

**Provision of information by States parties for the eleventh session of the
Working Group on Prevention from 9 to 10 June 2020**

Information requested from States parties in relation to best practices, lessons learned and challenges encountered in their efforts to enhance the effectiveness of anti-corruption bodies (art. 6 of the UNCAC)

In relation to;

Article 6, paragraph 1

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.

Croatia does not have a centralized anti-corruption institution, but it has a network of competent institutions of anti-corruption mechanism, in the area of policy making, prevention and repression, including all three branches of government.

The area of policy making, which is articulated in the drafting, coordination and adoption of national strategic and implementation documents, is in the jurisdiction of the Ministry of Justice and Croatian Parliament.

Ministry of Justice (Sector for Anti-Corruption - organisational unit within the MoJ) is the central coordinating body for the prevention of corruption in Croatia. MoJ coordinates the development, implementation and monitoring of the implementation of national strategic documents in this area. In this role, the Ministry of Justice cooperates with numerous public authorities at the state, regional and local level. Sector actively participates in international co-operation in the area of anti-corruption. It is important to mention the participation in various activities of the UN, EU, the Council of Europe, the Regional Cooperation Council and the ACN (Anti-Corruption Network) for Eastern Europe and Central Asia established under OECD Working Group on Bribery. The Sector monitors the implementation of the United Nations Convention against Corruption and coordinates the compliment process with the recommendations of the Group of States against Corruption (GRECO). Furthermore, the Sector is active in the area of education and awareness raising on anti-corruption policies and cooperation with the civil society organizations in anticorruption area.

The Sector conducts education activities at the State School for Public Administration on the implementation of the Law on protection of reporters of irregularities and also on the prevention of corruption in general in cooperation with the Information Commissioner, the Commission for Resolution of Conflict of interest, the Office for Suppression of Corruption and Organized Crime and civil society organizations. It also conducts education activities on the prevention of corruption in high schools in co-operation with Anti-Corruption Commissions on the regional level.

The Sector is also an administrative and expert support to the Council for the Prevention of the Corruption which also has a very important role in the policy making area. Council is a governmental advisory body composed of representatives of relevant public institutions and NGOs. It participates in area of forming and monitoring of implementation of the national anti-corruption documents.

Furthermore, in order to have efficient mechanism for monitoring of the implementation of, Croatia has established the National Council for Monitoring Anti-Corruption Strategy Implementation on a parliamentary level as well as mentioned Council for the Prevention of Corruption on the level of executive level.

Besides Ministry of Justice, in the area of prevention of corruption there is a network of specialized institutions which consists of Commission for the Resolution of Conflicts of Interest, Information Commissioner, State Commission for Control of Public Procurement Procedures, State Audit Office and State Election Commission.

Main supervision over conflicts of interest rules lies with the *Commission for the Resolution of Conflicts of Interest* (hereinafter the Commission). It is a standing, independent and autonomous State body, which is composed of five distinguished professionals from business, media, NGOs and academia. The appointment of the latter follows an open call procedure and candidates are selected on the basis of their professional experience and reputation. The Commission is competent for (i) instigating conflict of interest proceedings and rendering decisions on infringements; (ii) adopting its working procedures; (iii) checking financial declarations; (iv) drawing up guidelines on conflict of interest; (v) conducting regular training on conflict of interest; (vi) cooperating with other bodies in implementing conflict of interest prevention policies and proposing recommendations, as necessary; (vii) cooperating with civil society and maintaining international cooperation on conflict of interest related matters; (viii) performing other conflict of interest related tasks.

The Commission submits an annual report to Parliament on its activities and expenditures. It may report on its activities to the National Council for Monitoring the Implementation of the Anticorruption Strategy, if requested by the latter to do so. In its reports, the Commission can recommend changes in the conflict of interest system in response to the type of flaws it identifies when performing its monitoring function. With particular reference to the asset and income disclosure regime, the Commission is responsible for receiving, reviewing and storing financial declarations.

The Commission performs two types of checks: (i) pro-forma, including by assessing whether the declaration was filed on time, has been signed by the official and has been correctly and fully completed; and (ii) substantial by cross-checking information with other authorities (e.g. tax officers, land registry, court registries, etc.). In practice, if anomalies or irregularities are spotted in the forms while being processed, the Commission contacts the filer for clarification or correction. Where acts of corruption are suspected or revealed in the course of the Commission's action, the case is referred to the Office for the Suppression of Corruption and Organized Crime (USKOK) - special prosecutor's office specializing in the prosecution of corruption and organized crime.

The Commission also decides on administrative sanctions for non-compliance with conflict of interest rules. A sanction consisting of a warning may be issued. A suspension of salary payment (a fine) can be applied for non-submission, for providing false information, for failure to declare significant changes or for failure to submit a declaration within 30 days of leaving office. All decisions and opinions of the Commission are published on its website. As an additional sanction (if the suspension of salary does not achieve its punitive goal alone), the Commission may decide to publish its decision in a daily newspaper.¹

The Information Commissioner is an independent body for the protection of the right to information which protects, monitors and promotes the right to access to information guaranteed by the Constitution and to the re-use of information. The right of access to information and the Commissioner's jurisdiction are regulated by the Act on the right of access to information. The Information Commissioner conducts regular education and promotion on the access to information. Approximately 40 educational programmes are conducted annually, with publications being prepared and publicised for the public authorities and for the users (handbooks, guides, leaflets, etc.) and the online educational programmes are conducted from 2017.²

Risks in the field of public procurement are under the jurisdiction of the *State Commission for the Control of Public Procurement Procedures*, which decides on the legality of proceedings, actions, omissions and decisions. Within the competence of this body is also deciding on other requirements which are in the procedure of legal protection authorized by the parties to the procedure, and submitting the indictments for misdemeanours prescribed by the Law on State Commission for the Control of Public Procurement Procedures (Official Gazette, number 18/13, 127 / 13, 74/14).³

It is also important to emphasize the preventive role of the *State Audit Office* in reviewing financial reports and operations, improving the legality, efficiency and effectiveness of publicly managed entities in order to strengthen the accountability of all participants in the process of collecting, spending and managing budgetary, extra-budgetary and other public funds as well as the role of the *State Election Commission* that carries out tasks prescribed by the laws governing the election of representatives to the Croatian Parliament, the election of the President of the Republic of Croatia, the election of members of the representative bodies of local and regional self-government units, the election of mayors, election of members of councils and representatives of national minorities in local and regional self-government units, and the implementation of state, local and advisory referendums. The Commission also takes into account annual financial operations and monitors the annual financial reports of political parties, independent representatives and members of the representative body of the local and regional self-government unit selected from the list of voters.

It should be noted that Republic of Croatia rendered Whistleblowers protection Act in February 2019 (namely: Law on protection of reporters of irregularities). The Law entered into force on

¹ Annual reports of the Commission for the Resolution of conflicts of interest to the Parliament are available on <https://www.sukobinteresa.hr/hr/annual-report-of-the-commission>. The reports also contain information on the trainings conducted by the Commission

² The Information Commissioner's annual reports to the Parliament are available at the website of the Commissioner (in full and summaries in Croatian, <https://www.pristupinfo.hr/dokumenti-i-publikacije/izvjesca-o-provedbi-zppi>). The reports also contain information on the educational activities conducted by the Commissioner

³ Annual reports on the work of State Commission for the Control of Public Procurement Procedures to the Parliament are available on <http://dkom.hr/izvjesce-o-radu-dkom-a/23>

1 July 2019. Currently we are in the process of forming of internal reporting channels in the private and public sectors. The competent body for external reporting is Ombudsman. The Act entrusts *Ombudsman* the jurisdiction for protecting the whistleblowers and thus expands the institutional framework in the area of prevention of corruption.

Article 6, paragraph 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.

The Commission for the Resolution of Conflict of Interest was founded in 2003 with the scope of implementation of the Conflict of Interest Prevention Act. The major institutional step forward was made upon the enactment of the new Act in 2011, whereby the Commission was founded as a permanent, independent and autonomous state body. As a novelty introduced by this Act, the President and members of the Commission may not have been members of any political party in the five years before the date of the submission of candidacy and they must be in permanently employed in this body.

Success in carrying out tasks within the competence of the Commission depends, among other things, on the level of education of the Commission members and the staff in the Commission office. Considering that some specific knowledge in this specialized area dealt by the Commission is partly created through the development of the Commission's practice, the Commission pays special attention to investing in human capacities and their training.

The Information Commissioner works autonomously and independently and reports to the Croatian Parliament. The Commissioner is elected on the basis of a public call by the Croatian Parliament for a term of five years, with the possibility of re-election. The Commissioner may not be impeached, taken into custody or punished for expressing opinions and taking actions within the scope of their work, unless the Commissioner has violated the law, which represents a criminal offence (Article 35/2 of the Act on the right of access to information). The Commissioner is entitled to remuneration in the amount of remuneration received by the vice-presidents of the Parliamentary Committees. No later than six months prior to the end of the Commissioner's mandate, or no later than 30 days from the end of their duties due to other reasons, the Committee for the Constitution, Rules of Procedure and Political System of the Croatian Parliament shall announce a public invitation for the delivery of candidacies for appointment of the Commissioner. The Committee for the Constitution, Rules of Procedure and Political System of the Croatian Parliament shall, upon acquiring the prior consent of the Committee on Information, Informatization and Media of the Croatian Parliament, make a proposal of at least two candidates for the Commissioner on the basis of applications collected following the public invitation, and shall submit the proposal to the Croatian Parliament.

The State Commission for the Control of Public Procurement Procedures is an autonomous and independent state body responsible for resolving complaints regarding public procurement procedures, concession procedures and procedures for selecting a private partner in public-private partnership projects. In the appeal procedure, Commission decides on the legality of procedures, actions, missed actions and decisions made in public procurement procedures, granting concessions and selecting a private partner in public-private partnership projects and

the legality of public procurement contracts and framework agreements concluded without the implementation of public procurement procedures. An administrative dispute may be initiated against the decision of the State Commission before the competent administrative court.

State Audit Office is a body whose main goal is increasing responsibility of all participants in the process of gathering, spending and managing budgetary funds, extra-budgetary funds and other public funds. The work of the Office is focused on auditing financial statements and business operation, and improving the legality, efficiency and effectiveness of entities managing public property and other legal entities defined by law. Moreover, it contributes to improving management of public property and other available resources, informedness of the Croatian Parliament, the Government and citizens of the Republic of Croatia with respect to the manner and results of management of the budgetary, extra-budgetary and other funds given to the audited parties for management and disposal. ⁴

⁴ Annual reports of the State Audit Office to the Parliament are available on <http://www.revizija.hr/hr/izvjesca> .