

Republic of Serbia

Contribution to the 12th session of the Open-ended Intergovernmental Working Group on the Prevention of Corruption (14 -18 June 2021)

Role of supreme audit institutions in the prevention and fight against corruption

The Serbian State Audit Institution (hereinafter referred to as: the SAI) has been actively working to promote its independence, both in public and in cooperation with the National Assembly and the Executive. The annual reports of the SAI have been subject of discussions at the plenary sessions of the National Assembly for the last 2 years, while all annual reports of the SAI are available to the public on its official website. Sectoral activity reports and annual reports of the SAI are also subject of discussions at the competent parliamentary committee. In its public appearances, the SAI constantly emphasizes the independence in its work, as well as the independence of the auditor, which is supported by the findings from the audit report.

The SAI conducts audits in accordance with the legislation of the Republic of Serbia and INTOSAI standards, there are manuals in place for quality control and quality assurance, which were developed within the Twinning Light project funded by the IPA funds of the European Union.

The SAI takes all legal measures when audited entities operate contrary to regulations, including the submission of requests for initiation of misdemeanor charges, economic offense requests, criminal charges as well as information submitted to relevant Prosecutor's Offices. In accordance with its competences, due to existence of reasonable doubt that misdemeanor/economic offenses/criminal offenses were made, during 2019 the SAI filed total of 301 charges against 384 responsible persons. Out of that number of filed charges, 256 were requests for initiating misdemeanor proceedings against 272 persons, 12 were economic offense charges against 79 responsible persons and 33 were criminal charges against 33 persons.

The SAI has adopted a Code of Ethics for state auditors and other employees of the SAI and it is harmonized with the Code of Ethics published by the International Organization of Supreme Audit Institutions.

The SAI has constantly strengthened cooperation with the National Assembly by providing expert support for acting upon receiving the SAI report and by ensuring the existence of an effective system for monitoring implementation of recommendations. In the light of the increased number of performance audits, as well as the 2030 Agenda, cooperation has been intensified with other committees of the National Assembly as well as with line ministries. In accordance with the current regulations of the Republic of Serbia, the SAI cooperates with ministries, prosecutor's offices and other state bodies.

For the purpose of increasing transparency, the SAI also publishes Register of recommendations and post-audit reports on its website. During 2019, 251

post-audit reports were published and during 2020, 70 post-audit reports were published.

Cooperation between state audit and corruption prevention bodies

The Agency for Prevention of Corruption (hereinafter referred to as: the APC) has a sound cooperation with the SAI in many areas.

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

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

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

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

The APC conducted the analysis of the causes and phenomenon of corruption at the local level, which was used to draft the Model of the local anti-corruption plan (LAP). The Model LAP has been based on identification of normative, institutional, organisational and practical risks of corruption and implementation of measures aimed at eliminating those risks, causes of corruption, misuse and irregularities and overall removal of bad governance in the broadest sense of the word. The Model includes clear guidelines and recommendations for its adoption and monitoring.

In the process of risk assessment in the areas and processes related to the work of public authority bodies in the Republic of Serbia, being a basis for local anti-corruption plans, the APC uses various sources of information. One of the most relevant sources of information are auditing reports on regularity of operation of public authority bodies and performance auditing reports drafted by the SAI. By using information from these reports, the APC

identified certain areas prone to corruption, mapped the sources of risk in these areas and drafted proposal on objectives and measures for managing those risks. Implementation of the measures for managing the risks of corruption defined in Model LAP also contributes to fulfillment of recommendations issued by SAI.

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

Prior to drafting the Annual Audit Programme, the SAI consults the APC in terms of political entities which should be subject to additional audit of financial reports in the next year. The opinion of the APC is based on previously conducted controls and identified suspicions on violation of the Law on Financing of Political Activities. Once the SAI has finalized auditing the reports of a political entity, it notifies the APC thereof as to further proceed within its purview. The SAI also notifies each year the APC on identified irregularities in the operation of political entities with respect to the funds allocated for their regular work as well as the election campaign costs. Acting upon these notifications on suspicion of violation of the Law on Financing of Political Activities, the APC submits the requests for initiating misdemeanour proceedings to the competent court.

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

Role of parliaments and other legislative bodies in strengthening the implementation of the Convention

The National Assembly and other legislative bodies have an important role to play in strengthening the implementation of the Convention. First, in accordance with its legislative role the National Assembly is a crucial for amending or adopting of the new laws. In that regard, the National Assembly adopted the new Law on Corruption Prevention on May 21, 2019, which started to apply on September 1, 2020. This law shall improve legislative solutions and regulate with greater certainty issues of conflict of interest, accumulation of public functions, asset disclosure of public officials as well as the legal status, competencies and organization of the APC, considerably extending its powers and enhancing the APC's effectiveness, as autonomous and independent state authority.

Using its oversight tools the National Assembly had a plenary discussion on the annual reports of independent bodies in July 2019, for the first time since 2014. In 2020 the reports were also discussed in the plenary session. The follow-up by the authorities of recommendations of independent bodies is of crucial importance as well as ensuring that adequate funding is allocated to the authority and for the full implementation of the laws it has passed. In order to strengthen administrative and operational capacity as well as appropriate infrastructure conditions, in accordance with the new competencies and increased human resources, the APC's annual budgets for 2020 and 2021 have been nominal increased. Last year, part of the funds was provided for the purchase of IT equipment which is necessary for improving the efficiency and effectiveness of the work of the APC. Regarding human resources, in 2020, 17 employees were hired on a public competition for the selection of candidates. The mentioned measures for improvement of the work of the APC were among the recommendations the APC has submitted to the National Assembly through its latest Annual report for 2019 thus reflecting the continuous need of the APC for such a comprehensive administrative and operational enhancement.

In order to ensure accountability by members of parliament (hereinafter referred to as: MPs), the National Assembly adopted the Code of Conduct of MPs (hereinafter referred to as: the Code), on December 24, 2020. The Code establishes the basic principles, general ethical values and rules of conduct of MPs, the transparency of work, confidential consultation regarding the application of the Code, trainings to be organised for MPs, and measures in the event of a violation of the Code. After the parliamentary elections which were held on June 21, 2020, all the MPs, within the legally defined deadlines, submitted to the APC the reports on property and income. Some of the data from this report are accessible to the public aiming to ensure transparency. The National Assembly also regularly notifies the APC about the received gifts of the MPs. The APC publishes a Catalogue of Gifts, (of all institutions, including the National Assembly) on its website.

Related to the implementation of the Law on Lobbying that entered into force on August 14, 2019, as a part of OSCE/ODIHR comprehensive support, the Code of Conduct of Participants in Lobbying was prepared in cooperation with a prominent international expert. Drafting of the Code of Conduct was an inclusive process, involving MPs that contributed to its final version through comments and a workshop organized by the APC and OSCE Mission to Serbia.

Responsibility of the National Assembly with regard to the United Nations Convention against Corruption relating to the criteria concerning candidature for and election to public office and parliamentary oversight, is laid down by the Constitution of the Republic of Serbia, the Law on the National Assembly and the Rules of Procedure of the National Assembly, as well as by laws laying down that some public officials shall be appointed by the National Assembly. These provisions lay down criteria for selection of candidates and the procedure of proposing their candidature to the National Assembly.

The National Assembly shall appoint: Ombudsperson, Commissioner for the Protection of Equality, five Constitutional Court judges, President of the Supreme Cassation Court, the Republic Public State Prosecutor, members of the High Judicial Council, members of the State Prosecutorial Council, presidents of courts, judges and deputies of public prosecutors elected for the first time, the Council of the Governor of the National Bank of Serbia, Council of the State Audit Institution, the State Commission for Protection of Rights in Public Procurement Procedures, members of the Securities Commission, members of the Commission for State Aid Control, members of the Council of the Agency for Prevention of Corruption, Commissioner for Information of Public Importance and Personal Data Protection, National Council for Culture, members of the Council of the Regulatory Authority for Electronic Media, Programming Council of the Public Service Broadcaster "Radio-Television of Serbia", Chair of the Commission for Protection of Competition and members of the Council of the Commission for Protection of Competition, members of a Supervisory Committee who during the election supervise political parties' actions, members of the Commission for Oversight of Enforcement of Criminal Sanctions. The Rules of Procedure of the National Assembly lay down procedures based on which some parliamentary working bodies - Committees, carry out the necessary activities, within their purviews, to enable the Plenary of the National Assembly to carry out its electoral function by electing each public official, in accordance with the Constitution, law and the Rules of Procedure.