed in the institution's premises and on its web site of the institution; or
- c) The whistleblower has reason to believe that the authorized person, who is designated by the by-laws to receive reports on suspected acts of corruption and whistleblower protection, participates directly or indirectly in the act of corruption.

External reporting implies reporting to:

- a) authorities responsible to conduct a criminal investigation and prosecution of perpetrators of criminal offences; or
- b) The Agency for Prevention of Corruption and Coordination of Fight Against Corruption, and
 - c) The public, in accordance with the Law, as Special form of protected disclosure, provided that the whistleblower has a reason to suspect that: 1) he/she will be subjected to detrimental action by a certain person, or
 - 2) in the event of protected reporting (to institutions, as per the Law), there will be no appropriate action taken, or that the evidence and information will be concealed or destroyed, or
 - 3) if the same information has been disclosed to the to institutions, as per the Law, and that no appropriate action was undertaken within the legal timeline, provided that prior to making a special form of protected disclosure, the whistleblower is obliged to consider possible damage that may be incurred as a result of his disclosure.

External reporting/disclosure shall be conducted in case that:

- a) The procedure based on internal reporting/disclosure takes longer than 15 days; or
- b) The whistleblower has a reason to believe that the procedure based on internal reporting/disclosure has been irregular, or
- c) The whistleblower has every reason to believe that the authorized person who is designated by laws to receive the reports or the manager of an institution, are directly or indirectly associated with the act of corruption.

The Agency for Prevention of Corruption and Coordination of Fight against Corruption has the obligation to decide on affording an employee with the whistleblower status within 30 days following his or her request, made in a good faith, regardless of whether the employee claims that detrimental actions have been taken or only suspects that they could be taken.

The Law stipulates that the whistleblower shall not be subjected to material, criminal or disciplinary liability for disclosing an official secret in case of he or she reports an act of corruption to the competent authority.

In accordance with the Law, in case that the whistleblower informs APIK that any detrimental action has been taken against him/her, the Agency is required to request all relevant documentation from the institution and/or to request from the Administrative inspectorate of the Ministry of Justice of Bosnia and Herzegovina to investigate allegations, establish the fact, and to undertake measures set by the law, and to submit its minutes thereof to APIK.

APIK shall issue an instruction to the director of the institution as to remove the consequences of detrimental action that the whistleblower suffered.

In case that the director of the institution claims that the same detrimental action would have been taken against the whistleblower even in case that he/she had not reported the suspected act of corruption, the director shall be required to prove it.

The director of the institution shall be required to take corrective action (the cancellation of detrimental action and restitution) in order to remove the detrimental action within three days following the receipt of the instruction from APIK.

A misdemeanour fine amounting from KM 10,000 to KM20,000 shall be imposed on a director of institution for failing to comply with the instruction by APIK and to take corrective measure.

In case it is found during the proceeding that the whistleblower has not acted in good faith when filing a report, APIK shall suspend affording the protection to the whistleblower.

If, during the investigation, it is proven that the whistleblower has not acted in good faith, namely that he/she knowingly submitted a false report, APIK shall file a criminal report against this person, provided that it is established that this act has elements of a criminal offence.

Sanctions are prescribed for endangering the status of the whistleblower by acts of an employer (fines in the amount of between 10,000 and 20,000 KM), and for submitting knowingly a false report on an act of corruption (fines in the amount of between 1,000 and 10,000 KM are provided for reporting corruption in the institutions of BiH).

Following examples of implementation are provided:

- Handbook for Enforcing the Law on Whistleblower Protection in the Institutions of Bosnia-Herzegovina, by Centre for Responsible Democracy CRD Luna, with participation of: Labor Inspectorate of the Ministry of Justice BiH, APIK, the Court of BiH, an informal group of parliamentarians who gathered under the Democratic Initiative for Europe (DIE), representatives of trade unions/ syndicates and various government institutions - tailored for whistleblowers that should be aware of their rights and responsibilities prior to disclosing acts of corruption.
- During the implementation of the Law on Whistleblower Protection in the Institutions of Bosnia and Herzegovina, following the entry into force, the APIK has received a total of 19 applications for granting the status of a protected whistleblower.
- In 4 cases the APIK has granted the status of a protected whistleblower.
- 64 institutions of BiH adopted internal reporting acts. The State Investigation and Protection Agency has adopted the Regulations on internal reporting of corruption in the State Investigation and Protection Agency, which regulate the obligations and procedures for internal reporting of corruption. APIK, in direct coordination with all institutions, on the basis of the unified Regulations, has supervised and coordinated the process of adoption of these acts.

Article 8 paragraph 4 requires that States Parties consider the establishment of rules, procedures, measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions, in accordance with the fundamental principles of its domestic law.

The Law on Protection of Whistleblowers in the Institutions of Bosnia and Herzegovina, that took effect in January 2014, regulates the status of persons reporting acts of corruption in the institutions of Bosnia and Herzegovina and legal persons established by the institutions of Bosnia and Herzegovina, the reporting procedure, the obligations of the institution in regard to reporting acts of corruption, procedure for protection of the whistleblowers, and stipulates sanctions for violation of provisions of the Law. Related regulation on the conditions of providing protection, regulation on internal procedures and the manner of handling and acting upon the whistleblower reports is adopted.

However, it must be noted that the abovementioned Law regulates only reporting made by certain categories of employees and provides protection for reporting made in accordance with that specific Law. Sufficient Information on how reporting or disclosing information by public officials otherwise is encouraged, facilitated and protected, such as other enacted relevant legislation (including harmonization of other laws with the Law on protection of whistleblowers in the Institutions of Bosnia and Herzegovina), regulation and codices prescribing relevant rights,

obligations and reporting mechanisms, as well as information on trainings, established specific reporting procedures or internal procedures and means of reporting in private, is not provided.

Also, it is important to establish whether there is clearly prescribed obligation for public officials (as defined by UNCAC) to report acts of corruption at the levels of BiH, entities and Brčko District.

Article 213 paragraph (1) of the Criminal Procedure Code of Bosnia and Herzegovina („Official Gazette of BiH“, no. 3/03, 32/03, 36/03, 26/04, 63/04, 13/05, 48/05, 46/06, 76/06, 29/07, 32/07, 53/07, 76/07, 15/08, 58/08, 12/09, 16/09, 93/09 and 72/13)

„Official and responsible persons in all the governmental bodies in Bosnia and Herzegovina, public companies and public institutions shall be bound to report criminal offenses of which they have knowledge, through information provided to them or learned by them in some other manner. Under such circumstances, the official and responsible person shall take steps to preserve traces of the criminal offense, objects upon which or with which the criminal offense was committed, and other evidence, and shall notify an authorized official or the Prosecutor’s Office without delay.“

The meaning of the term “official person” used in this paragraph is not defined in the Law.

Considering that this provision of the Convention puts the emphasis on facilitation of the reporting, the reviewing State Party takes note of the adoption of the special law on whistleblower protection, for officials on state level with positive view on provisions stipulating that the whistleblower shall not be subjected to material, criminal or disciplinary liability for disclosing an official secret in case of he or she reports an act of corruption to the competent authority as well as provisions prescribing reporting channels and acquiring whistleblower status.

However, the State Party under review should adopt necessary legislation in direction of establishing protected reporting channels for whistleblowers at all levels of power and governance and at all entities, cantons, municipalities of BiH (this also in line with the requirements of article 33 of the Convention).

In devising legislation on scope of persons as potential whistleblowers, reporting channels and whistleblower protection, considering and aligning with the Council of Europe Recommendation CM/Rec(2014)7 is highly recommended.

In that direction, the State Party under review may wish to reconsider the provision of whistleblower status as prescribed with article 7 of the Law.

It is important that the laws on whistleblower protection contain clear provisions. Vague and ambiguously formulated legal provisions, as well as adverse legal solutions, will discourage reporting.

Attention should be paid to the security and confidentiality of the reporting in practice, as well as to the need for education for all public officials in establishing favourable management culture and working environment, including protected reporting channels and proper means that will promote and facilitate reporting (within coherent and comprehensive public-integrity system. See Recommendation of the OECD Council on Public Integrity, 26 January 2017 - C(2017)5).

The State Party under review is also encouraged to implement other activities as envisioned with the Anti-Corruption Strategy 2015-2019 and its Action Plan (specifically under Strategic objective 3 Improvement of effectiveness and efficiency of judicial institutions and bodies for law enforcement in the area of the fight against corruption, Strategic programme 3.1. Ensuring appropriate mechanisms for reporting corruption of employees in public institutions as well as monitoring procedures upon reports and Strategic programme 3.2. Promoting the reporting of corruption and encouraging the active participation of citizens in the fight against corruption).

Information about the status of implementation of the relevant strategic programmes of the Action plan, would lead to a better informed observation about the endeavours of the State Party under review in compliance with this provision of the Convention.

Having in mind that there is no easy implementation of legislative or other solutions that encourage reporting corruption, the State Party under review is commended for the steps taken and for steps foreseen in this direction that requires political/managerial will.

(c) Successes and good practices

Adoption of specialized legislation to protect the persons reporting corruption in good faith at State level.

(d) Challenges in implementation

Adopt the necessary legislation to establish protected reporting channels for whistleblowers at all levels of power and governance at all entities, cantons and municipalities of BiH

Paragraph 5 of article 8

5. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Civil Service Agency of BiH has adopted the Instruction on the text of the oath of civil servant and forms that are inserted in the personal file of a civil servant ("Official Gazette of BiH" No. 92/16). This instruction defines the text of the oath of fidelity of a civil servant), and lays down detailed rules and instructions for work to implement the provisions of the Law on Civil Service in the Institutions of Bosnia and Herzegovina ("Official Gazette of BiH", no. 19/02, 35/03, 4/04, 26/04, 37/04, 48/05, 2/06, 32/07, 43/09, 8/10 and 40/12) and the Instructions on the content, maintaining and keeping personal files of employees in the institutions of Bosnia and Herzegovina ("Official Gazette of BiH", number 47/16) relating to the content of the personal file of the civil servant, in relation to the text of the oath and the forms of declarations on the fulfilment of certain general conditions prescribed for the appointment of a civil servant which are not proved otherwise.

As part of the application forms for applying of candidates to public advertisements for admission to the civil service there are statements that the candidate needs to circle, if he agrees with their content, which, among other things, refers to conflict of interest, absence of criminal proceedings, that he has not been dismissed from the civil service as a consequence of a disciplinary measure at any level of governance in Bosnia and Herzegovina, the refusal of taking the oath, arbitrary abandonment of the civil service or providing false and inaccurate information on admission to the civil service, within three years prior to the date of publication of vacancy, that he is not under indictment by the International Tribunal for the Former Yugoslavia in the Hague, and that he has not refused the order to appear before the Tribunal -Article IX 1 of the BiH Constitution.

INVESTIGATION AND PROTECTION AGENCY In this regard, to the police officers of the State Investigation and Protection Agency, the provisions of the Law on Police Officials of Bosnia and Herzegovina shall apply, which regulate what are the additional activities as well as the conditions under which the police officers may perform the same. Furthermore, the Code of Ethics of the police officers of the State Investigation and Protection Agency, among other things, regulates the standards and rules of conduct of police officers, ethical and legal guidelines for the exercise of professional duties, standards regarding conflicts of interest and incompatibilities of functions with the duties in the State Agency for Investigation and Protection; the same provides that all police officers shall sign the required Declaration on conflict of interest and Declaration on incompatibility of functions with the duties in the Agency, and the same shall form an integral part of the personal file of each police officer. Also, when hiring police officers and when needed, the Department of Internal Control of the State Agency for Investigation and Protection Agency performs basic security checks of police officers in the context of which the accuracy of data on reported assets held and reported revenue of police officers are checked.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Civil Service Agency of BiH has posted the electronic form of the forms prescribed by the Instruction on the official website www.ads.gov.ba <<http://www.ads.gov.ba>> and submitted it electronically to all institutions of Bosnia and Herzegovina, together with the text of the instruction.

(b) Observations on the implementation of the article

Assets and interest declaration system in BiH is established with the LCI and the Law on Civil Service in the BiH institutions, according to which elected officials, executive office holders and advisors and civil servants are obliged to declare their assets and interests. In addition, declarants have to provide information in respect of the family members / close relatives.

Paragraph 6 of article 8

6. Each State Party shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

In case of violation of the Code or standards established by the said Article with regard to disciplinary accountability of the employees of the State Investigation and Protection Agency, the Internal Control Department of the State Investigation and Protection Agency has jurisdiction to carry out disciplinary proceedings against police officers. In regard to disciplinary accountability for minor breaches of duty of civil servants, the head civil servant who receives the application, shall forward it to the ad hoc Internal Disciplinary Commission of the State Investigation and Protection Agency, which shall conduct the procedure of determining disciplinary accountability, and in cases of disciplinary accountability for serious misconduct, the proceedings shall be conducted by the Commission to be formed by the Civil Service Agency of Bosnia and Herzegovina. Internal Control Department has no jurisdiction in respect of determining disciplinary accountability of civil servants.

The Law on Civil Service in the Institutions of BiH (Art. 54-58), and the Regulations on disciplinary accountability of civil servants in the institutions of BiH legally regulate the area of disciplinary procedures, responsibilities, measures, etc. At the request of the institutions of BiH, the Civil Service Agency of BiH shall conduct the first instance disciplinary proceedings for serious breaches of official duty in a manner that, in accordance with these regulations, the Disciplinary Commission formed by the decision of the Agency (two members are appointed on the proposal of and from the BiH institution, and three members are appointed by the Agency from among the civil servants of other institutions), after the conducted proceedings, shall bring the first instance disciplinary decision. With this decision, the commission may decide: to reject the request for disciplinary action, to reject the request as unfounded, to suspend proceedings if in the same case criminal proceedings have been initiated, or to impose disciplinary measure if it has assessed that the civil servant is disciplinary accountable.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

From the current practice in relation to the disciplinary proceedings before the Civil Service Agency, the applicants in their requests for disciplinary action charged civil servants for breach of official duty prescribed by Article 54, paragraph 1, item f) of the Law on Civil Service in the Institutions of BiH (deliberate violation of the provisions of the law or other regulation of BiH on duty or in relation to duty, or violation of the Code of Conduct of Civil Servants), i.e. Article 10. of the Regulations on disciplinary accountability of civil servants in the institutions of BiH, deliberate violation of the provisions of laws or regulations, but so far no disciplinary accountability of civil servants for the violation of official duty has been found by the disciplinary commissions of the Agency.

(b) Observations on the implementation of the article

The Law on Civil Service in the Institutions of BiH (Art. 54-58), and the Regulations on disciplinary accountability of civil servants in the institutions of BiH legally regulate the area of disciplinary procedures, responsibilities, measures, etc.

At the suggestion of the Civil Service Agency of BiH, the BiH Council of Ministers adopted the Code of Conduct for Civil Servants in the Institutions of BiH that contains rules and principles of good conduct of civil servants to the citizens and in mutual relations of civil servants, as well as informing the citizens about the behaviour they are entitled to expect from public officials. As part of the training organized by the Civil Service Agency of BiH, the training courses are organized on Ethics in Public Administration and Code of Conduct for Civil Servants.

At the level of the Agency for Prevention of Corruption and Coordination of the Fight against Corruption (APIK), the Code of Conduct for Employees of the Agency for Prevention of Corruption and Coordination of the Fight against Corruption was adopted, which determines the standards and rules of conduct for employees in the APIK on the basis of which the employees of the Agency act in performance of official duties.

At the request of the institutions of BiH, the Civil Service Agency of BiH shall conduct the first instance disciplinary proceedings for serious breaches of official duty in a manner that, in accordance with these regulations, the Disciplinary Commission formed by the decision of the Agency (two members are appointed on the proposal of and from the BiH institution, and three members are appointed by the Agency from among the civil servants of other institutions), after the conducted proceedings, shall bring the first instance disciplinary decision. With this decision, the commission may decide: to reject the request for disciplinary action, to reject the request as unfounded, to suspend proceedings if in the same case criminal proceedings have been initiated, or to impose disciplinary measure if it has assessed that the civil servant is disciplinary accountable.

BiH authorities inform that State Investigation and Protection Agency adopted a Code of Ethics for police officers of the State Investigation and Protection Agency, which regulates standards and code of conduct of police officers, ethical and legal guidelines for the exercise of professional duties, standards in terms of conflict of interest and incompatibility of functions with duties in the State Investigation and Protection Agency, and other issues of importance for this area. In this regard the Code of Ethics for Civil Servants applies to civil servants in the institutions of Bosnia and Herzegovina.

With regard to disciplinary accountability of the employees of the State Investigation and Protection Agency, the Internal Control Department of the State Investigation and Protection Agency has jurisdiction to carry out disciplinary proceedings against police officers. In regard to disciplinary accountability for minor breaches of duty of civil servants, the head civil servant who receives the application, shall forward it to the ad hoc Internal Disciplinary Commission of the State Investigation and Protection Agency, which shall conduct the procedure of determining disciplinary accountability, and in cases of disciplinary accountability for serious misconduct, the proceedings shall be conducted by the Commission to be formed by the Civil Service Agency of Bosnia and Herzegovina. Internal Control Department has no jurisdiction in respect of determining disciplinary accountability of civil servants.

Article 8 paragraph 6 requires State Parties to consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with article 8.

This provision of the Convention requires that a normative standards and processes of detection and transparency need to be accompanied by appropriate sanctions.

The State Party under review does not report on disciplinary or other measures against judges and public prosecutors who violate the codes or standards established in accordance with this

article. However, in the answer under the paragraph 2 of this article, Bosnia and Herzegovina reported that The Office of Disciplinary Counsel shall initiate disciplinary proceedings against judges and prosecutors at all levels of government in BiH. Decisions in the initiated proceedings shall be made by First Instance and Second Instance Disciplinary Panels of the HJPC, mainly made up of judges and prosecutors, and the HJPC as a whole in the third instance proceedings. Disciplinary accountability of lawyers in the FBiH is under the jurisdiction of the Bar Association of FBiH, in accordance with the Law on the Attorney's Profession of the Federation of BiH".

So far no disciplinary accountability of civil servants for the violation of official duty has been found by the disciplinary commissions of the Civil Service Agency of BiH, and there is no further information about the implementation of this provision of the Convention in the practice, including initiated disciplinary procedures against judges and public prosecutors, as well as sanctions imposed.

To implement this provision of the Convention, it is important that States Parties have clearly stated and unambiguous procedures to deal with breaches of the code. These will depend on their own institutional and legal systems but will need to consider who or which agency should be responsible for receipt, verification and investigation of allegations concerning assets, gifts or hospitality, bearing in mind the possible volume of work and ease of access to relevant information. Also, States Parties are required to decide which agency will be responsible for adjudicating on identified breaches of the requirements. Appropriate and effective disciplinary measures should be prescribed in appropriate legislation, rules, or terms and conditions of service relating to the rights and duties of public officials. As required, all public bodies' personnel and management systems should address procedures and penalties for deterring, detecting and dealing with incidents of professional misconduct. The code should provide the foundation of a unified disciplinary and grievance framework to protect the integrity of the service and of each individual public official and to provide a crucial mechanism in deterring and dealing with incidents of administrative corruption or misconduct by outlining clear and unambiguous responses and sanctions. The grievance framework provides a safeguard to a public official maliciously and falsely accused of corruption as well as other forms of misconduct but should also outline procedures for the actions and protection of public officials that report corrupt practices going on around them.

Bosnia and Herzegovina has considered taking disciplinary or other measures against public officials who violate codes or standards established.

Article 9. Public procurement and management of public finances

Paragraph 1 of article 9

1. Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia:

(a) The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;

(b) *The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;*

(c) *The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;*

(d) *An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;*

(e) *Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.*

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The current Public Procurement Law ("Official Gazette of BiH" No.: 39/14, <https://www.javnenabavke.gov.ba/legislativa/zakoni/Novi_ZJN_BiH_en.pdf>) - hereinafter: the Law - with accompanying bylaws complies with the provisions of the above-cited article 9 of the UNCAC was published in May 2014, and its implementation began in November 2014. This legal framework has been prepared in accordance with EU directives, as well as with other legislation in BiH. When drafting the new Law the whole multitude of other legal acts that are closely related to the system of public procurement had to be taken into account. Legislation which is also influenced by the Law includes acts related to the budgetary system, the legal status of public institutions, utilities and energy sector, water supply sector, the transport sector, the sector of defence and security sector, administrative procedures, contractual (obligatory) law and criminal law. The main objective of the new Law was to improve some of the key areas of public procurement system in Bosnia and Herzegovina as well as to address some of the problems of the old Law of 2004. These key areas were:

- Increasing transparency in public procurement;
- Planning of public procurement contracts;
- Streamlining the conditions for participation in public procurement procedures;
- Reducing opportunities for the rejection of tenders for technical and/or formal errors;
- Simplified procedures for the conclusion of contracts;
- Improving the system of e-procurement; and
- Improving the system of public procurement in general.

These measures are set out by the provisions of the Law and bylaws, as follows: (a) Articles 35, 36, 37 and 38 of the Law provide:

Article 35 (Procurement Notice)

- (1) The contracting authority shall publish the procurement notice for open, restricted, negotiated procedure with publication of notice, design contest, competitive dialogue and competitive request for quotations.
- (2) The procurement notice shall give all interested economic operators sufficient information to enable them to assess whether it is in their interest to participate in the public procurement procedure and to submit the request to participate, or the bid.
- (3) The procurement notice shall include brief information in line with the relevant elements of the bidding documentation.
- (4) The summary which is published in English shall contain only the minimum of information from the procurement notice, referred to in paragraph (3) of this Article.

Article 36 (Publication of procurement notice)

- (1) All procurement notices, contract award notices, public procurement cancellation notices, voluntary ex ante transparency notice, and prior information notice, as well as notice summaries on procurement in English, shall be published by the contracting authority on the public procurement portal. The summary of all procurement notices shall be published in the "Official Gazette of BiH".
- (2) The notices, referred to in paragraph (1) of this Article shall be prepared and sent for publication electronically in the form, in the manner and within time limits defined in the by-law, adopted by the Agency.
- (3) In addition, the contracting authority may publish the notices referred to in paragraph (1) of this Article in other publications or on other websites, under the condition that these notices cannot be published prior to the day of their publication on the public procurement portal. Such, additionally published, notices may not contain any other information other than that published on the public procurement portal.
- (4) In the case of public procurement procedure the value of which is defined in Article 14 paragraph (5) of this Law, the summary of procurement notice in English shall obligatorily be published on the public procurement portal.
- (5) The contracting authority may also use additional publication, referred to in paragraph (4) of this Article, in the case when the value of public procurement is lower than the amount referred to in Article 14, paragraph (5) of this Law.

Article 37 (Prior information notice)

- (1) Contracting authority may publish by means of prior information notice: a) for procurement of supplies - the total estimated value of all contracts or framework agreements by product area which the contracting authority intends to award in the following 12 months. The product area shall be established by the contracting authority by reference to the Common Procurement Vocabulary nomenclature;
- b) for procurement of services - the total estimated value of all contracts or framework agreements in each of the categories referred to in Annex II of Part A which the contracting authority intends to award within the following 12 months;

c) for procurement of works - essential characteristics of the contracts or framework agreements which the contracting authority intends to award. (2) The notice referred to in items a) and b) of paragraph (1) of this Article shall be published at the beginning of calendar year. (3) The notice, referred to in item c) of paragraph (1) of this Article shall be published immediately following the decision by which the planned works contract or framework agreements, which the contracting authority intends to award, are being approved.

Article 38 (Application of Common Procurement Vocabulary - CPV)

(1) When describing the subject matter of procurement in the procurement notice and bidding documentation, the contracting authority shall be under obligation to refer to designations and terms from the Common Procurement Vocabulary (hereinafter: CPV).

(2) BiH Council of Ministers shall, upon a proposal of the Agency, regulate the CPV and conditions of its application by special decision."

(b) Further, Article 44 of the Law provides:

"Article 44 (Verifying Candidates' and Bidders' Qualifications)

(1) The contracting authority shall assess and verify whether a candidate / bidder is reliable and capable of executing the contract in compliance with the requirements defined in the bidding documentation.

(2) The contracting authority shall define in the bidding documentation the qualification requirements in such a manner that it establishes the minimum criteria required for qualification of candidates / bidders, with regard to their personal capacities, economic and financial standing, and their technical and/or professional ability.

(3) The minimum of qualification requirements for candidates/bidders, defined by the contracting authority, as well as the documents required to prove them shall mandatorily be proportionate to the procurement subject matter and in compliance with it. The set requirements may not have a restrictive effect upon competition and shall have to be clear and precise.

(4) The contracting authority shall request from the candidates/bidders only those evidences that are necessary to establish whether the candidate/bidder meets the qualification requirements set by the contracting authority.

(5) The contracting authority shall not be allowed to reject a request for participation or a bid on the sole ground that it was submitted either by a legal or a physical person referred to in Article 2 paragraph (1), item c) of this Law or a group of candidates/bidders.

(6) Only those candidates/bidders whose qualifications meet the criteria set in bidding documentation shall be allowed to proceed in the public procurement procedure.

(c) Article 64 of the Law provides the Criteria for Contract Award as follows:

"Article 64 (Criteria for Contract Award)

(1) Contracting authority shall award the contract on basis of one of following criteria:

- a) the most economically advantageous bid, or
- b) the lowest price.

(2) Contracting Authority shall be under obligation to elaborate in the bidding documentation the criterion of the most economically advantageous bid in the manner of defining and elaborating in details the sub-criteria for evaluation in accordance with the nature and purpose of the specific subject matter of procurement. Subcriteria could be: quality of subject matter of procurement, price, technical ability of subject matter of procurement, functional and environmental characteristics, operating costs, cost-effectiveness, service after sale and technical assistance, period of delivery or period of execution, etc, with obligation that precise methodology of each sub-criteria evaluation is defined in the bidding documentation. (3) Requirements for qualification of candidates or bidders referred to in Articles 45 through 51 of this Law cannot be sub-criteria for bid evaluation.

(d) Appeals are stipulated by the Public Procurement Law (where the first instance is the contracting authority, the second instance the PRB, and an administrative dispute against the decision of the PRB may be initiated before the Court of BiH),

Appeals may be submitted by any economic operator having or having had an interest in public procurement contract award, who makes it probable that damage was or could be caused in the public procurement procedure because of the actions of the contracting authority, and which is expressed in the appeal as an infringement of this Law and by-laws by the contracting authority in public procurement procedure. The contracting authority shall not conclude a public procurement contract within the time limit of 15 days from the day on which the bidders were informed on the selection of the most successful bidder. Prohibition to conclude contracts shall not apply: a) if only one bidder participated in the open procedure, negotiated procedure without publication of notice and in the procedure for service contract award referred in Annex II Part B, and its bid was selected; b) if only one bidder participated in the second phase of restricted procedure, negotiated procedure with publication of notice or competitive dialogue, and its bid was selected; c) in the case of awarding contracts under framework agreement or dynamic purchasing system. The prohibition to conclude the contract referred to in paragraph (2) item 1 of this Article shall not apply in the case when contracting authority publishes voluntary ex ante transparency notice in the negotiated procedure without publication of notice and in the procedure for service contract award referred to in Annex II Part B. In case that no appeal has been filed against the contract award decision in the small value procurement, the contracting authority shall be under obligation to conclude the contract within ten days from the day of notice to the bidders on the selection of the most successful bidder. Appeals filed shall not prevent the conclusion of the public procurement contract for all lots that are not the subject of appeal. Within five days of receiving the appeal, the contracting authority shall be under obligation to establish timeliness, admissibility, and whether the appeal was filed by an authorized person.

Should the contracting authority establish that the appeal is untimely, inadmissible, or filed by an unauthorized person, it shall dismiss the appeal by issuing a conclusion. The appellant shall have the option of filing an appeal against this conclusion to the PRB, specifically within 10 days from the receipt of the conclusion. If the appeal is timely, allowed, and filed by an authorized person, the contracting authority may, in consideration of the appeal, determine whether it is partly or fully grounded and correct the action by issuing a decision, take action or put out of force the existing decision or decree and replace it with other decision or decree, or cancel the public procurement procedure and inform all participants in the public procurement procedure thereon in the manner established by this Law, within five days from the day of receipt of the appeal. An appeal may be filed against the decision of the contracting authority referred to in paragraph (3) of this Article to

the PRB, through the contracting authority, within five days from the day of receipt of the decision. Should the contracting authority establish, acting on an appeal, determine that the appeal timely, allowed, and filed by an authorized person, but ungrounded, it shall be under obligation to forward its decision to the PRB within five days from the day of receipt of the appeal, together with its opinion on the allegations in the appeal and full documentation related to the procedure subject to the appeal. Within five days of receiving the appeal, the contracting authority shall be under obligation to establish timeliness, admissibility, and whether the appeal was filed by an authorized person.

Should the contracting authority establish that the appeal is untimely, inadmissible, or filed by an unauthorized person, it shall dismiss the appeal by issuing a conclusion. The appellant shall have the option of filing an appeal against this conclusion to the PRB, specifically within 10 days from the receipt of the conclusion. If the appeal is timely, allowed, and filed by an authorized person, the contracting authority may, in consideration of the appeal, determine whether it is partly or fully grounded and correct the action by issuing a decision, take action or put out of force the existing decision or decree and replace it with other decision or decree, or cancel the public procurement procedure and inform all participants in the public procurement procedure thereon in the manner established by this Law, within five days from the day of receipt of the appeal.

An appeal may be filed against the decision of the contracting authority to the PRB, through the contracting authority, within five days from the day of receipt of the decision. Should the contracting authority establish, acting on an appeal, determine that the appeal timely, allowed, and filed by an authorized person, but ungrounded, it shall be under obligation to forward its decision to the PRB within five days from the day of receipt of the appeal, together with its opinion on the allegations in the appeal and full documentation related to the procedure subject to the appeal.

In public procurement procedures, absolutely fundamental breaches of the Law shall be those breaches that the PRB handles ex officio and that may lead to the cancellation of the procedure completely or partially, as follows: a) lack of compliance of bidding documentation with this Law or implementing regulations, that has resulted in impossibility of establishing whether the allegations in the appeal are grounded or that has resulted in the violation of basic principles of this Law, i.e. unlawful contract award; b) conduct of public procurement procedure without adopting the decision on the launch of the public procurement procedure, with content defined in Article 18 of this Law; c) publication of public procurement notices that are not in compliance with this Law or implementing regulations, and bidding documentation; d) violations of procedure in bid opening, or failing to meet the time limit for evaluation of requests to participate. Relatively fundamental breaches of the Law shall be the breaches that may lead to cancellation of the public procurement procedure, if the direct link is established between the breach and the outcome of the procedure. In the legal protection procedure, the PRB shall act within the limits of the requests indicated in the appeal, and it shall act ex officio in relation to the breaches of the Law as defined in Article 103, paragraph (1) of this Law. The PRB shall not be under obligation to check factual and legal situation that was subject of prior appeal in the same public procurement procedure.

In the legal protection procedure, the PRB may: a) suspend the procedure upon appeal because of the appeal being withdrawn; b) dismiss the appeal by issuing a conclusion because of incompetence, inadmissibility, improperness, untimeliness and because it was filed by a person lacking legal capacity; c) dismiss the appeal because of groundlessness thereof; d) annul the decision, procedure or action in the part violating the Law or implementing regulations; e) decide on request of contracting authority to continue the public procurement procedure; f) annul the procurement contract or framework agreement under the circumstances referred to in paragraph (2) of this Article. The PRB shall annul the contract or framework agreement if the contracting authority: a) applied the negotiated procedure without publication of a notice or procedure for

service contract award referred to in Annex II Part B contrary to the provisions of this Law; b) failed to publish a procurement notice on the public procurement portal if it was required by this Law; c) concluded the contract or framework agreement in contravention to provisions of Article 98 of this Law if this prevents the PRB from examining the appeal before the conclusion of a contract or framework agreement; d) concluded the contract or framework agreement without applying the public procurement procedure, except in cases permitted by this Law. A procurement contract or framework agreement shall not be subject of annulment, if in cases referred to in paragraph (2) item a), b), and d) of this Article, the contracting authority had reasonable grounds to believe that it acted in compliance with this Law, has published the voluntary ex ante transparency notice and the contract or framework agreement had not been concluded before the expiry of a period of 15 days after the publication of this notice. In justified cases referred to in paragraph (5) of this Article the PRB may keep in force the contract or framework agreement being subject of annulment, to the extent the contract or framework agreement has been already performed. In such a case the PRB shall impose a financial penalty on the contracting authority in the amount indicated in paragraph (8) of this Article. The PRB shall not annul the contract or framework agreement if it establishes, after having examined all relevant aspects, that overriding reasons related to general interest require that the contract is maintained in force. The general interest, in the context of paragraph (5) of this Article shall not concern economic interest directly linked to the contract or framework agreement concerned, encompassing in particular the costs that may be incurred due to a delay in performance of a contract or framework agreement, costs that may result from implementing a new public procurement procedure, costs that may result from the change of the economic operator performing the contract or framework agreement and costs of legal obligations resulting from annulment of contract or framework agreement. Economic interest in maintaining the contract in force may be considered as an important public interest only where the annulment of the contract or framework agreement would cause disproportionate consequences. Annulment of the contract or framework agreement shall be effective from the moment the contract has been concluded.

Pecuniary penalties referred to in paragraph (4) of this Article shall be imposed on the contracting authority in the amount of up to 5% of the contract value, taking into account the type and scope of violation as well as circumstances under which the violation was committed. The penalty specified under the provisions of this Article shall be paid into the account of the State, entity or local level budget where the contracting authority concerned has its headquarters. PRB shall decide by issuing a decree on the main matter, and in other cases by issuing a conclusion. PRB shall be under obligation to adopt a conclusion or a decision on the appeal within 15 days from the day of completion of appeal by the contracting authority, but not later than 30 days from the day of receipt of the appeal by the contracting authority. In exceptionally complex cases, chairperson of the PRB may, by issuing a conclusion, extend the time limit referred to in paragraph (3) of this Article, but not beyond 30 additional days. This conclusion shall be delivered to all parties in the procedure. Decision or conclusion of the PRB referred to in this Article shall be final and enforceable. Contracting authority and parties to the procedure may initiate an administrative dispute before the Court of Bosnia and Herzegovina (hereinafter: the Court of BiH) against a PRB decision within 30 days from the day of the receipt of the decision. The administrative dispute on the lawsuit filed by parties in a public procurement procedure shall be held according to the emergency procedure. Contracting authority or party to the procedure may also submit a request to postpone the final decision or conclusion of the PRB, together with a lawsuit initiating an administrative dispute within the time limit referred to in paragraph (1) of this Article. Respecting public interest and taking into account the damages that may be caused by postponing the final PRB decision, the Court of BiH shall adopt a special decree on the request referred to in paragraph (3) of this Article that shall postpone the execution of the final PRB decision for a determined period of time or until a decision is adopted by a court on the lawsuit filed in the administrative dispute.

(e) Draft Ordinance on training of public procurement officers is in the procedure of adoption by the Council of Ministers of BiH. The adoption of this Ordinance is of great importance for capacity building within the contracting authority, as well as the concept of training defined in the Ordinance, that will ensure raising the level of expertise of employees in the contracting authorities. Strengthening the capacity of contracting authorities through the training of public procurement officers is at the same time strengthening the public procurement system, fewer errors in public procurement procedures, and fewer appeals. The continuity in the education of public procurement officers who undergo training and pass an examination is additional benefit to strengthening the role of the public procurement officers in the overall process of public procurement.

The State Investigation and Protection Agency in respect of public procurement applies the Public Procurement Law of Bosnia and Herzegovina, and in this regard it has adopted the following internal regulations:

- Regulations on the procedure of direct communication with a single supplier, service provider and contractor,
- Instruction on conducting of the procurement procedure under Article 5 of the Public Procurement Law of Bosnia and Herzegovina,
- Regulations on internal procedures in the public procurement of goods, services and works in the State Investigation and Protection Agency.

The Law on Internal Audit in the public sector in the Federation of Bosnia and Herzegovina ("Official Gazette of FBiH" No. 47/08 and 101/16), with related by-laws and methodological acts, established the system of internal audit in the public sector in the Federation.

The established legal framework of the internal audit, among other things, requires performing an internal audit of public procurement, in order to determine whether the procurement in the Federation of BiH is conducted in accordance with the Public Procurement Law and prescribed procedures. The above process is carried out continuously. In 2017, the Federal Ministry of Finance will pay special attention to the preparation of the document on the procedure in case of irregularities and fraud.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

In accordance with the aforementioned regulations, the actors obliged to establish internal audit have been determined, and the heads of internal audit units are obliged to submit to the sector Central Harmonisation Unit of the Federal Ministry of Finance annual reports of the internal audit in the prescribed form, which, among other things, includes the information on the audits performed in the course of the year with the most significant findings and recommendations, based on which it is possible to extract statistical data in certain fields, for example, in the area of public procurement: the number of planned and conducted internal audits, of given key findings and recommendations, the number of unimplemented recommendations, etc.

Public Procurement Agency of BiH keeps official records on conducted public procurement procedures in BiH through the administration of portal "e-procurement" and regularly publishes annual reports on them that can be found at the following website of the Agency: <https://javnenabavke.gov.ba/index.php?id=11b&jezik=hr> Public Procurement Agency does not keep records of appeals or court cases. In the second instance appeals PRB has jurisdiction, and in

administrative disputes the Court of BiH. Further statistics are from regular Annual report on contracts awarded in 2015:

Of the total number of contracting authorities in Bosnia and Herzegovina who are obliged to apply the Public Procurement Law of BiH according to the data of 31/12/2015, 2053 contracting authorities were registered for submitting reports in public procurement procedures to the information system "E-procurement".

(b) Observations on the implementation of the article

Regarding

Item (a) The public distribution of information relating to procurement procedures and contracts, including information on invitation to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;

Bosnia and Herzegovina confirmed that the current Public Procurement Law with accompanying bylaws complies with the provisions of the article 9 of the Convention. The Public Procurement Law was published in May 2014 and its implementation began in November 2014. When drafting the new Law the whole multitude of other legal acts that are closely related to the system of public procurement had to be taken into account.

The measures of this article of the Convention are set out by the provisions of the Law and bylaws, articles 35, 36, 37 and 38 of the Law and implementing regulation (instructions).

In article 35, it stipulated that the contracting authority is obliged to publish the procurement notice for open, restricted, negotiated procedure with publication of notice, design contract, competitive dialogue and competitive request for quotations. In paragraph 2 and 3 of the article 35, it stipulated the procurement notice shall give all interested economic operators needed information to participate in the public procurement procedure and to submit the request to participate or, bid and the notice includes brief information with relevant elements of the bidding documentation.

According to article 36, all procurement notices, contract award notices, public procurement cancellation notice, voluntary ex ante transparency notice and prior information notice, the contracting authority shall publish on the public procurement portal and summary of all procurement notice shall publish in the "Official Gazette of BiH".

In addition, other opportunity for greater transparency is that the contracting authority may publish the notices in other publications or on other websites, but not prior the day of their publication on the public procurement portal and without any other information than that published on the public procurement portal.

Article 37 prescribes provisions on planning phase: contracting authority may publish prior information notice for procurement of supplies - the total estimated value of all contracts or framework agreements and for procurement of services which the contracting authority intends to award, both within the following 12 months and publish it at the beginning of calendar year. It stipulated that the contracting authority may publish prior information notice for procurement of works - essential characteristics of the contracts or framework agreements which the contracting

authority intends to award and that notice shall be published immediately following the decision by which the planned works contract or framework agreements are being approved.

Regarding

Item (b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;

The State Party under review reports that the measures of this article of the Convention are set out by the provisions of the Law article 44 and bylaws.

It is noted that a contracting authority shall assess and verify if a candidate /bidder is reliable and capable of executing the contract in compliance with the requirements defined in the bidding documentation. The contracting authority in the bidding documentation establishes the minimum criteria required for qualification of candidates/bidders with regard to their personal capacities, economic and financial standing, and their technical ability. It also is noted that minimum of qualification requirements for candidates, as well as the documents required to prove them shall mandatorily be proportionate to the procurement subject matter. Only those candidates/bidders whose qualifications meet the criteria set in bidding documentation should be allowed to proceed in the next stage of the public procurement procedure.

Regarding

Item (c) The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;

the country reports that the measures of this article of the Convention are implemented with the provisions of the Law, article 53, 54, 55, 64 and bylaws, such as Instruction on the amendments to the instruction on conditions and method of publishing notices and submitting reports in the public procurement procedures under the E-procurement information system.

The provisions of the Law prescribe that a contracting authority shall award the contract on basis on two criteria: the most economically advantageous bid, or the lowest price. In the bidding documentation a contracting authority is obliged to elaborate the criteria of the most economically advantageous bid in the manner of defining and elaborating in details the sub-criteria for evaluation in accordance with nature and purpose of subject matter of procurement.

In the mentioned Instruction, it is prescribed that in the case of e-auction, the tender documents must include appropriate information related to the e-auction process and sub-criteria that will be subject of the e-auction, provided that the sub-criteria can be quantitatively determined and presented in numbers or percentages, i.e. through a mathematical formula, in case of application of the criterion of the most economically advantageous tender. Regarding the application of the Convention is that in the case of the criterion of the most economically advantageous tender, the evaluation should be conducted exclusively against the sub-criteria defined in the E-Procurement system.

Regarding

item (d) An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;

the State Party under review informs that a comprehensive appeal procedure is prescribed by the Public Procurement Law, where the first instance is the contracting authority, the second instance is the PRB, and an administrative dispute against the decision of the PRB may be initiated before the Court of BiH.

Appeals do not prevent the conclusion of the public procurement contract for all lots that are not the subject of appeal. In the legal protection procedure, the PRB acts within the limits of the requests indicated in the appeal, and it acts ex officio in relation to the breaches of the Law. The PRB is not under obligation to check factual and legal situation that was subject of prior appeal in the same public procurement procedure. In the legal protection procedure, the PRB may: a) suspend the procedure upon appeal because of the appeal being withdrawn; b) dismiss the appeal by issuing a conclusion because of incompetence, inadmissibility, improperness, untimeliness and because it was filed by a person lacking legal capacity; c) dismiss the appeal because of groundlessness thereof; d) annul the decision, procedure or action in the part violating the Law or implementing regulations; e) decide on request of contracting authority to continue the public procurement procedure; f) annul the procurement contract or framework agreement under the prescribed circumstances. The PRB shall annul the contract or framework agreement if the contracting authority: a) applied the negotiated procedure without publication of a notice or procedure for service contract award contrary to the provisions of this Law; b) failed to publish a procurement notice on the public procurement portal if it was required by this Law; c) concluded the contract or framework agreement in contravention to provisions of this Law if this prevents the PRB from examining the appeal before the conclusion of a contract or framework agreement; d) concluded the contract or framework agreement without applying the public procurement procedure, except in cases permitted by this Law. A procurement contract or framework agreement shall not be subject of annulment, if in prescribed cases, the contracting authority had reasonable grounds to believe that it acted in compliance with this Law, has published the voluntary ex ante transparency notice and the contract or framework agreement had not been concluded before the expiry of a period of 15 days after the publication of this notice. In justified cases the PRB may keep in force the contract or framework agreement being subject of annulment, to the extent the contract or framework agreement has been already performed. In such a case the PRB shall impose a financial penalty on the contracting authority. The PRB shall not annul the contract or framework agreement if it establishes, after having examined all relevant aspects, that overriding reasons related to general interest require that the contract is maintained in force. Economic interest in maintaining the contract in force may be considered as an important public interest only where the annulment of the contract or framework agreement would cause disproportionate consequences.

Pecuniary penalties are prescribed. The administrative dispute on the lawsuit filed by parties in a public procurement procedure shall be held according to the emergency procedure. Contracting authority or party to the procedure may also submit a request to postpone the final decision or conclusion of the PRB, together with a lawsuit initiating an administrative dispute within the time limit prescribed in the Law. It is stipulated that, respecting public interest and taking into account the damages that may be caused by postponing the final PRB decision, the Court of BiH shall adopt a special decree on the request that shall postpone the execution of the final PRB decision for a determined period of time or until a decision is adopted by a court on the lawsuit filed in the administrative dispute.

Regarding

Item (e) an effective system of domestic to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurement procedures, screening procedures and training requirements;

the State Party under review reports that the measures of this article of the Convention are set out by the provisions of the Law and bylaws, article 52 and Article 92, Paragraph 3, Item (i) of the Public Procurement Law and Rulebook on training of authorised trainers, which is prepared by Public Procurement Agency. It is noted that each candidate/bidder shall be under obligation to submit attached to the bid a separate written statement saying that it did not offer bribe or participate in any action that had corruption as its objective in the course of the subject public procurement procedure. The contracting authority shall inform the bidder and the Agency in writing of the rejection of such a request or bid and of the reasons for rejecting it.(see article 52 of the Law) It is noted that Draft Ordinance on training of public procurement officers is in the procedure of adoption by the Council of Ministers of BIH. The adoption of this Ordinance is of a great importance for capacity building within the contracting authority as well as ensures raising the level of expertise of employees in the contracting authorities. The continuity in the education of public procurement officers who undergo training and pass an examination is additional benefit to strengthening the role of the public procurement officers in the whole process of public procurement.

Under this provision, States Parties must establish and develop systems of procurement, based of transparency, competition and objective criteria in decision-making, clear and comprehensive procedures that cover all parts of contracting and all decisions taken are transparent and accountable. States Parties are required to establish public procurement system that ensures transparency over public distribution of procurement-related information, including mandatory use of open tendering.

Regarding item (a), in own observation about this provision of the article, reviewing experts found that provisions of The Law on Public Procurement BIH are in compliance with this provision of the Convention. It is also found that provisions of the new Public Procurement Law enable the achievement of the transparency principle to a considerable degree in the three stages of the procurement procedure: procurement planning, and the decision to procure, including preparation of operational-technical requirements (specifications); organization and allocation of public procurement through open procedures and the completion of contracts and closure of the contracts through post-award performance and payment.

This observation provides certain findings related to provisions of the Law, regarding provision of greater transparency in the various stages of the procedure.

In procurement planning, it is noted the obligation to the contracting authorities to develop public procurement plans setting out the types of goods, services and works to be procured during the budget year and to publish procurement plans on its websites within two months from the date of adoption of the budget or financial plan means a higher degree of transparency at the stage of planning stage (see article 17).

It should be noted that a contracting authority may not begin the procedure for awarding a contract if the specific procurement is not foreseen in the procurement plan otherwise, contracting authorities is obliged to augment the procurement plan by a special decision on initiating the procedure at stake.

The Article 36 of the Law on Public procurement meets the requirements of the Convention prescribing obligation of publishing of all information related to the various phases of the

procurement procedure: procurement notice, contract award notices, public procurement cancellation notice, voluntary ex ante transparency notice and prior information notice. These provisions enable effective participation in procurement process especially in the planning phase and pre-procurement phase.

It is found that the Law has also introduced provisions to increase transparency of the negotiated procedure without publication of notice. The negotiated procedure without publication of notice is specific in that it allows the contracting authority to negotiate the financial, technical, administrative or any other aspect of a tender, and its application is permissible only in specific circumstances stipulated by the Law, for example in emergencies caused by events that the contracting authority did not bring about and could not have foreseen in the planning phase.

The contracting authority, after it has selected a tender, may voluntarily publish an ex ante notice in which it will explain how the conditions that justify the application of this procedure were met and make public its intent to award the contract to the most successful tenderer.

The provisions in the Law on Public Procurement also ensure transparency principle refer to tender documentation which may be obtained: in person, upon written request and for a fee, together with the invitation to submit tenders and by publication on the public procurement portal along with the procurement notice (see article 55).

The Law prescribes online publication of tender documentation for all public procurement procedures subject to publication of notice on the public procurement portal which shall be mandatory at 1st January 2018. It should be taken into account that it has significantly facilitated the exchange of information between contracting authorities and tenderers, and has decreased the possibility for charging high fees for the delivery of documentation.

The contracting authorities are not required to publish information on which tenderer was awarded the contract based on the competitive request and direct agreement procedures, which could have negative implications for transparency in public procurement. Without information on these procedures, it is impossible to have a clear picture of the total number and type of contracts the public sector has with various tenderers.

The provisions of the Law and the development of the public procurement portal have significantly improved the transparency of the Procurement Review Body. Decisions of the Procurement Review Body and the Court of BiH on complaints by tenderers are published on the public procurement portal.

It is noted that contracting authorities are required to publish the basic elements of all public procurement contracts on their websites, as well as any changes to contracts that arise during implementation. Specifically, contracting authorities are required to provide key data on a contract (type of procedure, selected tenderer, basic elements of the contract) in a single document, as well as data on any changes and the implementation of the contract (date of modification, reminder of contract value after modification, date of signing, date of contract implementation and total funds spent). This provisions enables the public have access to information not only about how a contract was awarded, but also on how it was implemented. The form for monitoring contract implementation is published on the website of the contracting authority.

The following points could serve as a framework to strengthen the public procurement system and consolidate the actions taken by the State Party under review to combat corruption in the field of public procurement:

Introducing mandatory publication of public procurement plans on the public procurement portal is recommended. In terms of the types of information, more countries especially in the European Union, have increasingly decided to publish information not just on current procurement processes, but also on annual plans of institutions for the procurement of various goods, services and works. Thus, for instance, in Croatia, contracting authorities are obliged to publish procurement plans on their websites, and there are links on the public procurement portal leading to these documents. The type of information included in public procurement plans is also limited. Namely, public procurement plans that are published do not need to include procedures for contracts with lower value, i.e. competitive request and direct agreement procedures.

There is no legal requirement to publish procurement plans on the public procurement portal. In addition, contracting authorities are not required to publish an integral procurement plan, with all procurements procedures including procurement procedures for lower values subject to competitive request and direct agreement. This is an unjustified limitation of availability of information, especially that these procedures are applied for the majority of public procurement contracts. Excluding procedures for lower value contracts from published procurement plans is problematic also because of the relatively high monetary threshold for competitive request procedures, which accounts for a significant share of the overall spending in public procurement in every country.

The provisions of the Law prescribe that contracting authorities are not required to publish information on which tenderer was awarded the contract based on the competitive request and direct agreement procedures, which could have negative implications for transparency in public procurement. Namely, the majority of public procurement contracts are awarded through competitive request and direct agreement procedures.

It should be possible to publish all records on implemented contracts on the public procurement portal. It should be ensured that the obligation to publish reports on implemented contracts is carried out through a unique form applicable to all contracting authorities, and the public procurement portal, where all the records would be pooled, would enable uniform practice in this area.

A policy for online publication of integral public procurement contracts should be developed. Since the Public Procurement Law significantly improved the transparency of contract implementation by way of mandatory reporting, the next logical step would be to create regulations to enable the publication of the contracts themselves, provided that confidential information is protected, while information of public interest is published.

Regarding item (b), the reviewing State Party found that the provisions of the Law, article 44, 45, 46 and other articles and bylaws, implementing Regulations, are in compliance with the measures of this article of the Convention. It is noted the contracting authority shall define in the tender documentation the qualification requirements in such a manner that it establishes the minimum criteria required for qualification of candidates / bidders, with regard to their personal capacities, economic and financial standing, and their technical and/or professional ability. The contracting authority defines the minimum of qualification requirements for candidates/bidders, as well as the

documents required to prove them shall mandatorily be proportionat to the procurement subject matter and incompliance with it. The set requirements may not have a restrictive effect upon competition and shall have to be clear and precise. The Law stipulated provisions refer to personal ability, ability to pursue professional activity, economic and financial standing, general requirements for technical and professional ability and other requirements related to procurement subject matter.

It is noted that because of the diversity of the subject of procurement and its specifics, the contracting authority is often in a situation that cannot accurately defines the requests regarding personal and professional ability of the economic operators, and hence is the problem with the insufficiently specific or precise tender documentation which leads to the failure of the tender. In order to overcome this situation, it is recommended that the Public Procurement Agency to develop a model in the tender documentation for each type of procedure and the different subject of procurement (goods, services and works), where will be covered all requirements that under the provisions of the law should be met bidders for each type of procedure and the object of the procurement.

Challenges

In order to ensure greater compliance with the provisions of the Convention, the reviewing State Party recommends preparing Models of the standard bidding documentation, in accordance with Public Procurement Law. In total, nine Models for standard bidding documentation need to be prepared, one for each public procurement procedure. So far, Model for standard bidding documentation for open procedure is prepared and published; rest of the documentation (new Models) should be prepared also in accordance with the Public Procurement Law. Models for standard bidding documentation would increase the efficiency of contracting authorities on the bidding documentation in the tender preparation phase. Bidding documentation will be standardised for every single public procurement procedure and in compliance with Public Procurement Law and its Implementing Regulations.

Regarding item (c), the reviewing State Party found that the measures of this article of the Convention are implemented. In direction of better implementation of this article, it should be taken into account that defining clear rules for evaluating tenders also reduces the possibility of arbitrary application of criteria and subjective evaluation of tenders and promotes the application of clear rules for making important decisions, a key precondition for achieving the principle of transparency. Defining sub-criteria for evaluating the economically most favourable tender is very important for ensuring transparency, given that it aims to establish clear rules and procedures for awarding contracts, which are to be applied consistently and without discrimination throughout the procurement procedure. The evaluation method based on the preset criteria must be published in advance in order to allow potential tenderers to prepare their tenders accordingly, and the criteria must not be altered during the procedure. In that context, establishing tender evaluation criteria is a considerable challenge for contracting authorities, given that the lack of clear and precise methodology may lead to irregularities in the contract award process. In practice, a frequent problem with awarding contracts is the lack of detailed regulations or practical instructions that would help contracting authorities develop an evaluation methodology, i.e. determine the criteria for the evaluation of the most favourable tender, which in turn leads to a lack of transparency. This

results in numerous irregularities in practice, such as: establishing criteria that are not proportional to the type and size of the procurement, evaluating tenderers on the basis of their qualification and not their tender and awarding points to tenders on the basis of subjective assessment. In other countries, attempts to prevent these issues include developing manuals for the application of tender evaluation criteria. Competent institutions in countries of the region, for instance in Croatia and Montenegro, have also developed relevant documents to serve as instructions for contracting authorities on how to apply tender evaluation criteria, and especially the criteria for the economically most favourable tender. This is a way to promote the establishment of clear rules for important decision making, which is an important precondition for achieving the principle of transparency.

Challenges

In order to ensure greater compliance with the provisions of the Convention, it is recommended that the conditions and criteria for evaluating tenderers and submitted tenders stated by the contracting authority is the most important type of notice in public procurement. The key to this notice is that criteria must be formulated so that all potential tenderers can interpret them in the same way. Information given in the invitation, such as qualification and selection criteria, as well as deadlines for submitting tenders, must be predetermined and must not be changed during the implementation of the procedure. If criteria are not published in the public procurement notice, they must be included in the tender documentation, which should be easily accessible to all tenderers.

Regarding

item (d), the State Party under review has established a comprehensive appeal procedure, where the first instance is the contracting authority, the second instance is the PRB, and an administrative dispute against the decision of the PRB may be initiated before the Court of BiH.

Regarding item (e) the measures of this article of the Convention are set out by the provisions of the Law, and other relevant regulations in BiH related to this issue. The provisions of the Law prescribe the obligation for each candidate/ bidder to submit attached to the bid a separate written statement saying that it did not offer bribe or participate in any action that had corruption as its objective in the course of the subject public procurement procedure. This statement by any bidder given under criminal and material liability ensures that he was not involved in giving bribes or doing other irregularity concerning the procedure. This obligation regulates matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurement procedures and national experts report that is in compliance with provisions of the Convention. In this context, with this observation, the reviewing State Party provides some recommendations and clarifications about this article of the Convention aimed at better implementation of part of the article related to training requirements. It is noted that for effective public procurement system it is needed well-trained staff in contracting authorities responsible for public procurements. The main problem in many countries is the lack of well-trained staff in contracting authorities responsible for public procurements. The capacity of individual institutions directly or indirectly involved in processes of public procurement in Bosnia and Herzegovina should be improved. Staff responsible for public procurements should be acquainted in details with the Law on Public Procurement. Having in mind that for most of staff, public procurements are not their primary tasks, they are usually not able to work on public procurements in a qualitative and effective way that provides the most efficient use of public funds. Another issue is that staff employed in contracting authorities responsible for public procurements do not sufficiently understand their role in the system, nor the necessity of strict implementation of PPL and its

Implementing regulations. Furthermore, contracting authorities do not properly apply Public Procurement Law while preparing tender documentation. The analysis indicates that large numbers of public procurements are being cancelled due to violation of the principles of public procurement given that tender documents are not been prepared on the basis of the Public Procurement Law and implementing regulations. Often, tender documents are not of adequate quality and not in accordance with formal requirements. It is noted that in Anticorruption Strategy for 2015-2019 and the Action plan for the implementation of the Anticorruption Strategy for 2015-2019 in Strategic programme 2.9 Continuous harmonization of the legal framework in the area of public procurement with international obligations and standards, it is prescribed many activities which should be realized in the next four years in order to ensure transparency and effective fight against corruption in public procurement system.

(c) Challenges in implementation

- Strengthen the public procurement system and consolidate the actions to combat corruption in the field of public procurement through mandatory publication of public procurement plans on the public procurement portal;
- Consider incorporating, in the ongoing and planned upgrades (improvements) of the E-public procurement system more details regarding the public procurements including establishing and publishing a database of decisions that will include all previously made procurement decisions;
- Ensure that records on implemented contracts are published on the public procurement portal.

Paragraph 2 of article 9

2. Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia:

- (a) Procedures for the adoption of the national budget;*
- (b) Timely reporting on revenue and expenditure;*
- (c) A system of accounting and auditing standards and related oversight;*
- (d) Effective and efficient systems of risk management and internal control; and*
- (e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.*

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance

with this provision of the Convention.

All listed measures and procedures for implementing the same are provided by the Law on Financing of the Institutions of BiH and the Law on the Budget, which is adopted for each fiscal year and the by-laws (e.g. Rules on financial reporting of the institutions of BiH). Taking into account the existing legal framework, any subsequent activity is improvement of the existing system.

In the Republika Srpska, in accordance with the Law on Budget System of the Republika Srpska, the Budget Framework Paper (BFP) is adopted for a period of three years and each year is reviewed by "rolling" system. BFP contains macroeconomic projections and forecasts of budget funds and expenditures for the next year and the next two fiscal years. According to the Law on fiscal accountability in the Republika Srpska, the BFP of the RS contains, among other things, the objectives of fiscal policy expressed as target values of basic fiscal aggregates, which the Government is trying to achieve in the budget system of the Republika Srpska. The Government of the Republika Srpska, at the session held on 30/06/2016, adopted the Budget Framework Paper of the Republika Srpska for the period 2017-2019.

So, the process of drafting the budget of the Republika Srpska is based on a Budget Framework Paper issued by the Government of the Republika Srpska for three years, i.e. for the next and for the next two years, which defines the policies and priorities of the Government for the given period.

BFP represents a preliminary draft budget for next year and has the ceilings of expenditure, which every budget user must adhere to in the process of preparing its annual requests for budget funds. The obligation of preparing the Budget Framework Paper of the Republika Srpska and the Budget of the Republika Srpska is defined by the Law on Budget System of the Republika Srpska. The procedure of preparation of the budget of the Republika Srpska for the next year, starts in February of the current year, when the Ministry of Finance, through the Instruction for budget users No. 1 requires the budget users to define: their activities for the current year, the priorities which they plan to launch in the coming year, and savings options that can be achieved for the following year.

The Ministry of Finance, also through the Instruction for budget users No. 1. prepares the budget calendar containing responsibilities and deadlines for submission of data by the budget users, as well as the proposal of the internal process in 10 steps which budget users should follow to ensure the timely and effective preparation of their medium-term budgets.

Based on data collected through the Instruction for budget users No. 1, the priority programs are determined, i.e., spending priorities having in view the policy of the Government. On this basis, the Ministry of Finance makes, and the Government of the Republika Srpska adopts the Budget Framework Paper of the Republika Srpska, which sets the initial budget limitations for the relevant ministries and institutions under their jurisdiction for the next and for the next two years. Starting or initial limits defined by BFP are the starting point that will be used in the preparation of the budget of the Republika Srpska for the coming year.

After the Government of the Republika Srpska has adopted the Budget Framework Paper, the Ministry of Finance shall access to forwarding the Instructions for budget users No. 2, which is the basis for drafting the budget for the next fiscal year (according to the budget calendar the Ministry of Finance issues the budget users with the instruction about the method and elements of drafting the budget for the next fiscal year.

The purpose of the Instruction for budget users No. 2 is:

- To provide budget users with information about the initial budgetary constraints defined by BFP, for the next year and the preliminary transferred estimates for the next two years,

- To provide the necessary information for the preparation of budget users' requests for the next year,
- To request from budget users to prepare requests by economic classification and in the program format, and submit them to the Ministry of Finance in the legal time limit (deadline for submitting a budget request for next year is 01 September).

Based on the information provided, taking into account legal obligations, the Government's policies, priorities and strategies adopted, and updated macroeconomic projections and estimates of the budget funds, the Ministry of Finance makes the draft, or the budget proposal of the Republika Srpska for the coming year and the same is sent to the RS National Assembly for further procedure and final adoption.

It should be noted that in recent years the Republika Srpska in cooperation with international institutions has carried out a series of budget reforms aimed at strengthening the management and planning in the field of public finance. Namely, the budgeting in the Republika Srpska has moved from the traditional budget planning process by which the budget funds were distributed only by the economic categories, to the principles of program planning, which still contains the same information but also allows to make decisions based on defined programs on the allocation of budget funds that are based on the policy objectives and desired results.

The Law that is adopted with the budget for a given fiscal year is the Law on Execution of the Budget of the Republika Srpska. This is the Law which prescribes the manner of execution of the budget and applies to all budget users, and is implemented in accordance with the Law on Budget System of the Republika Srpska, the Law on borrowing, debt and guarantees of BiH, the Law on borrowing, debt and guarantees of the RS, the Law on Treasury, the Law on investment of public funds, the Law on the determining and settlement of internal debt and other laws regulating this area.

As regards the accounting framework and the function of treasury system, budget users in the Republika Srpska as of 01/01/2013 applying the IAS for public sector IAS-JS 23 switched to full accrual basis of accounting. Treasury system of operations in the Republika Srpska has covered most budget users of the budget of the Republika Srpska and all users of budget of municipalities and cities, as well as the Pension and Disability Insurance Fund of the Republika Srpska (PIO Fund of 01/01/2016), while the procedure of introduction of all public health facilities and the Health Insurance Fund of the Republika Srpska into the treasury method of operations is planned for the coming year. Other non-budget funds have not yet been included in the treasury system of operations.

The Central unit for harmonization of financial management, internal control and internal audit (CHU RS) in the Ministry of Finance of the Republika Srpska has been established by the Law on Internal Audit in the public sector of the Republika Srpska.

The Republika Srpska has adopted the Law on the system of internal financial controls in the public sector of the Republika Srpska. The said Law shall govern the system of internal financial controls in the public sector, including financial management and control and internal audit, establish the methodology and standards and other issues of importance for the establishment, development and implementation of the system of internal financial controls in the public sector. In this way, the Law on Fiscal Accountability in the Republika Srpska will complete the system which will enable a significant improvement of fiscal discipline and accountability in the Republika Srpska. Also, CHU RS, in accordance with the said Law, drafted Consolidated annual report for 2015 which was adopted at the 77th session of the Government of the Republika Srpska held on 09/06/2016.

The Government of the Republika Srpska at 77th session held on 09/06/2016 adopted the Decision whereby it appointed the Working group to draft the Strategy of Public Finance Management of the Republika Srpska for the period 2016-2020. Activities related to the development of the respective strategy are underway, its finalization and referral for adoption are pending. Adoption of the said Strategy will clearly define the directions of reforms in the field of public finance and complete the system to improve fiscal accountability and long-term fiscal stability of the Republika Srpska. Further improvement of public finance management in the Republika Srpska is a top priority of the Government of the Republika Srpska. Establishing of comprehensive and well-organized public finances is a prerequisite for successful reform processes and the further development of all sectors of society.

When it comes to this area in the Republika Srpska the emphasis in 2016 was on: Reduction of tax burden on labour, while finding real and secure sources of funding from which the extra-budgetary funds will be compensated to cover loss of revenue from contributions; Increase in fiscal accountability and improving the system of internal financial controls in the public sector, through the implementation of the Law on Fiscal Accountability and the Law on the system of internal financial controls in the public sector of the Republika Srpska; Combating the underground economy through the adoption of necessary legislation, which will improve the operation of all control bodies; Reform of the health care system. In this regard, in 2016, the Law on fiscal accountability of the Republika Srpska was adopted, that governs fiscal rules, measures and procedures based on which the fiscal framework is established, public spending limited, accountability for the efficient and effective use of budget funds strengthened, the Fiscal Council of the Republika Srpska founded, and the system of controls and supervision strengthened. This Law defines the general and specific fiscal rules. General fiscal rules refer to the total budget system of the Republika Srpska and determine: Rule on Debt and Rule of Consolidated Budget Deficit. Special fiscal rules are binding, automatic measures if indicators presented by general fiscal rules reach the value thresholds established by this Law. Completion of activities relating to the establishment of the Fiscal Council of the Republika Srpska, as in the public competition, which was announced in 2016, of the pool of candidates, only one met the requirements, is expected in the first half of 2017. Furthermore, in December 2015, the Government of the Republika Srpska adopted the Strategy of Debt Management of the Republika Srpska for the period 2015-2018 and represents the plan that the Government intends to implement in the medium term in order to achieve the desired structure of the debt portfolio, taking into account the government's preference for risks and charges. The Strategy identified indicators or guidelines in order to achieve debt structure with an acceptable cost/risk ratio. In the coming period the Republika Srpska will continue with the implementation of fiscal consolidation, which aims to provide a stable macroeconomic environment and a stable, positive real growth in the medium and long term, at the same time carrying out more structural reforms, primarily in the field of public sector. Fiscal consolidation will be implemented by reducing public spending and increasing public revenues, through the increase in revenue from taxes on consumption, expanding the tax base, reducing the gray economy, and improving the work of tax administrations. In this regard, guided by the commitment to create a favourable tax policy and further social and fiscal stability, as well as to implement the reforms with the aim of facilitating labour and increase economic activity the Republika Srpska continued with the implementation of activities towards meeting these objectives. In 2015, the Law on Personal Income Tax was adopted („Official Gazette of the Republika Srpska“, number: 60/15) with the aim of reducing the tax burden primarily by abolition of taxation of income from shares in the capital of legal entities, then by more precise definition and the determination of tax incentives, encouraging investment in life insurance premiums in the form of new tax breaks, separation of tax on personal income (income from employment) from other forms of income that are considered other income (income from a variety of contractual relations, income from membership in the administrative, supervisory boards, audit committees, revenues from MPs and councillors

functions, etc.). The Law on Amendments to the Law on Contributions („Official Gazette of the Republika Srpska“, number: 116/12 and 103/15) which was adopted in December 2015 and entered into force on 01 January 2016, reduced the base of obligatory contributions for holders of non-commercial family farms for health insurance contribution, introduced the base for businesses and individuals who individually perform professional activity. Also, this Law abolished the obligation to pay contributions on the payment of pension contributions up to KM 1,200 annually if the pension contribution is paid for contribution obligor by the contribution payer. The purpose of this deduction is to encourage employers in the Republika Srpska on the one hand, to pay for their employees a certain amount of funds that would be exempt from paying the contributions, and on the other hand be the necessary impetus to the formation and revival of this type of savings in the Republika Srpska. In 2015, the Law on Immovable Property Tax was adopted („Official Gazette of the Republika Srpska“, number: 91/15) which entered into force on 01 January 2016, with the aim of further improving the taxation of immovable property according to the market value. This Law reduced the range of tax on immovable property in relation to the range from the previous Law and introduced a special rate for the immovable property used for productive purposes. This Law is primarily aimed at stabilization of the budget of local communities. When it comes to the taxation of income of legal persons (companies), the Law on Corporate Income Tax („Official Gazette of the Republika Srpska“, number: 94/15) which entered into force on 01 January 2016 This Law in relation to the inoperative law, contains standards that more clearly define the status of related persons, more precisely regulates the taxation of transactions between related parties (the field of so-called transfer pricing), then more precisely defines treatment of provisions for bank lending, and insurance companies, more specifically regulates the manner of allocation of common (indirect) costs of company to business units, adjusts the way of taxation of non-residents (withholding tax) with solutions that exist in the environment. In 2016, the Law on Amendments to the Law on Tax Procedure of the Republika Srpska („Official Gazette of the Republika Srpska“, number: 44/16), and in the context of the implementing the reform of the economic system of the Republika Srpska, respectively, with the aim of reducing the gray economy in the Republika Srpska. The above Law also includes changes that enable control of unregistered business and control of registration of workers in the Unique system of registration, control and collection of contributions by all inspection bodies in the Republika Srpska, at the level of the Republika, or at the local level, as well as the changes that prevent registration in Tax administration of the Republika Srpska for those taxpayers whose founders have outstanding tax liabilities, as well as for those taxpayers whose founders are also the founders of taxpayers who have outstanding tax liabilities. The Law on Amendments to the Law on Tax Procedure enabled the filing of tax returns electronically, which will significantly improve the work of the Tax Administration of the Republika Srpska and reduce administrative costs The Law on Amendments to the Law on Tax Procedure is part of a set of laws that give effect to further reform of the economic system in the Republika Srpska with the primary goal of combating the gray economy. Improving control inspection procedures, increase in the efficiency of inspection bodies are part of this reform, which is achieved primarily by creating an adequate legal framework.

In the future it is planned to further improve the legal framework related to corporate income tax, personal income tax, and contributions, as well as the adoption of the Law on the Tax System of the Republika Srpska, which will make an inventory of all tax forms and after its enactment prevent the Republika's and local authorities to introduce new taxes beyond the scope of the Law, which will contribute to creating a recognizable and attractive tax environment.

Furthermore, the Republika Srpska is implementing the reforms that should ensure long-term sustainability of the system of public finances. One of the most important reforms is the reform of the health sector in order to establish a system of full accountability and fiscal discipline in all institutions of the health system through the introduction of the treasury system of operations. The

reform of the health sector in the Republika Srpska began in September 2015 and its partner in the same is the World Bank. The same is carried out through several stages, namely: analysis of the debts of the health sector; the introduction of all public health institutions and the Health Insurance Fund of the Republika Srpska to the treasury mode of operation; and finding opportunities for new models and sources of funding. An analysis of the debts of the health sector began in September 2015, by data collection and analysis of public health institutions, in a format elaborated by the Ministry of Health and Social Welfare. Also, in the implementation of this measure, the World Bank has shown interest to become involved and to help with its technical assistance. The current status of the measures is that the status of obligations has been monitored throughout 2016. Since the activity is closely related to the measure The introduction of the treasury system in the health sector of the Republika Srpska, its implementation will continue in 2017 in order to get the most accurate data and identify the ways to settle the debts of the health sector. Introduction of all public health institutions and the Health Insurance Fund of the Republika Srpska in the treasury method of operations is aimed at increasing financial discipline and endeavouring that each level of government takes responsibility for its health care facilities managed. Partner in this segment of the reform is USAID. The Information on the modalities of the introduction of the treasury system for the Government is currently being prepared. Finding opportunities for new models and sources of funding in the health sector is the new World Bank project in the health sector. The World Bank has initiated activities on preparation of the project in 2016, but the final project proposal has not been determined yet.

FBiH MINISTRY OF FINANCE d) respecting the commitments made in Article 90 of the Stabilisation and Association Agreement, in order to develop PIFC area, the Law on financial management and control in the public sector in the Federation of Bosnia and Herzegovina has been passed ("Official Gazette of BiH", No. 38/16, hereinafter: The Law on FMC), Standards for Internal Control in the public sector in the Federation of Bosnia and Herzegovina were published ("Official Gazette of BiH", No. 75/16) and the Ordinance on the implementation of financial management and control in the public sector in the Federation of Bosnia and Herzegovina has been sent for publication.

In addition to the above regulations, also the Guidelines for risk management and the Manual for financial management and control in the public sector in the Federation of Bosnia and Herzegovina have been prepared, which will be released in the first half of 2017. The purpose of the said law, by-laws and methodological framework is to contribute to the successful and efficient risk management system, strengthening internal controls, which should increase accountability and transparency in the spending of public funds.

The Law on FMC in Article 17 stipulates that all employees in the public sector organizations in the Federation are obliged to report any significant irregularity and possible suspicion of fraud to the manager of user of public funds, or the competent authorities for dealing with irregularities and fraud in accordance with the regulations governing this field. The Law on Budgets in the Federation (Official Gazette of FBiH" No. 102/13

<http://www.fmf.gov.ba/v2/userfiles/userfiles/file/Literatura_1/1a_Zakon%20o%20bud%20C5%BEetima%20u%20FBiH%20102_13.pdf>, 9/14

<http://www.fmf.gov.ba/v2/userfiles/userfiles/file/Literatura_1/Ispravka%20Zakona%20o%20bud%20C5%BEetima%209_14.pdf>, 13/14

<http://www.fmf.gov.ba/v2/userfiles/userfiles/file/Literatura_1/1b_Zakon%20o%20izmjenama%20i%20dopunama%20Zakona%20o%20budzetima%2013_14.pdf>, 8/15

<http://www.fmf.gov.ba/v2/userfiles/userfiles/file/Literatura_1/1c_Zakon%20o%20izmjenama%20i%20dopunama%20Zakona%20o%20budzetima%208_15.pdf>, 91/15

<http://www.fmf.gov.ba/v2/userfiles/userfiles/file/Literatura_1/1d_Zakon%20o%20izmjenama%20i%20dopunama%20Zakona%20o%20budzetima%2091_15.pdf> and 102/15

<http://www.fmf.gov.ba/v2/userfiles/userfiles/file/Literatura_1/1e_Zakon%20o%20izmjenama%20i%20dopunama%20Zakona%20o%20budzetima%20102_15.pdf>), in Art. 86 stipulates that budget users are obliged to regulate the system of internal control, in accordance with international standards of internal control, and in case they fail to do so, fines are foreseen for those who do not ensure the existence of the internal control system in accordance with international standards of internal control.

TUZLA CANTON, TEAM FOR THE PREVENTION OF CORRUPTION

The Federation of BiH adopted the Law on Budgets in the Federation of Bosnia and Herzegovina (Official Gazette of FBiH" number: 102/13, 9/14, 13/14, 8/15, 91/15, 102/15). Cantonal governmental bodies act in accordance with the procedures and budget calendar established by this Law.

- a) Law on budgets of the FBiH (procedures and calendar of adoption of the budget, established rules for strengthening fiscal accountability, budgetary control, internal control and audit, publishing)
- b) Law on budget execution at all levels of government
- c) Adoption of reports on budget execution at all levels of government

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

BiH MINISTRY OF FINANCE AND TREASURY The Law on Financing Institutions of Bosnia and Herzegovina defines the measures, and the said Law, as well as other by-laws, are available on the official website of the Ministry: <http://mft.gov.ba/hrv/index.php?option=com_content&view=article&id=143&Itemid=147>

FBiH MINISTRY OF FINANCE d) About the achieved level of development in this field the Federal Ministry of Finance annually reports to the Government of the Federation: on the system of internal controls in obligors of establishing internal audit by submitting Consolidated annual report of the internal audit in the public sector in the Federation, and from the next year it will submit to the Government of the Federation for consideration and adoption the Consolidated annual report on the functioning of FMC system in the public sector in the Federation. The above CR FMC will be based on the self-assessment questionnaires submitted by the organizations of the public sector in the Federation, from which it will be possible to extract statistical data on individual components of internal controls (for example, how many organizations have internal documents that define conflict of interest, how many organizations have adopted risk management strategy or established risk registers, etc.). Within the next technical assistance project, computerization of the reporting system is planned in the area of interna laudit and financial management and control, which will facilitate the collection and processing of these data.

When it comes to technical support related to the above-mentioned issues, we point out the following:

TUZLA CANTON, TEAM FOR THE PREVENTION OF CORRUPTION At the cantonal level, each year, with the adoption of the budget for the current year, the Law on budget execution is passed, and budget execution reports are periodically adopted. Within the Ministry of Finance of Tuzla Canton, the Department of Internal Audit and Budget Inspectorate have been formed.

(b) Observations on the implementation of the article

The required measures and procedures are provided by the Law on Financing of the Institutions of Bosnia and Herzegovina and the Law on the Budget and related bylaws. No further details have been provided.

The Federation of Bosnia and Herzegovina adopted the Law on Budgets in the Federation of Bosnia and Herzegovina (Official Gazette of FBiH" number: 102/13, 9/14, 13/14, 8/15, 91/15, 102/15). This Law i.a. stipulates that budget users are obliged to regulate the system of internal control, in accordance with international standards of internal control, and in case they fail to do so, fines are foreseen for those who do not ensure the existence of the internal control system in accordance with international standards of internal control (Article 86).

Regarding the public internal financial control (PIFC) area in the Federation of Bosnia and Herzegovina, national experts inform that the following regulations have been adopted:

- Law on financial management and control in the public sector in the Federation of Bosnia and Herzegovina has been passed ("Official Gazette of BiH", No. 38/16), that i.a. stipulates that all employees in the public sector organizations in the Federation are obliged to report any significant irregularity and possible suspicion of fraud to the manager of user of public funds, or the competent authorities for dealing with irregularities and fraud in accordance with the regulations governing this field (Article 17);
- Standards for Internal Control in the public sector in the Federation of Bosnia and Herzegovina were published ("Official Gazette of BiH", No. 75/16); and
- Ordinance on the implementation of financial management and control in the public sector in the Federation of Bosnia and Herzegovina (sent for publication).

In addition to the above regulations, Guidelines for risk management and the Manual for financial management and control in the public sector in the Federation of Bosnia and Herzegovina have been prepared to be released in the first half of 2017.

National experts inform that the Federal Ministry of Finance annually reports to the Government of the Federation on the system of internal controls in obligors of establishing internal audit by submitting consolidated annual report of the internal audit in the public sector in the Federation. National experts inform that next year the Federal Ministry will submit to the Government of the Federation for adoption consolidated annual report on the functioning of financial management and control system in the public sector in the Federation.

Cantonal governmental bodies act in accordance with the procedures and budget calendar established by this Law.

- a. Law on budgets of the FBiH (procedures and calendar of adoption of the budget, established rules for strengthening fiscal accountability, budgetary control, internal control and audit, publishing)
- b. Law on budget execution at all levels of government
- c. Adoption of reports on budget execution at all levels of government

At the cantonal level, each year, with the adoption of the budget for the current year, the Law on budget execution is passed, and budget execution reports are periodically adopted.

National experts provided more detailed information about undertaken activities related to the implementation of the above provision of the Convention in the Republika Srpska.

In accordance with the Law on Budget System of the Republika Srpska, the process of drafting the budget of the Republika Srpska is based on a Budget Framework Paper issued by the Government of the Republika Srpska for three years, i.e. for the next and for the next two years, which defines the policies and priorities of the Government for the given period (each year is reviewed by "rolling" system). According to the Law on fiscal accountability in the Republika

Srpska, the Budget Framework Paper contains i.a. the objectives of fiscal policy expressed as target values of basic fiscal aggregates.

The national experts describe the procedure of preparation of the budget of the Republika Srpska with the provision of the following information step by step:

Step 1- the process of preparation of the budget for the next year, starts in February of the current year, when the Ministry of Finance, with the Instruction for budget users No. 1, requires the budget users to define: their activities for the current year, the priorities which they plan to launch in the coming year, and savings options that can be achieved for the following year.

Step 2- the Ministry of Finance prepares the budget calendar containing responsibilities and deadlines for submission of data by the budget users, as well as the proposal of the internal process in 10 steps which budget users should follow to ensure the timely and effective preparation of their medium-term budgets. Based on data collected through the Instruction the priority programs are determined in view the policy of the Government.

Step 3 - On this basis of the aforementioned, the Ministry of Finance prepares, and the Government of the Republika Srpska adopts the Budget Framework Paper of the Republika Srpska, which sets the initial budget limitations for the relevant ministries and institutions under their jurisdiction for the next and for the next two years.

Step 4 - After the Government of the Republika Srpska has adopted the Budget Framework Paper, the Ministry of Finance forwards the Instructions containing information on initial budgetary constraints, information for the preparation of budget users' requests for the next year and request budget users to prepare requests by economic classification and in the program format, and submit them to the Ministry of Finance by 1st September (Instruction No.2). Thus the basis for drafting of the budget for the next fiscal year is further prepared in accordance with the budget calendar the Ministry of Finance issues the budget users with the instruction about the method and elements of drafting the budget for the next fiscal year.

Step 5 - The Ministry of Finance prepares the draft budget based on the information provided and taking into account legal obligations, the Government's policies, priorities and strategies adopted, and updated macroeconomic projections and estimates of the budget funds

Step 6 - The budget proposal of the Republika Srpska for the coming year and the same is sent to the Republika Srpska National Assembly for further procedure and final adoption.

With the budget for a given fiscal year, Law on Execution of the Budget of the Republika Srpska that is adopted to prescribe the manner of execution of the budget. This Law is implemented in accordance with the Law on Budget System of the Republika Srpska, the Law on borrowing, debt and guarantees of BiH, the Law on borrowing, debt and guarantees of the RS, the Law on Treasury, the Law on investment of public funds, the Law on the determining and settlement of internal debt and other laws regulating this area.

National experts further inform that in recent years the Republika Srpska in cooperation with international institutions has carried out a series of budget reforms aimed at strengthening the management and planning in the field of public finance. Namely, the budgeting in the Republika Srpska has moved from the traditional budget planning process by which the budget funds were distributed only by the economic categories, to the principles of program planning.

Information regarding the accounting framework and the function of treasury system, is provided by national experts, as follows:

- Budget users in the Republika Srpska as of 01/01/2013 applying the IAS for public sector IAS-JS 23 switched to full accrual basis of accounting.
- Treasury system of operations in the Republika Srpska has covered most budget users of the budget of the Republika Srpska and all users of budget of municipalities and cities, as well as the Pension and Disability Insurance Fund of the Republika Srpska (PIO Fund of 01/01/2016), while the procedure of introduction of all public health facilities and the Health Insurance Fund of the Republika Srpska into the treasury method of operations is planned for the coming year.
- Other non-budget funds have not yet been included in the treasury system of operations.

The Central unit for harmonization of financial management, internal control and internal audit (CHU RS) in the Ministry of Finance of the Republika Srpska is established by the Law on Internal Audit in the public sector of the Republika Srpska. The Republika Srpska has adopted the Law on the system of internal financial controls in the public sector of the Republika Srpska that prescribing the system of internal financial controls in the public sector, including financial management and control and internal audit. With this Law the methodology and standards and other issues of importance for the establishment, development and implementation of the system of internal financial controls in the public sector has been established.

Regarding timely reporting on revenue and expenditure and the establishment of system of accounting and auditing standards and related oversight, national experts inform that in 2016, the Law on fiscal accountability of the Republika Srpska was adopted, that governs fiscal rules, measures and procedures based on which the fiscal framework is established, public spending limited, accountability for the efficient and effective use of budget funds strengthened, the Fiscal Council of the Republika Srpska founded, and the system of controls and supervision strengthened. This Law defines the general and specific fiscal rules. Completion of activities relating to the establishment of the Fiscal Council of the Republika Srpska, as in the public competition, which was announced in 2016, of the pool of candidates, only one met the requirements, is expected in the first half of 2017.

Furthermore, in December 2015, the Government of the Republika Srpska adopted the Strategy of Debt Management of the Republika Srpska for the period 2015-2018 and represents the plan that the Government intends to implement in the medium term in order to achieve the desired structure of the debt portfolio, taking into account the government's preference for risks and charges. National experts in this regards also mention the Law on Personal Income Tax was adopted in 2015, the Law on Amendments to the Law on Contributions, adopted in December 2015 and the Law on Immovable Property Tax was adopted in 2015.

Furthermore, national experts inform that the Law on Corporate Income Tax, which entered into force on 01 January 2016, contains standards that more clearly define the status of related persons, more precisely regulates the taxation of transactions between related parties (the field of so-called transfer pricing), then more precisely defines treatment of provisions for bank lending, and insurance companies, more specifically regulates the manner of allocation of common (indirect) costs of company to business units, adjusts the way of taxation of non-residents (withholding tax) with solutions that exist in the environment. The Law on Amendments to the Law on Tax Procedure of the Republika Srpska, as of 2016, includes changes that enable control of unregistered business and control of registration of workers in the Unique system of registration, control and collection of contributions by all inspection bodies in the Republika Srpska, at the level of the Republika, or at the local level, as well as the changes that prevent registration in Tax administration of the

Republika Srpska for those taxpayers whose founders have outstanding tax liabilities, as well as for those taxpayers whose founders are also the founders of taxpayers who have outstanding tax liabilities.

In the future it is planned to further improve the legal framework related to corporate income tax, personal income tax, and contributions, as well as the adoption of the Law on the Tax System of the Republika Srpska, which will make an inventory of all tax forms and after its enactment prevent the Republika's and local authorities to introduce new taxes beyond the scope of the Law, which will contribute to creating a recognizable and attractive tax environment.

Furthermore, national experts notify that the Republika Srpska is implementing the reforms that should ensure long-term sustainability of the system of public finances. In this regard, the national experts mention that one of the most important reforms is the reform of the health sector in order to establish a system of full accountability and fiscal discipline in all institutions of the health system through the introduction of the treasury system of operations.

The Government of the Republika Srpska at 77th session held on 09/06/2016 adopted the Decision whereby it appointed the Working group to draft the Strategy of Public Finance Management of the Republika Srpska for the period 2016-2020. Activities related to the development of the respective strategy are underway, its finalization and referral for adoption are pending. Adoption of the said Strategy will clearly define the directions of reforms in the field of public finance and complete the system to improve fiscal accountability and long-term fiscal stability of the Republika Srpska.

Article 9 paragraph 2 of the Convention requires that States Parties take appropriate measures to promote transparency and accountability in the management of public finances, in accordance with the fundamental principles of their legal system. This is a mandatory provision that further prescribes the minimum measures that must be undertaken.

The reviewing State Party takes positive note on the relevant legislation adopted by authorities at level of Bosnia and Herzegovina, Federation of Bosnia and Herzegovina and Republika Srpska.

However, details should be provided to confirm that in order to implement the abovementioned provision of the Convention, Bosnia and Herzegovina at all levels of entities has established a sound public finance system ensuring budget preparation and presentation, with clearly established roles and responsibilities in an open procedure and public availability of information to the extent of satisfying established public interest.

(c) Challenges in implementation

- Consider implementing further activities to improve budget transparency, such as publishing at all levels of the draft Budget, designed to present key public finance information to a general audience, and the mid-year review, as well as to identify good practices and to implement them at all levels.
- Raise awareness and build capacities for implementation of international standards in internal audit and internal control, especially by provision of training for public sector organizations at all levels on the topics of risk management and timely and effective reaction to irregularities and fraud, with the emphasis on implementation of related managerial responsibilities.

Paragraph 3 of article 9

3. Each State Party shall take such civil and administrative measures as may be necessary, in accordance with the fundamental principles of its domestic law, to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure and revenue and to prevent the falsification of such documents.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

BiH MINISTRY OF FINANCE AND TREASURY The laws and regulations on the level of BiH institutions prescribe measures of administrative law in order to preserve the integrity of accounting books, records, financial statements and other documents related to public expenditure and revenue. The adoption of the Law on Financing of the Institutions of BiH as well as the corresponding amendments of the law and the adoption of appropriate bylaws ensured the compliance with the above provision.

RS MINISTRY OF ECONOMIC RELATIONS AND REGIONAL COOPERATION The Law on Accounting and Auditing of the Republika Srpska („Official Gazette of the Republika Srpska“, number: 94/15), hereinafter: the Law, regulated the field of accounting and auditing (the organization and functioning of the bookkeeping and accounting system, preparation and presentation of financial statements, organization and functioning of the Council for Accounting and Auditing, Audit of financial statements, obtaining the title, certification and licensing and other issues relating to accounting and auditing) The provisions of this Law, in accordance with Article 3, shall apply to all types of companies and enterprises that keep their business books using double-entry bookkeeping, on the accrual basis. The provisions of this Law shall also apply to public sector entities and users of the budget of the Republika, municipalities, cities and funds, as defined in the regulations governing the budgetary system of the Republika, or the Law on Budget System of the Republika Srpska („Official Gazette of the Republika Srpska“, number: 121/12, 52/14, 103/15). The basis for the establishment and management of the accounting system of budget users is the Law on Accounting and Auditing of the Republika Srpska and the Law on Budget System of the Republika Srpska. Technical and organizational framework for the establishment and maintenance of bookkeeping and accounting system of budget users is the treasury system regulated by the Law on the Treasury („Official Gazette of the Republika Srpska“, number: 28/13 and 103/15). Public sector entities (budget users) in the Republika Srpska, in accordance with existing regulations, as a basis for the preparation and presentation of financial statements apply International accounting standards for the public sector (IPSAS). The Law on Accounting and Auditing of the Republika Srpska and the Law on Budget System of the Republika Srpska founded the obligation of preparation and presentation of individual and consolidated financial statements. The form, content, method of preparation and presentation of financial statements of the budget users are provided in detail by the Ordinance on Financial Reporting for Budget Users of the Republika, municipalities, towns and funds („Official Gazette of the Republika Srpska“, number: 6/11 and 126/11). The prescribed accounting reports are standardized, structured, and aggregated view of information on

the state of the assets, liabilities, sources of income, revenues, expenses, costs and execution of the officially adopted budget. The Republika Srpska, since 2011, has introduced a new financial reporting system for budget users that relies on two relatively separate sets of financial statements. One of them are the financial statements prepared by all budget users individually (various records of income, expenses, assets, liabilities, etc.), and the other which includes financial statements and consolidated financial statements (consolidated financial statement of the budget of the Republika, the consolidated financial statements of municipalities/cities and financial statement of funds). This second set of financial statements, except for the classic set of financial statements (balance sheet, income statement, statement of changes in net assets, cash flow statement and notes to the financial statements), prepared on the principles of the accrual basis of accounting also includes budgetary financial statements (PIB - Interim report on budget execution), as well as financial statements by accounting funds (PIF - Interim report on the execution by the accounting funds) In order to further improve and enhance the financial reporting system of budget users in the Republika, harmonized with European legislation, with the current International accounting standards for the public sector (IAS PS are not a static category), as well as with international statistical reporting systems (Government Finance Statistics - GFS and European System of Accounts-ESA) in the Republika, in November 2016 a new Ordinance on budget classifications, the content of the accounts and the application of the chart of accounts for budget users was adopted ("Official Gazette of the Republika Srpska", number 98/16), that budget beneficiaries of the Republika apply for the preparation and presentation of financial statements for the accounting periods of 01 January 2017. The process of adoption and publication of the new Ordinance on financial reporting for budget users is ongoing, in order to harmonize it with the provisions of the new Ordinance on budget classifications, the content of the accounts and the application of the chart of accounts for budget users. The new Ordinance on Financial Reporting for budget users, in addition to the existing, introduced a new form PIT periodic report on transactions, which represents an overview of income and expenses (excluding income and expenses of accrual character) and revenues and expenses during the reporting period, classified according to the GFS codes (GFS-macroeconomic statistical framework created by the IMF for the purpose of monitoring government finance statistics and fiscal analysis). The form PIT is composed by the Ministry of Finance (monthly for the Republic or quarterly for all units of government). The form PIT is published on the website of the Ministry of Finance. Ordinance on the system of tax accounting in the Republika Srpska („Official Gazette of the Republika Srpska“, number: 109/16), among other things, regulate the basic principles and the principles of organization and functioning of the tax accounting in the Republika Srpska. Article 7 of the said Ordinance stipulates that the accounting document must be complete, true, accurate calculation and neat, made so to allow full insight into the authenticity of the document. Persons responsible for creating and control of accounting documents with their signature in written or electronic form confirm that the accounting document is complete, truthful, accurate calculation and reflects the essence of the tax event to which it relates. Accounting documents are tax returns submitted by the taxpayer, decisions and other appropriate acts passed by the Tax Administration, as well as any other documents based on which the tax liability unconditionally increases or decreases (for example, log on clearing and settling of overpaid and wrongly paid public revenues, decision of the finance minister approving the settlement of tax obligations through bonds, the decision of the Government of the Republika Srpska on settlement of tax claims by property seized from the taxpayer and other similar documents). Budget users are obliged to establish an internal control system in accordance with generally accepted standards and guidelines of the internal control system, which should provide a legal, efficient, effective, accountable and transparent use of public funds. Monitoring and evaluation of internal control system is performed by internal audit, in accordance with the regulations governing the field of internal audit while subsequent control of legality of spending of the budgetary funds is performed by budget inspection. The Law on the system of internal financial controls in the public sector of the Republika Srpska („Official Gazette

of the Republika Srpska“, number: 91/16) regulates the system of internal financial controls in the public sector of the Republika Srpska, financial management and control, internal audit, methodology, standards and other issues of importance for the establishment, development and implementation of the system of internal financial controls in the public sector. The financial management and control is an internal control system which is determined by and for which is responsible the head of the entity, and which, together with risk management, provides reasonable assurances that in achieving the entity's goals, the budget and other funds will be used legally, economically, efficiently and effectively. Financial management and control have been introduced in order to improve financial management and decision making in achieving objectives of the entity, including also provision of reliable, complete and timely financial and business reporting. Internal and external auditors have a key role to play in corporate governance, and in the management of public finances. At the same time, external and internal auditors are specifically responsible to provide security of integrity of publicly disclosed financial statements and provide assurance on the existence of adequate internal control. The Law on the General Audit Office of Public Sector of the Republika Srpska („Official Gazette of the Republika Srpska“, number: 98/05 and 20/14) the General Audit Office is authorized to audit the National Assembly of the Republika Srpska, the Services of the President of the Republika Srpska, the General Secretariat of the Government of the Republika Srpska, ministries and other bodies of the Republika, the Council of Peoples of the Republika Srpska, all other budgetary institutions financed from the budget, funds and other off-budget institutions established by law. In addition, the General Audit Office is authorized to audit the budgets of municipalities and cities, any funds provided to any institution for the implementation of projects by international organizations, as a loan or a donation for the Republika, the funds allocated from the budget to an institution or organization, as well as public institutions, public and other companies in which the Republika has a direct or indirect stake.

TUZLA CANTON, TEAM FOR THE PREVENTION OF CORRUPTION The FBiH has adopted the Law on Accounting and Auditing (Official Gazette of FBiH No. 83/09). At the cantonal level, the Ministry of Finance has adopted the Ordinance on the safety and protection of computer systems and data, and the Ordinance on the circulation of financial documents between the Ministry of Finance and budget users for which the Ministry of Finance shall keep accounts.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

BiH MINISTRY OF FINANCE AND TREASURY Application of regulations related to the field of internal financial control in the public sector.

(b) Observations on the implementation of the article

The laws and regulations on the level of Bosnia and Herzegovina institutions prescribe measures of administrative law in order to preserve the integrity of accounting books, records, financial statements and other documents related to public expenditure and revenue. Namely, the national experts mention that the Law on Financing of the Institutions of Bosnia and Herzegovina and the related bylaws ensure the compliance with the above provision.

Also, the national experts mention that the Federation of Bosnia and Herzegovina has adopted the Law on Accounting and Auditing (Official Gazette of FBiH No. 83/09). At the cantonal level, the Ministry of Finance of FBiH has adopted the Ordinance on the safety and protection of computer systems and data, and the Ordinance on the circulation of financial documents between the Ministry of Finance and budget users for which the Ministry of Finance shall keep accounts. The Law on

Accounting and Auditing in the Federation of BiH ("Official Gazette of the Federation of BiH", number: 83/09)

- stipulates that the accounting standards of financial reporting are principles and rules of preparation and presentation of financial statements that are applied to all legal entities covered by the Law and include the application of International Accounting Standards (IAS) and International Financial Reporting Standards (IFRS) (Article 33).
- prescribes the auditing standards and principles of professional ethics for professional accountants and auditors that apply to the entire territory of the Federation, including ISAs (Article 34)
- stipulates that an audit of financial statements is conducted in accordance with this Law and International Standards on Auditing in compliance with the Code of Ethics and rules of the auditing profession, as well as other rules and regulations governing this area (Article 49, paragraph (2)). of the stipulates that the opinion of the certified auditor must be expressed in accordance with International Standards on Auditing (Article 53, paragraph (2)). The use of ISAs is binding on the certified auditors and auditing firms that have a valid work permit.
- Tax Administration of the Federation of Bosnia and Herzegovina is authorized to carry out surveillance over the activities of corporate legal entities in order to check whether the activities of importance to the organization and functioning of the system of accounting and bookkeeping are performed in accordance with the provisions of this and other relevant laws and regulations based on those laws.

Keeping the accounting documents is required by the Accounting and Auditing in the Federation of BiH and the prescribed penalties are in the range from 5,000.00 KM to 15,000.00 KM for legal entities in case of non-compliance.

In addition, the performance of payment transactions is provided by the Law on Payment Transactions ("Official Gazette of the Federation of BiH", no. 32/00 and 28/03), establishing the rules for all participants in the payment system in terms of account opening and operating under the same.

National experts inform about provisions of a draft Law that states that among other things, measures to increase transparency and accountability in public financial management system include accounting and auditing standards, and controls (Article 9, paragraph (2) item c)). In this regard, the national experts note that Article 12 paragraph (3) of the Draft contains the measures to be taken regarding the maintenance of books and records, making available the financial statements and accounting and auditing standards to prohibit actions that are taken for the purpose of committing any of the offenses established in accordance with this Convention, including the opening of non-registered accounts, the performance of non-registered or inadequately identified transactions, intentional destruction of bookkeeping documents earlier than required by law.

More information is provided about the regulations in Republika Srpska. Namely, the provisions of the Law on Accounting and Auditing of the Republika Srpska, regulates the organization and functioning of the bookkeeping and accounting system, preparation and presentation of financial statements, organization and functioning of the Council for Accounting and Auditing, Audit of financial statements, obtaining the title, certification and licensing and other issues relating to accounting and auditing of all types of companies and enterprises that keep their business books using double-entry bookkeeping, on the accrual basis, also apply to public sector entities and users of the budget of the Republika, municipalities, cities and funds, as defined in the regulations governing the budgetary system of the Republika, or the Law on Budget System of the Republika Srpska³. The basis for the establishment and management of the accounting system of budget users is the Law on Accounting and Auditing of the Republika Srpska and the Law on Budget System of the Republika Srpska. Technical and organizational framework for the establishment and

³ „Official Gazette of the Republika Srpska“, number: 121/12, 52/14, 103/15

maintenance of bookkeeping and accounting system of budget users is the treasury system regulated by the Law on the Treasury. Public sector entities (budget users) in the Republika Srpska, in accordance with existing regulations, as a basis for the preparation and presentation of financial statements apply International accounting standards for the public sector (IPSAS).

The Law on Accounting and Auditing of the Republika Srpska and the Law on Budget System of the Republika Srpska founded the obligation of preparation and presentation of individual and consolidated financial statements. The form, content, method of preparation and presentation of financial statements of the budget users are provided in detail by the Ordinance on Financial Reporting for Budget Users of the Republika, municipalities, towns and funds⁴. The prescribed accounting reports are standardized, structured, and aggregated view of information on the state of the assets, liabilities, sources of income, revenues, expenses, costs and execution of the officially adopted budget. The Republika Srpska, since 2011, has introduced a new financial reporting system for budget users that relies on two relatively separate sets of financial statements. One of them are the financial statements prepared by all budget users individually (various records of income, expenses, assets, liabilities, etc.), and the other which includes financial statements and consolidated financial statements (consolidated financial statement of the budget of the Republika, the consolidated financial statements of municipalities/cities and financial statement of funds). This second set of financial statements, except for the classic set of financial statements (balance sheet, income statement, statement of changes in net assets, cash flow statement and notes to the financial statements), prepared on the principles of the accrual basis of accounting also includes budgetary financial statements (PIB - Interim report on budget execution), as well as financial statements by accounting funds (PIF - Interim report on the execution by the accounting funds). The form PIT (periodic report on transactions) is composed and published by the Ministry of Finance (monthly for the Republic or quarterly for all units of government). The form PIT is published on the website of the Ministry of Finance. Ordinance on the system of tax accounting in the Republika Srpska⁵, among other things, regulate the basic principles and the principles of organization and functioning of the tax accounting in the Republika Srpska. In order to further improve and enhance the financial reporting system of budget users in the Republika, harmonized with European legislation, with the current International accounting standards for the public sector (IAS PS are not a static category), as well as with international statistical reporting systems (Government Finance Statistics - GFS and European System of Accounts-ESA) in the Republika, in November 2016 a new Ordinance on budget classifications, the content of the accounts and the application of the chart of accounts for budget users was adopted ("Official Gazette of the Republika Srpska", number 98/16), that budget beneficiaries of the Republika apply for the preparation and presentation of financial statements for the accounting periods of 01 January 2017. National experts inform that the process of adoption of Ordinance on financial reporting for budget users is ongoing, in order to harmonize it with the provisions of the new Ordinance on budget classifications, the content of the accounts and the application of the chart of accounts for budget users. The new Ordinance on Financial Reporting for budget users, in addition to the existing, introduced a new form PIT periodic report on transactions, which represents an overview of income and expenses (excluding income and expenses of accrual character) and revenues and expenses during the reporting period, classified according to the GFS codes (GFS-macroeconomic statistical framework created by the IMF for the purpose of monitoring government finance statistics and fiscal analysis). Article 7 of the said Ordinance stipulates that the accounting document must be complete, true, accurate calculation and neat, made so to allow full insight into the authenticity of the document. Persons responsible for creating and control of accounting documents with their signature in written or electronic form confirm that the accounting document is complete, truthful, accurate calculation and reflects the

⁴ „Official Gazette of the Republika Srpska“, number: 6/11 and 126/11

⁵ „Official Gazette of the Republika Srpska“, number: 109/16

essence of the tax event to which it relates. Budget users are obliged to establish an internal control system in accordance with generally accepted standards and guidelines of the internal control system, which should provide a legal, efficient, effective, accountable and transparent use of public funds. Monitoring and evaluation of internal control system is performed by internal audit, in accordance with the regulations governing the field of internal audit while subsequent control of legality of spending of the budgetary funds is performed by budget inspection. The Law on the system of internal financial controls in the public sector of the Republika Srpska⁶ regulates the system of internal financial controls in the public sector of the Republika Srpska, financial management and control, internal audit, methodology, standards and other issues of importance for the establishment, development and implementation of the system of internal financial controls in the public sector. At the same time, external and internal auditors are specifically responsible to provide security of integrity of publicly disclosed financial statements and provide assurance on the existence of adequate internal control.

In accordance with the Law on the General Audit Office of Public Sector of the Republika Srpska⁷, the General Audit Office is authorized to audit the National Assembly of the Republika Srpska, the Services of the President of the Republika Srpska, the General Secretariat of the Government of the Republika Srpska, ministries and other bodies of the Republika, the Council of Peoples of the Republika Srpska, all other budgetary institutions financed from the budget, funds and other off-budget institutions established by law. In addition, the General Audit Office is authorized to audit the budgets of municipalities and cities, any funds provided to any institution for the implementation of projects by international organizations, as a loan or a donation for the Republika, the funds allocated from the budget to an institution or organization, as well as public institutions, public and other companies in which the Republika has a direct or indirect stake.

No examples of the implementation of those measures, including related court or other cases, available statistics, etc., have been provided.

Article 9 paragraph 3 requires States Parties take civil and administrative measures to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure and revenue and to prevent the falsification of such documents. This requirement is mandatory.

In compliance with this provision of the Convention, legislation needs to be put in place to ensure that all records of any entity spending public funds are retained for an agreed number of years, with timetables for the destruction of main ledgers and supporting records also agreed, and this information will include the record of each procurement. Retention of original documents should also be obligatory, because originals of documents such as contracts, agreements, guarantees and titles to property may be required for other purposes, including presentation as evidence to courts. Furthermore, in direction to compliance with this provision of the Convention, the legislation should address areas of risk and vulnerability as well as prescribe offences associated with relevant documentation (such as cash payments; recording of non-existent expenditure; the entry of liabilities with incorrect identification of their objects; the use of false documents; and the unauthorized destruction or tampering with bookkeeping documents).

The reviewing State Party takes positive note on the relevant legislation adopted by authorities at level of Bosnia and Herzegovina, Federation of Bosnia and Herzegovina and Republika Srpska.

(c) Challenges, where applicable

Please outline actions required to ensure or improve the implementation of the article under

⁶ „Official Gazette of the Republika Srpska“, number: 91/16

⁷ „Official Gazette of the Republika Srpska“, number: 98/05 and 20/14

review and describe any specific challenges you might be facing in this respect.

FBiH MINISTRY OF FINANCE Specific challenges of the sector Central Harmonisation Unit of the Federal Ministry of Finance are limited human and financial resources, lack of funds for training, lack of cooperation with other public sector organizations and the general lack of understanding of importance of development in the area of public internal financial controls/field of PIFC.

Development of PIFC and the complexity of the reforms require the active cooperation of the Central Harmonisation Unit of the Federal Ministry of Finance with the holders of the reform processes in the area of budget and public administration, as well as with budget users to implement a system of internal financial control, with the Office of Audit of institutions in the FBiH in order to exchange information on the quality of the established system of internal controls, with other CHUs in BiH in harmonizing the legal framework and methodology of work in the area of financial management and control, and further development of the methodology of internal audit, methodology of risk management and strategic management.

It is necessary to continue cooperation with Directorate-General for Budget of the European Commission and projects of international technical assistance to achieve the development of the system of internal financial control in accordance with the requirements of the European Commission and the best practices of the EU.

(d) Technical assistance needs

Legislative assistance: please describe the type of assistance

FBiH MINISTRY OF FINANCE

Advisory assistance is required in the process of developing and updating of national legislation in accordance with internationally accepted standards of internal control and internal audit, methodology and best practice in the European Union, when creating documents that will address handling of irregularities and fraud.

Institution-building: please describe the type of assistance

FBiH MINISTRY OF FINANCE Expert assistance/tutoring is required since this is a relatively new field, the success of which depends primarily on well-designed regulations based on qualitative analysis and good practices of neighbouring countries and the EU.

Capacity-building: please describe the type of assistance

FBiH MINISTRY OF FINANCE Assistance is required in defining and implementing training for employees of CHU and public sector organizations in the Federation (internal auditors and personnel responsible for FMC) on the topic of risk, importance of establishing a system of internal controls, procedures in case of irregularities and fraud and the implementation of managerial responsibilities. It is desirable that this training be organized as: training of trainers for the purpose of capacity building, workshops, seminars, "on-the-job" training, etc.

Research/data-gathering and analysis: please describe the type of assistance

FBiH MINISTRY OF FINANCE In relation to the acting in the event of irregularities and fraud, assistance is required in the form of finding solutions how to determine a system of irregularities and fraud, record and collect information about them, store them in order to enable the timely and effective reaction to irregularities and fraud.

Facilitation of international cooperation with other countries: please describe the type of assistance

FBiH Ministry of Finance Because of the limited human and financial resources, the sector CHU FMF needs the experience of neighbouring countries regarding the implementation of regulations and possible solutions in the development of public internal financial controls. As a special need for this issue, there is a need to exchange experiences and practices regarding the acting in the event of irregularities and fraud, concrete assistance in setting up this model.

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

FBiH MINISTRY OF FINANCE

The Sector Central Harmonisation Unit was provided in recent years support from the European Commission through two technical assistance project ("Support to the introduction of internal financial control in public sector institutions in Bosnia and Herzegovina", 2010-2012 and "Strengthening Public Financial Management in Bosnia and Herzegovina" in 2013 -2015), and in 2017 we expect to start implementing the third such project.

Also, CHU FMF has applied for a grant of SAFE Trust Fund through the World Bank Office in Bosnia and Herzegovina and thanks to them the project "Strengthening the financial management and control" is being implemented now (July 2016 - April 2017)

In Article 9, paragraph (2) item c) of the Draft states that, among other things, measures to increase transparency and accountability in public financial management system include accounting and auditing standards, and controls. In this regard, we note that Article 33 of the Law on Accounting and Auditing in the Federation of BiH ("Official Gazette of the Federation of BiH", number: 83/09) stipulates that the accounting standards of financial reporting are principles and rules of preparation and presentation of financial statements that are applied to all legal entities covered by the Law and include the application of International Accounting Standards (IAS) and International Financial Reporting Standards (IFRS). Article 34 of the Law on Accounting and Auditing in the Federation of BiH, prescribes the auditing standards and principles of professional ethics for professional accountants and auditors that apply to the entire territory of the Federation, including ISAs. Article 49, paragraph (2) of the Law on Accounting and Auditing in the Federation of BiH stipulates that an audit of financial statements is conducted in accordance with this Law and International Standards on Auditing in compliance with the Code of Ethics and rules of the auditing profession, as well as other rules and regulations governing this area, and Article 53, paragraph (2) of the Law on Accounting and auditing in the Federation of BiH stipulates that the opinion of the certified auditor must be expressed in accordance with International Standards on Auditing. So, the use of ISAs is binding on the certified auditors and auditing firms that have a valid work permit.

Professional body - Association of Accountants, Auditors and Financial Workers of the Federation of BiH adopted the Decision on the publication of International Financial Reporting Standards, number: O-1/4-2010 on 28/04/2010.

Article 12 paragraph (3) of the Draft contains the measures to be taken regarding the maintenance of books and records, making available the financial statements and accounting and auditing standards to prohibit actions that are taken for the purpose of committing any of the offenses established in accordance with this Convention, including the opening of non-registered accounts, the performance of non-registered or inadequately identified transactions, intentional destruction of bookkeeping documents earlier than required by law. In this regard, we note that the organizations authorized to perform domestic payments are required to apply the provisions of the Law on internal payment system ("Official Gazette of the Federation of BiH", no. 48/15 and 79/15) establishing the rules for all participants in the payment system in terms of account opening and operating under the same.

In addition, the performance of payment transactions is provided by the Law on Payment Transactions ("Official Gazette of the Federation of BiH", no. 32/00 and 28/03), while keeping the accounting documents is required by the Accounting and Auditing in the Federation of BiH and the prescribed penalties are in the range from 5,000.00 KM to 15,000.00 KM for legal entities in case of non-compliance. In this regard, the Law on Accounting and Auditing in the Federation of BiH stipulates that the Tax Administration of the Federation of Bosnia and Herzegovina is authorized to carry out surveillance over the activities of corporate legal entities in order to check whether the activities of importance to the organization and functioning of the system of accounting and bookkeeping are performed in accordance with the provisions of this and other relevant laws and regulations based on those laws.

Article 10. Public reporting

Subparagraph (a) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

(a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

MINISTRY OF JUSTICE OF BOSNIA AND HERZEGOVINA The Parliamentary Assembly of Bosnia and Herzegovina at the session of the House of Representatives, held on 18 October 2000

and at the session of the House of Peoples held on 23 October 2002, adopted the Law on Freedom of Access to Information in Bosnia and Herzegovina ("Official Gazette of BiH", no. 28/00, 45/06, 102/09, 62/11 and 100/13). The purposes of this Law are: (a) to acknowledge that information in the control of public authorities is a valuable public resource and that public access to such information promotes greater transparency and accountability of those authorities, and is essential to the democratic process; (b) to establish that every physical or legal person has a right to access this information to the greatest extent possible consistent with the public interest, and that public authorities have a corresponding obligation to disclose information; and (c) to enable every natural person to request the amendment of, and to comment on, his or her personal information in the control of a public authority. This Law shall be interpreted so as to facilitate and encourage the maximum and prompt disclosure of information in the control of public authorities at the lowest reasonable cost. Every physical or legal person has a right to access information in the control of public authorities, and every public authority has a corresponding obligation to disclose such information. This right of access may only be subject to such formalities and restrictions as prescribed by this Law.

INVESTIGATION AND PROTECTION AGENCY The State Investigation and Protection Agency has taken the necessary measures to improve transparency concerning the organization, functioning and decision-making processes. In this regard, the following internal regulations have been adopted:

- Instruction on the standard procedures to achieve relations between the public and the State Investigation and Protection Agency;
- Guide for access to information in the State Investigation and Protection Agency.

Also, through the websites, Twitter accounts, Facebook profile and YouTube channel of the State Investigation and Protection Agency, the public can be informed in respect of jurisdiction and contacting the employees of the Agency, the current activities carried out by officers of the Agency, the possibilities for cooperation, employment, public procurement procedures, procedures for reporting criminal offenses, information about the current laws and regulations, etc.

In addition, on 24 September 2014, at United Nations Headquarters in New York, at a conference on the occasion of three years from the start of the Initiative, Bosnia and Herzegovina was accepted as the 65th member of the initiative "Open Government Partnership". By joining the Initiative, Bosnia and Herzegovina has committed to create a two-year Framework Action Plan to implement a series of reforms that have been structured around the challenges faced by public authorities in all countries.

The Council of Ministers of Bosnia and Herzegovina at the 77th session, held on 13 October 2016 adopted the Decision on the establishment of the Advisory Council of the initiative "Open Government Partnership" ("Official Gazette of BiH", no. 94/16). The main task of the Advisory Council of the initiative "Open Government Partnership" is preparing the proposal of the Framework Action Plan to implement the initiative "Open Government Partnership".

The purpose of this public invitation is to elect from the line of civil society organisations, 4 members and their deputies in the Advisory Council to contribute with their participation in making the Framework Action Plan and the implementation of the initiative "Open Government Partnership" (<http://ogp.ba/akcioni-plan/>).

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

(b) Observations on the implementation of the article

Bosnia and Herzegovina has adopted a Law on Freedom of access to Information, which generally regulates the right of the citizens to access the information which is in possession of the public authorities. This Law is adopted in 2000. Thus, they refer to the Article 1 of the Law, which, among the other things, states that “every physical or legal person has a right to access to this information to the greatest extent possible consistent with the public interest, and that public authorities have a corresponding obligation to disclose information”. This Law also regulates the procedure for access to information which is in possession by the public authorities (Articles 11- 16). This means that the state has clearly stipulated procedures which allow the members of the general public to obtain information which is in possession of the public administration. This also includes information on the organization, functioning and decision-making by the public administration, considering the definition of the term “Information” given in the Article 3, paragraph 1 of this Law (which determines that “Information is every material containing facts, opinions, data or other content, including every copy or its part, independently of its shape, its characteristics, of when it is created and how it is classified”). Thus, the country has clearly set legal measures necessary to enhance the transparency in its public administration, as it is foreseen in the Article 10 of UNCAC.

Regarding the protection of privacy and personal data on decisions and legal acts that concern the members of the public, as determined in the Article 10, paragraph (a) of the Convention, the Law on Freedom of Access to Information of Bosnia and Herzegovina has also set a provision in the Article 8 “Exceptions for protection of privacy”. The provision determines that “the competent public authority shall determine an exception when the information required includes personal interest affecting the privacy of third persons”. Besides, this matter is regulated with the Law on protection of personal data, adopted in 2006.

Besides, since 2014, the Bosnia and Herzegovina is member of the Open Government Partnership, an International initiative, which aims to provide an international platform for domestic reformers committed to make their governments more open, accountable and responsive to citizens.

Subparagraph (b) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

...

(b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

MINISTRY OF JUSTICE OF BOSNIA AND HERZEGOVINA The Law on Freedom of Access to Information in Bosnia and Herzegovina is aimed to facilitating and encouraging the maximum and prompt disclosure of information in the control of public authorities at the lowest reasonable cost. Section III of the Law on Freedom of Access to Information in Bosnia and Herzegovina regulates the procedure of access to information in a way that requests for access to information are submitted to the public authority which the applicant considers competent authority, as well as the entire process for the acting of the public authority upon request.

„Article 11 Submission of a Request 1 Requests for access to information may be submitted to the public authority the requester believes is the competent authority.

2 A request for access to information shall only be required to: a) be in writing in any of the official languages in Bosnia and Herzegovina; b) provide sufficient detail as to the nature and/or contents of the information sought so as to enable the public authority exercising a reasonable effort to identify the requested information; and c) include the requester's name and contact information. 3 The request to access a personal information shall, in addition to satisfying the requirements provided for in paragraph (2), only be made by the natural person to whom it relates, or by the requester's legal representative or someone authorized in writing by the requester to access the information. If the request is made by the person to whom it relates, he or she shall sign the request and produce legal photo-identification. If the request is made by the requester's legal representative or by someone authorized to access the information, that person shall sign the request, produce his or her legal photo-identification, proof of legal representation or authorization, and a copy of the requester's legal identification. 4 A public authority shall neither require nor ask for any reason or justification for the request. Article 12 Inability to Comply with a request 1 If a public authority is not able to satisfy the request due to lack of formal requirements as provided for in Article 11 paragraph 2 and 3 of this Law, it shall, as soon as possible, but no later than eight days from receipt of the request, in writing, notify the applicant if such notification is possible, that the request cannot be processed for that reason. This conclusion contains instruction on right to appeal, the name and address of the authority where the appeal is filed, the deadline and cost of filing an appeal, and instruction on the right to apply to the Ombudsman indicating the necessary information to contact the Ombudsman. 2 For requests that are not in accordance with Article 11, paragraph 2, item b) of this Law, the notice referred to in paragraph 1 of this Article shall also include any specific questions that can clarify the application and a copy of the Guide, in terms of Article 20, paragraph a) of this Law. 3 The conclusion referred to in paragraph 1 and 2 of this Article shall inform the applicant that his modified request shall be considered a new request.

Article 13 Determination of Competent Authority 1 Should the respondent authority not be the competent authority, it shall, within 8 days of receipt, transfer the request to the competent authority and notify the requester in writing thereof. Transfer need not be made if, within the same time period, the requested information is determined to be in the control of the respondent authority and the competent authority, upon being notified of the specifics of the request, has no objections to the respondent authority processing the request. The respondent authority shall thus be deemed to be the competent authority and shall process the request in accordance with Article 14. 2 Should the competent authority not be locatable and the respondent authority have control of the requested information, the respondent authority shall be deemed to be the competent authority. Should the competent authority not be locatable and the respondent authority not have control of the requested information, the respondent authority shall, within the time period provided for in paragraph 1, provide the requester with written notice that the request cannot be processed for this reason.

Article 14 Procedure Upon Receipt of a Request by the Competent Authority 1 Upon receiving a request for access to information, the competent authority shall take all reasonable measures to collect the requested information and shall consider all facts and circumstances pertinent to the processing of the request. 2 If access to the information is granted, either in whole or in part, the competent authority shall notify the requester by a decision in writing thereof. This Decision shall:

(a) inform the requester that the information is available for access in person at the premises of the competent authority; and

(b) inform the requester whether duplication is possible, the cost of the duplication, and that the duplication shall be provided to the requester upon payment. Where the duplication of the information is unusually complex or time-consuming, the duplication shall be provided to the requester at a time mutually agreeable to the requester and the competent authority; or (c) include duplication of the requested information where it can be supplied at no cost as provided for under Article 16 of this Law. 3 If access to the information is granted, either in whole or in part, the competent authority shall notify the requester by a decision in writing thereof. The said Decision shall contain: a) include the legal grounds for the exempt status of the information in terms of the Law, including all material issues relevant to the decision including public interest factors taken into account; and b) instruction on right to appeal, the address of the authority where the appeal is filed, the deadline and cost of filing an appeal, and instruction on the right to apply to the Ombudsman indicating the necessary information to contact the Ombudsman. 4 An appeal against the decision referred to in paragraph (3) of this Article shall be submitted to the Head of the competent second instance public authority. 5 Decisions provided by paragraph 2 and 3 of this Article shall be addressed to the applicant as soon as possible, but no later than within 15 days of receipt of the request. For requests that are processed within the meaning of Article 7 and/or Article 9 3 this 15-day period shall be extended for a period of time specified in those articles. The requester shall be notified by decision in writing, immediately, of all extensions including the reasons for the extensions. Article 15 Language in which the information is available 1 Access to information will be provided in one of the official languages in Bosnia and Herzegovina; as well as the original language different than one of the official languages in Bosnia and Herzegovina, if it is possible and reasonable to do so. 2 The competent authority shall not be obliged to translate the requested information from one official language in Bosnia and Herzegovina into another.

Article 16 Duplication Costs The competent authority shall not levy a fee or tax for requests submitted or notices provided for under this Law. Charges may only be levied for duplication costs and only insofar as is provided for in a Decision of the Council of Ministers issued pursuant to this Law. For standard size photocopies, the first ten pages shall be free of charge."

Also Article 18 of this Law established the obligation of public authorities to take all necessary steps to assist any natural or legal person seeking to exercise any right under this Law, so that Article 19 provides that every public authority shall appoint an information officer who shall process requests made under this Law. Following the appointment of information officer, his name and contact information are submitted to the Ombudsman.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

(b) Observations on the implementation of the article

Bosnia and Herzegovina has set the procedure for public access to information in possession of the public authorities in the Law on Freedom of Access to Information (Articles 11 – 16). The

procedure set in this Law is rather simple and easy. The Law prescribes that the requester of information addresses his/her request in writing, directly to the competent authority which he/she believes that is a holder of that information. Also, the request should include enough detail for the information, which would enable the relevant public authority to identify to information easy and include contact information of the requester. If the information required is personal information, then it should be made only by the physical person to whom it relates or by its legal representative or authorized person. In direction of simplifying the procedure for request, the Law stipulates that the public authorities should not ask for any reason or justification for the request.

The Law also sets relevant provisions for definition of competent authority, thus stipulating that if the respondent authority is not competent authority for that information, then it should transfer the request to the authority which is competent and inform the requester for that. After receiving the request for information, the law determines that the competent authority collects the requested information and informs the requester by a Decision. The Decision should inform the requester: that the information is available for access in person at the premises of the competent authority, weather duplication is possible, which is the cost of the duplication or include duplication if it can be made at no cost. It should also contain instruction for the right to appeal. The deadline determined for submission of the Decision to the requester is 15 days. There are also provisions set for the language and for the duplication costs as well as a provision for establishing information officers by all the public institutions responsible for processing information under this Law.

Subparagraph (c) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

...

(c) Publishing information, which may include periodic reports on the risks of corruption in its public administration.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

MINISTRY OF JUSTICE OF BOSNIA AND HERZEGOVINA The Law on Freedom of Access to Information in Bosnia and Herzegovina ("Official Gazette of BiH", no. 28/00, 45/06, 102/09, 62/11 and 100/13

Article 20 The Law on Freedom of Access to Information in Bosnia and Herzegovina stipulates that each public authority shall publish and disseminate:

(a) a guide sufficient to enable any person to access information controlled by that public authority including but not limited to, the contact information of the public authority and its Information Officer, essential elements of the request procedure together with a sample request letter, information regarding the categories of exemptions, access procedure, duplication costs, avenues of redress, and any applicable time limitations. The guide shall also refer to the indexed register as provided for in paragraph 1 item (b) of this Article, as well as how that register may be accessed. The guide shall be submitted to the Information Ombudsman, every public and legal library in Bosnia and Herzegovina, on the Internet where practicable to do so, and shall be available upon request. This guide shall be free of charge; (b) an indexed register of the types of information in the control of the public authority, the form in which the information is available, as well as where that information may be accessed. This indexed register shall be made available in accordance with the dissemination requirements provided for in clause (a) of this article; (c) statistics, on a quarterly basis, concerning but not limited to, the number of requests received, the types of information requested, exemptions claimed, and any procedural or final decisions taken. These statistics shall be submitted to the Parliamentary Assembly of Bosnia and Herzegovina and to the Information Ombudsman, and shall be available upon request. (d) a report at least once every year detailing the functions, policies, operations, organizational structure, and financial affairs of the public authority including but not limited to their proposed budget and annual financial statement detailing actual prior year revenues and expenditures. This report shall be submitted to the Parliamentary Assembly of Bosnia and Herzegovina, and shall be available upon request.

Also, Section VI of this Law prescribes the competence of the Human Rights Ombudsman of Bosnia and Herzegovina, which are related to the Law. "Article 21 Ombudsmen for Human Rights in Bosnia and Herzegovina Ombudsman for Human Rights in Bosnia and Herzegovina shall discharge his functions under this Law, and in accordance with his mandate and responsibilities, as set out in Article II. 1 of the Constitution of Bosnia and Herzegovina and in Annex 6 of the General Framework Agreement for Peace in Bosnia and Herzegovina, and in accordance with any subsequent legislation regulating his competence and responsibility.

Article 22 Activities of the Ombudsman

1 In performing his functions under this Law, the Ombudsman for Human Rights in Bosnia and Herzegovina may inter alia consider: a) creating and disseminating information, such as guidelines and general recommendations that are relating to the administration and implementation of this Law; b) including in the annual report a special part about his activities performed in terms of this Law; and c) proposing instructions on the implementation of this Law to all competent ministries within Bosnia and Herzegovina".

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

(b) Observations on the implementation of the article

Article 20 of the Law on Freedom of Access to Information in Bosnia and Herzegovina stipulates that each public authority shall publish and disseminate:

(a) a guide sufficient to enable any person to access information controlled by that public authority including but not limited to, the contact information of the public authority and its

Information Officer, essential elements of the request procedure together with a sample request letter, information regarding the categories of exemptions, access procedure, duplication costs, avenues of redress, and any applicable time limitations. The guide shall also refer to the indexed register as provided for in paragraph 1 item (b) of this Article, as well as how that register may be accessed. The guide shall be submitted to the Information Ombudsman, every public and legal library in Bosnia and Herzegovina, on the Internet where practicable to do so, and shall be available upon request. This guide shall be free of charge;

(b) an indexed register of the types of information in the control of the public authority, the form in which the information is available, as well as where that information may be accessed. This indexed register shall be made available in accordance with the dissemination requirements provided for in clause (a) of this article;

(c) statistics, on a quarterly basis, concerning but not limited to, the number of requests received, the types of information requested, exemptions claimed, and any procedural or final decisions taken. These statistics shall be submitted to the Parliamentary Assembly of Bosnia and Herzegovina and to the Information Ombudsman, and shall be available upon request.

(d) a report at least once every year detailing the functions, policies, operations, organizational structure, and financial affairs of the public authority including but not limited to their proposed budget and annual financial statement detailing actual prior year revenues and expenditures. This report shall be submitted to the Parliamentary Assembly of Bosnia and Herzegovina, and shall be available upon request.

Also, national experts refer to Section VI of the aforementioned Law that prescribes the competence of the Human Rights Ombudsman of Bosnia and Herzegovina, which are related to the Law. Namely, article 21 and article 22, regarding the functions of the Ombudsmen for Human Rights in Bosnia and Herzegovina.

No examples and/or statistics of the implementation of those measures to ensure full compliance with this provision of the Convention are provided.

Article 10 subparagraph c) requires States Parties, in accordance with the fundamental principles of its domestic law, to take measures that may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate, such as publishing information, which may include periodic reports on the risks of corruption in its public administration.

The reviewing State Party takes note of relevant measures responding to the general obligation of article 10 of the Convention.

Namely, Law on Freedom of Access to Information in Bosnia and Herzegovina is adopted and in force, with the following purposes:

(a) to acknowledge that information in the control of public authorities is a valuable public resource and that public access to such information promotes greater transparency and accountability of those authorities, and is essential to the democratic process;

(b) to establish that every physical or legal person has a right to access this information to the greatest extent possible consistent with the public interest, and that public authorities have a corresponding obligation to disclose information; and

(c) to enable every natural person to request the amendment of, and to comment on, his or her personal information in the control of a public authority.

The reviewing State Party takes note that the State Investigation and Protection Agency has taken the necessary measures to improve transparency concerning the organization, functioning and decision-making processes. In this regard, internal Instruction on the standard procedures to achieve

relations between the public and the State Investigation and Protection Agency; and Guide for access to information in the State Investigation and Protection Agency have been adopted. And social media have been used by the State Investigation and Protection Agency, to inform the public in respect of jurisdiction and contacting the employees of the Agency, the current activities carried out by officers of the Agency, the possibilities for cooperation, employment, public procurement procedures, procedures for reporting criminal offenses, information about the current laws and regulations, etc.

The reviewing State Party takes note that Bosnia and Herzegovina joined the initiative "Open Government Partnership", and that has committed to create a two-year Framework Action Plan to implement a series of reforms that have been structured around the challenges faced by public authorities in all countries.

Also, the reviewing State Party takes into consideration that reports on the status of activities of the Action Plan for implementation of the Anti-Corruption Strategy 2015-2019 are regularly submitted to APIK and that reports on the implementation of the Integrity Plan of the HJPC BiH are regularly submitted to APIK, and a working group of the HJPC BiH is being formed for the preparation of the Integrity Plan of the HJPC BiH for the next four years;

Taking into account the information provided regarding the implementation of article 13 of the Convention, the reviewing State Party takes note of examples provided, however none of the examples represent regular/periodic public reports or specific periodic publication on corruption risk assessment.

It should be considered that article 10 of the Convention is intended to ensure that citizens understand the workings of public administration, and have information on and access to the decisions of public officials. In this direction, all public organizations should report periodically on the corruption threats and anti-corruption prevention measures undertaken under the framework established under article 5 – for effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability. Regular publishing information on the function of an institution and its plans to conduct corruption risk assessment and develop corresponding anti-corruption action plans will broaden the circle of relevant stakeholders that should be included in the process of integrity building. Comprehensive understanding of the institution, its work, sector, projects, processes, standing and perceptions, is crucial for efficient corruption risk assessment. In relation to publication of information on corruption risks, the experts of the reviewing State Party would like to point out that publication of risk registers or specific risks it is neither required nor advisable.

(c) Challenges in implementation

Consider undertaking measures to promote administrative culture within the institutions that will adopt and implement principles of proactive transparency, such as measures to improve the knowledge of public officials on the principles of proactive transparency.

Article 11. Measures relating to the judiciary and prosecution services

Paragraph 1 of article 11

1. Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent

opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

THE COURT OF BOSNIA AND HERZEGOVINA

The measures taken on the occasion of the said by the Court of Bosnia and Herzegovina are the following:

The Court of Bosnia and Herzegovina in July 2013 brought the Framework Action Plan of the Court in the Fight against Corruption, which was accepted by the Agency for the Fight Against Corruption. One of the activities that had been foreseen by the Framework Plan is the drafting of the Integrity Plan. Integrity Plan is an internal document that contains a set of measures of legal and practical nature that prevent or eliminate the possibility of the emergence and development of different forms of corrupt behaviour and corruption within the Court of BiH. Integrity Plan was drawn up and, after being accepted by the Agency for fight against corruption, the President of the Court on 08/10/2014 brought a decision on the adoption of Integrity Plan. At the same time, the coordinator of the Integrity Plan was determined, who regularly monitors the implementation of measures from the Plan and makes regular reports to the President of the Court and the Agency for fight against corruption. The Integrity Plan is being upgraded in accordance with the instructions given by the High Judicial and Prosecutorial Council of BiH

In addition to the implementation of activities on the development and adoption of the Integrity Plan, on 04/03/2014, the Ordinance on the internal reporting of corruption and protection of persons who report corruption in the Court of BiH was adopted and the Commission appointed for the reception, recording and handling the reports of corruption and other irregularities. After the Council of Ministers on 07/05/2015 adopted a new Anti-corruption strategy for the period 2015-2019, the Court adopted a new Anti-Corruption Plan 2016-2019 with certain activities, implementation deadlines, holders of implementation and performance indicators. The Court carries out activities in accordance with the Plan and will submit the regular report to the Agency for fight against corruption.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

THE COURT OF BOSNIA AND HERZEGOVINA The analysis of cases that have been finally completed before the Court of Bosnia and Herzegovina for corruption offenses, with due consideration to the possibilities for posting statistical data on the website of the Court to make them available to the public.

(b) Observations on the implementation of the article

Bosnia and Hercegovina reported that measures described in this provision are adopted and implemented. Above mentioned measures are directed in two ways: adoption of the Code of Judges Ethics and adoption of other relevant documents (Framework Action Plan of the Court in the Fight against Corruption, Integrity Plan and Ordinance on the internal reporting of corruption and protection of persons who report corruption in the Court of BiH).

With regard to the aforesaid, national experts refer to the Framework Action Plan of the Court in the Fight against Corruption, which was accepted by the Agency for the Fight Against Corruption. One of the activities that had been foreseen by the Framework Plan was the drafting of the Integrity Plan. Integrity Plan is an internal document that contains a set of measures of legal and practical nature that prevent or eliminate the possibility of the emergence and development of different forms of corrupt behaviour and corruption within the Court of BiH. Integrity Plan was drawn up and, after being accepted by the Agency for fight against corruption, the President of the Court on 08/10/2014 brought a decision on the adoption of Integrity Plan. At the same time, the coordinator of the Integrity Plan was determined, who regularly monitors the implementation of measures from the Plan and makes regular reports to the President of the Court and the Agency for fight against corruption. The Integrity Plan is being upgraded in accordance with the instructions given by the High Judicial and Prosecutorial Council of BiH.

National experts reported that the Ordinance on the internal reporting of corruption and protection of persons who report corruption in the Court of BiH was adopted and the Commission for the reception, recording and handling the reports of corruption and other irregularities was appointed. Also experts refer to the adoption a new Anti-Corruption Plan 2016-2019 with certain activities, implementation deadlines, holders of implementation and performance indicators.

In Article 11, paragraph 1, of the Convention against Corruption special attention is paid on the independence of the judiciary and its crucial role in combating corruption. It more specifically requires that States parties take measures, in accordance with the fundamental principles of their legal system and without prejudice to judicial independence:

- (a) To strengthen integrity; and
- (b) To prevent opportunities for corruption among members of the judiciary.

Such measures, which are mandatory, may include rules with respect to the appointment and conduct of members of the judiciary. This option may require legislation depending on the tradition, laws and procedures of each State. For instance, it may necessitate revisiting the provisions of the constitution and perhaps assessing the rules and procedures under which judicial appointments are made, as well as mechanisms of accountability the judiciary has decided for itself, to ascertain if they fulfil the requirements of article 11.

Some States, through their constitution and/or legislation, provide members of the judiciary (and in some cases also their prosecutorial authorities) with immunity from investigation and/or prosecution. The main purpose of granting such immunity is to strengthen the independence of the judiciary by protecting its members against malicious prosecution. Such immunity usually applies to acts carried out in the performance of official duties (i.e. functional immunity) and normally only applies for the duration of the person's term in office.

Notwithstanding its importance for the independence of the judiciary, immunity from investigation and prosecution may hamper the effective investigation and prosecution of corruption offences for two main reasons: (a) it could affect the detection and investigation or prosecution of other persons who do not enjoy immunity and may have participated in the offence; (b) the application of immunity to members of the judiciary as well as other members of law enforcement

authorities, such as prosecutors and investigating magistrates (when those magistrates are not members of the judiciary), without appropriate safeguards may undermine the credibility of the law enforcement and judicial system, thus undermining respect for the legal institutions and rule of law.

According to the legislative guide, it is therefore advisable, if immunity is afforded to members of the judiciary, that it be restricted to functional immunity and that it not last indefinitely. An effective and transparent process for lifting immunity for corruption offences would protect against abuses and ensure accountability.

Regarding the practical challenges and solution, technical guide emphasises the importance of the procedures for judicial appointment, tenure and other career-related issues. Beside this as very important factors there are mentioned more minor details, such as the issuing of summonses, the service of summonses, securing evidence, the obtaining of bail, the provision of certified copies of a judgment, expedition of cases and the delay of cases.

For the purposes of implementing this article, the concept of judicial integrity may be defined broadly to include:

- The ability to act free of any extraneous influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason;
- Impartiality (i.e. the ability to act without favour, bias or prejudice);
- Personal conduct which is above reproach in the view of a reasonable observer;
- Propriety and the appearance of propriety in the manner in which the member of the judiciary conducts his or her activities, both personal and professional;
- An awareness, understanding and recognition of diversity in society and respect for such diversity;
- Competence;
- Diligence and discipline.

“Judicial independence”, according technical guide, also refers to the institutional and operational arrangements defining the relationship between the judiciary and other branches of government and ensuring the integrity of the judicial process. The arrangements are intended to guarantee the judiciary the collective or institutional independence required to exercise jurisdiction fairly and impartially over all issues of a judicial nature.

There are three essential conditions for judicial independence. The first concerns security of tenure for all judicial appointments, i.e. a tenure, whether until an age of retirement, for a fixed term, or for a specific adjudicative task, that is secure against interference by the Executive or other appointing authority in a discretionary or arbitrary manner. Secondly, those holding judicial appointments require financial security, including the right to salary and pension which is established by law and which is not subject to arbitrary interference by the Executive in a manner that could affect judicial independence. Thirdly and finally, States Parties must ensure institutional independence with respect to matters of administration that relate directly to the exercise of the judicial function, including the management of funds allocated to the judicial system. An external force must not be in a position to interfere in matters that are directly and immediately relevant to the adjudicative function, for example, assignment of judges, sittings of the court and court lists. Although there must of necessity be some institutional relations between the judiciary and Executive, such relations must not interfere with the judiciary’s duty to adjudicate individual disputes and uphold the law and values of the Constitution.

Judicial independence does not require that judges should enjoy immunity from the application of laws, except to the extent that a judge may enjoy personal immunity from civil suits for alleged improper acts or omissions in the exercise of judicial functions. In many countries, judges, like other citizens, are subject to the criminal law. They have, and should have, no immunity from obedience to the general law. Where reasonable cause exists to warrant investigation by police and other public bodies of suspected criminal offences on the part of judges and court personnel, such investigations should take their ordinary course, according to law.

Other countries provide immunities from prosecution for judges. Where such immunities are provided, the preferred approach, in order to limit the potential for judges to avoid prosecution for corruption and so as not to undermine the credibility of the judiciary, is a “functional” approach, so that judges are only immune from prosecution for offences that take place in the course of carrying out their judicial duties. In order to ensure that the “functional” approach cannot be misused to avoid criminal liability, it is also essential to provide a process for lifting the immunity in appropriate circumstances, along with safeguards for ensuring that the process is transparent, fair and consistently applied.

States Parties should help strengthen the integrity of the judiciary by ensuring that the judicial process is open and accessible. Barring exceptional circumstances, which should be determined by law, judicial proceedings should be open to the public. Judges should be obliged by law to give reasons for their decisions. To ensure the integrity of the judiciary, including the availability of an effective appeals process, the reasons for judges’ decisions should also be recorded.

The daily administration of the judicial process is an important component in preventing corruption. Elements of effective administration of court proceedings include:

- The prominent display of notices (in at least court buildings) describing procedures and proceedings;
- Efficient systems to maintain and manage court records, including registries of court decisions;
- The introduction of computerization of court records, including of the court hearing schedule, and computerized case management systems;
- The introduction of fixed deadlines for legal steps that must be taken in the preparation of a case for hearing; and
- The prompt and effective response by the court system to public complaints.

Judges must take responsibility for reducing delay in the conduct and conclusion of court proceedings and discourage undue delay. Judges should institute transparent mechanisms to allow the legal profession and litigants to know the status of court proceedings. (One possible method is the monthly circulation among judges of a list of pending judgments.)

Where no legal requirements already exist, standards should be adopted by the judges themselves and these should be publicly announced in order to ensure due diligence in the administration of justice.

In this field international community developed a set of standards contained in their instruments. In that sense, the most important document regarding the all aspects of independence of the judiciary is Recommendation [CM/Rec\(2010\)12](#) of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities. This Recommendation contains the all pillars of independence of the judiciary, such as: External independence, Internal independence, Councils for the judiciary, Status of the judge, Duties and responsibilities and Ethics

of judges. Also relevant documents in that area are the opinions of the Consultative Council of European Judges in the framework of the Council of Europe.

Paragraph 2 of article 11

2. Measures to the same effect as those taken pursuant to paragraph 1 of this article may be introduced and applied within the prosecution service in those States Parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

THE PROSECUTOR'S OFFICE OF BiH

The High Judicial and Prosecutorial Council of Bosnia and Herzegovina in the document called "Code of Ethics for judges and prosecutors of Bosnia and Herzegovina" prescribed guidelines, criteria and standards of anti-corruption measures for the holders of the prosecutorial function in all prosecutors' offices in Bosnia and Herzegovina, including the Prosecutor's Office of Bosnia and Herzegovina. Violation of anti-corruption standards contained in the above code entails disciplinary accountability of prosecutorial functions that is investigated and determined by the High Judicial and Prosecutorial Council of Bosnia and Herzegovina. For other employees of the Prosecutor's Office of Bosnia and Herzegovina, the anti-corruption standards of conduct are prescribed by the "Code of Conduct of employees in the Prosecutor's Office of Bosnia and Herzegovina", which provides a set of standards, measures and actions to fight any activity which in its characteristic can have a corrupt character. Non-compliance with the provisions of the said Code entails disciplinary liability of employees that is determined by the first and second instance Disciplinary Commission of the Prosecutor's Office of Bosnia and Herzegovina.

Notwithstanding the above, any corrupt activity or violation of official or other responsible duties of prosecutors or authorized officers employed by the Prosecutor's Office of Bosnia and Herzegovina is criminally liable for criminal offenses prescribed in Title XIX of the Criminal Code of Bosnia and Herzegovina

Strengthening of preventive mechanisms is a long-term goal of the Prosecutor's Office of Bosnia and Herzegovina defined by the Integrity Plan of the Prosecutor's Office of Bosnia and Herzegovina adopted in 2015. The Integrity Plan highlighted potential vulnerabilities in the systematized position in the Prosecutor's Office of Bosnia and Herzegovina, as well as preventive mechanisms to prevent corruption.

During 2015, the Integrity Plan of Bosnia and Herzegovina was adopted, while a year later the Code of Conduct for employees of the Prosecutor's Office of Bosnia and Herzegovina was adopted, and with these bylaws all the principles of anti-corruption behaviour contained in the Convention have been adopted.

INVESTIGATION AND PROTECTION AGENCY: The State Investigation and Protection Agency as a police agency works under the direction and orders of the Prosecutor's Office of Bosnia and Herzegovina. In terms of measures to strengthen integrity and to prevent opportunities for corruption in the State Investigation and Protection Agency, the following rules apply:

- Integrity Plan of the State Investigation and Protection Agency.
- Rules on the internal reporting of corruption in the State Investigation and Protection Agency; - Code of Ethics for police officers of the State Investigation and Protection Agency.
- Regulations on internal controls and internal control procedures in the State Investigation and Protection Agency;
- Plan to combat corruption in the State Investigation and Protection Agency.

HIGH JUDICIAL AND PROSECUTORIAL COUNCIL OF BIH Activities in relation to the judicial institutions

- in July 2016, the Guidelines for the drafting and implementation of integrity plan in the judicial institutions of Bosnia and Herzegovina, together with supporting documents (Methodological guidelines for drafting integrity plan in the judicial institutions of BiH and the Model Integrity Plan), were adopted and provided to all judicial institutions in Bosnia and Herzegovina and published on the judicial web portal pravosudje.ba;
- within the framework of the Action Plan of the HJPC , among other things, development plans of integrity in all judicial institutions in BiH is planned, as well as organizing and conducting training for coordinators in these institutions;
- in July 2016, the Guidelines to prevent conflicts of interest in the judiciary were adopted;
- in the framework of the Action Plan of HJPC BiH, among other things, envisaged implementation and monitoring of the implementation of the Guidelines on Conflicts of Interest in the judiciary, their incorporation into the codes of judicial and prosecutorial ethics, identifying risk factors and measures to eliminate the risk factors of corrupt behaviour in the judiciary, and implementation of recommendations regarding the publication, control and verification of assets declarations of judicial office holders;
- within the project "Strengthening the capacity of the BiH Prosecutors' Offices", being implemented by the HJPC, in early 2016, a two-year specialized training for prosecutors was conducted (2016/2017) on the topic "Corruption", which is included in the training programs of the Entity JPTCs, and an educational module on "Corruption", based on which the Entity JPTCs conduct joint training for prosecutors and police authorities;
- within the project "Strengthening the capacity of the BiH Prosecutors' Offices", statistics are regularly monitored regarding indictments and convictions in corruption cases, and, since no specific analysis of the reasons for the disproportionately small number of convictions compared to the indictments has been made, it is planned to do it at the beginning of 2017;
- in the framework of the project proposal IPA 2017, HJPC BiH proposed the activity of development of online service for reporting corruption in the justice system that would be available through the judicial web portal and web pages of all judicial institutions in BiH, and the development and implementation of the e-prosecutorial system for management of and analytical support to investigations in cases of corruption and organized crime;

- after adoption of the unified list of corruption offenses contained in the Criminal Codes of BiH, FBiH, RS and BD BiH in May 2015, for the purpose of practical support to chief prosecutors and prosecutors' offices in BiH in the uniform labelling and assignment of cases of criminal offenses of corruption, in July 2016 the HJPC BiH adopted a new Ordinance on the orientation criteria for prosecutors in the prosecutor's offices in BiH to stimulate work on complex cases, including cases of corruption;
- HJPC, with the support of USAID Justice Project in Bosnia and Herzegovina and in cooperation with APIK, on 13/12/2016 held its annual conference on fighting corruption and strengthening the integrity of the judiciary in BiH, presenting the Diagnostic analysis of the integrity of the justice sector in BiH and the possible risks of corruption or unethical behaviour in the judiciary;
- HJPC, with the support of the European Union Special Representative (EUSR) in BiH, on 15-16/12/2016 held a conference on "Judiciary - Status and Perspectives", which discussed, as key topics, the issues of "The integrity and Accountability" and "Independence of the judiciary".

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

THE PROSECUTOR'S OFFICE OF BiH

The responsibility of employees in the Prosecutor's Office of Bosnia and Herzegovina shall be established in disciplinary proceedings undertaken by the appropriate Commission of the Prosecutor's Office of Bosnia and Herzegovina as well as in criminal investigations carried out by the Prosecutor's Office of Bosnia and Herzegovina for crimes of corruption. Due to the legal nature of the criminal investigations, their specific details cannot be listed.

(b) Observations on the implementation of the article

Bosnia and Hercegovina reported that measures described in this provision are adopted and implemented. Above mentioned measures are divided among the competent institutions in Bosnia and Hercegovina. National experts reported as a key point mentioned activities in the framework of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina. This body in the document called "Code of Ethics for judges and prosecutors of Bosnia and Herzegovina" prescribed guidelines, criteria and standards of anti-corruption measures for the holders of the prosecutorial function in all prosecutors' offices in Bosnia and Herzegovina, including the Prosecutor's Office of Bosnia and Herzegovina. Violation of anti-corruption standards contained in the above code entails disciplinary accountability of prosecutorial functions that is investigated and determined by the High Judicial and Prosecutorial Council of Bosnia and Herzegovina.

For other employees of the Prosecutor's Office of Bosnia and Herzegovina, national experts reported that the anti-corruption standards of conduct are prescribed by the "Code of Conduct of employees in the Prosecutor's Office of Bosnia and Herzegovina", which provides a set of standards, measures and actions to fight any activity which in its characteristic can have a corrupt character. Non-compliance with the provisions of the said Code entails disciplinary liability of employees that is determined by the first and second instance Disciplinary Commission of the Prosecutor's Office of Bosnia and Herzegovina.

Notwithstanding the above, any corrupt activity or violation of official or other responsible duties of prosecutors or authorized officers employed by the Prosecutor's Office of Bosnia and

Herzegovina is criminally liable for criminal offenses prescribed in Title XIX of the Criminal Code of Bosnia and Herzegovina.

Strengthening of preventive mechanisms is a long-term goal of the Prosecutor's Office of Bosnia and Herzegovina defined by the Integrity Plan of the Prosecutor's Office of Bosnia and Herzegovina adopted in 2015. The Integrity Plan highlighted potential vulnerabilities in the systematized position in the Prosecutor's Office of Bosnia and Herzegovina, as well as preventive mechanisms to prevent corruption.

During 2015, the Integrity Plan of Bosnia and Herzegovina was adopted, while a year later the Code of Conduct for employees of the Prosecutor's Office of Bosnia and Herzegovina was adopted, and with these bylaws all the principles of anti-corruption behaviour contained in the Convention have been adopted.

Next responsible body is Investigation and Protection Agency. This organ, as a police agency, works under the direction and orders of the Prosecutor's Office of Bosnia and Herzegovina. In terms of measures to strengthen integrity and to prevent opportunities for corruption in the State Investigation and Protection Agency, the following rules apply:

- Integrity Plan of the State Investigation and Protection Agency.
- Rules on the internal reporting of corruption in the State Investigation and Protection Agency;
- Code of Ethics for police officers of the State Investigation and Protection Agency.
- Regulations on internal controls and internal control procedures in the State Investigation and Protection Agency;
- Plan to combat corruption in the State Investigation and Protection Agency.

National experts pointed following activities of the High Judicial and Prosecutorial Council of BiH

- in July 2016, the Guidelines for the drafting and implementation of integrity plan in the judicial institutions of Bosnia and Herzegovina, together with supporting documents (Methodological guidelines for drafting integrity plan in the judicial institutions of BiH and the Model Integrity Plan), were adopted and provided to all judicial institutions in Bosnia and Herzegovina and published on the judicial web portal pravosudje.ba;
- within the framework of the Action Plan of the HJPC , among other things, development plans of integrity in all judicial institutions in BiH is planned, as well as organizing and conducting training for coordinators in these institutions;
- in July 2016, the Guidelines to prevent conflicts of interest in the judiciary were adopted;
- in the framework of the Action Plan of HJPC BiH, among other things, envisaged implementation and monitoring of the implementation of the Guidelines on Conflicts of Interest in the judiciary, their incorporation into the codes of judicial and prosecutorial ethics, identifying risk factors and measures to eliminate the risk factors of corrupt behaviour in the judiciary, and implementation of recommendations regarding the publication, control and verification of assets declarations of judicial office holders;
- within the project "Strengthening the capacity of the BiH Prosecutors' Offices", being implemented by the HJPC, in early 2016, a two-year specialized training for prosecutors was conducted (2016/2017) on the topic "Corruption", which is included in the training programs of the Entity JPTCs, and an educational module on "Corruption", based on which the Entity JPTCs conduct joint training for prosecutors and police authorities;
- within the project "Strengthening the capacity of the BiH Prosecutors' Offices", statistics are regularly monitored regarding indictments and convictions in corruption cases, and, since no specific analysis of the reasons for the disproportionately small number of

convictions compared to the indictments has been made, it is planned to do it at the beginning of 2017;

- in the framework of the project proposal IPA 2017, HJPC BiH proposed the activity of development of online service for reporting corruption in the justice system that would be available through the judicial web portal and web pages of all judicial institutions in BiH, and the development and implementation of the e-prosecutorial system for management of and analytical support to investigations in cases of corruption and organized crime;
- after adoption of the unified list of corruption offenses contained in the Criminal Codes of BiH, FBiH, RS and BD BiH in May 2015, for the purpose of practical support to chief prosecutors and prosecutors' offices in BiH in the uniform labelling and assignment of cases of criminal offenses of corruption, in July 2016 the HJPC BiH adopted a new Ordinance on the orientation criteria for prosecutors in the prosecutor's offices in BiH to stimulate work on complex cases, including cases of corruption;
- HJPC, with the support of USAID Justice Project in Bosnia and Herzegovina and in cooperation with APIK, on 13/12/2016 held its annual conference on fighting corruption and strengthening the integrity of the judiciary in BiH, presenting the Diagnostic analysis of the integrity of the justice sector in BiH and the possible risks of corruption or unethical behaviour in the judiciary;
- HJPC, with the support of the European Union Special Representative (EUSR) in BiH, on 15-16/12/2016 held a conference on "Judiciary - Status and Perspectives", which discussed, as key topics, the issues of "The integrity and Accountability" and "Independence of the judiciary".

In Article 11 paragraph 2 of the Convention special attention is paid on the codes and standards of conducts of public prosecutors and measures to prevent the opportunities for corruption in the prosecution service. Technical guide have the requirements for countries where prosecutors are vested with discretionary functions. In these countries, the law or published rules or regulations shall provide guidelines to enhance fairness and consistency of approach in taking decisions in the prosecution process, including institution or waiver of prosecution.

According to the technical guide, generally, prosecutors should perform their duties without fear, favour or prejudice and in particular carry out their functions impartially. They should remain unaffected by individual or sectional interests and public or media pressures and shall have regard only to the public interest. They should act with objectivity, and seek to ensure that all necessary and reasonable enquiries are made and the result disclosed, whether that points towards the guilt or the innocence of the accused. They should always search for the truth and assist the court to arrive at the truth according to law and the dictates of fairness. Prosecutors should be subject to a code of conduct reflecting the guidance given for all public officials in article 8. Specific requirements should be included to reflect the particular issues facing prosecutors.

Main standards of issues related with public prosecutors are defined in the following documents:

- Recommendation CM/Rec(2012)11 of the Committee of Ministers to member States on the role of public prosecutors outside the criminal justice system
- Recommendation (2000)19 on the Role of Public Prosecution in the Criminal Justice System
- Opinion No.9 (2014) of the CCPE on European norms and principles concerning prosecutors (Rome Charter)

- Terms of reference of the CCPE for 2014-2015
- Framework overall action plan for the work of the CCPE
- European Guidelines on ethics and conduct for public prosecutors: "The Budapest Guidelines"
- Memorandum on the visibility of the work of the CCPE, on dissemination and implementation of the CCPE Opinions
- Report on European Standards as regards the independence of the judicial system: Part II: the Prosecution Service (adopted by the Venice Commission at its 85th plenary session in Venice, 17-18 December 2010)
- 1990 United Nations' Guidelines on the Role of Prosecutors
- Standards of professional responsibility and statement of the essential duties and rights of prosecutors adopted by the International Association of Prosecutors (IAP)

Recommendation (2000)19 on the Role of Public Prosecution in the Criminal Justice System of the Council of Europe defines the questions related to the: Functions of the public prosecutor, Safeguards provided to public prosecutors for carrying out their functions, Relationship between public prosecutors and the executive and legislative powers, Relationship between public prosecutors and court judges, Relationship between public prosecutors and the police, Duties of the public prosecutor towards individuals and International co-operation.

Opinion No.9 (2014) of the Consultative Council of European Prosecutors to the Committee of Ministers of the Council of Europe on European norms and principles concerning prosecutors. This Opinion contains: a Charter, called "the Rome Charter" and a detailed Explanatory Note of the principles which appear in this Charter. Regarding immunity this document underline that Prosecutors should not benefit from a general immunity, but from functional immunity for actions carried out in good faith in pursuance of their duties. Also this Opinion contains all principles concerning the governing prosecutions. Central part of the Opinion is dedicated to the Status of prosecutors and safeguards provided to them for carrying out their functions. In that framework there are detailed provisions concerning the independence of prosecutors, the hierarchy, Appointment and career, Training, Evaluation of professional skills, Transfer and mobility, Dismissal and all related issues. Regarding the Code of Ethics, this Opinion states that "The sharing of common legal principles and ethical values by all prosecutors involved in the legal process is essential for the proper administration of justice and for the respect of the highest professional standards. Prosecutors must be able to identify ethical problems in their work and to refer to clear principles to solve them."... "Codes of professional ethics and of conduct should be adopted and made public, based on international standards developed by the United Nations, as well as those set out in the European Guidelines on Ethics and Conduct for Public Prosecutors (The Budapest Guidelines) adopted by the Conference of Prosecutors General of Europe on 31 May 2005." In this Opinion special attention is paid on the Incompatibilities and conflicts of interest. According the p.77. Prosecutors should at all times adhere to the highest ethical and professional standards. In particular, they should not act in cases where their personal interests or their relations with the persons interested in the case could hamper their full impartiality. Prosecutors should not engage in any activity or transaction or acquire any position or function, whether paid or unpaid, that is incompatible with or detracts from the proper performance of his/her duties. Also, Opinion defines provision as recommendation to the States to guarantee that a person cannot at the same time perform duties as a prosecutor and as a court judge. However, States may take measures in order to make it possible for the same person to perform successively the functions of prosecutor and those of judge or vice versa. Such changes in functions are only possible at the explicit request of the person concerned and respecting the safeguards. Also this document require from Prosecutors, at all times, to conduct themselves in a professional manner

and strive to be and be seen as independent and impartial. They should abstain from political activities incompatible with the principle of impartiality. Prosecutors should exercise their freedom of expression and association in a manner that is compatible with their office and that does not affect or appear to affect judicial and prosecutorial independence or impartiality. While they are free to participate in public debate on matters pertaining to legal subjects, the judiciary or the administration of justice, they must not comment on pending cases and must avoid expressing views which may undermine the standing and integrity of the court. In accordance with the law, for an appropriate period of time, the prosecutor should not act for any person or body in respect of any matter on which he/she acted for, or advised, the public service and which would result in a particular benefit to that person or body. The Opinion proscribed that a prosecutor, like a judge, may not act in a matter where he/she has a personal interest, and may be subject to certain restrictions aiming to safeguard his/her impartiality and integrity.

Very important document in that field is European Guidelines on ethics and conduct for public prosecutors: "The Budapest Guidelines". This document contains provisions related to basic duties of public prosecutors, their professional conduct in general, professional conduct in the framework of criminal proceedings, as well as private conduct. In the framework of the public conducts of public prosecutors, it is proscribed that Public prosecutors must not compromise the actual or the reasonably perceived integrity, fairness and impartiality of the public prosecution service by activities in their private life. Also, Public prosecutors shall respect and obey the law at all times. They should conduct themselves in such a way as to further and retain public confidence in their profession. Public prosecutors must not use any information to which they have had access during the course of their employment to further unjustifiably their own private interests or those of others. Regarding the gifts, this document stated that Public prosecutors must not accept any gifts, prizes, benefits, inducements or hospitality from third parties or carry out any tasks which may be seen to compromise their integrity, fairness and impartiality.

Undertaken measures and adopted legislation are in line with the requirements of this article. Namely, the adopted Code of ethics consists issues related to the integrity, professionalism and responsibility of prosecutors. Also, violation of anti-corruption standards contained in the above code entails disciplinary accountability of prosecutorial functions that is investigated and determined by the High Judicial and Prosecutorial Council of Bosnia and Herzegovina. Disciplinary procedure is provided for employees in public sector.

Article 12. Private sector

Paragraphs 1 and 2 of article 12

1. Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.

2. Measures to achieve these ends may include, inter alia:

(a) Promoting cooperation between law enforcement agencies and relevant private entities;

(b) Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts

of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;

(c) Promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;

(d) Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities;

(e) Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure;

(f) Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with these provisions?

(P) Yes, in part

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with these provisions of the Convention.

In terms of prevention of corruption in the private sector Strategy for the period 2015 - 2019 and Action Plan for its implementation (hereinafter SBPK and AP) predict the improvement of the legal framework for the active participation of the private sector in anti-corruption activities and to promote the adoption and application of codes of business ethics in the operations in order to prevent corruption in the relations between businesses and institutions. So the AP provides systematic realization of partnership and cooperation between public, private and NGO sector in the implementation of anti-corruption projects.

In this regard, representatives of the Agency held training at the Foreign Trade Chamber of BiH on 29/06/2016 on the topic: "Training of chambers of commerce and companies on the fight against corruption" in accordance with the obligations set out in the Strategy and Action Plan, as a preparation for further participation in training with the private sector in BiH; the training was attended by 20 representatives of chambers of commerce from BiH.

In addition, the Agency has prepared a draft document: "Analysis of private sector involvement in the fight against corruption, the possibilities and forms of cooperation between institutions in the anti-corruption system in BiH". This document has been submitted to the Foreign Trade Chamber of BiH, which is tasked to submit it to the chambers at all levels of BiH that will give their comments and opinions.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

(b) Observations on the implementation of the article

Regarding the implementation of item (a) Promoting cooperation between law enforcement agencies and relevant private entities;

BiH authorities inform that APIK has prepared a draft document: "Analysis of private sector involvement in the fight against corruption, the possibilities and forms of cooperation between institutions in the anti-corruption system in BiH". BiH authorities did not provide other relevant and more specific information on measures undertaken to promote cooperation between law enforcement agencies and relevant private entities.

Regarding the implementation of item (b) Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;

BiH authorities reported that the Anti-corruption Strategy and Action Plan 2015-2019 predict activities for improvement of the legal framework to promote active participation of the private sector in anti-corruption activities, as well as adoption and application of codes of business ethics. It is also foreseen cooperation with private and civil society sector in the implementation of anti-corruption projects.

The APIK organized a training of chambers of commerce and companies on the fight against corruption, and also drafted an "Analysis of private sector involvement in the fight against corruption, the possibilities and forms of cooperation between institutions in the anti-corruption system in BiH". This document is to be shared with chambers of commerce at all levels of BiH for comments and opinions.

Regarding the implementation of item (c) Promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;

BiH authorities didn't provide relevant information for the assessment on compliance with this provision.

Regarding the implementation of item (d) Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licenses granted by public authorities for commercial activities;

the State Party under review did not provide an explanation, information or comments about implementation of this measure of the Convention. In terms of prevention of corruption in the private sector, it noted that Anti-Corruption Strategy 2015-2019 and Action plan for implementation of the Anti-Corruption Strategy 2015-2019 predict improvement of the legal framework for active participation of the private sector in anticorruption activities. In order for the private sector to fulfil this potential, it is necessary, through legislative measures and other policies, to encourage active involvement in the fight against corruption, and above all, as with other parts

of society, to provide full access to information, adequate protection to persons reporting corruption and timely acting on petitions, initiatives and complaints of economic entities.

Regarding the implementation of item (e) Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure; and

item (f) Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures;

the State Party under review did not provide an explanation, information or comments.

Regarding the measure prescribed with item (a), in absence of specific information (cited legal provisions, prescribed and implemented measures, as well as examples of practices) related to the implementation of this measure of the Convention, the reviewing experts cannot give their observations on the implementation of this provision.

Please consider that intense legal measures are needed for promotion of the development of standards and procedures to preserve the integrity of relevant private entities, including codes of conduct for the correct, honorable and proper performance of the business and all relevant professions, to prevent conflicts of interest and to promote the use of good commercial practices among businesses and in the contractual relations of businesses with the state. It takes intensive work to:

- Promoting transparency among private entities, including appropriate measures regarding the identity of legal and individuals, by preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licenses granted by public authorities for commercial activities;
- Preventing conflicts of interest by introducing restrictions and more stringent sanctions.

Regarding the measure prescribed with item (b), please provide more information, if any, about developed good practices in businesses including compliance systems for private entities.

Regarding the implementation of the measure prescribed with item (c) BiH authorities didn't provide relevant information for the assessment on compliance with this provision. Please provide information about measures aimed at promoting transparency among private entities, such as corporate registration requirements, including requirements for identities of legal and natural person involved in the establishment and management of corporate entities and transparency of beneficial ownership of legal entities; and how these requirements / measures can be accessed in practice.

Regarding the implementation of the measure prescribed with item (d), in absence of country information, explanation or comments related to the implementation of this measure of the Convention, the reviewing experts cannot give their observations on the implementation of this provision.

In this occasion, national experts propose that it should be considered that the state should pay attention on the public sector which does not preclude the application of preventive and repressive measures against corruption in the private sector, particularly in those areas where there is an interaction between the public and private sector. This type of criminal activity mostly takes place in the misuse of authority in the public sector, and in the interaction between the public sector and

the private sector or citizens. It should be considered that in the areas of subsidies and licensing for certain commercial activities, the state should to pay particular attention and to under all anticorruption activities which are noted in the Anti-Corruption Strategy for 2015-2019 and the Action plan for implementation of the Anti-Corruption Strategy for 2015-2019 9.2 Development, promotion and implementation of preventive anti-corruptive activities in the public and private sectors.

Regarding the implementation of the measure prescribed with items (e) and (f), in absence of the country explanation, information or comments related to the implementation of this measure of the Convention, the reviewing experts cannot give their observations on the implementation of this provision.

(c) Challenges in implementation

Clarify legal prohibition on receiving gifts and prescribe precise meaning of the terms “occasional gift” and “gift of minor value”.

Paragraph 3 of article 12

3. In order to prevent corruption, each State Party shall take such measures as may be necessary, in accordance with its domestic laws and regulations regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences established in accordance with this Convention:

- (a) The establishment of off-the-books accounts;*
- (b) The making of off-the-books or inadequately identified transactions;*
- (c) The recording of non-existent expenditure;*
- (d) The entry of liabilities with incorrect identification of their objects;*
- (e) The use of false documents;*
- (f) The intentional destruction of bookkeeping documents earlier than foreseen by the law.*

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

INVESTIGATION AND PROTECTION AGENCY

In view of the above, we list the measures taken in Bosnia and Herzegovina: „(a) The establishment of off-the-books accounts“ - Article 35 of the Law on prevention of money laundering and financing

of terrorist activities stipulates the prohibition of the use of hidden accounts. "(b) The making of off-the-books or inadequately identified transactions" - Article 6 and a number of other articles of the Law provide for subjects of the Law on prevention of money laundering and financing of terrorist activities the obligations of identification and tracking of clients, determining beneficial ownership, the purpose and the intention of the business relationship, etc., including the refusal to carry out transactions and report suspicious transactions and client in such cases.

„(e) The use of false documents“ - Article 3 of the Law on prevention of money laundering and financing of terrorist activities prescribed the definition of identification documents on the basis of which the taxpayers may establish the identity of the clients. "(f) The intentional destruction of bookkeeping documents earlier than foreseen by the law" - Article 77 of the Law on prevention of money laundering and financing of terrorist activities stipulates that the taxpayers are required to keep for 10 years information and documentation pertaining to the client, business relationship and transactions.

FBiH TAX ADMINISTRATION, SARAJEVO, Division of inspection, notification and investigation The FBiH Tax Administration does not have the information on the measures taken to ensure the implementation of the Convention. However, the actions under Article 12, paragraph 3 are sanctioned by certain regulations, namely Law on Accounting and Auditing of FBiH /Official Gazette of FBiH no. 83/09/ - Article 69-Penalty provisions, Law on Tax Administration of FBiH/"Official Gazette of the Federation of BiH", number: 33/02, 28/04, 57/09, 40/10, 27/12, 7/13, 71/14, and 91/15/-Article 82,85,88,89 and Criminal Code of FBiH/BiH/"Official Gazette of FBiH" number: 36/03, 37/03, 21/04, 69/04, 18/05, 42/10, 42/11, 59/14 and 76/14 and 46/16/- Article 273,274,247 paragraph 1,349 paragraph 2,373 (<<http://www.fmf.gov.ba/v2/stranica.php?idstranica=3&idmeni=1>>);

THE LAW ON INTERNAL PAYMENT SYSTEM [02] (Official Gazette of the Federation BiH, No. 48/15 and correction 79/15) regulates the domestic payments in the Federation of Bosnia and Herzegovina (hereinafter: the Federation), determines the participants and the organizations authorized to handle payment transactions, defines the type of accounts, the method and forms of payment, payment and enforced collection from the accounts, conduct, rights and obligations of the participants in the internal payment system.

THE LAW ON FINANCIAL OPERATIONS ("Official Gazette of the Federation of BiH", number: 48/16) regulates the issues related to the basic rules of financial management, liability of management board and supervisory board in the running of businesses, as well as taking measures to ensure the liquidity, risk in financial operations, the deadlines for completion of financial obligations of undertakings and entities of public law, the legal consequences of delays in the execution of monetary obligations, the invalidity of individual provisions of the contracts on business transactions, as well as the obligations of entrepreneurs in the formation of insolvency, and control of enterprises and entities of public law.

THE LAW ON ACCOUNTING ANF AUDITING IN THE FEDERATION OF BIH („Official Gazette of the Federation of BiH“, number: 83/09) regulates the field of accounting and auditing, acquiring the title, qualification and licensing in the accounting and auditing profession, organization and functioning of the bookkeeping and accounting, preparation and presentation of financial statements, audit of financial statements, the establishment of the Chamber of Auditors of

the Federation of Bosnia and Herzegovina (hereinafter: the Chamber), establishing control over the quality of work of audit firms and public oversight.

Note:

Article 15 of the LAW ON ACCOUNTING AND AUDITING IN THE FEDERATION OF BIH („Official Gazette of the Federation of BiH“, number: 32/05) provided:

"A fine of 10 000 KM to 17 000 KM shall be imposed on a legal person if it:

- a) prepares financial statements on the basis of data that are not in the business books;
- b) keeps records that not part of the official business records and inadequately identifies transactions;
- c) records non-existent expenditure;
- d) credits liabilities with wrongly identified purpose thereof;
- e) creates or uses false documents;
- f) intentionally destroys accounting records or documents.

For the acts of the preceding paragraph of this Article the responsible person in the legal entity shall be imposed a fine of up to 2,000 KM."

The current LAW ON ACCOUNTING AND AUDITING IN THE FEDERATION OF BIH („Official Gazette of the Federation of BiH“, number: 83/09) and Article 69 of the Law prescribe penal provisions, and the new Law on Accounting and Auditing in the Federation of BiH is in the preparation.

In accordance with the conclusions of the House of Representatives and House of Peoples of the Federation of Bosnia and Herzegovina the public discussion is open on Draft Law on Accounting and Auditing in the Federation of Bosnia and Herzegovina for a period of 90 days, and the Federal Ministry of Finance invited all interested physical and legal persons submit objections to the draft law, proposals and suggestions latest by 22/3/2017[07], in writing, to the address: Federal Ministry of Finance, Mehmeda Spahic No. 5, 71000 Sarajevo or via e-mail: info@fmf.gov.ba <<mailto:info@fmf.gov.ba>> In addition, ACCOUNTING STANDARDS APPLICABLE THROUGHOUT BiH, TO ALL PRIVATE AND PUBLIC COMPANIES AND OTHER LEGAL ENTITIES REGISTERED IN BiH, ARE:

- International Accounting Standards (IAS) and International Financial Reporting Standards (IFRS);
- accompanying instructions, explanations and guidelines issued by the International Accounting Standards Board (IASB);
- International Standards on Auditing (ISAs);
- Code of Ethics for Professional Accountants;
- accompanying instructions, explanations and guidelines issued by the International Federation of Accountants (IFAC STATUTORY FRAMEWORK FOR FINANCIAL REPORTING IN BIH
- Law on Accounting and Auditing, "Official Gazette of BiH", number 42/04
- The Entity laws of 2009 .

Administrative Committee of the Federation of Accountants, Auditors and Financial Workers in Federation of Bosnia and Herzegovina, at the session held on 13/ 1/ 2017 brought the DECISION ON THE PUBLICATION AND APPLICATION OF INTERNATIONAL FINANCIAL REPORTING STANDARDS AND INTERNATIONAL ACCOUNTING STANDARDS in accordance with the provisions of Article 1, 2, 3 of the Law on Accounting and Auditing of Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina", number 42/04), Art. 2, 33 and 73 of the Law on Accounting and Auditing in the Federation of Bosnia and Herzegovina ("Official Gazette of the Federation of BiH", No. 83/09), Decision on authorization for the translation and publication, number: 2-11/06 dated 10/03/2006 ("Official Gazette of Bosnia and Herzegovina", number 81/06) and Article 6 and 25 of the Statute of the Association of Accountants, Auditors and Financial Workers of the Federation of Bosnia and Herzegovina, the contract between the IFRS Foundation and the Association of Accountants, Auditors and Financial Workers of the Federation of BiH.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The Federal Tax Administration in its work, through the application of legal provisions, sanctions the said actions, through the application of penal provisions of the Law on the Tax Administration of BiH, FBiH Criminal Code.

Actions listed in Section c, d, e, f, are contained as acts of perpetration of criminal offenses:

- Tax Evasion under Article 273 CC FBiH,
- Prevention of proof under Article 349, paragraph 2, CC FBiH
- False tax documents referred to in Article 274, paragraph 1
- Abuse of authority in economy referred to in Article 247, paragraph 1, item b of the FBiH Criminal Code,
- Forgery of documents referred to in Article 373 of the FBiH Criminal Code, and the same have repeatedly been the subject of initiating criminal proceedings before the competent prosecutors' offices. We do not have reliable data on the outcome of those proceedings before the courts in FBiH/BiH, because the prosecutors' offices and courts have no legal obligation to inform us of the outcome of cases.

(b) Observations on the implementation of the article

National experts list measures taken in Bosnia and Herzegovina, as follows:

„(a) The establishment of off-the-books accounts“ – Article 35 of the Law on prevention of money laundering and financing of terrorist activities stipulates the prohibition of the use of hidden accounts.

"(b) The making of off-the-books or inadequately identified transactions" - Article 6 and a number of other articles of the Law provide for subjects of the Law on prevention of money laundering and financing of terrorist activities the obligations of identification and tracking of clients, determining beneficial ownership, the purpose and the intention of the business relationship, etc., including the refusal to carry out transactions and report suspicious transactions and client in such cases.

„(e) The use of false documents“ - Article 3 of the Law on prevention of money laundering and financing of terrorist activities prescribed the definition of identification documents on the basis of which the taxpayers may establish the identity of the clients.

"(f) The intentional destruction of bookkeeping documents earlier than foreseen by the law" - Article 77 of the Law on prevention of money laundering and financing of terrorist activities stipulates that the taxpayers are required to keep for 10 years information and documentation pertaining to the client, business relationship and transactions.

National experts state that the FBiH Tax Administration does not have the information on the measures taken to ensure the implementation of the Convention. However, regarding the actions under Article 12, paragraph 3, national experts refer to the Law on Accounting and Auditing of FBiH /Official Gazette of FBiH no. 83/09/ - Article 69-Penalty provisions, Law on Tax Administration of FBiH/"Official Gazette of the Federation of BiH", number: 33/02, 28/04, 57/09, 40/10, 27/12, 7/13, 71/14, and 91/15/-Article 82,85,88,89 and Criminal Code of FBiH/BiH/"Official Gazette of FBiH" number: 36/03, 37/03, 21/04, 69/04, 18/05, 42/10, 42/11, 59/14 and 76/14 and 46/16/-Article 273,274,247 paragraph 1,349 paragraph 2,373;

In addition, the purposes of the Law on Internal Payment System, Law on Accounting and Auditing, the Entity laws of 2009 , Law on Accounting and Auditing in the Federation of BiH, Law on Financial Operations, Draft Law on Accounting and Auditing in the Federation of Bosnia and Herzegovina and the Decision On The Publication And Application Of International Financial Reporting Standars are briefly mentioned with some citations and International Accounting Standards Accounting standards applicable throughout BiH, to all private and public companies and other legal entities registered in BiH, are listed.

Paragraph 4 of article 12

4. Each State Party shall disallow the tax deductibility of expenses that constitute bribes, the latter being one of the constituent elements of the offences established in accordance with articles 15 and 16 of this Convention and, where appropriate, other expenses incurred in furtherance of corrupt conduct.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(P) Yes, in part

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

In the Federation of BiH, tax deductions are prescribed by the following tax laws:

- Law on Corporate Income Tax („Official Gazette of the Federation of BiH", number: 15/16 and Regulations on the Application of the Law on Corporate Income Tax („Official Gazette of the Federation of BiH", number: 88/16 and 11/17);

- The Law on Personal Income Tax ("Official Gazette of the Federation of BiH", number: 10/08,9/10, 44/11, 7/13 and 65/13 and Regulations on the Application of the Law on Personal Income Tax („Official Gazette of the Federation of BiH", number: 67/08, 4/10, 86/10, 10/11, 53/11, 20/12, 27/13, 71/13, 90/13, 45/14, 52/16 and 59/16)

To our best knowledge, none fiscal rule in the FBiH explicitly contains a provision that "shall disallow the tax deductibility of expenses that constitute bribes".

In the broader interpretation, the same could be covered under the ordinal number 12 of the Tax Balance, within which are defined "Expenditure that cannot be linked to the profit or principle of due diligence business", which is more precisely described by Article 9, paragraph 1 of the Law on Corporate Income Tax in FBiH/"Official Gazette of FBiH" number: 15/16 and Article 26, paragraph 7 in conjunction with Article 19 of the Regulations on the application of the Law on Corporate Income Tax/"Official Gazette of FBiH" No.: 88/16/.

(b) Observations on the implementation of the article

National experts inform that in the Federation of BiH, tax deductions are prescribed by the following tax laws:

- Law on Corporate Income Tax („Official Gazette of the Federation of BiH", number: 15/16 and Regulations on the Application of the Law on Corporate Income Tax („Official Gazette of the Federation of BiH", number: 88/16 and 11/17);
- The Law on Personal Income Tax ("Official Gazette of the Federation of BiH", number: 10/08,9/10, 44/11, 7/13 and 65/13 and Regulations on the Application of the Law on Personal Income Tax („Official Gazette of the Federation of BiH", number: 67/08, 4/10, 86/10, 10/11, 53/11, 20/12, 27/13, 71/13, 90/13, 45/14, 52/16 and 59/16)

To the best knowledge of the national experts, none fiscal rule in the FBiH explicitly contains a provision that "shall disallow the tax deductibility of expenses that constitute bribes".

For broader interpretation of the same, national experts refer to the ordinal number 12 of the Tax Balance, within which are defined "Expenditure that cannot be linked to the profit or principle of due diligence business", which is more precisely described by Article 9, paragraph 1 of the Law on Corporate Income Tax in FBiH/"Official Gazette of FBiH" number: 15/16 and Article 26, paragraph 7 in conjunction with Article 19 of the Regulations on the application of the Law on Corporate Income Tax/"Official Gazette of FBiH" No.: 88/16/.

(c) Challenges in implementation

Consider introducing harmonized legislation at all levels to ensure that all records of any Entity spending public funds are retained for an agreed number of years, with timetables for the destruction of main ledgers and supporting records also agreed. The legislation should address areas of risk and vulnerability as well as prescribe offences associated with relevant documentation (such as cash payments; recording of non-existent expenditure; the entry of liabilities with incorrect identification of their objects; the use of false documents; and the unauthorized destruction or tampering with bookkeeping documents);

Consider taking measures for the training of the staff which work in internal audit departments in private enterprises in order to ensure their proper and legal compliance in accordance with international auditing standards and for easier recognition of suspicions of corruptive actions in the private enterprises working;

Consider undertaking measures to promote administrative culture within the institutions that will adopt and implement principles of proactive transparency, such as measures to improve the knowledge of public officials on the principles of proactive transparency.

Article 13. Participation of society

Paragraph 1 of article 13

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

(a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;

(b) Ensuring that the public has effective access to information

(c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;

(d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:

(i) For respect of the rights or reputations of others;

(ii) For the protection of national security or ordre public or of public health or morals.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

(a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;

APIK has created the guidelines for cooperation with civil society organizations that in a systemic manner define the forms of cooperation and coordination regarding the implementation of specific projects in the field of anti-corruption.

Transparency International of Bosnia and Herzegovina and the Centre for Investigative Reporting (CIN) supported the implementation of the Public Administration Reform Strategy through active involvement of civil society organisations and providing independent monitoring of public

administration reform, with a focus on results and evaluation of implementation of reforms, and through activities aimed at increasing awareness and creating articulated demands for good governance and effective and efficient public administration with all relevant stakeholders and citizens. The overall objective of the project "Public Administration Reform Monitoring (PARM," <<https://ti-bih.org/projekti/monitoring-reforme-javne-uprave-parm/>>) is to contribute to better implementation of Public Administration Reform Strategy and greater participation of civil society organisations in the reform processes, with the aim to create more transparent, efficient and effective work of public administration which is of benefit to all citizens.

In this regard APIK submitted in February 2016 to the Transparency International in BiH the information from three areas:

1. Human Resource Management in Public Administration, 2. Public finance management, and 3. Transparency, accountability and integrity. The survey involved institutions from the level of BiH, FBiH and RS. Based on the information gathered, the Transparency International in BiH on 14 March 2016 held a presentation on the results of the second of Public Administration Reform Monitoring in BiH. Monitoring results show an unsatisfactory situation in the area of transparency b, because more than two-thirds of the institutions do not publish basic information directly related to their work, such as budget data or information on job systematization, so that access to information on the request is still predominant. There are some differences between the levels of government, particularly state and entity institutions, and the conclusion comes out that the state institutions have done more on proactive transparency, establishing integrity plans and the strengthening of institutional capacity(<https://ti-bih.org/wp-content/uploads/2016/04/TI-BIH-monitoring-rezultata-reforme-javne-uprave-u-oblasti-transparentnosti-odgovornosti-i-integriteta-2014_2015.pdf> <https://ti-bih.org/wp-content/uploads/2016/04/TI-BIH-monitoring-rezultata-reforme-javne-uprave-u-oblasti-transparentnosti-odgovornosti-i-integriteta-2014_2015.pdf>). On the other hand, the Ministry of Justice in recent years have made considerable effort to improve the system of transparency, cooperation and openness to citizens and civil society organizations. Crown of these efforts is the web application "eKonsultacije"(Detailed information and registration process for eKonsultacije can be found here: <<https://ekonsultacije.gov.ba/>>), which was developed under the project funded by the European Union (EU) called "Capacity building of governmental institutions in engaging in political dialogue with representatives of civil society in BiH" (CBGI).

The platform allows full and timely information to citizens and representatives of civil society organizations on the Internet about the process of adopting certain legal documents, and provides a reliable communication channel for their participation in creating of public policies. Ideas, suggestions and additional information collected in this way will be used for the improvement of public policies under the jurisdiction of the BiH institutions."

(b) Ensuring that the public has effective access to information;

Analitika - Centre for Social Research in May 2016 conducted a survey Results of research on proactive transparency of public institutions in Bosnia and Herzegovina (<<http://www.analitika.ba/en/publications/results-research-proactive-transparency-public-institutions-bosnia-and-herzegovina>>) with the aim to determine the degree of proactive transparency of public institutions at the state level of Bosnia and Herzegovina.

The research included 68 websites of institutions at the state level, where it analyzed the availability of information from six categories: budget, public procurement, strategic documents, operational information, organizational information, information and documents required by the Law on

Freedom of Access to Information in BiH. In defining research approach, the used standards were those of pro-active transparency in the public administration in BiH, prepared by a working group within the framework of the Program of strengthening public institutions, which include the specification of all information and documents that public institutions should proactively publish within each of the six categories of information.

Proactive transparency is still a novelty in public administration in Bosnia and Herzegovina, and only a small number of institutions joined the implementation of this concept. In this regard, the Analitika published in November 2016 the survey results that show that basic information about leadership, structure, responsibilities, budget and programs has not been published on the web sites of a significant number of institutions. The poor results in the area of transparency was affected by numerous factors such as, among other things, outdated and fragmented legislation, underdeveloped administrative culture within the institutions, a conservative interpretation of the regulations, and the low level of knowledge of civil servants on the basic principles of proactive transparency.

In the document *Developing proactive transparency in Bosnia and Herzegovina: Key factors of (lack of) success* (<http://www.analitika.ba/en/publications/developing-proactive-transparency-bosnia-and-herzegovina-key-success-and-failure>) are in detail elaborated the key factors that contributed to the low level of proactive transparency of most public institutions at the level of BiH, as well as the factors that led to, though rare, examples of good practice. Based on the analysis, recommendations were formulated for creating a more favourable environment for the application of the standards and principles of proactive transparency

The relevant publications have been made in the framework of the project "Research on proactive transparency of public institutions in Bosnia and Herzegovina", which is, on behalf of the Federal Ministry for Economic Cooperation and Development of FR Germany, supported by GIZ within the Program to strengthen public institutions in BiH.

(c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;

University "ITC-INTERLOGOS CENTAR" in Kiseljak organized in cooperation with the Agency for prevention of corruption and coordination of the fight against corruption a few seminars in the framework of the project "Education against corruption" with the aim to provide information on the nature, causes and consequences of corruption in higher education, and to offer ideas and values of what could be done in synergy of higher education institutions and universities in terms of concrete plans to fight corruption and strengthen the integrity of these institutions. ITC-INTERLOGOS CENTAR published the study "Corruption in Higher Education: fiction or reality" (implemented by Centre for Media Development and Analysis within the framework of the project "Strengthening anti-corruption capacities and CSO networks" funded by the EU) as one of the results of this project. The overall objective of this project is to contribute to reducing the number of cases of corruption at universities in BiH through amendments to the existing rules and training.

On the other hand, the project "Curriculum for transparency, curriculum for accountability" (implemented by Centre for Media Development and Analysis within the framework of the project "Strengthening anti-corruption capacities and CSO networks" funded by the EU), is aimed at raising awareness through TV programs for children on BHRT (<http://www.znanjenijeroba.org/ss/> and <https://www.youtube.com/watch?v=IJW5gMLgcHs>), training in ethics and integrity in several educational institutions in BiH from primary to secondary school. As one of the results, the Manual

on ethics and integrity was prepared (http://znanjenijeroba.org/admin/uploads/BOS_srednja_WEB1.pdf). The Agency has initiated the development, implementation and harmonization of ethics programs in the educational process, and in cooperation with the Ministry of Education, Science and Youth of Sarajevo Canton started integrating content into the curricula. In the framework of cooperation with INFOHOUSE, the Agency took over the training materials "Curriculum for transparency, curriculum for accountability."

(d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:

When it comes to respect, improvement and protection of the freedom to seek, receive, publish and disseminate information concerning corruption in recent years, the number of civil society organizations that contribute to the fight against corruption has increased significantly in BiH. This process culminated in 2012 when ACCOUNT was founded - The network of non-governmental organizations, institutions and individuals active in the fight against corruption. ACCOUNT now has more than 120 members (among them APIK), and its main purpose is to speed up reforms in the fight against corruption in Bosnia and Herzegovina through various actions and advocacy. (<http://account.ba/stranica/pocetna>) Among other things, they inform the public about the various manifestations and problems of corruption, in particular by organizing meetings of experts, publication of studies and issuing reports. ACCOUNT and TI BiH are the only organizations exclusively devoted to combating corruption, but there are many organizations that contribute to the fight against corruption through various projects in order to increase transparency and accountability of public administration. (http://seldi.net/fileadmin/public/PDF/Publications/CAR_BiH/CarBiH_bos.pdf) The media also play a significant role in the fight against corruption, especially those media whose research deal with corruption, public expenditure, administration, organized crime and similar topics. The media often serve as a bridge between civil society and citizens and establish channels for easier communication among stakeholders. Among other things, three organizations have been recognized as leaders when it comes to reporting on corruption. Centre for Investigative Reporting (CIN) is dedicated to providing trusted and accurate information on organized crime and corruption and the negative effect they have on the lives of ordinary citizens. (<http://www.cin.ba/en/about/> <http://www.cin.ba/en/about/>) To date, CIN has published a large number of investigative stories and research on corruption in various fields, such as police, education, employment, justice, health sector, financing of political parties, public procurement, etc. CIN's stories led to the dismissal or resignation of the prime ministers, judges and ministers. The articles led to indictments against politicians, to arrest as criminals, and police officers; to change in the laws and procedures in the ministries; to the closure of universities. Centre for Media Development and Analysis through the online magazine Žurnal (More information is available at the following link: www.zurnal.info) contributes to the freedom of speech, provides access to truthful information, objective analysis and recommendations for public officials who make decisions.

They are the founders of the network ACCOUNT. Žurnal is currently implementing the project "Stop wastefulness in public spending", which aims to fight corruption in the economy, public institutions and administration. In addition to reporting on issues of corruption, Žurnal promotes transparency and accountability of public officials. In 2013 they released "Extensive research - Who, how and how much steals in the public procurement" - research on corruption in public procurement in which they surveyed 300 suppliers, officials of institutions, and representatives of

public and private companies.(<http://account.ba/novost/9672/veliko-istrazivanje-ko-kako-i-koliko-krade-na-javnim-nabavkama>)

(i) Respect of the rights or reputations of others,

CEC on the basis of the BiH Election Law collects declarations on total assets of candidates for elected office at the level of BiH, Entities and elected members of government at all other levels of government based on a special form, and makes the forms containing the assets declarations available to the public. In accordance with the Decision of the Agency for Protection of Personal Data in BiH, the CEC removed the published Assets Declarations of candidates and elected members of the authorities from the official website. So the forms of Assets Declarations are available to the public in accordance with the Law on Freedom of Access to Information in BiH and the Law on Protection of Personal Data. To review the form of the Assets Declaration it is necessary to submit an application to the CEC, after which the access to the Assets Declaration of the candidate is approved in accordance with the Law on Data Protection. So far the highest number of requests for access to the property status of candidates is submitted by the non-governmental sector and electronic media. CEC is not responsible for the accuracy of the information contained in the form, and has no authority to act on the basis of the content specified in the Assets Declarations. (Source: - CONTRIBUTION OF BiH INSTITUTIONS TO THE REGULAR ANNUAL REPORT ON BiH IN THE EUROPEAN INTEGRATION PROCESS, ACCORDING TO THE NEW REPORTING METHODOLOGY, 2015)

(ii) Protection of national security or ordre public or of public health or morals.

INVESTIGATION AND PROTECTION AGENCY The State Investigation and Protection Agency has taken the necessary measures to improve transparency concerning the organization, functioning and decision-making processes. In this regard, the following internal regulations have been adopted:

- Instruction on the standard procedures to achieve relations between the public and the State Investigation and Protection Agency;
- Guide for access to information in the State Investigation and Protection Agency.

Also, through the websites Twitter accounts, Facebook profile and YouTube channel of the State Investigation and Protection Agency, the public can be informed in respect of jurisdiction and contacting the employees of the Agency, the current activities carried out by officers of the Agency, the possibilities for cooperation, employment, public procurement procedures, procedures for reporting criminal offenses, information about the current laws and regulations, etc.

Furthermore, police officers of the State Investigation and Protection Agency participate in the teaching and scientific process at educational institutions in Bosnia and Herzegovina as experts from practice in the implementation of the part of the teaching concerning the fight against corruption. FID in accordance with their legal responsibilities in accordance with Article 64 of the Law on the Prevention of Money Laundering and Financing of Terrorist Activities (Other FID's obligations), item c)) has an obligation to participate in the training of the staff and authorized persons of taxpayers, in the competent authorities in BiH, as well as in institutions with public authority. In accordance with the above provision, the FID officers participate in trainings for employees of taxpayers and representatives of the justice sector and law enforcement agencies in

BiH, where in the context of topics concerning prevention of money laundering, examples of cases and actions in cases of money laundering related to corruption are presented.

Practical examples for raising public awareness of corruption in BiH include:

-Campaign on proactive transparency in public administration in BiH, in cooperation with TI BiH, "Analitika" and CIN (28/09/2015) As part of this campaign, an information campaign was organized under the slogan "You have the right to know"(02/10/2015).

-The Agency, in cooperation with the Centre for Social Research Analitika, in which promotional materials were produced to promote in the general public the protection of whistleblowers, and a telephone line to report corruption.

-Within the project 02/02/2016, a campaign was carried out on advocacy for the establishment of functional mechanisms of cooperation between the Government and OCSs in BiH "The bell for changes".

-The campaign "Do not quench the sun!" was launched with the aim of raising public awareness of the fight against all forms of corruption, with an emphasis on corruption in education.

-The project "Stop corruption" has a specific objective of raising public awareness of the citizens of Brčko District of BiH on issues of corruption.

-In the project "Fight against corruption in public health", an information campaign was conducted on the harmful effects of corruption in the health sector.

(b) Observations on the implementation of the article

Regarding implementation of item (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;

- guidelines for cooperation with civil society organizations have been created (by APIK) to define the forms of cooperation and coordination regarding the implementation of specific projects in the field of anti-corruption.

- web application "eKonsultacije" is developed to improve the system of transparency, cooperation and openness to citizens and civil society organizations.

Regarding implementation of item (b) Ensuring that the public has effective access to information;

BiH authorities inform that survey results on a conducted research on proactive transparency of public institutions in Bosnia and Herzegovina, as of May 2016, show that basic information about leadership, structure, responsibilities, budget and programs has not been published on the web sites of a significant number of institutions. The reasons for the poor results have also been identified. In the area of transparency was affected by numerous factors such as, among other things, outdated and fragmented legislation, underdeveloped administrative culture within the institutions, a conservative interpretation of the regulations, and the low level of knowledge of civil servants on the basic principles of proactive transparency. Based on an analysis, recommendations were formulated for creating a more favourable environment for the application of the standards and principles of proactive transparency and relevant publications have been prepared.

Regarding implementation of item (c) Undertaking public information activities that contribute to nontolerance of corruption, as well as public education programmes, including school and university curricula;

BiH authorities reported that the APIK and one of the Universities organized several seminars to inform and discuss about the nature, causes and consequences of corruption in higher education. NGO published a study on corruption in higher education with the aim to contribute to improve existing regulation to reduce corruption cases at universities. At the level of primary and secondary education a Manual on ethics and integrity was developed and training in ethics and integrity in several educational institutions in BiH from primary to secondary school has been provided. TV awareness campaign for children was also broadcasted. More information on public awareness campaigns is provided in BiH response under Article 13, para 1, subpara (d).

Regarding implementation of item (d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary: (i) For respect of the rights or reputations of others;

BiH authorities reported about large scale inclusion of civil society sector in conduction of numerous researches of corruption in which they inform the public about the various manifestations and problems of corruption, in particular by organizing meetings of experts, publication of studies and issuing reports. Some media are also engaged in anti-corruption through research covering corruption, public expenditure, organized crime etc. Several civil society organizations are very active in publishing investigative stories and research of corruption in different sectors, contributing to freedom of speech as well. According to the BiH response, those activities led to dismissals, resignations, and indictments of public officials. Regarding the rights or reputations of others, BiH authorities provided information about publicity of asset declarations of public officials. This relates to the transparency and accountability of public office holders, which is covered under Article 7, para 4.

Regarding implementation of item (d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary: (ii) For the protection of national security or ordre public or of public health or morals.

BiH authorities inform about measures undertaken by the State Investigation and Protection Agency to improve its transparency, specifically through adoption of internal regulations on procedures to achieve relations with the public and on access to information. Also, the Agency is using web-site and social networks to inform the public about, among other, current activities carried out by its officers, procedures for reporting criminal offenses, possibilities for cooperation, current laws and regulations, etc.

In accordance with article 13 of the Convention, States Parties are required to take appropriate measures to promote the participation of civil society, non-governmental organizations and community-based organizations in anti-corruption activities and to make efforts to increase public awareness of the threats, causes and consequences of corruption. This requirement is mandatory.

Effective anti-corruption strategies necessitate the active participation of the general public. Article 13, paragraph 1, requires that State Parties take appropriate measures encouraging the active participation of the public within their means and in accordance with fundamental principles of their law. Individuals and groups, such as civil society, non-governmental organizations and community based organizations or groups established or located in the country, must be encouraged to participate in prevention of corruption, the fight against corruption and in raising public awareness about the existence, causes, seriousness and threats of corruption.

In their interpretation of what comprises a society and representative association, for the purposes of the implementation of this provision of the Convention, the State Parties have a broad view

approach that includes understanding of the society, comprising NGOs, trade unions, mass media, faith-based organizations etc. and should include also those with whom the government may not have a close relationship, as well as those without some form of representation (marginalised social groups).

Regarding implementation of measure prescribed with item (a), the State Party under review is encouraged to consider possibilities for incorporation of provisions in the Law on APIK and in the laws and other acts regulating procedure on preparation and adoption of anti-corruption strategy and plans on implementation of anti-corruption measures in direction to promote the participation of civil society, non-governmental organizations and community-based organizations in anti-corruption activities and to make efforts to increase public awareness about the threats, causes and consequences of corruption.

Paragraph 2 of article 13

2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Law on the Whistleblower Protection in the Institutions of BiH („BiH Official Gazette“, number: 100/13, entered into force on 01/01/2014) was adopted in December 2013 at the state level. This Law stipulates that the key drivers of the implementation of the Law are the Agency for Prevention of Corruption and Coordination of the Fight against Corruption (APIK) and the Administrative Inspectorate of the BiH Ministry of Justice. According to the law, APIK shall assign protected whistleblower status to individuals who reported corruption within 30 days from the date when the report was officially submitted. In the event that an employer in any way endangers the status of the whistleblower (by cancellation of employment contract, suspension from work, degrading to a lower-ranked position), he can be fined between 10,000 and 20,000 KM. Fines in the amount of between 1,000 and 10,000 KM are provided for the person who knowingly submits a false report on an act of corruption. In addition, the APIK has created unified Regulations on internal reporting of corruption and whistleblower protection(<<http://www.codluna.ba/images/Handbook.pdf>>). APIK, in direct coordination with all institutions, on the basis of the unified Regulations, has supervised and coordinated the process of adoption of these acts (with the result that they have been adopted in 64 institutions of BiH). Furthermore, the Instruction for the implementation of the Law on whistleblower protection in the institutions of BiH has been prepared.

APIK is responsible for dealing with applications filed with the indications of corrupt behaviour in accordance with Article 10, paragraph h) of the Law on the Agency. In this regard, in 2016 it received a total of 135 submissions by mail, e-mail, by phone and in person. In accordance with its responsibilities and guided by the principles of professional and equal treatment and non-discrimination, and the principles of timeliness and justification, the Agency has analyzed each submission and on the basis of the Law and the Regulations on handling the applications filed with the indications of corrupt behaviour, submitted the respective reports to further competent treatment by really competent judicial and police authorities in Bosnia and Herzegovina.

The Rules for dealing with filings with the indications of corrupt behaviour of the Agency was passed on 07/08/2016. The subject Regulations have been developed in the framework of cooperation between the Agency and the Justice Project in BiH (USAID). The said document standardizes the processes of handling the filings in connection with indications of corrupt behaviour, registration, classification, analysis, recording and storing the received submissions and ways of reporting and informing the target groups. In addition to experts of the Justice Project, the document was prepared by representatives of the Prosecutor's Office of the Sarajevo Canton as well as the officers of the Agency.

In order to promote the protection of whistleblowers in the public, APIK has prepared promotional leaflets and materials, in cooperation with the Centre for Social Research "Analitika". In this respect the toll-free number (080 054 321) has been established for whistleblowers employed in the institutions of BiH, with the intention of providing support in the reporting of illegal corrupt activities, confidential and anonymous. In order to enhance actions in connection with reports of corruption, APIK in collaboration with UNDP in BiH developed the Database and software for reporting corruption and whistleblower protections.

"For the purpose of efficient reporting of corruption in the RS, the Ministry of Internal Affairs of RS prepared the application for reporting suspected corruption and other irregularities in the work (APK) of the Republika's administrative bodies, bodies of local self-government, public enterprises and public institutions, through which the reports are submitted to the specific institution of the Government of the RS, and the whistleblower is able to determine at what stage the investigation is" (Source: - CONTRIBUTION OF BiH INSTITUTIONS TO THE REGULAR ANNUAL REPORT ON BiH IN THE PROCESS OF EUROPEAN INTEGRATION, ACCORDING TO THE NEW REPORTING METHODOLOGY, 2015). The members of the National Assembly of the Republika Srpska adopted draft law on the protection of whistleblowers on 09/02/2017, in Banja Luka. This is the first law in the Republika Srpska governing the protection of whistleblowers, and the first law in BiH which provides protection of the rights of all persons reporting corruption, throughout the public and private sectors. The aforementioned draft provides the protection of the rights guaranteed by the Constitution and Law for all persons who report corruption in the public and in the private sector, if the threat to or violation of these rights is in a causal relationship with corruption or reporting corruption. Draft Law on Whistleblower Protection has been submitted to a public hearing, which will be implemented for a period of 60 days, (<http://www.vladars.net/sr-SP-Cyrl/Vlada/Ministarstva/mpr/media/vijesti>). In the Federation of Bosnia and Herzegovina (FBiH) the draft law on the whistleblower protection in FBiH was adopted on 15 November 2013(At the 18th session of the House of Peoples of the FBiH Parliament, held on 15/11/2013, http://www.parlamentfbih.gov.ba/dom_naroda/bos/parlament/info/saopcenja_stara_2013g.html). However, the Law never entered into force. When it comes to training, on 02/11/2016, with the help of the Prosecutor of the Cantonal Prosecution in Sarajevo, USAID expert (United States Agency for International Development in Bosnia and Herzegovina), training for civil servants was held in the Agency, entitled "Acting of the Agency upon the reports filed with the indications of corrupt behaviour and improving the mechanisms of cooperation with prosecutors' offices in Bosnia and Herzegovina), the aim of which was to improve the access of employees of the Agency

to the processing of submissions with indications of corrupt behaviour, learning about the specifics of the Rules, the presentation of the prosecutorial perspective in relation to work on cases of criminal offenses of corruption, as well as expert recommendations for the improvement of cooperation between the Agency and prosecutors' offices at all levels in Bosnia and Herzegovina.

Also, the Agency and the United Nations Development Programme (UNDP BiH) from 26 to 28 April 2016 in Konjic organized the interactive training "Strengthening the capacity of key institutions of Bosnia and Herzegovina in the fight against corruption" The training was attended by officers of the State Investigation and Protection Agency (SIPA), the Border Police, the Directorate for Coordination of Police Bodies, the Public Procurement Agency of BiH, the PRB BiH, and the BiH Ministry of Security, and representatives of the Agency gave a lecture on the protection of the whistleblowers and whistleblower protection mechanisms.

In this regard, the Agency and the Anti-Corruption Network in BiH (ACCOUNT) on 27/6/2016 in Sarajevo organized a conference on the implementation of mechanisms for the protection of whistleblowers in the institutions at all levels of government in Bosnia and Herzegovina. Also, in the panel on the Development of the protection of whistleblowers, the activities were presented on the development of the whistleblower protection at the level of Entities level, Brčko District of BiH and Cantons in the FBiH. On this occasion, the joint recommendations were defined, aimed at creating harmonized mechanisms to protect whistleblowers in the public institutions at all levels of government in BiH.

Also, in the context of cooperation between the Agency and the UNDP BiH, in April 2016, a lecture was held about the system of reporting corruption and whistleblower protection for the students of the University Džemal Bijedić in Mostar. On this occasion, students were able to meet with all aspects of reporting corruption, processing reports of corruption, the functioning of the online system, as well as instruments to protect whistleblowers in institutions of BiH from the positive examples of the application of the Law and practice in the Agency.

On 21/10/2016, in Travnik, a training course was held by officials of the Agency to licensed examiners who conduct driving tests in the Central Bosnia Canton in the field of corruption prevention and combating of corruption on "Granting the status of a protected whistleblower, elimination of harmful actions and termination of protection".

INVESTIGATION AND PROTECTION AGENCY In accordance with the Criminal Procedure Code of Bosnia and Herzegovina, the State Investigation and Protection Agency is authorized to receive the information and reports of crimes committed that, in accordance with the provisions of the same Law, it submits to the competent prosecutor's office to consider and decide. Citizens can report their knowledge of corrupt activities to in person or anonymously, in writing or verbally, and through phone, e-mail a link to the website of the Agency, and via the hotline KRIMOLOVCI 080 202-505.

During the implementation of the Law on Whistleblower Protection in the Institutions of Bosnia and Herzegovina, following the entry into force, the APIK has received a total of 19 applications for granting the status of a protected whistleblower. In the framework of the relevant treatment, the analysis showed that for 15 claims there are no conditions for granting the status of a protected whistleblower, and that in some of these cases the law did not apply to the applicants, because they are not included in the category of persons employed in the institutions of BiH, to which the Law applies. In 4 cases APIK has granted protected status to the person reporting corruption.

In one case, APIK has prepared an Instruction on elimination of harmful acts committed against a protected whistleblower, and in that sense, in early June 2015, the APIK received a notice that its

instruction was complied with, and that the protected whistleblower in the subject case was returned to the work, which he lost as a result of retaliation for reporting corruption.

In late July 2015, the BiH Prosecutor's Office launched an investigation on the spending of the budget reserve of BiH, based on the submission of APIK, with attached report of the Office for Audit of Institutions of BiH, which refers to the allocation and use of current reserve.

(b) Observations on the implementation of the article

The Law on the Whistleblower Protection in the Institutions of BiH was adopted in December 2013 at the state level. The APIK and the Administrative Inspectorate of the BiH Ministry of Justice are responsible institutions for the oversight of the implementation of the Law. The APIK developed Regulations on internal reporting of corruption and whistleblower protection. According to the Law, whistle-blower is a person employed in institutions or in legal entities established by institutions in BiH.

On the entity level, the National Assembly of the Republika Srpska adopted draft law on the protection of whistleblowers in February 2017. This is the first law in the Republika Srpska for protection of whistleblowers, and the first law in BiH which provides protection of the rights of all persons reporting corruption, throughout the public and private sectors. In the Federation of Bosnia and Herzegovina the draft law on the whistleblower protection was adopted in November 2013, but the Law never entered into force.

In order to promote the protection of whistleblowers, the APIK has prepared promotional leaflets and materials and in cooperation with UNDP in BiH developed the Database and software for reporting corruption and whistleblower protection.

In addition to this, citizens can report their knowledge of corrupt activities in person or anonymously, in writing or verbally, or through the phone, e-mail a link to the website of the APIK, and via the special hotline.

BiH provided statistics about implementation of the Law on whistleblowers protection and about number of applications with indications of corrupt behaviour in accordance with Article 10 of the Law on the APIK.

[Observations on the status of implementation of the article, including successes, good practices and challenges in implementation.]

According to the response provided, it can be viewed that the BiH, at national level, is in compliance with this provision of the Convention.

(c) Technical assistance needs

In order to improve the process with respect to filings with the indications of corrupt behaviour and the requests for granting the status of a protected whistleblower, the Agency, in collaboration with the UNDP BiH, prepared the database and accompanying software for reporting corruption and protect whistleblowers. This database and associated application will be tested in the coming period

and after the pilot phase of this project will be made available to the relevant authorities at all levels in BiH.

Article 14. Measures to prevent money-laundering

Subparagraph 1 (a) of article 14

1. Each State Party shall:

(a) Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions;

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

SIPA's FID: The first Law on Prevention of Money Laundering and Financing of Terrorist Activities in Bosnia and Herzegovina (hereinafter: LPMLaFTA) entered into force on 28th December 2004 as a ground for the state authorities and entities obliged by the Law to implement the preventive measures relating to money laundering and financing of terrorist activities. This area has continuously been improved to result with a new law adopted in 2009. The latest Law on Prevention of Money Laundering and Financing of Terrorist Activities, however, was adopted in 2014 to be amended in 2016.

The current Law on Prevention of Money Laundering and Financing of Terrorist Activities ("The BiH Official Gazette" no. 47/14 and 46/16) sets in its Article 4 that banks and other financial and non-financial institutions are considered to be the entities obliged by the Law. The Law's Article 80 envisages the authorities to supervise each of the obliged entities.

Aiming to provide more comprehensive and integrated consideration of the topic, this Self-Assessment Report also contains the texts of both: a) the Law on Prevention of Money Laundering and Financing of Terrorist Activities; and b) the Law on Amendments to the Law on the Prevention of Money Laundering and Financing of Terrorist Activities ("The BiH Official Gazette" no. 47/14 and 46/16).

The Ordinance on the Implementation of the Law on Prevention of Money Laundering and Financing of Terrorist Activities ("The BiH Official Gazette" no. 41/15) further elaborates the application of certain provisions of this law; lays down detailed criteria for creation of guidelines relating to risk assessment, information, data and documents necessary for the identification of

clients and transactions; as well as the obligations of relevant entities to apply the standards for prevention of money laundering and financing of terrorist activities.

Implementation of measures to prevent money laundering and financing of terrorist activities is also regulated by the Law on the Banking Agency of Republika Srpska ("The RS Official Gazette" no. 59/13) (also attached to this Self-Assessment Report). Its Article 5 defines the activities of the Banking Agency of Republika Srpska (hereinafter: BARS) which, inter alia, include the supervision and evaluation of the banks' compliance with the standards for prevention of money laundering and financing of terrorist activities.

The Law on Banks ("The RS Official Gazette", no. 44/03, 74/04, 116/11, 05/12 and 59/13) (hereinafter: the LoB), sets in its Article 101 the obligations of banks with respect to prevention of money laundering and financing of terrorist activities. Its provisions stipulate the obligation for banks to apply the standards for prevention of money laundering and financing of terrorist activities.

In accordance with the standards specified by the Law on Prevention of Money Laundering and Financing of Terrorist Activities (Article 5), the Law on the RS Banking Agency (Articles 4, 10 and 25), and the Law on Banks (Article 101), the RS Banking Agency has issued the Decision on Minimum Standards for Banking Activities to Prevent Money Laundering and Financing of Terrorist Activities ("The RS Official Gazette", no. 68/12). This Decision clarifies the minimum scope, form and content of banking activities in preventing money laundering and financing of terrorist activities.

The Law on Microcredit Organizations ("The RS Official Gazette", no. 64/06 and 116/11) provides in its Article 18a) obligations of the MCOs' in preventing money laundering and financing of terrorist activities. Its provisions stipulate that a MCO is obliged to apply the standards for prevention of money laundering and financing of terrorist activities.

In accordance with the norms specified by Article 5 (2) of the Law on Prevention of Money Laundering and Financing of Terrorist Activities ("The BiH Official Gazette", no. 53/09), Articles 4, 10 and 25 of the Law on the RS Banking Agency, and Article 18a) of the Law on Microcredit Organizations of Republika Srpska, the RS Banking Agency had issued the Decision on Minimum Standards for Microcredit Organizations to Prevent the Money Laundering and Financing of Terrorist Activities ("The RS Official Gazette", no. 68/12) with an aim to clarify the minimum scope, form and content of the activities of microcredit organizations to prevent the money laundering and financing of terrorist activities.

The Law on Leasing ("The RS Official Gazette", no. 70/07 and 116/11), sets out in its Article 58a) the obligations of leasing companies in the field of combating money laundering and financing of terrorist activities. The provisions of the said Article stipulate the obligation of leasing companies to apply the standards for prevention of money laundering and financing of terrorist activities.

In accordance with the norms specified by Article 5 (2) of the Law on Prevention of Money Laundering and Financing of Terrorist Activities, Articles 4, 10 and 25 of the Law on the RS Banking Agency and Article 58a) of the Law on Leasing, the RS Banking Agency had issued the Decision on Minimum Standards for Leasing Providers to Prevent the Money Laundering and Financing of Terrorist Activities ("The RS Official Gazette", no. 68/12) to clarify the minimum scope, form and content of the activities of leasing providers relating to the prevention of money laundering and financing of terrorist activities.

Pursuant to Article 260 of the Law on Securities Market ("The RS Official Gazette", no. 92/06, 34/09, 100/11, 30/12, 59/13 and 108/13) and as provided by Article 80 of the Law on Prevention of Money Laundering and Financing of Terrorist Activities, Republika Srpska Securities Commission is tasked for supervision over activities of the obliged entities on the securities market from Article 4(1), indents e) and g) of the Law.

Pursuant to Article 80 of the Law for Prevention of Money Laundering and Financing of Terrorist Activities (LPMLaFTA) and the Ordinance on Implementation of the LPMLaFTA, the RS Securities Commission has adopted on 1st September 2015 the Guidelines for Risk Assessment and Implementation of the LPMLaFTA to be followed by the obliged entities under jurisdiction of the RS Securities Commission. On the basis of the Guidelines, the obliged entities have issued own bylaws on risk assessment and implementation of the Law for Prevention of Money Laundering and Financing of Terrorist Activities.

In accordance with Article 80 of the Law on Prevention of Money Laundering and Financing of Terrorist Activities, the Insurance Agency of Republika Srpska is competent for supervision over operations of the obliged entities in field of insurance market (insurance companies, brokerage companies licensed for life insurances and voluntary pension funds). The Agency supervises the obliged entities in sense of their implementation of: the Law on prevention of money laundering, regulations stemming from the law, the Agency's Guidelines and other regulations prescribing the measures for the prevention and detection of money laundering and financing of terrorist activities. The FID performs an indirect supervision over the implementation of the Law and bylaws issued by the obliged entities, in the manner prescribed by Law. When conducting the controls, the Agency and FID mutually cooperate in a manner provided by the Law. The RS Insurance Agency adopted the Guidelines for Risk Assessment and Implementation of the Law on Prevention of Money Laundering and Financing of Terrorist Activities in the Field of Insurance (reference no.: UO-19/15 as of 28th August 2015), which is attached to this report.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

COURT OF BOSNIA AND HERZEGOVINA

Case no.: S 1 2 K 002641 15 KžK

Date of issuance: 4th December 2015

The BiH Court hereby sentences the first defendant, F.CH., to imprisonment of ten (10) years for criminal offenses of Organised Crime under Article 250 (3) of the BiH Criminal Code conducted through continued criminal offense of tax evasion under Article 210 (3) relating to paragraph (1) of the BiH Criminal Code, as well as for continued criminal offense of tax evasion under Article 273 (3) relating to paragraph (1) of the FBiH Criminal Code, all of them in conjunction with Article 54 of the BiH Criminal Code, as well as for criminal offense of money laundering under Article 209 (2) relating to paragraph (1) of the BiH Criminal Code.

As provided by Articles 110 and 111 of the BiH Criminal Code, the illegally acquired gain obtained through a criminal offense is to be confiscated. In this particular case, the sum to be confiscated from the offender, F.CH., amounts to 1.040.813,73 BAM.

Pursuant to Articles 110 and 111 of the BiH Criminal Code, the accused legal entity – “Ch.K.” Ltd. shall be deprived of following property gain obtained by perpetration of a criminal offense: the amount of 128.467,55 BAM as evidenced by certificates on temporarily seized items from 11/11/2009 and 12/11/2009 (20.475,00 € plus 88.422,55 BAM), as well as the amount of 3.171.303,97 of the evaded tax and income tax that would be deducted from the above specified amount of confiscated cash.

COURT OF BOSNIA AND HERZEGOVINA

Case no.: S1 2 K 018505 15 K

Date of issuance: 2nd April 2015

Following a hearing to consider a voluntary confession of guilt and a hearing on which the adjudication was pronounced upon the case, the BiH Court sentences S.K. to nine months of imprisonment for committing the continued criminal offense of Organized Crime under Article 250 (4) of the Criminal Code of Bosnia and Herzegovina (the BiH CC) relating to the criminal offense of money laundering under Article 209 (1) of the BiH CC, as well as for the forgery of documents under Article 373 (1) of the FBiH CC.

Pursuant to Articles 110 and 111 of the BiH Criminal Code, the accused will be deprived of property gain acquired through a criminal offence amounting to 23.500,00 BAM.

The legal entity of "K.P." Ltd, the owner and responsible person of which is S. K., is imposed with a sanction of termination of the legal entity.

FID – The statistical data on suspicious transactions reported through submitted reports/amended reports on conducted offences. The data for 2014, 2015 and 2016 also encompass those data involving the international cooperation with foreign Financial Intelligence Departments.

FID – RECEIVED REPORTS ON SUSPICIOUS TRANSACTIONS						
	2014		2015		2016	
	No.	Amount (BAM)	No.	Amount (BAM)	No.	Amount (BAM)
Suspicious transactions reported by the banks	89	35.259.482,12	181	30.438.426,09	232	108.903.227,70
Suspicious transactions reported by other obliged entities	69	2.419.776,27	45	966.003,38	168	31.990.999,56
Total	158	37.679.258,39	226	31.404.429,47	400	140.894.227,30

In 2014, the FID submitted to the competent Prosecutor's Offices six reports relating to grounded suspicions on committed offences and its perpetrators, as well as two amendments to the reports on committed offences that involved 48 persons being suspected for insertion of 19.356.726,31 illegally gained BAM to the legal cash flows.

In 2015, the FID submitted to the competent Prosecutor’s Offices four reports relating to grounded suspicions on committed offences and its perpetrators, as well as one amendment to the report on committed offences that involved 33 persons being suspected for insertion of 7.986.494,36 illegally gained BAM to the legal cash flows.

In 2016, the FID submitted to the competent Prosecutor’s Offices six reports relating to grounded suspicions on committed offences and its perpetrators that involved 23 persons being suspected for insertion of 32.084.951,95 illegally gained BAM to the legal cash flows.

Additional to the money laundering, these reports also included a variety of predicate crimes defined by the Criminal Codes of Bosnia and Herzegovina, as is the case with crimes of corruption.

EXCHANGE OF DATA WITH FOREIGN FINANCIAL INTELLIGENCE DEPARTMENTS				
		2014	2015	2016
Sent documents	Requests	41	51	61
	Reply to inquiries	52	65	73
	Notifications	7	7	2
	Other documents	11	24	21
	TOTAL	111	147	157
Received documents	Requests	49	59	50
	Reply to inquiries	52	55	69
	Notifications	178	224	225
	Other documents	8	51	71
	TOTAL	287	389	415

The RS Banking Agency’s Decision on Supervision Over the Banks and its Proceedings (“The RS Official Gazette”, no. 12/03) elaborates the topic of relevant authorities and their responsibilities in the process of controlling (supervising), guiding, supporting, improving performance, and stability of the banking system that also includes the prevention of money laundering and terrorist financing. With respect to the banking supervision responsibilities that are conducted to ensure the banks’ compliance with the regulations on prevention of money laundering and financing of terrorist activities, the Decision stipulates the following norms: “By applying its qualitative and quantitative techniques, the BARS shall, inter alia, supervise and determine the adequacy of procedures, as well as conduct the internal controls to detect and prevent transactions that involve criminal activities, money laundering, or supporting terrorism.

The supervision would be conducted through:

- control of the reports, information and data that the banks, microcredit organizations (MCOs) and leasing providers (LPs) submit to the BARS;
- direct review of the business books, accounting books and other documentation in the financial institutions, and
- rank of the business performance indicators for financial institutions by comparing them with the minimum standards, average domestic and well-known foreign standards.

The BARS is obliged to ensure continuous supervision of business performance of financial institutions operating on the territory of Republika Srpska as well as to conduct their periodical analysis resting on relevant data.

The table under gives a review of the on-site supervisions of the banks, MCOs and LPs:

Year	Total number (banks + MCOs +LPs)	Total number of conducted controls	Written warnings	Fines
	1	2	3	4
2014	16 (9+6+1)	11	8	-
2015	15 (8+6+1)	10	7	1
2016	17 (8+8+1)	13	8	-

The Law on Insurance Companies (“The RS Official Gazette”, no. 17/05, 01/06, 64/06 and 74/10) determines in its Article 6 (3) 4) that the Agency’s goal is to “suppress and detect financial crimes that involve or may involve entities within the RS Agency’s jurisdiction”. Thus, by having the supervisory competence over the participants at the insurance market, the Insurance Agency of Republika Srpska conducts their continuous control through regular and extraordinary supervisions.

Continuous supervision is conducted through consistent monitoring of the operations and activities of the participants in the insurance market, examination of the situation and trends in the insurance market, and analysis of the reports and other documents that the participants in the insurance market are obliged to submit to the Agency or make public. Regular inspections are conducted in accordance with the Plan of Regular Controls that the Agency issues on annual basis. Extraordinary controls are based on the Agency’s knowledge or notification on non-solid, irregular or illegal business activities or misdemeanour of participants in the insurance market.

When creating a plan for regular controls, the Agency’s authorized officials relay on previous experiences, observations and identified problems to make an analysis and ranking of all companies and their branches based on the risk they pose with accompanying methodology for risk assessment. As a starting point for developing a methodology for risk assessment, they set separate parameters for life and non-life insurance companies, in order to calculate: the growth rate of written premiums, market share, growth rate of the relevant premium, growth rate of the relevant damage, growth rate of the damage ratio, the growth rate ratio of costs of insurance, participation in the cost of insurance expenses loading, combined ratio, net technical result in relation to the relevant premium in retention, liquidity ratio, the level of technical reserves coverage, coverage ratio of capital, the opinion of an independent auditor, the opinion of a qualified actuary, a comprehensive control of the preceding year, percentage of complaints reported to the Insurance Ombudsman with respect to the paid losses, etc.

Aiming to ensure an adequate and uniform control, the Agency has issued the Methodology for Controlling the Implementation of Regulations Concerning the Prevention of Money Laundering and Financing of Terrorist Activities. Additionally, the Law on the Agency obliges the relevant entities to regularly provide the Agency with their reports, thus enabling a continuous control over the conduct of the obliged entities with respect to AML/CFT.

When considering the RS Insurance Agency’s statistical data, the following table presents: the number of obliged entities that were monitored, the number of regular on-site controls they conducted, and the number of continuous off-site supervisions with measures imposed on the basis of reports and documents submitted by relevant entities. All of the stated is done to harmonize the

work of the obliged entities with the regulations on the prevention of money laundering and terrorist financing.

Table 1. Number of liable persons and of performed supervisions

Period of Time	Total number of AML/CFT supervised entities	Regular AML/CFT supervision (field controls)	Continuous AML/CFT supervision
01/01/2014 - 31/12/2016	11	5*	12

* one control, records are being developed

The controls conducted in the insurance sector during the reporting period showed no significant anomalies in the work of obliged entities with respect to AML/CFT.

The Brcko District Police: In the past three years, the Financial Intelligence Department of the State Investigation and Protection Agency provided the BD Police with two (2) information under Article 6 of the Law on Prevention of Money Laundering and Financing of Terrorism, one of them resulting in an investigation initiated in year of 2015.

(b) Observations on the implementation of the article

BiH authorities inform about current legislation regulating mechanisms for prevention of money laundering and financing of terrorist activities.

Examples of the implementation of those measures, including related court or other cases and available statistics are provided.

[Observations on the status of implementation of the article, including successes, good practices and challenges in implementation.]

Efforts were made to establish a comprehensive domestic regulatory and supervisory regime to prevent money laundering and to ensure that agencies involved in combating money laundering have the ability to cooperate and exchange information at the national and international levels. With the amendments to the legislation, the requirements which must be met by the responsible person are precisely identified and defined with consideration of the Integrity as a priority. However, the practice should show results and efficiency in registration of operations and in statements on suspicious operations.

Subparagraph 1 (b) of article 14

1. Each State Party shall: ...

(b) Without prejudice to article 46 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

In case of suspected money laundering and/or financing of terrorist activities, the Law on Prevention of Money Laundering and Financing of Terrorist Activities provides legal basis for the exchange of information both within BiH and at international level, and in particular its:

- Article 1 (Subject matter of the Law), and its indents: d) Duties and competences of the Financial-Intelligence Department; e) Inter-institutional cooperation of the competent authorities of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, Republika Srpska, the Brcko District of Bosnia and Herzegovina and other levels of the state organisation of Bosnia and Herzegovina in the prevention of money laundering and of financing terrorist activities; f) International cooperation in the field of prevention of money laundering and financing of terrorist activities;
- Article 55 (General provisions on the FID);
- Article 57 (Informing the prosecutor and acting upon prosecutor's request);
- Article 58 (Temporary suspension of transactions);
- Article 61 (Other authorities to request or submit the data);
- Article 62 (Informing competent authorities and acting upon their requests);
- Article 65 (Requesting data, information and documentation from foreign authorities);
- Article 66 (Submission of data, information and documentation to financial-intelligence units of other countries);
- Article 67 (Submission of data to foreign authorities involved in prevention of money laundering and financing terrorist activities);
- Article 68 (Proposal to a foreign financial-intelligence unit to temporarily postpone a transaction);
- Article 69 (Temporary postponement of a transaction upon a proposal of foreign financial-intelligence unit);
- Article 72 (Statistics submitted by prosecutor's offices, courts and law enforcement agencies);
- Article 76 (Use of collected data);
- Article 81 (Actions of supervisory bodies in case of irregularities in work of liable persons);
- Article 82 (Informing a supervisory body).

The Law on State Investigation and Protection Agency tackles this matter in its Article 21 (Rendering Assistance), Article 22 (Obligation to Inform the Competent Authority), and Article 23

(International Cooperation), and thus provides a basis for local and international cooperation. The full text of this law is enclosed to the Report.

It is important to highlight that the domestic cooperation was significantly improved after the law enforcement agencies had concluded the agreements on their mutual cooperation.

Financial Intelligence Department (FID) has broad legal possibilities for cooperation both in Bosnia and Herzegovina, and abroad. It is important to note that the FID is a member of the Egmont Group of Financial Intelligence Units as of 30th June 2005. To exchange the data, the FID does not require a Memorandum of Understanding, yet at the very beginning of its establishment, the Memoranda of Understanding were concluded with the Financial Intelligence Units of Macedonia, Croatia, Montenegro, Slovenia, Serbia, Albania, Spain, the Netherlands Antilles, Paraguay and Turkey.

The money laundering is a criminal offense treated within the Criminal Code of Bosnia and Herzegovina (the BiH CC) as well as within the Criminal Codes of the Federation of BiH (the FBiH CC), Republika Srpska (the RS CC) and Brcko District of Bosnia and Herzegovina (the BD CC). More specifically, the money laundering was criminalized by the following articles of the law: the BiH CC - Article 209; the FBiH CC - Article 272; the RS CC - Article 280; and the BD CC - Article 265.

English translation of criminal laws that are in force in Bosnia and Herzegovina can be found on the following link: <http://www.legislationline.org/documents/section/criminal-codes/country/40>

Additional to the state level sanctions, the Ministries of Interior of the Federation and of Republika Srpska as well as the Brcko District Police have jurisdiction over combating the money laundering as this offence is also treated within the Criminal Codes of both Entities and of the Brcko District of BiH.

The Federal Ministry of Interior that encompasses the Federal Police Administration (FMoI-FPA) is authorised to combat money laundering since the aforementioned offence is, additional to the BiH Criminal Code, also treated within the Criminal Code of Federation of BiH.

Republika Srpska Ministry of Interior established a separate department within its Criminal Police' Unit for Economic Crimes – the Department for Financial Investigations and Money Laundering – responsible for financial investigations and confiscation of property gained through a criminal offence, as well as for prevention, detection and investigation of criminal offenses relating to money laundering. Its measures and actions to detect the means and property obtained through criminal activities and their further use in the business operations. The Department operates in accordance with the following legislation: the Code of Criminal Procedure, the Criminal Code, the Law on Confiscation of Property Gained Through Criminal Activities, and the Law on Prevention of Money Laundering and Financing of Terrorist Activities. On 30th March 2005, the RS Ministry of Interior had signed a Memorandum of Understanding with the State Investigation and Protection Agency (SIPA) on the exchange of intelligence information relating to criminal offenses. On 16th December 2015, Police of Republika Srpska and the SIPA had also signed the Operational Agreement on Cooperation and Integrated Fight Against Terrorism and Organized Forms of Crime. Additionally, the Law on prevention of money laundering and financing of terrorist activities settled the cooperation between the FID and authorities responsible for investigating crimes of money laundering and/or financing of terrorist activities.

The Brcko District Police is a law enforcement agency that is inter alia responsible for combating money laundering. It encompasses the Unit for Combating Economic Crime and Corruption to deal with the combating the money laundering. In accordance with applicable criminal laws, the police daily cooperates with other bodies, which include the SIPA's Financial Intelligence Division operating pursuant to the Law on Prevention of Money Laundering and Terrorist Financing. Ultimately, the provisions settling the cooperation with the police and all the other authorities in

Bosnia and Herzegovina are also regulated by the Law on Police of the Brcko District of Bosnia and Herzegovina (“The Official Gazette of Brcko District of BiH”, No. 31/09, 60/10, and 31/11). As provided by the Law on Police of Brcko District, a number of agreements on mutual cooperation with other police agencies in BiH have been concluded.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Please refer to the statistical data presented in the answer to question no. 3 relating to Article 14, paragraph (1), indent a).

(b) Observations on the implementation of the article

Bosnia and Herzegovina reported that in case of suspected money laundering and/or financing of terrorist activities, the Law on Prevention of Money Laundering and Financing of Terrorist Activities provides legal basis for the exchange of information both within BiH and at international level, and in particular its:

- Article 1 (Subject matter of the Law), and its indents: d) Duties and competences of the Financial-Intelligence Department; e) Inter-institutional cooperation of the competent authorities of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, Republika Srpska, the Brcko District of Bosnia and Herzegovina and other levels of the state organisation of Bosnia and Herzegovina in the prevention of money laundering and of financing terrorist activities; f) International cooperation in the field of prevention of money laundering and financing of terrorist activities;
- Article 55 (General provisions on the FID);
- Article 57 (Informing the prosecutor and acting upon prosecutor’s request);
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- Article 61 (Other authorities to request or submit the data);
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- Article 65 (Requesting data, information and documentation from foreign authorities);
- Article 66 (Submission of data, information and documentation to financial-intelligence units of other countries);
- Article 67 (Submission of data to foreign authorities involved in prevention of money laundering and financing terrorist activities);
- Article 68 (Proposal to a foreign financial-intelligence unit to temporarily postpone a transaction);
- Article 69 (Temporary postponement of a transaction upon a proposal of foreign financial-intelligence unit);
- Article 72 (Statistics submitted by prosecutor’s offices, courts and law enforcement agencies);
- Article 76 (Use of collected data);
- Article 81 (Actions of supervisory bodies in case of irregularities in work of liable persons);
- Article 82 (Informing a supervisory body).

National experts informed that the Law on State Investigation and Protection Agency tackles this matter in its Article 21 (Rendering Assistance), Article 22 (Obligation to Inform the Competent Authority), and Article 23 (International Cooperation), and thus provides a basis for local and international cooperation. Also, they stressed that the domestic cooperation was significantly

improved after the law enforcement agencies had concluded the agreements on their mutual cooperation.

Financial Intelligence Department (FID) has broad legal possibilities for cooperation both in Bosnia and Herzegovina, and abroad. It is important to note that the FID is a member of the Egmont Group of Financial Intelligence Units as of 30th June 2005. To exchange the data, the FID does not require a Memorandum of Understanding, yet at the very beginning of its establishment, the Memoranda of Understanding were concluded with the Financial Intelligence Units of Macedonia, Croatia, Montenegro, Slovenia, Serbia, Albania, Spain, the Netherlands Antilles, Paraguay and Turkey.

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Additional to the state level sanctions, the Ministries of Interior of the Federation and of Republika Srpska as well as the Brcko District Police have jurisdiction over combating the money laundering as this offence is also treated within the Criminal Codes of both Entities and of the Brcko District of BiH.

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60/10, and 31/11). As provided by the Law on Police of Breko District, a number of agreements on mutual cooperation with other police agencies in BiH have been concluded.

According to the legislative guide, Article 14, paragraph 1 (b), requires that administrative, regulatory, law enforcement and other domestic authorities in charge of the efforts against money-laundering are able to cooperate at both the national and international level. This includes the exchange of information within the conditions prescribed by their domestic law. This must be done without limiting or detracting from (or in the words of the Convention, “without prejudice to”) the requirements generated by article 46 (Mutual legal assistance).

In order for cooperation to be possible, domestic capabilities must be developed for the identification, collection and interpretation of all relevant information. Essentially, three types of entity may be part of a strategy to combat money-laundering and could, thus, be considered by States:

- (a) Regulatory agencies responsible for the oversight of financial institutions, such as banks or insurance entities, with powers to inspect financial institutions and enforce regulatory requirements through the imposition of regulatory or administrative remedies or sanctions;
- (b) Law enforcement agencies responsible for conducting criminal investigations, with investigative powers and powers to arrest and detain suspected offenders and that are subject to judicial or other safeguards;
- (c) FIUs, which are not required under the Convention, whose powers are usually limited to receiving reports of suspicious transactions, analysing them and disseminating information to prosecution agencies, although some such units have wider powers (see more on FIUs in sect. V.E, below).

Legislative guide requires from the authority of each entity to cooperate with national bodies and with other similar agencies in other States is usually specified in the relevant legislation. If States do have such entities, legislation may be needed to amend existing mandates and the division of labour among these entities, in accordance with each State’s constitutional or other principles and the specificities of its financial services sector.

Some of these measures may constitute a strong challenge for countries in which the financial sector is not heavily regulated and the necessary legislation and administrative infrastructure may have to be created. It is essential to note, however, that the relevance and utility of these arrangements are not limited to the control of money-laundering, but also to corruption. They also strengthen confidence in the financial infrastructure, which is instrumental to sustainable social and economic development.

The remaining provisions of this article are also closely connected to domestic and international cooperation, and are examined below, as they are not mandatory under the Convention.

Technical guide also describes scope of the Article 14 p.1 (b). According to the Technical guide, Paragraph 1 (b) of article 14 deals with the ability of public bodies involved in combating money-laundering to cooperate and exchange information both at domestic and international levels. At the domestic level, the treatment of information raises two fundamental questions. The first relates to the rights of any individual who may be accused of criminal activity (in this case, corruption or the laundering of its proceeds) and the second relates to the rights of an individual to privacy in his or her private (in this case financial) affairs.

Most countries have rules governing evidence in criminal proceedings. These include restrictions on the way information can be collected and used as evidence. A requirement that private institutions and public agencies must report suspicions will mean that private information,

which has been collected by the institution or agency for other commercial or public purposes, may become available to authorities with an interest in a prosecution connected to corruption.

This information would not have been collected as part of a formal investigation and may not have been collected in a way that matches the legal or constitutional safeguards surrounding the collection and use of evidence in criminal proceedings. Such information would often be unacceptable as evidence in criminal proceedings. In most countries, this difficulty is resolved by treating

information gathered through public and private agencies and passed to the FIU as intelligence rather than evidence. It can be used only to prompt a formal investigation in which evidence can be collected in the appropriate manner.

Countries are likely to have different legal and constitutional provisions in this area and must make arrangements for the protection and use of financial intelligence in a way that respects the rights of those against whom offences are alleged.

Most countries now have data protection arrangements that maintain the confidentiality of personal information provided to private institutions and public agencies. It will be necessary for legislation to override such provisions in order to allow for reporting of suspicions by these institutions and agencies. However, fundamental human rights should not be abandoned. They should be respected by imposing confidentiality requirements on the recipients of the information – the FIU and those to whom it distributes information. In addition to the importance of data protection, such arrangements have the additional advantage that citizens are more likely to be forthcoming in responding to official requests for information if they are convinced that their information will remain confidential. Full participation is necessary to preserve the integrity of data that is used for public policy purposes, such as the provision of public services and the collection of tax on income.

If citizens were aware that information supplied to public agencies might be shared with other authorities in a way that was detrimental to their interests, they might be less inclined to share that information. The result would be that data was less reliable and public policy could suffer. On the other hand, it may be argued that those who are engaged in corruption are hardly likely to be volunteering information about their corruption in any case.

States Parties must consider the balance of advantage in breaking down the barriers erected between public agencies in order to preserve confidentiality and thereby making greatest use of information, against the possible disadvantage that some public data may become less reliable if citizens have doubts about its confidentiality.

Whatever course States Parties choose, it will be necessary for recipients of personal information to keep that information confidential and for fundamental human rights to be protected.

The final domestic issue to take into account when building a system of exchange of financial information relates to the amount of information to be generated by the system and the human and technical resources to be devoted to its analysis, classification and maintenance. Though technological means might play a crucial role in augmenting the analytical capacities, an unmanageable volume of information might threaten the efficacy and credibility of the whole anti-money-laundering system. The way many countries have tried to overcome some of these issues is by creating a central agency for collecting, analysing and disseminating the financial information collected through the preventive anti-money-laundering system. This is the reason why paragraph 1 (b) recommends States Parties to seriously consider creating an FIU at the national level that concentrates all the mentioned functions and also the ability to share information with other States Parties, which is the specific concern of article 58 of the Convention. At the international level, the crucial agency for exchanging financial information is the FIU, as recognized by article 58. FIUs

exchange information among them on the basis of reciprocity or mutual agreement which usually encourages spontaneous cooperation.

The issues identified above in respect of the protection of the rights of anyone accused of corruption and the right to privacy of data apply with greater force to international exchange of information, since different countries protect rights in different ways. It is important that the proper exchange of information is not inhibited by differences in the form of such protection, even where the substance of the protective regime is similar. The procedures for information sharing are usually much simpler than in mutual legal assistance, since the latter are designed to protect the rights of those accused whereas information exchange agreements between FIUs are not. In effect, information exchanged between FIUs tends to be intelligence not evidence and can rarely be used in criminal proceedings in its raw form. It can, however, be the basis for an investigation (which may ultimately include an international request for evidence through the mutual legal assistance channels). Usually, agreements between FIUs are guided by the following principles:

- The requesting FIU should disclose to the requested FIU the reason for the request, the purpose for which the information will be used and enough information to enable the receiving FIU to determine whether the request complies with its domestic law.
- Mutual agreements or memorandums of understanding between FIUs usually limit the uses of the requested information to the specific purpose for which the information was sought or provided.
- The requesting FIU should not transfer information shared by a disclosing FIU to a third party, nor make use of the information in an administrative, investigative, prosecutorial, or judicial purpose without the prior consent of the FIU that disclosed the information. The FIU giving the information should not unreasonably withhold any such consent.
- All information exchanged by FIUs must be subjected to strict controls and safeguards to ensure that the information is used only in an authorized manner, consistent with national provisions on human rights and data protection. At a minimum, exchanged information must be treated as protected by the same confidentiality provisions as apply to similar information from domestic sources obtained by the receiving FIU.

The Egmont Group of FIUs published in 2004 a document of “Best Practices for the Exchange of Information between Financial Intelligence Units” with legal and practical advice for exchanging financial information at the international level. The document provides advice on the request process, information required, processing the request, responses, and confidentiality.

Regarding this provision, the State Party under review with its response proved that administrative, regulatory, law enforcement and other domestic authorities in charge of the efforts against money-laundering are able to cooperate at both the national and international level. This fact is supported by relevant statistic data presented in the response related to implementation of Subparagraph 1 (a) of article 14:

EXCHANGE OF DATA WITH FOREIGN FINANCIAL INTELLIGENCE DEPARTMENTS				
		2014	2015	2016
Sent documents	Requests	41	51	61
	Reply to	52	65	73
	Notifications	7	7	2

	Other documents	11	24	21
	TOTAL	111	147	157
Received documents	Requests	49	59	50
	Reply inquiries to	52	55	69
	Notifications	178	224	225
	Other documents	8	51	71
	TOTAL	287	389	415

Paragraph 2 of article 14

2. States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Law on Prevention of Money Laundering and Financing of Terrorist Activities sets in its Article 71 (Cross-Border Transfer of Cash) an obligation for the Indirect Taxation Authority and the BiH Border Police to cooperate with the competent authorities of Republika Srpska, the Federation of Bosnia and Herzegovina and the BiH Brcko District in supervision and control of the transfer of cash and financial instruments conducted at the state border and/or customs line at the customs department/border crossing for the passengers, freight and mail.

These matters are further regulated by sectoral laws and bylaws on foreign currency exchange in FBiH and RS, as well as those relating to the work of the Indirect Taxation Authority, the BiH Border Police, the FBiH Financial Police and the RS Foreign Exchange Inspectorate.

Indirect Taxation Authority (ITA) has its internal organizational units of the Customs Sector that function within its regional centres to keep records and maintain the documentation related to the transfer of cash and its equivalents. It acts in accordance with Article 71 of the Law on Prevention of Money Laundering and Financing of Terrorist Activities (“The Official Gazette”, No. 47/14 and

46/16). The ITA is obliged to inform the SIPA's Financial Intelligence Department (FID) on every cross-border transfer of cash or its equivalents exceeding 20.000,00 BAM.

Aiming to fulfil the FATF recommendations on obligatory information for the Financial Intelligence Department, the ITA followed Article 85 of the Law on Prevention of Money Laundering and Financing of Terrorist Activities ("The BiH Official Gazette", no. 47/14 and 46/16) to prepare a draft of the Decision on the Data, Records Keeping and Means of Provision of Data Relating to the Transfer of Cash Across the Border that is currently in the phase of public consultations. The officials of the SIPA's FID and relevant the ITA Departments made joint technical preparations for the electronic reporting on the transfer of cash and financial instruments across the border. On the occasion, they considered various technical solutions for electronic delivery, storage and further use of reports in a format used in the European Union.

Pursuant to Articles 7 and 22 of the Law on the Indirect Taxation Authority ("The BiH Official Gazette", No. 89/05 and 100/2013), the Indirect Taxation Authority is responsible for controlling of foreign currencies found on the passenger and border traffic to/from foreign countries. The ITA responsibilities are also defined by the Instructions on the customs procedures within the passenger traffic ("The BiH Official Gazette", No. 48/13, 3/16).

The ITA acts in accordance with the Law on the Indirect Taxation Authority ("The BiH Official Gazette", 89/05 and 100/2013), the Law on Foreign Exchange Operations of the Federation of BiH, the Foreign Exchange Operations of Republika Srpska, the Law on Foreign Exchange Operations in the Brcko District of Bosnia and Herzegovina, and the Instructions on the Customs Procedures Within Passenger Traffic ("The BiH Official Gazette", no. 48/13, 3/16) to perform the control of cash and its equivalents brought into or taken out the border crossings.

To remind, the area of foreign exchange operations in Bosnia and Herzegovina is in jurisdiction of the Entities and the District, so the area of foreign exchange operations is also settled by their own regulations:

- the Law on Foreign Exchange Operations of Republika Srpska ("The RS Official Gazette", no. 96/03, 126/06, 92/09 and 20/14) and the Regulation on the Domestic and Foreign Transfers of Effective Foreign Currency, Convertible Marks, Checks and Securities ("The RS Official Gazette" no. 16/05 and 15/07), which is applied on the territory of Republika Srpska,
- the Law on Foreign Currency Exchange Operations of the Federation of Bosnia and Herzegovina ("The Official Gazette of the Federation of BiH", no. 47/10) and the Decision on Taking the Cash and Checks Abroad ("The Official Gazette of the Federation of BiH", no. 58/10), is applied on the territory of the Federation of Bosnia and Herzegovina;
- the Law on Foreign Exchange Operations in the Brcko District of Bosnia and Herzegovina ("The Official Gazette of Brcko District of BiH", No. 23/16), which is harmonized with the Entity laws, and is applied on the territory of the BiH Brcko District.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Table 1. Foreign misdemeanour proceedings and sanctions (transfer of money) in the period:

1st January to 27th July 2016 - The Indirect Tax Authority - Sector for Customs

Period	Number of cases of violation of the obligation of filing the application (false registration/failure to report) discovered by ITA	The value of assets	Temporarily seized assets	Number of cases of violation of the obligation of filing the application forwarded to the Foreign Exchange Inspectorate by the ITA	The number of reports launched in court by the Foreign Exchange Inspectorate	Number misdemeanour proceedings initiated by the ITA (by order or request)	Number misdemeanours or criminal proceedings for which the court decided for breaching filing the application	The number of sanctions (fines, permanent seizure of assets)	Type / value of sanctions (Fines)	Permanent seizure of assets
01/01/16 - 27/07/16	27	143.000 SEK	143.000 SEK	0	0	27	0	10	33.750 BAM	0
		33.200 USD								
		303.715 EUR	40.910 EUR							
		538.000,00 RSD								
		416.000,00 MKD								
		2.500,00 YENI								
		74.000,00 MYR								
		27.000,00 AED								

Table 2. Foreign misdemeanour proceedings and sanctions (transfer of money) in the period:
1st August to 30th November 2016 - The Indirect Tax Authority - Sector for Customs

Period	Number of cases of violation of the obligation of filing the application (false registration/failure to report) discovered by ITA	The value of assets	Temporarily seized assets	Number of cases of violation of the obligation of filing the application forwarded to the Foreign Exchange Inspectorate by the ITA	The number of reports launched in court by the Foreign Exchange Inspectorate	Number misdemeanour proceedings initiated by the ITA (by order or request)	Number misdemeanours or criminal proceedings for which the court decided for breaching filing the application	The number of sanctions (fines, permanent seizure of assets)	Type / value of sanctions (Fines)	Permanent seizure of assets
01/08/16 – 30/12/16	6	87.885,00 EUR	85.385,00 EUR	0	0	6	2	2	6.400 BAM	2.000 EUR
		9.500,00 USD	6.700,00 USD							
		540,00 BAM	540,00 BAM							

(b) Observations on the implementation of the article

National authorities inform that the Law on Prevention of Money Laundering and Financing of Terrorist Activities stipulates an obligation for the Indirect Taxation Authority and the BiH Border Police to cooperate with the competent authorities of Republika Srpska, the Federation of Bosnia and Herzegovina and the BiH Brcko District in supervision and control of the transfer of cash and financial instruments conducted at the state border and/or customs line at the customs department/border crossing for the passengers, freight and mail.

Furthermore, BiH authorities, in relation to the implementation of this provision of the Convention, refer to regulation of sectoral laws and bylaws on foreign currency exchange in FBiH and RS, as well as on the work of the Indirect Taxation Authority, the BiH Border Police, the FBiH Financial Police and the RS Foreign Exchange Inspectorate.

The area of foreign exchange operations in Bosnia and Herzegovina is in jurisdiction of the Entities and the District, so the area of foreign exchange operations is also settled by their own regulations.

Available statistics are provided.

It is clearly established that the Indirect Taxation Authority and the Border Police of BiH, in cooperation with the competent authorities of the entities and Brcko District, supervises and

controls the transfer of money. When performing the supervision and control, members of the Indirect Taxation Authority and the Border Police of BiH could investigate individuals and their luggage and vehicles can temporarily keep money (Banknotes and coins in circulation both domestic and foreign securities of domestic and foreign issued to bearer, negotiable instrument holders, including instruments to pay the bearer in domestic and foreign currency, travel checks, negotiable instruments (including checks, bonds and payment orders). Indirect Taxation Authority is obliged to inform the FID for entering cash banknotes and coins circulated as domestic, domestic and foreign securities issued to bearer, including instruments of payment such as travel checks, negotiable instruments (including checks, bonds and payment orders). Hence, it is particularly important officials from relevant institutions working in this area to have good and timely cooperation.

Paragraph 3 of article 14

3. States Parties shall consider implementing appropriate and feasible measures to require financial institutions, including money remitters:

- (a) To include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator;*
- (b) To maintain such information throughout the payment chain; and*
- (c) To apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.*

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Law on Prevention of Money Laundering and Financing of Terrorist Activities provides in its Article 31 (Electronic Transfer of Money) that the credit and financial institutions, including the companies engaged in electronic transfer of cash, are required to collect accurate and complete information on payee that would be included in a form or message accompanying the electronic transfer of funds (regardless if sent or received and regardless of their currency). Such data would accompany the transfer throughout the chain of payments. The Law's Article 83 (1) cc) provides that the operations contrary to provisions of Article 31 would be treated as an offense.

For more details, please refer to the following articles of the Law on prevention of money laundering and financing terrorist activities: Article 32 (Data on Person Ordering Electronic Transfer), Article 33 (Establishing and Verifying Identity of Person Ordering Electronic Transfer), and Article 34 (Exceptions to the Requirement to Collect Data on Person Ordering Electronic Transfer).

Additionally, the Decision on Minimum Banking Standards to Prevent Money Laundering and Financing of Terrorist Activities stipulates in Article 21 that a bank is obliged:

1. to apply the identification measures under Article 17 of the Decision when establishing a business relationship with a client;
2. to ensure that the inter-bank wire transfers (SWIFT, etc.) as well as the transfers carried out by clients from special terminals via free telecommunication lines (POS banking, electronic and Internet banking), and other transfers referred to in paragraph (2) of this Article, are accompanied throughout the process with the data on: the Sender, the Fund Receiver, and its purpose;
3. to establish, regularly review and test the security measures and control processes and systems;
4. to ensure that the client authentication involves at least two means for verifying the client's identity;
5. to apply safe and effective authentication measures for confirming the client's identity and authorizations.

When conducting such transfers, a bank is obliged to comply with all of the above stated obligations for both domestic and international transfers.

If a bank cannot collect the required data and information about its client, it would refuse provision of such types of banking services.

For a better understanding of the matter, please also refer to the Self-Assessment's answer relating to Article 14, paragraph (1), indent a).

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

(b) Observations on the implementation of the article

BiH authorities inform that the Law on Prevention of Money Laundering and Financing of Terrorist Activities provides that the credit and financial institutions, including the companies engaged in electronic transfer of cash, are required to collect accurate and complete information on payee that would be included in a form or message accompanying the electronic transfer of funds (regardless if sent or received and regardless of their currency). Such data would accompany the transfer throughout the chain of payments. The Law's Article 83 (1) cc) provides that the operations contrary to provisions of Article 31 would be treated as an offense.

Additionally, the Decision on Minimum Banking Standards to Prevent Money Laundering and Financing of Terrorist Activities stipulates obligations for banks

1. to apply the identification measures under Article 17 of the Decision when establishing a business relationship with a client;
2. to ensure that the inter-bank wire transfers (SWIFT, etc.) as well as the transfers carried out by clients from special terminals via free telecommunication lines (POS banking, electronic and Internet banking), and other transfers referred to in paragraph (2) of this Article, are accompanied throughout the process with the data on: the Sender, the Fund Receiver, and its purpose;
3. to establish, regularly review and test the security measures and control processes and systems;

4. to ensure that the client authentication involves at least two means for verifying the client's identity;
5. to apply safe and effective authentication measures for confirming the client's identity and authorizations.

When conducting such transfers, a bank is also obliged to comply with all of the above stated obligations for both domestic and international transfers.

The national experts report that if a bank cannot collect the required data and information about its client, it would refuse provision of such types of banking services.

Article 14, paragraph 3, contains provisions going beyond the Organized Crime Convention. It requires that States consider implementing measures to require financial institutions to collect information on originators of electronic fund transfers, maintain information on the entire payment chain and scrutinize fund transfers with incomplete information on the originator.

The concern is essentially about the identification of remitters and beneficiaries on the one hand and the traceability of the transaction on the other.

According to the Law on prevention of money laundering and financing of terrorist activities, sanctions are determined for officials and their employees, including staff management, supervisory or enforcement or other persons who have or had access to information, data and documentation unless it acted in accordance with laws and regulations. Council of Ministers of BiH on the proposal of the Indirect Taxation Authority, prescribe the manner of submitting data records to institutions / public authorities / persons responsible. However, in this context it should be mentioned that attention should be paid to protection of personal data and information.

Paragraph 4 of article 14

4. In establishing a domestic regulatory regime and supervisory regime under the terms of this article, and without prejudice to any other article of this Convention, States Parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Law on Prevention of Money Laundering and Financing of Terrorist Activities and other regulations are and would be continuously harmonized with relevant international and regional conventions and standards pertaining to the this area, where a special attention is given to the FATF recommendations, Warsaw Convention and EU Directives.

The BiH Council of Ministers convened its 12th session on 26 June 2015 when the Action Plan of Bosnia and Herzegovina on Overlapping the Gaps of Combating the Money Laundering was adopted aiming to harmonize the system of combating money laundering and terrorist financing with the FATF standards and recommendations. This Action Plan is applied by a number of institutions at different levels of government in Bosnia and Herzegovina and it resulted with the harmonization of other relevant regulations with the FATF recommendations.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

(b) Observations on the implementation of the article

National experts inform that the Law on Prevention of Money Laundering and Financing of Terrorist Activities and other regulations are and would be continuously harmonized with relevant international and regional conventions and standards pertaining to the this area, where a special attention is given to the FATF recommendations, Warsaw Convention and EU Directives.

The BiH Council of Ministers convened its 12th session on 26 June 2015 when the Action Plan of Bosnia and Herzegovina on Overlapping the Gaps of Combating the Money Laundering was adopted aiming to harmonize the system of combating money laundering and terrorist financing with the FATF standards and recommendations. Furthermore, the State Party under review informs that this Action Plan is applied by a number of institutions at different levels of government in Bosnia and Herzegovina and it resulted with the harmonization of other relevant regulations with the FATF recommendations.

[Observations on the status of implementation of the article, including successes, good practices and challenges in implementation.]

The UNCAC builds on parallel international initiatives to combat money-laundering. Article 14, paragraph 4 of the Convention is not mandatory. In establishing a domestic regulatory and supervisory regime, States parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering. Ultimately, States are free to determine the best way to implement article 14. However, the development of a relationship with one of the organizations working to combat money-laundering would be important for effective implementation.

There are no exact estimates on the extent of funds transferred across national borders, especially with respect to informal remitters, who are popular in many countries. Given that they range in the tens of billions of United States dollars, however, it is an area of regulatory concern.

In implementing article 14, paragraph 4, States may wish to consider some specific elements relative to the measures that the comprehensive regulatory regime must include. The Forty Recommendations are useful in this regard, as are model regulations that have been prepared by the United Nations Office on Drugs and Crime and the Organization of American States.

Paragraph 5 of article 14

5. States Parties shall endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Financial and Intelligence Department (FIU) of the State Investigation and Protection Agency operates under the Law on Prevention of Money Laundering and Financing of Terrorist Activities, and frequently cooperates with foreign Financial Intelligence Units. It also regularly takes part in regional meetings of Financial Intelligence Units that are used for exchange of experience and general improvement of mutual cooperation. As already stated, the FIU has concluded the Memoranda of Understanding with the Financial Intelligence Units of the region.

For a better understanding, please also refer to the Self-Assessment's answer relating to Article 14 (1) b).

The Law on Securities Market provides in its Article 260 (1) f) that the Commission is responsible to monitor and impose the necessary measures with an aim to prevent the money laundering and financing of terrorist activities, as well as to cooperate with other competent authorities relating to the implementation of laws and regulations governing the obligation to implement measures for prevention of money laundering and financing of terrorist activities.

The Ordinance on Supervision of Participants at the Securities Market ("The RS Official Gazette", No. 98/14) provides the following:

Article 7 (1) – "The Commission's supervision may be continuous, regular and extraordinary."

Article 7 (5) – "With respect to the manner of conducting the surveillance, it can be direct or indirect."

Article 7 (7) – "The direct supervision shall be carried in the premises of the supervised person or a legal entity to which the supervised person is directly or indirectly related with respect to the business, management or capital, by taking statements and submissions and by having insight to the business records and documents, accounting books, records and registers, regardless if the material is in form of hardcopy or electronic, along with the electronic and other means of communication installed with the supervised persons, as well as by taking statements and submissions at the Commission's Headquarters."

The Commission has issued its Instructions on Supervision over the Application of Regulations Relating to the Prevention of Money Laundering and Financing of Terrorist Activities with an aim to settle the procedures for all forms of control (continuous, regular and extraordinary supervision). As of 2015, the Commission conducts regular checks of the obliged entities with respect to their

implementation of regulations pertaining to prevention of money laundering and financing of terrorist activities.

The Brcko District Police cooperates with all authorities on this subject in accordance with applicable legislation and within the existing procedures. This also implies the actions conducted in cooperation with the INTERPOL and other international organizations.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Please refer to the statistical data presented in the answer to question no. 3 relating to Article 14, paragraph (1) indent a).

(b) Observations on the implementation of the article

National experts inform that the Financial and Intelligence Department (FIU) of the State Investigation and Protection Agency operates under the Law on Prevention of Money Laundering and Financing of Terrorist Activities, and frequently cooperates with foreign Financial Intelligence Units. It also regularly takes part in regional meetings of Financial Intelligence Units that are used for exchange of experience and general improvement of mutual cooperation. As already stated, the FIU has concluded the Memoranda of Understanding with the Financial Intelligence Units of the region.

Furthermore, the national experts report that the Law on Securities Market provides that the Commission is responsible to monitor and impose the necessary measures with an aim to prevent the money laundering and financing of terrorist activities, as well as to cooperate with other competent authorities relating to the implementation of laws and regulations governing the obligation to implement measures for prevention of money laundering and financing of terrorist activities.

The Ordinance on Supervision of Participants at the Securities Market (“The RS Official Gazette”, No. 98/14) provides that the Commission’s supervision may be continuous, regular and extraordinary; with respect to the manner of conducting the surveillance, it can be direct or indirect. The Commission has issued its Instructions on Supervision over the Application of Regulations Relating to the Prevention of Money Laundering and Financing of Terrorist Activities with an aim to settle the procedures for all forms of control (continuous, regular and extraordinary supervision). As of 2015, the Commission conducts regular checks of the obliged entities with respect to their implementation of regulations pertaining to prevention of money laundering and financing of terrorist activities.

The Brcko District Police cooperates with all authorities on this subject in accordance with applicable legislation and within the existing procedures. This also implies the actions conducted in cooperation with the INTERPOL and other international organizations.

Examples of implementation are provided, however, no bilateral treaties are included like the Agreements between Bosnia and Herzegovina and Republic of Macedonia, where extradition of nationals for corruption related crimes is stipulated.

Paragraph 5 of article 14 requires that States endeavour to develop and promote global, regional, sub-regional and bilateral cooperation among judicial, law enforcement and financial

regulatory authorities in order to combat money-laundering. States should review the provisions they already have in place to counter money-laundering in order to ensure compliance with these articles and those dealing with the freezing, seizure and confiscation of proceeds of corrupt conduct (art. 31), international cooperation (chap. IV) and asset recovery (chap. V). States undertaking such a review may wish to use the opportunity to implement the obligations they have assumed under other regional or international instruments and initiatives currently in place.

It would be useful for States Parties to pay attention to other international initiatives and instruments with related or identical requirements. To the extent States consider also becoming parties to such instruments, or to be guided by such initiatives, they may wish to consider planning their implementation in such a way as to meet the obligations simultaneously and in a coordinated fashion.

(c) Challenges, where applicable

Federal Ministry of Interior-Federal Police Administration (F MoI-FPA): From the operating standpoint, the F MoI-FPA has very limited human resources having job description to combat money laundering. This is caused by limited financial resources. A desirable assistance would concern: a) specific trainings for the officers, and b) development of Action Plans.

The Brcko District Police needs improvement of both the technological and human resources (training of staff) to ensure and improve the implementation of this Article.

(e) Technical assistance needs

The Brcko District Police needs assistance in form of improvement of both the technological and human resources (training of staff).

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

The IPA 2013 Programme titled: “Support to the Fight against Money Laundering” (Publication reference: EuropeAid/136-596/DAH/ACT/BA 1.2 IPA 2013; Twinning Number: BA 13 IB JH 01) is in the process of implementation.

Overall objectives are to increase the competence of the bodies in Bosnia and Herzegovina on the fight against money laundering, financing of terrorism and financial crime to the level required for the EU accession. The Project’s purpose is to implement the strategic priority measures for fight against money laundering and financing of terrorist activities and to reinforce timely and efficient prevention of money laundering system by relevant stakeholders in Bosnia and Herzegovina. The budget of the project is 2.100.000 €. (IPA Community Contribution – 2.000.000 €; National Contribution – 100.000 €).

V. Asset recovery

Article 51. General provision

Article 51

1. *The return of assets pursuant to this chapter is a fundamental principle of this Convention, and States Parties shall afford one another the widest measure of cooperation and assistance in this regard.*

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention, including identifying both any legal authorities/procedures for accepting requests for asset recovery and assessing that these requests are reasonably substantiated and supplemented as well as any time frame established under domestic laws and procedures for their execution, taking into account requests received from countries with similar or different legal systems and any challenges faced in this context.

This general provision was further elaborated in successive parts of this UNCAC section. Convinced that all of the following answers would provide a comprehensive and complete picture of compliance of Bosnia and Herzegovina with this UNCAC principle, we skipped enumerations of any kind in here as the detailed answers are provided in the subsequent text.

For a better insight, please also refer to the answers to follow on the UNCAC's Chapter V.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

(b) Observations on the implementation of the article

The answer provided is sufficient

(c) Challenges, where applicable

Consider adopting measures to clarify the practical aspects asset recovery at all four jurisdictional levels such as through the development of asset recovery guides and putting in place domestic inter-agency coordination mechanisms

Article 52. Prevention and detection of transfers of proceeds of crime

Paragraph 1 of article 52

1. Without prejudice to article 14 of this Convention, each State Party shall take such measures as may be necessary, in accordance with its domestic law, to require financial institutions within its jurisdiction to verify the identity of customers, to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts and to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions and their family members and close associates. Such enhanced scrutiny shall be reasonably designed to detect suspicious transactions for the purpose of reporting to competent authorities and should not be so construed as to discourage or prohibit financial institutions from doing business with any legitimate customer.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Law on Prevention of Money Laundering and Financing of Terrorist Activities sets in its:

- Article 3 (Definition of Other Terms) the meaning of the politically and publicly exposed foreign and local persons (indent t)); the parties to the politically exposed persons (indent u)); the local political or publicly exposed persons (indent v)); the closest family members of politically and publicly exposed persons (indent z)); and closer associates of the politically and publicly exposed persons (indent aa));
- Article 27 (Politically and Publicly Exposed Persons) the requirements for the entities obliged by the Law on Proceedings Relating to Politically and Publicly Exposed Persons that involve: the procedures for determining whether a person fits into this category; intensified measures of identification through collection of additional data on the source of funds; approval of the top management on the initiation or continuation of a business relationship, and supervision.

Several Articles of the Ordinance on the Implementation of the Law on Prevention of Money Laundering and Financing of Terrorist Activities provide that domestic and foreign politically exposed persons are considered as the parties of higher risk so that a business conducted with them is reason to suspect the money laundering. This matter is also treated within other relevant sectoral bylaws.

For a detailed insight, please also refer to Articles 6, 7, 10, 11, 16, 18 and 27 of the Law on Prevention of Money Laundering and Financing of Terrorist Activities.

In addition to the Law, the Decision stipulates that a client's identification and verification is conducted prior to establishing a business relationship to be followed by regular reviewing of the documentation used as a ground for verification of the client's identity. The Decision's Article 9 stipulates that the Bank clients are considered to be:

1. physical and legal entities that are about to open or have opened a bank account;
2. physical and legal entities on behalf or benefit of which would be opened or is opened a bank account, e.g. the beneficiary owner;
3. physical and legal entities that intend or already conduct financial transactions through banks;
4. physical and legal entities that conduct transactions over various types of intermediaries and any kind of physical or legal entity related to a financial transaction that may jeopardize the bank's reputation or expose it to some other risk.

In the process of verification of collected data and information relating to the client, the Decision's Article 16 (2) obliges the banks to obtain identification documents of the founder and of the actual owners (if physical entities) or excerpts from the appropriate registers (if legal entities).

The same obligations are set for both the leasing providers (Article 14, paragraph (4), Indent 7) of Decision on LPs) and micro-credit organizations (Article 14, paragraph (4), item 7) of Decision on MCOs).

The Decision's Article 22 reads as follows:

“In meeting the requirements for identification and verification of the client's identity, the banks may rely on a third party, though the ultimate responsibility for meeting these requirements shall rest on the banks that rely on a third party. The banks shall immediately obtain the necessary identification data and information on the client. Banks must fulfil the conditions so the required copies of documents containing the identification data and information used by the third party for verification of the customer's identity are available upon the bank's request without any delays.”

In this sense, the third party shall be all the entities obliged to implement the measures on prevention of money laundering and financing of terrorist activities set by the Law on Prevention of Money Laundering and Financing of Terrorist Activities that are settled and supervised by separate regulatory authorities. A third party may also be a corresponding foreign institution for which the bank has provided the evidence on meeting the defined requirements (the evidence may be the reports of international institutions authorised to prevent money laundering and financing of terrorist activities – FATF, WB, IMF, and others).

Third parties are not the institutions with which the bank had concluded a contractual relationship for performance of certain activities (outsourcing), even if they meet the criteria of the third parties. In such cases, it is considered that the bank had conducted the identification and verification of the client's identity.

The Decision's Article 19 (Politically exposed persons) defines the following:

When establishing business relations or carrying transactions without a lasting business relationship, the banks shall apply the procedures for determining whether the client is a politically exposed person.

Foreign or domestic politically exposed persons are considered to be the persons entrusted with prominent public functions on the international and national level (state, entity, district or municipality), and include their family members and close associates. Politically exposed persons shall also be the persons that were previously entrusted with such a duty, if the termination of the duty took place in the period lesser than a year. Persons holding positions of middle and lower rank shall not be considered as politically exposed persons.

The procedures would be such to allow the banks to directly collect from the client and/or publicly available registers and databases the data and information about the client's political exposure. Accordingly, the banks are required:

1. to have in place adequate risk-based procedures for determining if the client is a politically exposed person;
2. to have the management's approval for establishing business relationship with such client;
3. to take adequate measures to establish the source of funds that are involved in the business relationship or transaction;
4. to conduct enhanced control of the business relationship.

The banks shall apply the same measures of identification and monitoring in cases where the politically exposed persons are the founders/the real owners/authorized representatives/the persons authorized to manage the funds on the accounts of client that is the legal person.

Also, the Decision on MCOs (Article 19) and the Decision on the Leasing Providers (Article 19) set an obligation to define adequate risk-based procedures for determination if the client, user or beneficial owner is a politically exposed person.

The Brcko District Police is entitled to act in connection with the above mentioned topic only within the rules of criminal procedure through a warrant sent to a bank or other financial institution in a manner provided by the Law on Prevention of Money Laundering and Financing of Terrorist Organizations.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Please refer to statistical data presented in the answer to question no. 3 relating to Article 14, paragraph (1), indent a).

(c) Successes and good practices

The definition of politically exposed persons includes domestic politically exposed persons.

Subparagraph 2 (a) of article 52

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

(a) Issue advisories regarding the types of natural or legal person to whose accounts financial institutions within its jurisdiction will be expected to apply enhanced scrutiny, the types of accounts and transactions to which to pay particular attention and appropriate account-opening, maintenance and record-keeping measures to take concerning such accounts; and

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

This field is settled by the Law on Prevention of Money Laundering and Financing of Terrorist Activities, Entity Decisions on Minimum Standards of the Banking Agencies (of the Federation of BiH and Republika Srpska), and the Ordinance on the Implementation of the Law on the Prevention of Money Laundering and Financing of Terrorist Activities (“The BiH Official Gazette” No. 41/15).

The Law’s Article 23 stipulates a requirement to apply enhanced identification and monitoring of a client.

The Decision’s Article 17 stipulates that the banks are to apply intensified measures of identification if a business relationship is established with:

1. the banks or similar loan institutions seated abroad;
2. the politically exposed persons; and
3. the clients not personally present while establishing a business relationship or while conducting the measures of identification.

Enhanced measures of identification and monitoring would also be conducted in other cases where the bank’s risk assessment reveal that the client poses a high level of risk in the sense of money laundering and financing of terrorist activities.

The enhanced identification and monitoring of clients is also set for the leasing providers and microcredit organizations by Article 17 of the Decision on LPs/Decision of the MCOs.

(b) Observations on the implementation of the article

The answer provided is sufficient.

Subparagraph 2 (b) of article 52

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

...

(b) Where appropriate, notify financial institutions within its jurisdiction, at the request of another State Party or on its own initiative, of the identity of particular natural or legal persons to whose accounts such institutions will be expected to apply enhanced scrutiny, in addition to those whom the financial institutions may otherwise identify.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Law on Prevention of Money Laundering and Financing of Terrorist Activities provides in its Article 63 (2) that the FID would follow its assessments and cooperate with supervisory authorities to adequately inform the obliged entities about current techniques, methods and trends of money laundering and financing of terrorist activities. The Law's Article 64 stipulates inter alia that the FID is responsible for creating the list of countries that apply internationally accepted standards in terms of prevention and detection of money laundering and financing of terrorist activities.

The Ordinance on Implementation of the Law on Prevention of Money Laundering and Financing of Terrorist Activities provides in its Article 4 (1) d) that the obliged entities would apply enhanced measures for identification and monitoring of clients that may pose a higher risk of money laundering and financing of terrorist activities, or are seated in a country labelled by credible sources as a country having significant level of corruption. Its paragraph (2) provides that an obliged entity would also apply measures of enhanced identification and monitoring over such client if notified by the Financial - Intelligence Department on the weaknesses of the system to prevent money laundering and terrorist financing in the country of the client's seat offices.

The matter of eligibility of banks and clients is further treated by the Decision's Article 6:

The policy on the clients' eligibility obliges the banks to define the risk factors based on which they would determine a client's eligibility by considering the geographical risk factors, risk factors of the client himself/herself, and the risk factors relating to the products and services offered to the clients. Such policies are to include, as a minimum, the following risk factors:

- a) country of origin of the client/majority owner/beneficial owner being the client, regardless of whether or not the country is found: on the list of non-cooperative countries and territories issued by an international authority for control and prevention of money laundering; on the list of countries specified as offshore zones or uncooperative countries compiled and updated by the Financial Intelligence Department; or on the list of countries that the bank considers unsafe on the basis of own assessments;
- b) the country of origin of persons that conduct transactions with the client, regardless of the country's position on the lists referred to in indent a) above;
- c) the client/majority owner/beneficial owner, as well as the persons conducting transactions with the client imposed the measures to restore international peace and security in accordance with United Nations Security Council Resolutions and the Council of Europe;
- d) unknown or unclear origin of the client's means as well as the means the origin of which cannot be evidenced by client;
- e) suspicion that the client does not act on its own account but upon the orders or instructions of a third party;
- f) unusual flow of transactions, especially if considering its ground, amount and manner of execution; the purpose for opening an account, as well as the client's activities – provided that the client is an entity conducting business activities;

- g) suspicion that the client's transactions may be related to money laundering and financing of terrorist activities;
- h) the client is a politically exposed person;
- i) accounts of other persons associated with the client;
- j) peculiarity of tasks that the client performs.

These requirements are also set for the leasing providers (LPs) and micro-credit organizations (MCOs) within Article 5 of the Decision on LPs/Decision on the MCOs stating that a special attention in determining a client's eligibility must be paid to the country of the client's origin.

(b) Observations on the implementation of the article

The answer provided is sufficient.

(c) Challenges in implementation

Strengthen mechanisms on the level of reporting, by both banking and non-banking sectors. (Art 52).

Ensure that all reporting entities, including non-financial, use the screening tools in order to assess the customers risks (art. 52 par. 2).

Paragraph 3 of article 52

3. In the context of paragraph 2 (a) of this article, each State Party shall implement measures to ensure that its financial institutions maintain adequate records, over an appropriate period of time, of accounts and transactions involving the persons mentioned in paragraph 1 of this article, which should, as a minimum, contain information relating to the identity of the customer as well as, as far as possible, of the beneficial owner.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Law on Prevention of Money Laundering and Financing of Terrorist Activities provides in its Article 54 (Content of the Records) obligatory records keeping on conducted procedures for identification and monitoring of a client referred to in Article 7 of the Law.

The Law's Article 77 (Obligatory Period to Keep the Data by the Obligated Entity) provides that the obliged entity is to keep the information, data and documents obtained in accordance with this Law

relating to the client, the business relationship they established, and transactions the client had conducted for a period not lesser than 10 years from the date/moment when the business relationship was terminated, transaction executed, the client was identified at a casino/an entertainment room or when the client accessed the safe.

While the elements of identification and monitoring are provided by Article 7, the identification method is set by Articles 10 (Physical Entity), 11 (Legal Entity), 12 (Representative of a Legal Entity), 13 (Assignee) and 14 (Other Legal Entities). Specific cases (such is safekeeping) of the identification and establishment of a client's identity as well as of the beneficial owner are set by the Law's Articles 15 and 16. The content of records on conducted procedure of identification and monitoring of clients and transactions is prescribed by the Law's Article 54 (Content of the Records).

The Decision on Minimum Standards of the Banking Activities to Prevent Money Laundering and Financing of Terrorist Activities sets in its Article 35 the obligation that the data and documentation based on which the client's identification was verified as well as the documentation on all the transactions performed by the client, and his/her relation with other clients, are separated by the type and kept in the manner and within the timeframe prescribed by applicable laws. The manner and extent of the identification is defined by the Chapter III - the Policy of a Client's Identification (Art. 9-24).

The obligation to keep the data and documentation based on which the client's identification was verified as well as the documentation on all the transactions performed by the client and his/her relation with the other clients is also set for micro-credit organizations (MCOs) and leasing providers (LPs) through Article 27 of the Decision on MCOs and Article 27 of the Decision on LPs, which are to be separated by the type, and kept in the manner and within the timeframe prescribed by applicable laws.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

(b) Observations on the implementation of the article

The answer provided is sufficient subject to the provision of court or other cases and statistics.

Paragraph 4 of article 52

4. With the aim of preventing and detecting transfers of proceeds of offences established in accordance with this Convention, each State Party shall implement appropriate and effective measures to prevent, with the help of its regulatory and oversight bodies, the establishment of banks that have no physical presence and that are not affiliated with a regulated financial group. Moreover, States Parties may consider requiring their financial institutions to refuse to enter into or continue a correspondent banking relationship with such institutions and to guard against establishing relations with foreign financial institutions that permit their accounts to be used by banks that have no physical presence and that are not affiliated with a regulated financial group.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Law on Prevention of Money Laundering and Financing of Terrorist Activities provides in its Article 36 (Prohibition of business with shell banks) that the obliged entity will not open, issue or continue a banking relationship with a correspondent bank that operates or may operate as a shell bank or another similar credit institution known for allowing the use of accounts of fictitious banks.

This matter is also regulated through the Law's Article 24 (Correspondent relationship with banks and other financial institutions seated abroad).

The Decision's Article 18 (Correspondent banking relationships) on business relationships with banks or similar credit institutions seated abroad reads as follows: "Whenever an international transaction is conducted over a network of banks or similar credit institutions based abroad through established correspondent relations as well as in case that such activities are conducted in the country on behalf of the banks or similar credit institutions seated abroad (respondent relations), the banks shall undertake intensified measures of identification and monitoring of the business relationships to suppress their being drawn into keeping and/or transferring the means linked to money laundering and/or financing of terrorist activities."

In this regard, the banks are obliged to collect the necessary information about their correspondent and respondent banks in order to fully learn the nature of their businesses.

Obligatory information and factors to be collected:

1. location (country) in which the Bank is seated;
2. its management;
3. main business activities;
4. efforts to prevent money laundering and financing of terrorist activities, as well as adequate policies for accepting their clients and the degree to which they know their clients;
5. purpose or goal of established business relationship;
6. identity of third parties that use this type of service;
7. banking regulations and supervision in the bank's host country, etc.

The banks are allowed to establish such kind of business relations only with banks from other countries having in place appropriate institutions for efficient supervision of the banks. A bank is not allowed to establish a business relationship with a "shell bank" and must develop procedures to prevent the establishment of business relationships with banks known for allowing the use of its accounts by "shell banks". The banks are obliged to suppress the risk of such accounts being directly used by third parties for activities of own benefit. A particular attention is to be paid to the payable-through accounts kept for the foreign banks to avoid a situation in which a sub-account holder has direct access to the accounts and carries transactions (issuing checks, taking/paying the funds, etc.), without being subject to the identification procedure and monitoring while opening an account or establishing this type of business relationship. On the other hand, the respondent bank is obliged to

provide relevant information on identification and monitoring of a sub-account holder when so requested by the other bank.

(b) Observations on the implementation of the article

The answer provided is sufficient.

Paragraph 5 of article 52

5. Each State Party shall consider establishing, in accordance with its domestic law, effective financial disclosure systems for appropriate public officials and shall provide for appropriate sanctions for non-compliance. Each State Party shall also consider taking such measures as may be necessary to permit its competent authorities to share that information with the competent authorities in other States Parties when necessary to investigate, claim and recover proceeds of offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

With respect to responsibilities of the State Investigation and Protection Agency and its Financial - Intelligence Department, the FID' scope of activities and jurisdiction was already elaborated within the on "politically exposed persons". Yet, whenever the FID suspects money laundering associated with corruption, it can also establish an international cooperation with foreign Financial-Intelligence Units and law enforcement agencies in a manner that was previously described.

For a better understanding of the matter, please also refer to relevant information presented in the Self-Assessment Report within the response relating to the Article 8 (5), Article 7 (4) and Article 52 (6).

The Law on Prosecutor's Office of Brcko District of BiH sets in its Article 19 that the Chief Prosecutor, Deputy Chief Prosecutor and Prosecutors in general are obliged to submit to the District Assembly own annual financial reports on total revenues, resources, assets and debts, as well as for their first degree relatives, with accompanying manner of acquisition of such resources.

The Law on Civil Servants and Employees of the Brcko District Judiciary sets in its Article 21 that a civil servant or employee to be appointed or engaged through a contract on employment is to present a written data on his/her entire property, as well as the property of his/her immediate family members. All the data are kept as personal files and their public disclosure is subject to the general rules on personal data provided by the Law on Protection of Personal Data.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Please refer to statistical data presented in the answer to question no. 3 relating to Article 14, paragraph (1), indent a).

(b) Observations on the implementation of the article

The answer provided is sufficient.

(c) Challenges in implementation

Consider establishing effective asset disclosure systems for appropriate public officials in the Federation of Bosnia and Herzegovina, Republika Srpska, and Brčko District. Put in place appropriate sanctions for non-compliance, and consider putting in place procedures for sharing the declarations with competent domestic and international law enforcement authorities at all four jurisdictional levels.

Paragraph 6 of article 52

6. Each State Party shall consider taking such measures as may be necessary, in accordance with its domestic law, to require appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts. Such measures shall also provide for appropriate sanctions for non-compliance.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The BiH Election Law (“The BiH Official Gazette” no. 23/01, 7/02, 09/02, 20 / 02,25 / 02, 04/04, 20/04 25/05, 52/05, 77/05, 11 / 06, 24/06, 32/07, 33/08, 37/08, 32/10, 18/13, 14/07 and 31/16) prescribes that the officials elected in the direct elections are to deliver the declarations of assets. Article 15.7 and 15.8 of the BiH Election Law sets that the candidates elected at all levels of government are required to submit to the Central Election Commission a signed statement written on a special form declaring his/her total property situation to include:

- 1) current income and sources of income, including all incomes, wages, profit from property, receivables and other incomes acquired during the previous calendar year in Bosnia and Herzegovina and abroad;

- 2) assets, including cash, bank accounts, business documentation, shares, securities, bonds, real estate, personal property, occupancy right(s) and other property and possessions over 5,000 BAM in Bosnia and Herzegovina and abroad;
- 3) expenses and other liabilities, including all debts, liabilities, promissory notes, loans and guarantees of such liabilities in Bosnia and Herzegovina and abroad;
- 4) and the property situation of the candidate's immediate family members: spouse, children and household members that the candidate is legally obliged to sustain.

All the interested parties, individuals, media and non-governmental organisations may request from the Central Election Commission to have an insight to the Statement on the candidate's income.

The Central Election Commission of Bosnia and Herzegovina would initiate an administrative proceedings to establish the responsibility of a political entity or a candidate elected at any level of government who failed to provide a statement on total property situation within 30 days of the publication of his/her mandate in the BiH Official Gazette, as well as in case of failed provision of such statement within 30 days after the expiration of the term for which he/she was elected.

In case a statement on property situation is omitted, the BiH Central Election Commission would follow Article 19.9 paragraph (1) indent r) and Article 19.10 of the Election Law of Bosnia and Herzegovina to penalise:

- a political entity in amount varying from 1.000,00 BAM to 10.000,00 BAM for failing to submit a declaration on the total property situation at the provided form (Articles 15.7 and 15.8) within 30 days from the day of publishing his/her verified mandate in "The BiH Official Gazette".
- a candidate elected at any level of government in amount varying from 300,00 BAM to 3.000,00 BAM for failing to submit:
 - a) a declaration on the total property situation under the Law's Article 15.7 at the form under Article 15.8, paragraph (1) within 30 days from the day of publishing his/her verified mandate in "the BiH Official Gazette", and
 - b) a declaration on the total property situation (Article 15.8, paragraph (2)) within 30 days from the day of expiry of his/her elected mandate as well as in case of cessation of his/her mandate in sense of Article 1.10 paragraph (1), items 1), 3), 5), 6) and 7) of this Law.

Pursuant to Article 15.9 of the BiH Election Law, the BiH Central Election Committee is not responsible for veracity of the data contained in the form on the property situation.

For a better overview, please also refer to the information presented in this Self-Assessment Report within the answer relating to Article 8 (5) and Article 7 (4).

(b) Observations on the implementation of the article

The answer provided is sufficient.

Article 53. Measures for direct recovery of property

Subparagraph (a) of article 53

Each State Party shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit another State Party to initiate civil action in its courts to establish title to or ownership of property acquired through the commission of an offence established in accordance with this Convention;

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Criminal Code of Bosnia and Herzegovina (“The BiH Official Gazette“, no. 3/03, 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06, 32/07, 8/10, 47/14, 22/15, 40/15):

Article 110

The Basis for Confiscation of Property Gain

- (1) Nobody is allowed to retain property gain, income, profit or other form of benefit from the property gain acquired by the perpetration of a criminal offence.
- (2) Property gain, profit or other form of benefit from the property gain referred to in paragraph (1) of this Article shall be confiscated by the court decision, which established the perpetration of a criminal offence, under the terms set forth under this Code.

Article 110a

Expanded Confiscation of Property Gain Acquired Through Perpetration of Criminal Offence

- (1) In cases of criminal proceedings for criminal offences referred to in chapters XVII, XVIII, XIX, XXI, XXI A and XXII of this Code, the court can also decide, on basis of Article 110 paragraph (2), to order confiscation of property gain, income, profit or other form of benefit from the property gain for which the prosecutor provides sufficient evidence that there is reasonable suspicion that it was acquired through execution of these criminal offences, and the accused person did not provide evidence to prove that the property gain, income, profit or other form of benefit from the property gain was acquired legally.
- (2) When legal conditions for confiscation of property gain, income, profit or other form of benefit from the property gain acquired through commission of a crime in criminal proceedings are not fulfilled, a request for confiscation may be filed in civil proceedings.

The Criminal Procedure Code of Bosnia and Herzegovina (“The BiH Official Gazette”, no. 3/03, 32/03, 36/03, 26/04, 63/04, 13/05, 48/05, 46/06, 76/06, 29/07, 32/07, 53/07, 76/07, 15/08, 58/08, 12/09, 16/09, 93/09, 72/13):

CHAPTER XVII - CLAIMS UNDER PROPERTY LAW

Article 193

Subject of the Claim under Property Law

- (1) A claim under property law that has arisen because of the commission of a criminal offense shall be deliberated on the motion of authorized persons in criminal proceedings if this would not considerably prolong such proceedings.
- (2) A claim under property law may pertain to reimbursement of damage, recovery of items, or annulment of a particular legal transaction.

Article 194

Petition to Satisfy a Claim under Property Law

- (1) The petition to satisfy a claim under property law in criminal proceedings may be filed by the person authorized to pursue that claim in a civil action.
- (2) If a criminal offense has caused damage to the property of the State of Bosnia and Herzegovina, there is a body empowered by law to protect such property.

Article 195

Procedure for Satisfaction of a Claim under Property Law

- (1) A petition to pursue a claim under property law in criminal proceedings shall be filed with the Prosecutor or Court.
- (2) The petition may be submitted no later than the end of the main trial or sentencing before the Court.
- (3) The person authorized to submit the petition must state his claim specifically and must submit the evidence.
- (4) If the authorized person has not filed the petition to pursue his claim under property law in criminal proceedings before the indictment is confirmed, he shall be informed that he may file that petition by the end of the main trial or sentencing. If a criminal offense has caused damage to the property of the State of Bosnia and Herzegovina, and no petition has been filed, the Court shall so inform the body referred to in Article 194, Paragraph 2 of this Code.
- (5) If the authorized person does not file the claim under property law until the end of the main trial or if he requests a transfer to civil action, and the data concerning the criminal proceedings provide a reliable grounds for a complete or partial resolution of the claim under property law, where the Court shall decide in the convicting verdict to pronounce on the accused the measure of forfeiture of property gain.

The BiH Civil Procedure Code (“The BiH Official Gazette“, no. 36/04, 84/07, 58/13):

Article 1

- (1) This Law defines the rules of proceedings before the Court of Bosnia and Herzegovina (hereinafter: the Court) in settling the property claims (in a civil procedure) between Bosnia and Herzegovina as the state (hereinafter: the State) and its Entities, between the State and the Brcko District of Bosnia and Herzegovina (hereinafter: the District), between the Entities themselves, between an Entity and the District, as well as between the institutions of Bosnia and Herzegovina having public authorities.
- (2) Provisions of this law shall also apply to the property claims stemming from a damage occurred while performing tasks within bodies of administration of Bosnia and Herzegovina, other institutions of Bosnia and Herzegovina, as well as to the officials of such bodies and institutions.
- (3) Provisions of this law shall also apply to the other property claims being in competence of the Court pursuant to the laws of Bosnia and Herzegovina or international agreements.

Additional to the legal solutions provided by the BiH Criminal Code and the BiH Criminal Procedure Code, this matter is also settled under laws of the Entities and the Brcko District. For additional clarifications, please also refer to the following laws:

- The Criminal Code of Republika Srpska (“The RS Official Gazette” no. 49/03, 108/04, 37/06, 70/06, 73/10, 1/12 and 67/13) – Article 94 (The Grounds for Forfeiture of Proceeds of Crime);
- The Criminal Code of the Federation of Bosnia and Herzegovina (“The F BiH Official Gazette”, No. 36/03, 37/03, 21/04, 69/04, 18/05, 42/10, 42/11, 59/14, 76/14 and 46/16) – Article 114 (The Grounds for Forfeiture of Proceeds of Crime) and Article 114a. (Expanded Confiscation of Material Gain Acquired Through Perpetration of a Criminal Offence);
- The Criminal Code of the Brcko District of Bosnia and Herzegovina (“The BD Official Gazette”, no. 33/13 and 26/16) – Article 114 (The Grounds for Confiscating Material Gain Acquired Through Perpetration of Criminal Offence) and Article 114a. (Expanded Confiscation of Material Gain Acquired Through Perpetration of Criminal Offence);
- The Criminal Procedure Code of Republika Srpska („The RS Official Gazette” no. 53/12) – Article 103 (Subject of Property Claim), Article 104 (Filing a Property Claim) and Article 105 (The Property Claim Procedure);
- The Criminal Procedure Code of the Federation of Bosnia and Herzegovina (“The F BiH Official Gazette”, no. 35/03, 37/03, 56/03, 78/04, 28/05, 55/06, 27/07, 53/07, 9/09, 12/10 and 8/13) – Article 207 (Subject of the Property Claim), Article 208 (Filing a Property Claim) and Article 209 (The Property Claim Procedure);
- The Criminal Procedure Code of the Brcko District of Bosnia and Herzegovina (“The BD Official Gazette”, no. 33/13 and 27/14) – Article 193 (Subject of the Claim under Property Law), Article 194 (Petition to Satisfy a Claim under Property Law) and Article 195 (Procedure for Satisfaction of a Claim under Property Law).

English translation of the Criminal Codes and the Criminal Procedure Codes being in force in BiH can be found on the following link:

<http://www.legislationline.org/documents/section/criminal-codes/country/40>

The Law on Forfeiture of Proceeds of Criminal Offences in the Federation of BiH (“The Federation of BiH Official Gazette” no. 71/14) sets the conditions and procedures for forfeiture of property gain acquired through criminal offence in the Federation of Bosnia and Herzegovina, as well as the management of temporarily and permanently confiscated property.

The Law on Confiscation of Illegally Acquired Property in the Brcko District (“The BD Official Gazette” No. 29/16) sets the conditions and procedures for: determining and confiscation of property gained through criminal or illegal activities with objective characteristics of an offence; insurance of the illegally gained property; execution of decisions on confiscation of illegally gained property; management of the illegally gained property, as well as the property the legality of which is yet to be determined. This District Law sets the main principles in its Article 3, and tackles the matters of the implementation in its Article 4. Law is being implemented as of 1st January 2017.

With respect to this matter, we have also attached the following relevant legislation:

- a) The Law on Criminal Assets Recovery of Republika Srpska (“The RS Official Gazette” no. 12/10);
- b) The Law on Forfeiture of Illegally Acquired Assets of the Brcko District of BiH (“The BD Official Gazette” no. 29/16)
- c) The Law on Forfeiture of Proceeds of Criminal Offences in the Federation of BiH (“The F BiH Official Gazette” no. 71/14)

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Please refer to the examples of court cases presented in the answer to question no. 3 relating to Article 14, paragraph (1) indent a).

(b) Observations on the implementation of the article

The answer provided is sufficient.

Subparagraph (b) of article 53

Each State Party shall, in accordance with its domestic law: ...

(b) Take such measures as may be necessary to permit its courts to order those who have committed offences established in accordance with this Convention to pay compensation or damages to another State Party that has been harmed by such offences; and

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Criminal Procedure Code of Bosnia and Herzegovina tackles this matter in Chapter XVII (Claims under Property Law) under: Article 193 (Subject of a Claim under Property Law), Article 194 (Petition to Satisfy a Claim under Property Law), Article 195 (Procedure for Satisfaction of a Claim under Property Law). The text of the BiH Law on Criminal Procedure's Article 193, Article 194 and Article 195 is presented in this Self-Assessment Report under the answer relating to Article 53 indent a).

Additional to the legal solutions defined by the BiH Criminal Procedure Code, this field is also settled by the Entity Criminal Procedure Codes and the Brcko District Criminal Procedure Code. For a better insight, please also refer:

- The Criminal Procedure Code of Republika Srpska ("The RS Official Gazette", no. 53/12) – Article 103 (Subject of a Property Claim), Article 104 (Filing a Property Claim) and Article 105 (Property Claim Procedure);
- The Criminal Procedure Code of the Federation of Bosnia and Herzegovina ("The FBiH Official Gazette", no. 35/03, 37/03, 56/03, 78/04, 28/05, 55/06, 27/07, 53/07, 9/09, 12/10 and 8/13) – Article 207 (Subject of a Property Claim), Article 208 (Filing a Property Claim), and Article 209 (Property Claim Procedure);
- The Criminal Procedure Code of the Brcko District of Bosnia and Herzegovina ("The BD Official Gazette", no. 33/13 and 27/14) – Article 193 (Subject of a Claim under Property Law), Article 194 (Petition to Satisfy a Claim under Property Law), and Article 195 (Procedure for Satisfaction of a Claim under Property Law).

English translation of the Criminal Procedure Codes being force in Bosnia and Herzegovina can be found on the following link: <http://www.legislationline.org/documents/section/criminal-codes/country/40>.

(b) Observations on the implementation of the article

The answer provided is sufficient.

Subparagraph (c) of article 53

Each State Party shall, in accordance with its domestic law: ...

(c) Take such measures as may be necessary to permit its courts or competent authorities, when having to decide on confiscation, to recognize another State Party's claim as a legitimate owner of property acquired through the commission of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance

with this provision of the Convention.

The Law on Execution of Criminal Sanctions, Detentions and Other Measures (*the official consolidated text*, “The BiH Official Gazette“, no: 22/16)

Chapter XI – Execution of Measures of Confiscation of Property Gain Acquired Through an Offence:

Article 246

(The Procedure)

- (1) In relation to the competencies and procedures for the confiscation of material gain, the provisions of the Law on Enforcement Procedure of Bosnia and Herzegovina shall apply, unless otherwise provided under this Law.
- (2) The Criminal Division of the Court shall institute, ex officio, the procedure for the execution of decisions on confiscation of material gain.

Article 249

(Credit to Budget of Bosnia and Herzegovina)

(1) The confiscated material gain expressed in cash, securities etc. shall be credited towards the Budget of the Institutions of Bosnia and Herzegovina and utilized in accordance with the Law on Budget Execution, whereas the movable and/or real-estate property will be sold in accordance with the existing regulations. The funds obtained in such a way shall be credited towards the Budget. If in property, it shall be given for use to social policy or education organizations or state bodies, etc. In such case, the court shall, whenever possible, conduct necessary consultations prior to issuing the Decision on the confiscation of the property acquired by the commission of the criminal offense to decide and state in the enacting clause of the Decision the name of the institution to become the property’s beneficiary.

(2) If an injured party is subsequently awarded a positive response upon a claim for settlement of confiscated gain, the Ministry of Treasury and Finance shall pay to the injured party the amount that was established.

International Legal Assistance (ILA): Amendments to the Law on International Legal Assistance in Legal Matters intend to introduce a mechanism for transferring the confiscated property to a Requesting State. The details on transferring such property are subject to an agreement with INTERPOL, and followed in a manner that the confiscated property is handed to the competent authorities of the Requesting State.

The Law on Execution of Criminal Sanctions, Detentions and Other Measures in the Brcko District of Bosnia and Herzegovina (“The Official Gazette of the Brcko District of BiH“, no: 31/11)

Article 67

(The Procedure)

- (1) In relation to the competencies and procedures for the confiscation of material gain, the provisions of the Law on Enforcement Procedure of Brcko District of BiH shall apply, unless otherwise provided under this Law.

(2) The Criminal Division of the Court shall ex officio institute procedures for execution of decisions on confiscation of material gain.

Article 68

(Confiscation Pronounced to Legal Entity)

The confiscation of material gain from companies or other legal entities that was pronounced in criminal proceedings shall be executed pursuant to the provisions on enforcement of protective measures for confiscation of material gain.

Article 69

(Undertaking Control over Property of the Other Legal Entity)

In case an enterprise or other legal entity terminates or loses the title of a legal entity after the decision on confiscation of the material gain of the enterprise or other legal person becomes final, the procedure of confiscating the material gain shall be executed against that legal entity which has taken over the property to the value amounting to the value of the taken property.

Article 70

(Incomes of the Budget of the Brcko District of Bosnia and Herzegovina)

- (1) The confiscated material gain expressed in cash, securities etc. shall be credited towards the budget of the Brcko District of Bosnia and Herzegovina and utilized in accordance with the Law on the Budget's Execution.
- (2) Movable and/or real property will be sold in accordance with the existing regulations.
- (3) In case the movable and immovable property cannot be sold, it shall be given for use to organizations dealing with social or education policy, state bodies, etc.
- (4) The District shall pay to the injured party the established amount if the claim for settlement from the confiscated gain is subsequently awarded to the injured party.

The Law on Forfeiture of Illegally Acquired Assets of the Brcko District of BiH ("The Official Gazette of Brcko District of BiH" no. 29/16)

Article 24

(Enforcement proceedings)

- (1) Unless otherwise provided under this Law, the execution due to forfeiture of the illegally acquired assets shall be determined and carried out at the proposal of the District's Public Defender, in accordance with the Law on Execution Procedure of the District.
- (2) The District Basic Court, which rendered the judgment under Articles 6 and 10 hereof, shall be competent for making decision on the basis of the judgment by which illegally acquired assets are forfeited as well as for making other decisions in that procedure.
- (3) The Court shall be responsible for the enforcement stemming from the decision referred to in paragraph (2) of this Article.

The Law on Forfeiture of Proceeds of Criminal Offences in the Federation of BiH (“The Official Gazette of the Federation of BiH” no. 71/14)

Article 24

- (1) Unless otherwise provided under this Law, the execution for the purpose of forfeiting criminal proceeds shall be decided and conducted upon the motion of the FBIH Public Attorney’s Office in accordance with the Law on Executive Procedure in the Federation of BiH.
- (2) Municipal court having territorial jurisdiction in the seat of the court that had rendered the judgment referred to in Articles 6 and 10 of this Law shall be competent to issue decisions on execution based on the verdict to forfeit criminal proceeds and issue other decisions in such proceeding.
- (3) The court shall have the competence to carry out execution referred to in paragraph (2) of this Article.
- (4) The court shall fully or partially entrust the Agency to carry out the execution as referred to in paragraph (2) of this Article.

(b) Observations on the implementation of the article

The answer provided is sufficient.

Article 54. Mechanisms for recovery of property through international cooperation in confiscation

Subparagraph 1 (a) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State Party;

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The BiH Criminal Code's Article 110 (The Ground for Confiscation of Property Gain). Full text of Article 110 is presented in the Self-Assessment Report under the answer on Article 53 Indent a).

For a better understanding of the matter, you are kindly invited to also refer to relevant information presented in the first round of the UNCAC's Self-Assessment Report within the response relating to the Article 31.

Additional to legal solutions provided in the BiH Criminal Code, this matter is also settled through Criminal Codes of the Entities and of the BiH Brcko District. For a better understanding of the matter, you are kindly invited to refer to the following legislation:

- The Criminal Code of Republika Srpska ("The RS Official Gazette" no. 49/03, 108/04, 37/06, 70/06, 73/10, 1/12 and 67/13) – Article 94 (Grounds for the Forfeiture of Proceeds of Crime);
- The Criminal Code of the Federation of Bosnia and Herzegovina ("The F BiH Official Gazette", no. 36/03, 37/03, 21/04, 69/04, 18/05, 42/10, 42/11, 59/14, 76/14 and 46/16) – Article 114 (Grounds of Forfeiture of Proceeds of Crime);
- The Criminal Code of the Brcko District of Bosnia and Herzegovina ("The BD Official Gazette", no. 33/13 and 26/16) – Article 114 (Grounds for Confiscating Material Gain Acquired Through Perpetration of Criminal Offence);

English translation of the Criminal Codes being in force in BiH may be found on the following link: <http://www.legislationline.org/documents/section/criminal-codes/country/40>

The RS Agency for Management of Seized Property: Direct implementation of an Order on Confiscation or Permanent Seizure of the Proceeds of Offence cannot be done prior to a procedure conducted before a local Court. The Law on Confiscation of Property Gain Acquired by Perpetration of an Offence includes the international cooperation in provision of legal assistance while confiscating the illegally gained property. A request for confiscation of property gain acquired by perpetration of offence may be sent by a foreign authority, yet it needs to be accompanied with the relevant Court's Decision on permanent confiscation of property from a particular person.

The Law on Forfeiture of Illegally Acquired Assets of the Brcko District of BiH ("The BD Official Gazette" no. 29/16)

Article 32

(Cooperation with Other Authorities)

- (1) Throughout its work, the Office shall establish necessary cooperation with the competent authorities in Bosnia and Herzegovina in proceedings of international legal assistance with a view to forfeiture of the illegally acquired assets.
- (2) The decisions of the competent authorities in Bosnia and Herzegovina pursuant to the Law on international legal assistance in criminal matters, ordering the temporary forfeiture of items or material gain and their handover to foreign judicial authorities shall be submitted optionally to the Office for execution, as required.
- (3) The provisions of paragraph (2) of this Article shall be properly applied to decisions of the competent authorities in Bosnia and Herzegovina by which foreign judgments are recognized and enforced, if these decisions contain a measure of forfeiture of the illegally acquired assets.

The law on forfeiture of proceeds of criminal offences in the Federation of Bosnia and Herzegovina ("The F BiH Official Gazette", no. 71/14)

Article 37

- (1) Throughout its work, the Agency shall establish necessary cooperation with relevant bodies in Bosnia and Herzegovina in proceedings involving mutual legal assistance for the purpose of temporary or permanent forfeiture of criminal proceeds.
- (2) Decisions made by relevant institutions in Bosnia and Herzegovina pursuant to the Law on Mutual Legal Assistance in Criminal Matters, ordering temporary forfeiture of items or proceeds and its handover to international judicial bodies, shall be forwarded to the Agency for execution, as required.
- (3) The assistance referred to in paragraph (2) of this Article shall also be applied accordingly to decisions of relevant bodies in Bosnia and Herzegovina which recognise and execute international court decisions, if such decisions contain the measure on forfeiture of criminal proceeds.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

You are kindly invited to refer to relevant information presented in the Self-Assessment Report's response no. 3 relating to the Article 14 (1) a).

(b) Observations on the implementation of the article

The answer provided is sufficient.

(c) Challenges in implementation

- Adopt the necessary measures to allow confiscation for all Convention's offences, and take measures to allow the direct enforcement of foreign judgments and orders for confiscation at State level.
- Continue efforts to put in place a mechanism for transfer of confiscated assets to requesting countries.

Subparagraph 1 (b) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

...

(b) Take such measures as may be necessary to permit its competent authorities, where they have jurisdiction, to order the confiscation of such property of foreign origin by adjudication of an offence of money-laundering or such other offence as may be within its jurisdiction or by other procedures authorized under its domestic law; and

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Criminal Code of Bosnia and Herzegovina: Article 110 (The Basis of the Confiscation of Property Gain). The text of the Article 110 of the Criminal Code of Bosnia and Herzegovina is presented in response to Article 53, indent a) of this Self-Assessment Report.

For a better insight, please also refer to the answer relating to Article 54, paragraph (1), indent a) of this UNCAC Self-Assessment Report.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Please see examples of case law presented in response to a question 3 relating to Article 14, paragraph (1) indent a).

(b) Observations on the implementation of the article

The answer provided is sufficient.

Subparagraph 1 (c) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

...

(c) Consider taking such measures as may be necessary to allow confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Criminal Code of Bosnia and Herzegovina: Article 110a. (Expanded Confiscation of Property Gain Acquired Through Perpetration of Criminal Offence). The text of the Article 110a of the Criminal Code of Bosnia and Herzegovina is presented in response to Article 53, indent a) of this Self-Assessment Report.

FMoI _ FUP (Federal Police Administration): Law on Forfeiture of Proceeds of Criminal Offences of the Federation of Bosnia and Herzegovina ("The Official Gazette of the Federation of Bosnia and Herzegovina", No. 71/14 from September 3, 2014) - Articles 5, 6 and 7, stipulates a special procedure for forfeiture of property in cases where the offender cannot be prosecuted. A copy of the law enclosed.

In addition to the legal provisions stipulated in the Criminal Code of BiH, the same provisions also prescribed in both Entities Criminal Codes and the Criminal Code of Brčko District. For more comprehensive insight, please refer to the:

- The Criminal Code of Republika Srpska („Official Gazette of Republika Srpska” No. 49/03, 108/04, 37/06, 70/06, 73/10, 1/12 and 67/13) - Article 94. (The Basis of the Forfeiture of Proceeds of Crime);
- The Criminal Code of Federation of Bosnia and Herzegovina (“Official Gazette of Federation of BiH”, No. 36/03, 37/03, 21/04, 69/04, 18/05, 42/10, 42/11, 59/14, 76/14 and 46/16) - Article 114a. (Expanded Confiscation of Material Gain Acquired Through Perpetration of a Criminal Offence);
- The Criminal Code of Brčko district of Bosnia and Herzegovina (“Official Gazette of Brčko district of BiH”, No. 33/13 and 26/16) - Article 114a. (Expanded Confiscation of Material Gain Acquired Through Perpetration of Criminal Offence);

The special procedure is defined in the Article 5 (Special procedure) of the Law on forfeiture of illegally acquired assets of Brčko district of BiH (published in Official Gazette of Brčko district of BiH No. 29/16)

For English translation of the text of the Criminal Code in force in Bosnia and Herzegovina, please visit the following link: <http://www.legislationline.org/documents/section/criminal-codes/country/40>

Agency for Management of Seized Assets of Republika Srpska: According to the Law on Seizure and Confiscation of the Proceeds of Crime, a financial investigation is initiated against the owner of the property where there are reasonable grounds to believe that his/her property is acquired by commission of a criminal offense. The financial investigation includes collection of evidence on assets and income of the legitimate owner of property acquired or achieved before initiating criminal proceedings for the criminal offense under Article 2 of this law, evidence on property inherited by a legal successor and evidence on property and compensation for assets transfer to a third party. The owner is considered to be a perpetrator of the crime or a person associated with him/her, the testator, and legal successor or a third party. Testator is a person against whom criminal proceedings have not been initiated or have been terminated, as a result of death; while in the criminal proceedings pending against other persons it was found that he/she had a property acquired by the criminal offense. Consequently, the property of the person against whom criminal proceedings have not been initiated or have been terminated due to death, may be subject to seizure or permanent confiscation of proceeds of crime. In this case the legal successor is a person subject to confiscation of proceeds of crime. Under the Law on Seizure and Confiscation of the Proceeds of Crime, a legal successor involves a successor of the testator.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

(b) Observations on the implementation of the article

[Observations of the governmental experts with regard to the implementation of the article. Depending on the scope of the review cycle, findings with respect to the way in which national law has been brought into line with the article, as well as to the implementation of the article in practice.]

[Observations on the status of implementation of the article, including successes, good practices and challenges in implementation.]

The answer provided is sufficient.

(c) Challenges in implementation

Consider including the absence of defendants as a basis for exercising non-conviction based forfeiture in the Federation of Bosnia and Herzegovina.

Subparagraph 2 (a) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order issued by a court or competent authority of a requesting State Party that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article;

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

A special Section in the Criminal Procedure Code of Bosnia and Herzegovina (hereinafter: CPC BiH), regulates *the temporary seizure of objects and property*.

A temporary seizure of objects and property (Art. 65-74) is a specific proving activity of investigation which may be conducted prior to investigation, as an urgent investigative action (Article 66 in conjunction with Article 218). Pursuant to the provisions of Article 66, objects subject to seizure which may serve as an evidence in a criminal proceeding, may be temporarily seized even without a Court order, if there is a risk of delay and if such a danger can be eliminated by temporary seizure without a Court order.

According to explicit legal regulations, a temporary seizure of objects and property includes : temporary seizure of objects to be temporarily seized (Article 65(1)), temporary seizure of objects that may serve as evidence in criminal proceedings (Article 65(1)), collection of data stored in computers or similar Automated Data Processing devices (Article 65 (6)), temporary seizure of letters, telegrams and other consignments (Article 67), temporary seizure of documents (Article 68 (1)), submission of data on bank deposits and other financial transactions of a specific person (Article 72 (1)), temporary suspension of specific financial transaction execution (Article 72 (5)), and temporary seizure to secure property (Article 73).

Pursuant to the law in force, a forfeiture is envisaged as a security measure in relation to the objects that were used or were intended for committing the criminal offense or resulting from its commission, involving a danger that they will be re-used for commission of the criminal offense; or their forfeiture seems absolutely necessary (Article 74) to protect the public safety or for moral reasons, subject to assessment on a case-by-case basis, i.e., taking into account the specific circumstances of a committed crime. Regulations on temporary seizure of objects also apply to data stored in computers or Automatic Data Processing Devices, which enable permanent storage of data and programs for the purpose of their subsequent use (Article 65 (6)). The application of the rules mentioned in paragraph 5 of Article 65 provides procedural guarantees during the temporary seizure of a computer and related data. In the process of collection of these data, a particular attention must be paid to regulations relating to the protection of confidentiality of data to be obtained.

Article 65

Order for Seizure of Objects

(1) Objects that are the subject of seizure pursuant to the Criminal Code or that may be used as evidence in the criminal proceedings shall be seized temporarily and their custody shall be secured pursuant to a Court decision.

(2) The seizure warrant shall be issued by the preliminary proceedings judge on the motion of the Prosecutor or on the motion of authorized officials who have been approved by the Prosecutor. (3) The seizure warrant shall contain the name of the Court, legal grounds for undertaking the action of seizure of objects, indication of the objects that are subject to seizure, the name of persons from whom objects are to be seized, place where the objects are to be seized and a timeframe within which the objects are to be seized.

(4) The authorized official shall seize objects on the basis of the issued warrant.

(5) Anyone in possession of such objects must turn them over at the request of the preliminary proceedings judge. A person who refuses to surrender Articles may be fined in an amount up to 50.000 KM, and may be imprisoned if he persists in his refusal. Imprisonment shall last until the Article is surrendered or until the end of criminal proceedings, but no longer than 90 days. An official or responsible person in a state body or a legal entity shall be dealt with in the same manner.

(6) The provisions of Paragraph 5 of this Article shall also apply to the data stored in devices for automated or electronic data processing. In obtaining such data, special care shall be taken with respect to regulations governing the maintenance of confidentiality of certain data.

(7) An appeal against a decision on fine or on imprisonment shall be decided by the Panel. An appeal against the decision on imprisonment shall not stay execution of the decision.

(8) When Articles are seized, a note shall be made of the place where they were found, and they shall be described, and if necessary, establishment of their identity shall also be provided for in some other manner. A receipt shall be issued for Articles seized.

(9) Forceful measures referred to in Paragraph 5 and 6 of this Article may not be applied to the suspect or to persons who are exempt from the duty to testify.

Article 66

Seizure without the Seizure Warrant

(1) If there is a risk of delay, items referred to in Paragraph 1 of Article 65 of this Code may be seized even without the Court order. If the person affected by the search explicitly opposes the seizure of items, the Prosecutor shall, within 72 hours following the completion of the search, put forward to a preliminary proceedings judge a motion for a subsequent approval of the seizure of items.

(2) If the preliminary proceedings judge denies the Prosecutor's motion, the items seized may not be used as evidence in the criminal proceedings. The seized items shall be immediately returned to the person from whom they have been seized.

Article 218

Prosecutor Supervising the Work of the Authorized Officials

(1) If there are grounds for suspicion that a criminal offense has been committed that carries a prison sentence of more than five (5) years, an authorized official shall immediately inform the Prosecutor and shall under the Prosecutor's direction take the steps necessary to locate the perpetrator, to prevent the suspect or accomplice from hiding or fleeing, to detect and secure the clues to the criminal offense and objects which might serve as evidence, and to gather all information that might be of use for the criminal proceedings.

(2) If there are grounds for suspicion that the criminal offense referred to in Paragraph 1 of this Article has been committed, and the delay would pose a risk, an authorized official is obligated to carry out necessary actions in order to fulfil the tasks referred to in Paragraph 1 of this Article. When carrying out these actions, the authorized official is obligated to act in accordance with this Code. The authorized official shall be bound to inform the Prosecutor on all taken actions immediately and deliver the collected items that may serve as evidence.

(3) If there are grounds for suspicion that a criminal offense has been committed that carries a prison sentence of up to five (5) years, an authorized official shall inform the Prosecutor of all available information, actions and measures performed no later than seven (7) days after forming the grounds for suspicion that a criminal offense has been committed.

Article 72

Order Issued to a Bank or to another Legal Person

(1) If there are grounds for suspicion that a person has committed a criminal offense related to acquisition of material gain, the preliminary proceedings judge may at the motion of the Prosecutor issue an order to a bank or another legal person performing financial operations to turn over

information concerning the bank accounts of the suspect or of persons who are reasonably believed to be involved in the financial transactions or affairs of the suspect, if such information could be used as evidence in the criminal proceedings.

(2) Court may, on the motion of the Prosecutor, order that other necessary measures referred to in Article 116 of this Code be taken in order to enable the detection and finding of the illicitly gained property and collection of evidence thereupon.

(3) In case of an emergency, any of the above mentioned measures may be ordered by the Prosecutor on the basis of an order. The Prosecutor shall immediately inform the Court that shall issue a court warrant within 72 hours. In case the Court fails to issue the said order, the Prosecutor shall be bound to return such information without accessing it.

(4) The Court may issue a decision ordering a legal or physical person to temporarily suspend a financial transaction that is suspected to be a criminal offense or intended for the commission of the criminal offense, or suspected to serve as a disguise for a criminal offense or disguise of a gain obtained by a criminal offense.

(5) The decision referred to in the previous Paragraph shall order that the financial resources designated for the transaction referred to in Paragraph 4 of this Article and cash amounts of domestic or foreign currency be temporarily seized pursuant to Article 65 Paragraph 1 of this Code and be deposited in a special account and kept until the end of the proceedings or until the conditions for their return are met.

(6) An appeal may be filed against a decision referred to in Paragraph 4 of this Article by the Prosecutor, the owner of the cash in domestic or foreign currency, the suspect, the accused and the legal or physical person referred to in Paragraphs 4 and 5 of this Article.

Article 73

Temporary Seizure of Illicitly Gained Property and Arrest in Property

(1) At any time during the proceedings, the Court may, upon the motion of the Prosecutor, issue a temporary measure seizing the illicitly gained property under the Criminal Code of Bosnia and Herzegovina, arrest in property or shall take other necessary temporary measures to prevent any use, transfer or disposal of such property.

(2) If there is a risk of delay, an authorized official may temporarily seize property referred to in Paragraph 1 of this Article, may carry out an arrest in property or take other necessary temporary measures to prevent any use, transfer or disposal of such property. An authorized official shall immediately inform the Prosecutor about the measures taken and the preliminary proceedings judge shall decide about the measures taken within 72 hours.

(3) If the approval is denied, the measures taken shall be terminated and the objects or property seized returned immediately to the person from whom they have been seized.

Article 202

Temporary Security Measures

(1) Temporary measures to secure a claim under property law that has accrued because of the commission of a criminal offense may be ordered in criminal proceedings according to the provisions that apply to judicial enforcement procedure.

(2) The decision referred to in Paragraph 1 of this Article shall be made by the Court. Against this decision, an appeal is allowed, which shall be ruled on by the Panel referred to in Article 24 Paragraph 7 of this Code. The appeal shall not stay execution of the decision.

Article 204

Security Measures Against Third Parties

(1) If an injured party has a claim against a third person because he possesses items obtained through a criminal offense or because he gained property as a result of a criminal offense, the Court in criminal proceedings, upon the petition of authorized officials (Article 194) and according to the provisions that apply to judicial enforcement procedure, may order temporary security measures even toward that third party. The provisions of Article 202, Paragraph 2 of this Code shall apply in this case as well.

(2) In a verdict pronouncing the accused guilty the Court shall either revoke the measures referred to in Paragraph 1 of this Article, if they have not already been revoked, or shall refer the injured party to a civil action, in which case those measures shall be revoked unless the civil action is instituted within the period of time fixed by the Court.

Article 386

Security Measure

(1) In order to ensure enforcement of a punishment, forfeiture of property or forfeiture of property gain, the Court may order temporary security against a legal person, at the proposal of the Prosecutor. In this case, the provisions of Article 202 of this Code shall apply.

(2) If there is a legitimate fear that an offense will be repeated within an indicted legal person and that the legal person will be responsible and if there is a threat that an offense will be committed, the Court may in the same procedure, except for the measures from Paragraph 1 of this Article, impose a time restriction on the legal person to carry out one or more activities.

(3) When the criminal procedure is instituted against the legal person, the Court may, at the proposal of the Prosecutor, or ex officio, forbid status-related changes, the consequence of which would be deletion of the legal person from the Court registry. The decision on this ban is registered in the Court registry.

Article 392

Forfeiture of Property Gain Obtained by Commission of Criminal Offense

(1) The property gain obtained by commission of a criminal offense shall be established in a criminal procedure ex officio.

(2) The Prosecutor shall be obligated to collect evidence during the procedure and examine the circumstances that are important for the establishment of the property gain obtained by commission of a criminal offense.

(3) If the injured party submitted a claim under property law for repossession of items obtained through a criminal offense, or the amount that is equivalent to the value of such items, the property gain shall be established only in the part that is not included in the claim under property law.

Article 393

Procedure for Forfeiture of Property Gain Obtained by Commission of Criminal Offense

- (1) When the forfeiture of property gain obtained through a criminal offense is a possibility, the person to whom the property gain is transferred and the representative of the legal person shall be summoned to the main trial for hearing. They shall be warned in the subpoena that the procedure shall be conducted without their presence.
- (2) A representative of the legal person shall be heard at the main trial after the accused. The same procedure shall apply to the person to whom the property gain was transferred if that person is not summoned as a witness.
- (3) The person to whom the property gain is transferred as well as the representative of legal person shall be authorised to propose evidence in relation to the establishment of property gain and to question the accused, witnesses and expert witnesses upon approval by the judge or the presiding judge.
- (4) The exclusion of the public at the main trial shall not refer to the person to whom the property gain is transferred and the representative of the legal person.
- (5) If during the main trial the Court establishes that the forfeiture of property gain is a possibility, the Court shall adjourn the main trial and shall summon the person to whom the property gain was transferred, and a representative of the legal person.

Article 394

Establishment of Property Gain Obtained by Commission of Criminal Offense

The Court shall establish the value of property gain by a free estimate if the establishment would be linked to disproportional difficulties or a significant delay of the procedure.

Article 395

Temporary Security Measures

When the forfeiture of property gain obtained by commission of criminal offense is a possibility, the Court shall ex officio and under the provisions applicable to the judicial enforcement procedure define temporary security measures. In that case, the provisions of Article 202 of this Code shall apply.

Article 396

The Contents of the Decision That Pronounces a Measure of Forfeiture of Property Gain

- (1) The forfeiture of property gain obtained by commission of criminal offense may be pronounced by Court in a verdict by which the accused is declared guilty, in a ruling on application of a correctional measure and in a proceeding referred to in Article 389 of this Code.
- (2) In the pronouncement of the verdict or decision, the Court shall indicate what item or amount of money is to be forfeited.
- (3) A certified copy of the verdict or the ruling shall also be delivered to the person to whom the property gain is transferred and to the representative of the legal person, if the Court pronounced the forfeiture of property gain from that person.

Article 397

Request for a Renewed Procedure With Respect to the Measure of Forfeiture of Property Gain

The person referred to in Article 393 of this Code may file a request for a renewed criminal proceeding related to the decision on forfeiture of property gain obtained by commission of criminal offense.

Article 398

The Appropriate Application of the Provisions Regarding an Appeal

The provisions of Articles 294, Paragraphs 2 and 3 and Articles 302 and 317 of this Code shall be applied appropriately in reference to the appeal against the decision on forfeiture of property gain.

Article 399

The Appropriate Application of Other Provisions of the Law

If the provisions of this Chapter do not stipulate otherwise, the procedure for application of security measures or forfeiture of property gain obtained by commission of criminal offense, other relevant provisions of this Code shall be applied appropriately.

The legal provisions laid down in the BiH Criminal Procedure Code are also prescribed in both Entity Criminal Procedure Codes and the Criminal Procedure Code of Brcko District.

For a more comprehensive insight, please also refer to:

- The Criminal Procedure Code of Federation of Bosnia and Herzegovina: Article 79 (Warrant for Seizure of Objects), Article 80 (Seizure without Seizure Warrant), Article 233 (Prosecutor Supervising the Work of the Authorized Officials) Article 86 (Order Issued to a Bank or to Another Legal Person) Article 8. (Seizure of Property), Article 216 (Interlocutory Orders), Article 218 (Interlocutory Orders against Third Parties), Article 407 (Interlocutory Orders) Article 413 (Forfeiture of Proceeds of Crime (Criminal Forfeiture)), Article 414 (Criminal Forfeiture Procedure) Article 415 (Assessment/Appraisal/Determination of proceeds of crime), Article 416 (Interlocutory Order), Article 417 (The Contents of the Decision Pronouncing a Measure of Forfeiture of Property Gain), Article 418 (Request for Reopening of the Proceedings With Respect to a Measure of Forfeiture of Property Gain), Article 419 (The Appropriate Application of the Provisions Regarding an Appeal) and Article 420 (The Appropriate Application of Other Provisions of the Law).
- The Criminal Procedure Code of Brčko district of Bosnia and Herzegovina: Article 65 (Order for Seizure of Objects), Article 66 (Temporary Seizure without a Seizure Warrant), Article 218 (Prosecutor Supervising the Work of Authorized Officials), Article 72 (Order Issued to a Bank or Another Legal Person), Article 73 (Provisional Seizure of Property as a Security Mechanism), Article 202 (Temporary Security Measures), Article 204 (Security Measures Against Third Parties), Article 386 (Security Measure), Article 392 (Forfeiture of Property Gain Obtained by Commission of Criminal Offense), Article 393 (Procedure for Forfeiture of Property Gain Obtained by Commission of Criminal Offense) Article 394 (Establishment of Property Gain Obtained by Commission of Criminal Offense), Article 395 (Temporary

Security Measures), Article 396 (The Contents of the Decision Pronouncing the Measure of Forfeiture of Property Gain), Article 397 (Request for a Renewed Procedure on the Measure of Forfeiture of Property Gain), Article 398 (The Appropriate Application of the Provisions of this Code Regarding an Appeal) and Article 399 (Appropriate Application of Other Provisions of this Code).

- The Criminal Procedure Code of Republika Srpska: Article 129 (Warrant for Seizure of Items), Article 130 (Temporary Seizure without Seizure Warrant), Article 226 (Prosecutor Supervising Work of Authorized Officials), Article 136 (Order Issued to Bank or other Legal Person), Article 138 (Temporary Seizure to Secure Property), Article 112 (Interlocutory Orders), Article 114 (Interlocutory Orders against Third Parties), Article 375 (Interlocutory Orders), Article 386 (Forfeiture of Proceeds of Crime (Criminal Forfeiture)), Article 387 (Procedure of Forfeiture of Proceeds of Crime), Article 388. (Determination of Value of Proceeds of Crime), Article 389 (Interlocutory Order), Article 390 (Contents of Decision Pronouncing Forfeiture of Proceeds of Crime), Article 391 (Motion for Reopening with Respect to Measure of Forfeiture of Proceeds of Crime), Article 392 (Appropriate Application of Appeal Provisions) and Article 393 (Appropriate Application of other Provisions of the Code).

For English translation of the text of the Criminal Procedure Code in force in Bosnia and Herzegovina, please visit the following link:

<http://www.legislationline.org/documents/section/criminal-codes/country/40>

The RS Agency for Management of Seized Assets: International cooperation, in terms of the provisions of the Law on Confiscation of Proceeds from Crime, includes providing assistance in tracing the proceeds of crime, the ban on disposal and temporary or permanent seizure of the proceeds of crime. Assumptions for assistance under Article 49 and 50 of this Law are:

- a) Action sought is not contrary to the fundamental principles of the domestic legal order,
- b) Execution of the request of an international authority would not harm the sovereignty, public order or other interests of Bosnia and Herzegovina and Republika Srpska
- v) Standards of a fair trial are met in the process of international decision on confiscation.

Request to ban use or seize the proceeds from crime, must contain:

- a) Name of the authority making the request,
- b) Information on the person to whom the request relates (name, date and place of birth, nationality and place of residence); if it is a legal entity, information on its headquarters.
- v) Data on property in relation to which a cooperation is sought and its connection with the person referred to in indent b) of this paragraph and
- g) Specific actions to be taken and relevant legal provisions of the requesting state as a basis for taking specific coercive measures.

In addition to these data, the application shall also contain the decision to launch financial investigation, or the Prosecutor's request for temporary confiscation of proceeds of crime by the person to whom the application relates. If request for a ban on disposal or seizure of the assets contains all the elements required by Article 52 of this Law, a decision shall be made by the competent Court. The Prosecutor and the court-appointed Defence Counsel or Attorney shall be

informed about the session. Temporary seizure of assets last until the completion of criminal proceedings or the proceedings on the request for assets confiscation in the requesting State. Every 90 days, a foreign authority submits a notice on the current state of play of proceedings to the domestic court. If the criminal proceeding is not completed within two years from the decision on seizure of property, the court shall ex officio revoke the decision ex officio.

The Law on Forfeiture of Illegally Acquired Assets of the Brcko District of BiH - in Chapter III (Court proceedings in the ordinary procedure for the revocation of illegally acquired property), see Articles 10 to 22 of the law.

The Court proceedings in the ordinary procedure for confiscation of illegally acquired property is defined by Articles 10 to 22 of the Law on Forfeiture of Proceeds of Criminal Offences of the Federation of Bosnia and Herzegovina.

(b) Observations on the implementation of the article

The answer provided is sufficient.

Subparagraph 2 (b) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

...

(b) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a request that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article; and

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Consequently, it can be concluded that the seizure of objects and property, as a coercive procedural action, provides evidence and objects that can serve in determination of facts in criminal proceedings or prevent the commission of criminal offenses, and disable the use or disposal of certain assets. Regardless of the variety of forms of procedural proving activity, the law has set general rules for their application, and stipulated at the same time the specifics of each of the listed forms. The standards set out in our national legislation are essentially applied in the international legal assistance.

FMoI _ FUP (Federal Police Administration): Law on Forfeiture of Illegally Acquired Assets of the Federation defines the security measures, as well as measures that allow freezing and seizure of assets pursuant to the procedure on mutual legal assistance in criminal matters.

Agency for Management of Seized Assets of Republika Srpska: Included in the response to the previous question under Article 54, paragraph 2 (a).

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

(b) Observations on the implementation of the article

The answer provided is sufficient.

Subparagraph 2 (c) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

...

(c) Consider taking additional measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Consequently, it can be concluded that the seizure of objects and property, as a coercive procedural action, provide evidence and objects that can serve in determination of facts in criminal proceedings or prevent the commission of criminal offenses, and disable the use or disposal of certain assets. Regardless of the variety of forms of procedural proving activity, the law has set general rules for their application, and stipulated at the same time the specifics of each of the listed forms. The standards set out in our national legislation are essentially applied in the international legal assistance.

Agency for Management of Seized Assets of Republika Srpska: In such a situation, the provisions of the Law on confiscation of proceeds of crime relating to the provision of international assistance in tracing the proceeds of crime, would be applicable. In terms of the provisions of this law, international cooperation also includes assistance in locating assets of crime. In addition to information under Article 52 paragraph 1 of this law, the request for assistance in locating proceeds

of crime shall also include the circumstances which establish reasonable grounds that the property was obtained by crime.

The facts proving the circumstances from which stem grounds to suspect that the property was acquired by crime may be covered by criminal charges and arrest of a person abroad.

Please refer to the relevant information presented in response relating to Article 54 paragraph (1) indent a) of this Self-Assessment Report.

(b) Observations on the implementation of the article

The answer provided is sufficient.

Article 55. International cooperation for purposes of confiscation

Paragraph 1 of article 55

1. A State Party that has received a request from another State Party having jurisdiction over an offence established in accordance with this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:

(a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or

(b) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with articles 31, paragraph 1, and 54, paragraph 1 (a), of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, situated in the territory of the requested State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Confiscation upon requests by foreign countries is carried out in the same way as in cases before national courts.

Please see the relevant information presented in response to Article 54, paragraph (2) item a) of this Self-Assessment Report.

For more comprehensive insight, please refer to the relevant information presented in response to Article 46 from the UNCAC First Round Self-Assessment Report.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

(b) Observations on the implementation of the article

The answer provided is sufficient.

(c) Challenges in implementation

Monitor that in practice, when Bosnia and Herzegovina receives a request for confiscation of proceeds of crime, it will permit submission of the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such order is granted, give effect to it (Art. 55 par. 1).

Paragraph 2 of article 55

2. Following a request made by another State Party having jurisdiction over an offence established in accordance with this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this article, by the requested State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

A mechanism for transfer of confiscated assets to the requesting country is planned to be introduced through the amendments to the Law on International Legal Assistance in Criminal Matters. The details on assets transfer would be agreed by INTERPOL. Afterwards, the competent authorities of the requesting country would take over the confiscated assets. Article 19 of the Law on Mutual Legal Assistance in Criminal Matters, as well as the provisions of the BiH Criminal Procedure Code, are relevant.

Please see the relevant information given in response to the Article 54 paragraph (2) indent a) of this Self-Assessment Report.

The Law on mutual legal assistance in criminal matters (published in “Official Gazette of BiH” No. 53/09 and 58/13):

Article 19.

(Temporary Seizure of Articles)

- (1) Articles, documents or property gain which have been temporarily seized for the purpose of the evidentiary proceedings, as well as records and decisions, shall be handed over to a foreign judicial authority at its request following the completion of the mutual legal assistance proceedings in Bosnia and Herzegovina.
- (2) Should a third person who acquired a right in good faith, a state authority or an injured party domiciled in Bosnia and Herzegovina claim their right to the Articles, documents or property gain referred to in paragraph (1) of this Article, the Articles, [documents or property gain shall be handed over only if the relevant foreign judicial authority guarantees their return free of charge](#) after the completion of the evidentiary proceedings.
- (3) The handover may be postponed as long as the Articles, documents or property gain are required during the criminal proceedings ongoing in Bosnia and Herzegovina.

For more comprehensive insight, please refer to the relevant information presented in response relating to Article 31 of the UNCAC First Round Self-Assessment Report.

In 2010, the National Assembly of the RS adopted the *Law on Forfeiture of Proceeds of Crime* as *lex specialis* regulating the conditions, procedures and authorities responsible for the detection, seizure and management of property acquired through the commission of the criminal offense. The law states that the Ministry of Interior shall establish a separate organizational unit responsible for detection of proceeds of crime and other tasks in accordance with this Law. Financial Investigations and Money Laundering Department was established within the Economic Crime Unit of the Criminal Police Directorate. The said Department performs tasks of collecting, systematization and processing of documents necessary to conduct financial investigations in order to identify and detect criminal proceeds, determines the manner of the assets acquisition and their transfer by the suspect person to the third parties and legitimate income involved, proves the obvious mismatch between assets and legitimate income, reveals money and property obtained through criminal activity and used in business operations or are otherwise concealed or attempted to be hidden on the territory of the Republika Srpska, Bosnia and Herzegovina or in another state, in accordance with the provisions of the Law on Forfeiture of Proceeds of Crime.

Pursuant to the provisions of the Law on Forfeiture of Proceeds of Crime, a request for cooperation of a foreign authority is submitted to the competent Prosecutor's office, through the Ministry of Justice of Bosnia and Herzegovina. A request or decision of domestic prosecution or the court is submitted to a foreign competent authority in the same way. Additionally, it provides that in the case of emergency, subject to reciprocity, a request to locate assets, ban the use or seize assets may be submitted through the Ministry of Interior. This law also provides that, after making positive decision on the request of an international authority for tracing the proceeds of crime, a Prosecutor

submits the request to the RS Ministry of Interior, to the Financial Investigations and Money Laundering Department to take the necessary actions in order to identify and trace assets. In accordance with the provisions of the law, a Financial Investigations and Money Laundering Department takes measures to find and secure evidence of the existence, location or movement, nature, legal status or value of the property proceeds of crime.

The Brcko District of BiH adopted the Law on Forfeiture of Proceeds of Crime, which is consistent with the entity laws. The said law regulates the conditions and procedure for the establishment and seizure of property acquired through criminal offense or unlawful act that has the objective elements of the crime (hereinafter: illegally acquired assets), securing of illegally acquired assets, the execution of the decision on forfeiture of illegally acquired property and managing of illegally acquired property and property subject to process of determining its legality. The provisions of Article 32 of the said law (cooperation with other authorities) provides that the Office for Public Property Management shall establish the necessary cooperation with the competent authorities in Bosnia and Herzegovina in the procedures for international legal assistance with a view to forfeit of illegally acquired assets (paragraph 1). The decisions of the competent authorities in Bosnia and Herzegovina, adopted on the basis of the Law on International Legal Assistance in Criminal Matters, ordering the temporary forfeiture of items or material gain and their handover to foreign judicial authorities, if necessary, shall be submitted optionally to the Office for execution (paragraph 2). The provision of paragraph 2 of this Article shall be properly applied to decisions of the competent authorities in Bosnia and Herzegovina by which foreign judgments are recognized and enforced, if these decisions contain a measure of forfeiture of the illegally acquired assets.

The FBiH adopted the Law on Forfeiture of Proceeds of Crime.

((b) Observations on the implementation of the article

The answer provided is sufficient.

Paragraph 3 of article 55

3. The provisions of article 46 of this Convention are applicable, mutatis mutandis, to this article. In addition to the information specified in article 46, paragraph 15, requests made pursuant to this article shall contain:

(a) In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property to be confiscated, including, to the extent possible, the location and, where relevant, the estimated value of the property and a statement of the facts relied upon by the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law;

(b) In the case of a request pertaining to paragraph 1 (b) of this article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested, a statement specifying the measures taken by the requesting State Party to provide adequate notification to bona fide third parties and to ensure due process and a statement that the confiscation order is final;

(c) In the case of a request pertaining to paragraph 2 of this article, a statement of the facts relied upon by the requesting State Party and a description of the actions requested and, where available, a legally admissible copy of an order on which the request is based.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

All actions concerning the confiscation of assets upon requests by a foreign State shall be made in accordance with the national legislation of Bosnia and Herzegovina. A special form of the request is not required. The request shall contain the name of the authority which shall submit the request, the legal basis for mutual legal assistance, an accurate description of the requested action and accurate information about the person referred to in the request, all as provided in the provisions of Article 3 of the Law on Mutual Legal Assistance in Criminal Matters.

The Law on mutual legal assistance in criminal matters (published in “Official Gazette of BiH” No. 53/09 and 58/13):

Article 3

(Letter Rogatory)

- (1) Request for mutual legal assistance shall be transmitted in the form of Letter Rogatory.
- (2) The Letter Rogatory of a foreign judicial authority and the attached documentation must be supported by the translation into one of the official languages of Bosnia and Herzegovina. The translation must be verified by a certified court interpreter.
- (3) The Letter Rogatory by a national judicial authority and the attached documentation must be translated into the official language of the requested State.
- (4) Unless otherwise stipulated in an international treaty or this Law, the Letter Rogatory must contain the following:
 - a) name of the authority making the request, case reference number, exact name of the requested State, and, if possible, name of the requested authority;
 - b) legal grounds to afford mutual legal assistance;
 - c) specific description of an act of mutual legal assistance sought and the reason for the request;
 - d) legal definition of the criminal offense and a short summary of the facts;
 - e) exact personal details and nationality of the person concerned and his status in the proceedings;

- f) [the title of the documents](#) and the name and the address of the recipient, if [the letter rogatory refers](#) to the service of court writs and other documents, and
 - g) other information that may be of significance in order to proceed upon request.
- (5) Letter Rogatory, as well as the court writs and documents transmitted by courts or other relevant authorities, must bear the signature and seal of the court or the authority of issuance.
- (6) If the information contained in the Letter Rogatory and the attached documentation is not sufficient, supplementary information and documentation may be requested.

For more comprehensive insight, please refer to the relevant information presented in response to Article 46 from the UNCAC First Round Self-Assessment Report.

Criminal Assets Recovery Act of Republika Srpska (published in “Official Gazette of Republika Srpska” No. 12/10):

Article 52

- (1) In accordance with provisions of this Act, the assistance request shall contain:
- a) Name of institution that sends out the request;
 - b) Information on the individual that the request refers to (name, date and place of birth, citizenship and residence details), and if the request refers to the legal entity, it should also contain the information pertaining to its main office;
 - c) Information on the assets that are subject of assistance request and its connection to the person defined in the item b of this paragraph;
 - d) Specific actions supposed to be undertaken and list of legal provisions of the requesting country which represents the basis for application of specific restrain orders.
- (2) Besides the information provided in the paragraph 1 of this Article the request for detection of proceeds of crime shall also contain the description of circumstances that resulted in creating the grounds of suspicion that the property has been acquired as a result of criminal activity.
- (3) Besides the information defined in paragraph 1 of this Article the restrain order, respectively the temporary assets forfeiture order, should also contain the decision on initiation of financial investigation or prosecutor’s order for temporary forfeiture of criminal assets acquired by individuals defined in paragraph 1, item b) of this Article.
- (4) Besides the information defined in paragraph 1 of this Article, the permanent assets forfeiture order should also contain the decision of the court on permanent forfeiture of criminal assets acquired by individuals defined in paragraph 1 item b) of this Article.

For more comprehensive insight, please refer to the relevant information presented in response to Article 55 paragraph (2) of this Self-Assessment Report.

(b) Observations on the implementation of the article

The answer provided is sufficient.

Paragraph 4 of article 55

4. The decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral agreement or arrangement to which it may be bound in relation to the requesting State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

There are no bilateral agreements related to the property forfeiture. Such agreements do not exist between other countries in the region. In fact, such agreements represent the will of the contracting parties. Therefore, when those countries express their interest in concluding such agreement we are ready to negotiate on its conclusion.

For more comprehensive insight, please refer to the relevant information presented in response to Article 55 paragraph (1) indents a) and b) of this Self-Assessment Report.

(b) Observations on the implementation of the article

The answer provided is sufficient.

Paragraph 5 of article 55

5. Each State Party shall furnish copies of its laws and regulations that give effect to this article and of any subsequent changes to such laws and regulations or a description thereof to the Secretary-General of the United Nations.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please provide a reference to the date these documents were transmitted, as well as a description of any documents not yet transmitted.

For translated version of the criminal and criminal procedure legislation in force in Bosnia and Herzegovina, please visit the following link:

<http://www.legislationline.org/documents/section/criminal-codes/country/40>

Please find enclosed English translation of the following laws:

- ✓ Law on mutual legal assistance in criminal matters (published in “Official Gazette of BiH” No. 53/09)
- ✓ Law on amendments and supplements to the Law on mutual legal assistance in criminal matters (published in “Official Gazette of BiH” No. 58/13)
- ✓ Law on prevention of money laundering and financing terrorist activities (published in “Official Gazette of BiH” No. 47/14)
- ✓ Law on amendments and supplements to the Law on prevention of money laundering and financing terrorist activities (published in “Official Gazette of BiH” No. 46/16)
- ✓ Election law of BiH (Unofficial consolidated text)
- ✓ Criminal assets recovery act of Republika Srpska (published in “Official Gazette of Republika Srpska” No. 12/10)
- ✓ The law on forfeiture of illegally acquired assets of Brčko district of BiH (published in “Official Gazette of Brčko district of BiH” No. 29/16)
- ✓ The law on forfeiture of proceeds of criminal offences in Federation of BiH (published in “Official Gazette of Federation of BiH” No. 71/14)
- ✓ Law on police officers of BiH (consolidated text)
- ✓ Law on the state investigation and protection agency (Unofficial consolidated text)
- ✓ Excerpt from Law on Amendments to the Criminal Code of the Brčko District of BiH (published in “Official Gazette of Brčko district of BiH” No. 26/16)
- ✓ Law on the Banking Agency of Federation of BiH (Cleaned – unofficial version)
- ✓ Law on the Banking Agency of Republika Srpska
- ✓ [Law on Party Financing](#) (unofficial consolidated text 2016)
- ✓ Ordinance on the implementation of the law on the prevention of money laundering and financing of terrorist activities (published in “Official Gazette of BiH” No. 14/15)
- ✓ Guidelines for risk assessment and implementation of the law on the prevention of money laundering and financing of terrorist activities in insurance industry (in Federation of BiH)
- ✓ Guidelines for risk assessment and enforcement of the law on the prevention of money laundering and financing of terrorist activities in insurance (in Republika Srpska)

Article 56. Special cooperation

Article 56

Without prejudice to its domestic law, each State Party shall endeavour to take measures to permit it to forward, without prejudice to its own investigations, prosecutions or judicial proceedings, information on proceeds of offences established in accordance with this Convention to another State

Party without prior request, when it considers that the disclosure of such information might assist the receiving State Party in initiating or carrying out investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under this chapter of the Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

For more comprehensive insight, please refer to the relevant information presented in response to Article 46 paragraph (4) from the UNCAC First Round Self-Assessment Report.

(b) Observations on the implementation of the article

The answer provided is sufficient.

Article 57. Return and disposal of assets

Paragraph 1 of article 57

1. Property confiscated by a State Party pursuant to article 31 or 55 of this Convention shall be disposed of, including by return to its prior legitimate owners, pursuant to paragraph 3 of this article, by that State Party in accordance with the provisions of this Convention and its domestic law.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Criminal Code of Bosnia and Herzegovina: Article 110 (The Basis of the Confiscation of Property Gain) and Article 110a (Expanded Confiscation of Property Gain Acquired Through Perpetration of Criminal Offence). The text of the Articles 110 and 110a of the BiH CC is presented in response to Article 53, indent a) of this Report.

Criminal Procedure Code of Bosnia and Herzegovina - Chapter XVII (Claims under property law): Article 193 (Subject of the Claim under Property Law), Article 194 (Petition to Satisfy a Claim under Property Law), Article 195 (Procedure for Satisfaction of a Claim under Property Law).

Law on the execution of criminal sanctions, detention and other measures, the official consolidated text ("Official Gazette of BiH" no: 22/16) Chapter XI – execution of the measure of forfeiture of proceeds of crime: Articles 246 (Procedure) and 249 (Credit to the budget of Bosnia and Herzegovina). The text of Articles 246 and 249 of the Law on the execution of criminal sanctions, detention and other measures is presented in response to the Article 53, indent c) of this report.

For more comprehensive insight, please refer to the relevant information presented in response to the Article 53, indents a) and c) and Article 55 paragraph (9) of this UNCAC Self-Assessment Report.

(b) Observations on the implementation of the article

The answer provided is sufficient.

Paragraph 2 of article 57

2. Each State Party shall adopt such legislative and other measures, in accordance with the fundamental principles of its domestic law, as may be necessary to enable its competent authorities to return confiscated property, when acting on the request made by another State Party, in accordance with this Convention, taking into account the rights of bona fide third parties.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

For more comprehensive insight, please refer to the relevant information presented in response to the Article 53 indents a) and c) and Article 57 paragraph (3) indent a) of this UNCAC Self-Assessment Report .

(b) Observations on the implementation of the article

The answer provided is sufficient.

Subparagraph 3 (a) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

(a) In the case of embezzlement of public funds or of laundering of embezzled public funds as referred to in articles 17 and 23 of this Convention, when confiscation was executed in accordance with article 55 and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party;

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Law on the execution of criminal sanctions, detention and other measures, the official consolidated text ("Official Gazette of BiH" no: 22/16) Chapter XI – execution of the measure of forfeiture of proceeds of crime: Articles 246 (Procedure) and 249 (Credit to the budget of Bosnia and Herzegovina). The text of Articles 246 and 249 of the Law on the execution of criminal sanctions, detention and other measures is presented in response to the Article 53, indent c) of this report.

International Legal Assistance: A mechanism for the transfer of forfeited property to the requesting State is planned through amendments to the law on international legal assistance in criminal matters. Transferring details shall be agreed by INTERPOL. Afterwards, the competent authorities of the requesting State shall take over the forfeited property.

(b) Observations on the implementation of the article

The answer provided is sufficient.

Subparagraph 3 (b) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

...

(b) In the case of proceeds of any other offence covered by this Convention, when the confiscation was executed in accordance with article 55 of this Convention and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party, when the requesting State Party reasonably establishes its prior ownership of such confiscated property to the requested State Party or when the requested State Party recognizes damage to the requesting State Party as a basis for returning the confiscated property;

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

For more comprehensive insight, please refer to the relevant information presented in response to the Article 57, paragraph (3) indent a) of this UNCAC Self-Assessment Report.

(b) Observations on the implementation of the article

The answer provided is sufficient.

Subparagraph 3 (c) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

...

(c) In all other cases, give priority consideration to returning confiscated property to the requesting State Party, returning such property to its prior legitimate owners or compensating the victims of the crime.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

For more comprehensive insight, please refer to the relevant information presented in response to the Article 57, paragraph (3) indent a) of this UNCAC Self-Assessment Report.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

(b) Observations on the implementation of the article

Please clarify compliance.

Paragraph 4 of article 57

4. Where appropriate, unless States Parties decide otherwise, the requested State Party may deduct reasonable expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposition of confiscated property pursuant to this article.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

For more comprehensive insight, please refer to the relevant information presented in response to the Article 57, paragraph (3) indent a) of this UNCAC Self-Assessment Report.

(b) Observations on the implementation of the article

The answer provided is sufficient.

Paragraph 5 of article 57

5. Where appropriate, States Parties may also give special consideration to concluding agreements or arrangements, on a case-by-case basis, for the final disposal of confiscated property.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

For more comprehensive insight, please refer to the relevant information presented in response to the Article 57, paragraph (3) indent a) of this UNCAC Self-Assessment Report.

Please provide examples of the implementation of those measures, including related court or

other cases, statistics etc.

(b) Observations on the implementation of the article

The answer provided is sufficient.

(d) Challenges, where applicable

Take measures to return confiscated assets to the requesting State Party in the case of Convention offences (Art. 57).

Article 58. Financial intelligence unit

Article 58

States Parties shall cooperate with one another for the purpose of preventing and combating the transfer of proceeds of offences established in accordance with this Convention and of promoting ways and means of recovering such proceeds and, to that end, shall consider establishing a financial intelligence unit to be responsible for receiving, analysing and disseminating to the competent authorities reports of suspicious financial transactions.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Financial and Intelligence Department (FID) of the State Investigation and Protection Agency was established by the Law on the State Investigation and Protection Agency (the Law is attached to this Self-Assessment Report). In accordance with its responsibilities and tasks stipulated by the Law on Prevention of Money Laundering and Financing of Terrorist Activities, the FID is the central financial and intelligence unit of Bosnia and Herzegovina. The FID became operational on 28th December 2004 by entry into force of the first BiH Law on Prevention of Money Laundering and Financing of Terrorist Activities.

For a better understanding of the matter, you are kindly invited to consult relevant information presented in this Self-Assessment Report within response relating to the Article 14, paragraph (1).

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Please refer to statistical data presented in the answer to question no. 3 relating to Article 14, paragraph (1), indent a).

(b) Observations on the implementation of the article

The answer provided is sufficient.

(c) Challenges, where applicable

Consider adopting measures to clarify the practical aspects of the FID's cooperation between all four jurisdictional levels, including access to databases and external information sources (Art. 58).

Article 59. Bilateral and multilateral agreements and arrangements

Article 59

States Parties shall consider concluding bilateral or multilateral agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this chapter of the Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Bosnia and Herzegovina is a signatory to the Second Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters (Strasbourg, November 8, 2001). The provisions of Article 11 of this Protocol are directly applicable to cases of confiscation, led by national judicial authorities.

For more comprehensive insight, please refer to the relevant information presented in response to the Article 46 paragraph (30) and Article 48 paragraph (2) from the UNCAC First Round Self-Assessment Report.

(b) Observations on the implementation of the article

The answer provided is sufficient.

B. Other information

Article B. Other information

Other information

Please provide any other information you believe is important for the Conference of the States Parties to the United Nations Convention against Corruption to consider at this stage regarding aspects of, or difficulties in, implementing the Convention other than those mentioned above.

(a) Summary of information relevant to reviewing the implementation of the article

Please provide any other information you believe is important for the Conference of the States Parties to the United Nations Convention against Corruption to consider at this stage regarding aspects of or difficulties in implementing the Convention other than those mentioned above

(b) Observations on the implementation of the article

[Observations of the governmental experts with regard to the implementation of the article. Depending on the scope of the review cycle, findings with respect to the way in which national law has been brought into line with the article, as well as to the implementation of the article in practice.]

[Observations on the status of implementation of the article, including successes, good practices and challenges in implementation.]

(c) Successes and good practices

[Identification of successes and good practices in implementing the article, where applicable.]