



Republic of Serbia
ANTI-CORRUPTION AGENCY

**ANNUAL REPORT OF THE ANTI-CORRUPTION AGENCY
FOR 2011**

Belgrade, March 28 2012

The Report on the work of the Agency for 2011 is the second annual report submitted by the Anti-Corruption Agency to the National Assembly of the Republic of Serbia and is made available to the public. The Report comprises three parts: Report on the work of the Agency for 2011, Report on Implementing of the National Strategy and Action Plan in 2011 and a separate appended Report on research relating to validation and supplementing of draft integrity plans.

The first, general, part of the Report gives an executive summary of the Agency's work in 2011, with recommendations. This is followed by the part with information relating to fulfilling Agency's recommendations from the 2010 Report, particularly those adopted by the National Assembly on basis of that report. The mainstay of this part of the Report is the overview of Agency's operation in 2011, by areas of competence: conflict of interest, oversight of assets of officials, registers of officials, property and gifts, control of financing of political entities, petitions, education, communication with civil society and raising the anti-corruption awareness of citizens, cooperation with civil society, integrity plans, research, National Anticorruption Strategy, regulations and international cooperation. This part of the Report ends with a section on capacity building of the Agency in 2011 and a financial overview (report) of funds used by the Agency from the budget or other sources (donations) throughout 2011 to execute the planned activities.

The second part of the Report (Annex 1) is the Report on Implementation of the National Action Plan for 2011, which the Agency is required to submit to the National Assembly pursuant to the Law on the Anti-Corruption Agency. The Report offers a comprehensive insight of what and how have the duty bearers under the 2005 National Strategy, which is in force, undertaken to realize the goal, set therein, in 2011.

Part Three (Annex 2), appended specially due to the importance that adoption of integrity plans has in prevention of corruption, has been compiled by the Agency based on conducted research whose objective was to validate and supplement model integrity plans. The research was conducted on a sample of 47 public authorities and contains data on specific risks that have already been identified in the draft model integrity plans, or identified through the research.

The Agency

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FOREWORD

BY THE CHAIRMAN OF THE BOARD AND THE DIRECTOR

The Report on the work of the Agency for 2011 is the second¹ annual report the Anti-Corruption Agency is submitting to the National Assembly of the Republic of Serbia and is made available for public scrutiny.

The second year of work of the Anticorruption Agency in exercising its competencies set under law has been characterized by numerous and complex external and internal circumstances that have affected the work of the Agency both in positive and, regrettably, also in negative terms.

The underlying, broader social framework of the Agency's operation was determined primarily by the extended, almost global, economic and social crisis whose effect in Serbia was manifested by recession, growth of unemployment and poverty, resulting in growing discontent and frustration of citizens. Discontent in personal status was logically transmuted to low confidence in state institutions, as well as increased censoriousness in respect to achieved results in suppressing corruption.

The direct negative effect of the crisis on operation of the Agency is, certainly, the actual decrease of available budgetary funds of the state with the end result that the Agency, despite sufficient appropriated funds, was compelled to streamline its activities to the current situation.

Insofar as the Agency itself is concerned, the increase in Agency staff, long-term resolution of the issue of office space (carried over into the current year), introduction of new application software, as well as upgrading of rules for keeping of the Registers of Officials and Assets of Officials had a positive effect in improving work efficiency. Capacity building of the Agency was to a large extent influenced also through continuing education of staff in the field of combating corruption.

Intensified international cooperation (with similar bodies and regulatory authorities in Europe and other countries world-wide), clearer defining of the position and operation of the Agency within the system of public authority in the Republic and intensifying cooperation with other government authorities have certainly contributed to achievement of results.

In the domain of resolution of conflict of interests, the decision of the Constitutional Court of the Republic of Serbia determining unconstitutionality of the provision of Article 29, paragraph 3 of the Amending Law to the Law on the Anti-Corruption Agency, thus removing formal obstacles for action by the Agency against officials holding several public offices prior to commencement of enforcement of the Law on the Anticorruption Agency had a high impact on processing cases.

Furthermore, it needs to be underscored that in this field there is almost one hundred percent enforcement of the Agency's decisions in cases ruling measures against public officials and determining termination of office by force of law.

Increase in approach by representatives of various authorities for opinion concerning application of regulations in the anticorruption field, particularly in relation to conflict of interest, is a clear indicator of a more determined approach of government authorities, organizations and institutions in applying the Law on the Anti-Corruption Agency and of partnership collaboration

¹ The first Report on the work of the Anti-Corruption Agency for 2010 was submitted by the Agency to the National Assembly on 25 March 2011, and available at http://www.acas.rs/images/stories/Godisnji_izvestaj_o_radu_Agencije_-_25_mart_2011.pdf.

with the Anti-Corruption Agency.

On the other hand, it is a fact that there is a certain lack of synchronization between the Agency and other competent authorities in coordinating the fight against corruption (this primarily refers to the prosecution and judicial authorities, and also to a lesser number regulatory bodies). Divergence of views in perception of both priorities and the manner of combating corruption among various government authorities and regulatory bodies may not, however, be the reason for the fight against corruption to become sluggish and the Agency, on its part, remains available for a coordinated team approach of government authorities to this fight, which includes representatives of the general public, academic community and civil society.

Within this framework we deem it as necessary to enact a number of amendments to the law governing the scope of competencies and manner of work of the Agency, aimed at better coordination between organizations and authorities involved in suppression of corruption and which would have as their effect an enhanced efficiency and results of the Agency.

Concurrently, one cannot help but feel that certain officials, whose public actions the Agency scrutinizes and sanctions in line with law, wish to inhibit the full extent of the Agency's operation. One gains an impression of the presence of continuing, concealed, and sometimes fully open campaign conducted by certain interested groups against the activities and results achieved by the Agency to date. This counter campaign against an autonomous, independent anticorruption body, albeit sometimes disconcerting, is in itself a clear indicator that the work of the Agency is distinguished by serious results that are increasingly recognized by the general public.

Having in mind the fact that elections have been called for this Spring for representative bodies at all levels of government, representing in itself a test of the state's readiness to control the flow of money in politics, the Agency has made a notable breakthrough in exercising its competencies through participation in drafting the new Law on Financing Political Activities, adopted by the National Assembly in 2011, thus providing a legislative framework for more efficient monitoring of lawful actions of political entities in the electoral process. Within the scope of its competencies the Agency, by enactment of bylaws, has invested significant efforts in regulating the institutional framework for holding, as well as monitoring, election campaign costs.

Finally, it would only be natural to ask whether more could have been achieved. Could more have been done better? Yes, it could have been more and better. Excessive, indiscriminating satisfaction with the achieved is an impediment in the development of the individual and the institution. The Agency and its team of experts, which is presenting this annual report to the public, stands constantly prepared to confront new challenges in the days before us, which will not be less fraught with the need to enhance the mechanisms for combating corruption.

Chairman of the Board of the Agency

Prof. dr Zoran Stojiljković

Director of the Agency

Zorana Marković

EXECUTIVE SUMMARY

Key results

In 2011 the Anti-Corruption Agency achieved the following, in its opinion, key results:

Conflict of interest, control of assets of officials, complaints

- Number of pronounced measures against public officials for conflict of interest has increased fourfold as compared to 2010², number of concluded checks of disclosure reports of officials has increased 250% from 2010³, whilst Agency's efficiency in processing complaints cases has increased two-and-a-half times as compared to the previous reporting period⁴;

Control of financing of political entities

- New legislative framework established for control of financing of political entities⁵ and a network of collaborators formed to monitor the election campaign in 23 towns throughout Serbia;

Integrity plans

- 69 models of integrity plans drafted, adapted to various types of institutions and software designed and installed for electronic drafting of integrity plans;

Registers of officials, property and gifts

- Application software designed and installed for keeping of register of officials, register of officials' assets and catalogue of gifts; the register of officials at the end of 2011 included 20,617 officials, a fivefold increase from the end of 2010;

National Anticorruption Strategy

- Consultation procedure implemented to collect data and information for drafting of a new anticorruption strategy and the concept of its contents formulated;
- Report on Implementing of the National Anticorruption Strategy and the Action Plan for implementing of the National Anticorruption Strategy for 2011 made;

Regulations

- Rules on Protection of Persons reporting Suspicion of Corruption (Rules on Whistleblowers) adopted and activities commenced in cases where protection is demanded by whistleblowers, including pronouncement of measures of caution to

2 In 2011 the Agency pronounced a total of 67 measures to public officials for conflict of interest, against only 17 such measures were pronounced in 2010.

3 In 2011 the Agency concluded control of 513 disclosure reports of officials' assets, as compared to 192 such reports in 2010.

4 In 2011 the Agency processed 600 complaints cases, as compared to 277 complaints cases in 2010.

5 Pursuant to the Law on Financing Political Activities (Official Gazette of the RS, no. 43/11), the Agency adopted the Rules on Records of Contributions and Assets, Annual financial report and report on election campaign costs of political entity and the Rules on Election Campaign Observers of a Political Entity.

entities/individuals undertaking retribution;

International Cooperation

- The Anti-Corruption Agency has become member of the network “European Partners Against Corruption-EPAC”

Education

- Throughout 2011 a total of 1,883 persons underwent various forms of anticorruption training organized and conducted by the Agency;

Communication with civil society and raising awareness of citizens

- Approximately 700 papers by pupils of primary schools, secondary schools and students from 100 places throughout Serbia submitted for the competition titled “Take the right course, say it isn’t fair”/Uhvati pravi smer, kazi da nije fer/, on the occasion of 9 December, the International Anticorruption day;

Cooperation with civil society

- Successful cooperation achieved with civil society organizations on joint engagement in anticorruption activities.
- Mechanism established for civil society organizations to compete for support for projects aimed at capacity building of the society in fighting corruption;

Research

- Draft integrity plans verified and capacity building of the Agency commenced for autonomous conducting of research in the field of corruption;

Capacity building of the Agency

- Technical and office capacities necessary for operation of the Agency enhanced;
- Based on needs analysis, training plan and program for Agency staff drafted.

Obstacles and challenges

In 2011 the Agency faced different obstacles and challenges in the process of realizing planned activities. Some of these obstacles relate to internal factors, primarily the issue of expansion and strengthening the capacities of the Agency itself which is still a growing institution, whilst some relate to external factors, primarily work and cooperation with other government authorities, where the above has affected throughout the year, to a lesser or greater extent, the effective accomplishment of our results.

In the area of control of public officials’ assets, a specific obstacle was the Agency’s lack of direct access to data bases and records kept by other relevant government authorities, such as the Ministry of Internal Affairs, Tax Police, Republic Geodetic Authority, as data has to be obtained by

official correspondence and responses thereto.

In regard to records and registers maintained by the Agency, it continues to create its own electronic data bases and to advance technological activities relating to registering and control of assets. In these terms, one of the challenges faced was introduction of a completely new system of electronic registration of assets for officials and effective notification and education of all interested public officials to fulfil this obligation. This aspect of the Agency's activities was particularly significant due to the coming election year in which a considerable increase in the inflow of reports and materials processed by the Agency is expected.

In the area of political party financing, one of the more serious obstacles was the inefficiency of misdemeanour courts. Drawn out procedure by the courts significantly hinders efficient enforcement of law and establishing of a system of accountability for wrongful procedure.

In respect to jurisdiction to act on complaints of citizens, the greatest obstacle for the Agency is legislative constraint of its competence to control and investigate by itself the issues from the complaints. The Agency is compelled to rely to high extent on data and information received from competent authorities pursuant to request. Sluggishness and inefficiency of such communication and the absence of enforcement in the outcome of such procedures greatly diminish the accomplishments of the Agency in these activities. Furthermore, the Law on the Agency stipulates that the Agency does not act on anonymous complaints and, consequently, the only option available is to forward such complaints to relevant authorities. Having in mind the standard set by the UN Convention Against Corruption, Article 13 requires state signatories to enable designated referential national bodies to act on anonymous corruption complaints in order to ensure a higher degree of protection of the person filing the complaint, and also in "whistle blowing" done in public interest, hence cooperation with all relevant government authorities should in future be strengthened in respect to action on such complaints.

Regarding education and training, although the number of officials and civil servants attending anti-corruption training in 2011 has increased 61% from 2010, the fact that such training is mandatory poses one of the foremost obstacles insofar as anti-corruption education in the public sector is concerned. Raising awareness of public sector employees that the fight against corruption is the duty of all, and not only of the Anticorruption Agency, would help, for example, in perceiving engagement in drafting integrity plans not as just another obligation burdened on the staff who are already overburdened with every day tasks.

Moreover, it has been noticed that public authorities display a certain degree of reservation in supplying answers to external inquiries regarding their work. This demonstrates that internal or external performance evaluation of public authorities is not a part of their everyday work culture, nor does it represent a tool to be used for enhancement of own work, which should be insisted upon in future.

In regard to implementing competencies of the Agency in anti-corruption awareness raising of citizens and communication with the civil society, as well as in the sphere of anti-corruption research, the Agency was required, due to budget revision, to return funds already appropriated for this purpose. Consequently, the Agency was obliged to secure funds for realization of these tasks provided under Law as mandatory, through donations from international organisations. With all due

recognition of the difficult financial situation and austerity demands from all budget spending units, it ensues as imperative that the Agency not be equated with government authorities as any cuts of its budget would seriously compromise carrying out of its control function and realizing the role entrusted to it.

One of the challenges the Agency had to face when it had decided to announce and implement the competition for donations to civil society organizations for anti-corruption projects, was the lack of rules on requirements and criteria for allocating funds fro programs/projects of civil society organizations and rules governing reporting on utilization of funds in realizing program/project activities. A particular challenge was to introduce program oriented budgets of non-profit organizations into the budget structure of the Republic, territorial autonomy and local self-government. Due to such structure of public budgets it is not possible to ensure transparency in respect to purpose of appropriated funds, manner of their spending, as well as objectives for which the appropriated funds are used. The former, concurrently, decreases the effectiveness and pertinence in disposing public funds and makes the whole system of management of public funds “porous” to various misuses.

A significant obstacle encountered during adoption of the Rules on Whistleblowers as a bylaw was the fact that there are no substantive law norms in general statutes regulating the nature, content and scope of the right being protected, types and forms of disclosures in public interest, as well as content, character and type of corresponding protection. Hence, this Act had to focus prevalently on governing actions by the Agency in situations when a person files charges for suspicion of corruption, and not on protection itself. As the Rules could not transgress the competencies of the Agency as set under law, the need to provide an effective legal regime for protection of persons reporting suspicion of corruption continues to remain equally in focus.

The obstacle in the sphere of analysis of regulations relates to the legal framework defining this competence of the Agency. Namely, the Law on the Anti-Corruption Agency itself does not define criteria for determining the scope of regulations in the anti-corruption field over which the Agency would unequivocally exercise competence. The foremost challenge lies, in effect, in the complexity and prevalence of corruption as a phenomenon, whereby it surfaces in respect to numerous topics and activities and almost any regulation could be sensitive to it. A further obstacle derives from the fact that there is no stipulated obligation for any proponent of a law to consult the Agency when drafting new or amending current legislation, even when these are of significance for combating corruption, thus leaving this decision to the goodwill of the public authorities themselves. Consequently, for example, the Ministry of Finance failed to involve interested parties, including the Agency itself, in the procedure for amending the Public Procurement Act in 2011, despite the fact that public procurement is underscored in numerous reports as a high-risk area in terms of corruption.

New issues for the Agency arising from involvement in drafting process of the new Anti-corruption Strategy relate to the standards of formulation of public policy in the Republic of Serbia. One should not particularly emphasis that a well-made needs analysis in the area requiring formulation of public policy, together with a properly conducted consultative process, provides a higher level of quality and feasibility of public policy. These two processes can hardly be hurried, whilst the time factor in Serbia is frequently inhibiting, hence frequent demands to define public policy in short timeframes, which as a rule directly impairs the quality of needs analysis and

implementation of the consultative process, and consequently also impairs the quality of thus formulated public policy.

The obstacle faced by the Agency in international cooperation in 2011 relates to the fact that numerous government authorities continue to disregard their obligation stipulated by the Law on the Anti-Corruption Agency, to notify the Agency of their activities in the area of international anti-corruption cooperation. Cooperation exists at informal level and *ad hoc* situations, when necessitated by harmonizing particular reports or information. The consequence of non-performance in respect to this obligation affects the efficiency of cooperation with state institutions, and fosters perpetuation misperception and role of the Agency in the area of international cooperation, as well as absence of consultation with the Agency when drafting strategic documents presenting the need of the Republic of Serbia for international assistance.

Last but not least, several notable obstacles faced by the Agency since its inception refer to building of its capacities. In 2011 the Agency moved to premises fully commensurate with its needs. However, notwithstanding the support of the highest government authorities, particularly that of the Government of the Republic of Serbia and the National Assembly, unnecessary and inexplicable procrastination occurred in the procedure of purchasing of the building as permanent resolution of this issue that brought into question the very existence of the Agency and to a high degree impaired its work. Instead of payment of the sales price pursuant to contract concluded in December 2011, the Government of the Republic of Serbia continuously extends the lease period, thus not only seriously risking rescission of the contract and payment of damages to the owner of the building, but also imposing an obligation on the Agency to commit its meagre capacities to resolving of this issue instead for realizing of its statutory competencies.

Insofar as recruitment of the required number of personnel commensurate with the needs of a body such as the Agency is concerned, a challenge in itself is attracting quality staff with knowledge and skills conforming to the specific purview of the Agency. Legislative and thus financial basis, greatly constraints the possibility for promotion of staff, as well as their professional advancement and compensation pursuant to results achieved.

Recommendations

Based on achievements in applying the legal framework governing the purview, status and role of the Anti-Corruption Agency, the following recommendations are given to:

The National Assembly and Government of the Republic of Serbia

- Through amending relevant legislative provisions broaden the competencies of the Agency in control of assets in order to grant powers to directly demand information from banks and not through other government authorities (police and prosecution).
- IT network connection of data bases of the Anti-Corruption Agency and other authorities maintaining records and data of importance for controlling assets of officials.⁶

⁶ E.g., MoI, Ministry of Finance, Tax Police, Tax Administration, Republic Geodetic Authority, Business registers Agency.

- Continue harmonization of other regulations regulating conflict of interest of public officials with relevant provisions of the Law on the Anti-Corruption Agency, in order to establish a consistent legal framework governing this field.
- Amend the Law on the Anti-Corruption Agency to:
 - Grant the Agency powers to formulate within the regulatory framework a methodology for risk analysis of corruption that would have mandatory application by lawmakers when drafting new or amending current legislation.
 - Grant the Agency powers to formulate criteria for defining anti-corruption regulations whereby all lawmakers would be required to consult the Agency during the procedure for their drafting or amending.
 - Explicitly regulate the status of staff employed in the Agency's specialist departments to enable recruitment of highly-skilled staff with necessary knowledge and skills required by the specific purview of the Agency.
- Amend the Misdemeanour Act to extend the statute of limitations for misdemeanours defined in the Law on the Anti-Corruption Agency and in the Law on Financing Political Activities.
- Establish a general legal regime for protection of persons making disclosures in public interest in various strata of social life, aimed at further enhancement of actual protection of whistleblowers.
- Amend relevant regulations so that medical doctors are required to prescribe medication by its generic instead of commercial name.
- Take under consideration possible ratification of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions⁷, which endeavours to prevent bribery in international business transactions, including trade and investments.
- Specify standards for the process of formulating public policy in the Republic of Serbia that would provide:
 - that these are formulated on basis of needs analysis that, in turn, should meet stipulated, precise and publicly available standards;
 - that the text of public policy also incorporates the consultative process which, in turn, meets stipulated, precise and publicly available standards;
 - that the process of formulating public policy involves persons having the necessary capacities to execute these tasks.
- Undertake measures to strengthen the capacities of government authorities to formulate public policies.
- In allocation of budget resources for programs/projects of NGOs, define forthwith criteria and ensure transparency of procedure for allocation of public resources for such projects and concurrently set reporting criteria for spending of allocated funds.
- Ensure full sustainability of the Anti-Corruption Agency by providing resources from the state budget for exercising of all competencies entrusted to it.
- Provide lasting conditions for offices of the Anti-Corruption Agency that would be commensurate with its requirements.

⁷ The underlying purpose and goal of this Convention is attaining uniformity of measures which State Parties should undertake in combating soliciting of bribes from individuals and companies in international business transactions.

All government authorities

- All government authorities should comply with the statutory provision to draft integrity plans without delay.
- The integrity plans should be a product of objective self-assessment of risk for occurrence of corruption and other irregularities within the subject institution, and not a document enacted only to pay lip service to another statutory obligation.
- Drafting integrity plans is a process that should involve the largest number of employees in the subject institution, given that a large number of staff employed at various jobs within the institution may more comprehensively identify and assess internal risks and propose adequate measures/activities for their mitigation or rectification.
- If the institution is organized so as to perform its activities through organizational units (stations, field offices) throughout Serbia, it is necessary to recognize specificities of each of these and the formulated integrity plans should reflect these particularities.
- Develop cooperation between government authorities and civil society, including social partners and tripartite institutions (socio-economic councils), to highest possible extent.
- Identify and undertake required measures to ensure systematic and continuing approach by government authorities in implementing tasks from the Strategy and Action Plan.
- Upgrade the content of reports on fulfilling obligations from the Strategy and Action Plan that are forwarded to the Agency and ensure consistent fulfilment of obligation for quarterly reporting.
- Ensure in each government authority – proponent of legislation or enacting authority for other regulations – that staff engaged on drafting regulations are trained in the methodology of risk analysis of regulations regarding corruption.
- In relevant government institutions appoint a focal person required to notify the Agency of activities in international anti-corruption cooperation, whether underway or planned in the subject institution.
- All incumbents of public office should ensure mandatory training of all employees (both general service staff and appointed officials) on topics of ethics, corruption prevention and strengthening of integrity and public accountability of employees and institutions in line with a program drawn up by the Anti-Corruption Agency.
- All government authorities should duly notify the Agency of taking office and termination of office of public officials and submit reports on gifts they have received.
- Officials and responsible persons in government authorities, organizations, public enterprises, companies, institutions and establishments should institute training aimed at implementing regulations and the new application software.

Government authorities and civil society

- Define forthwith criteria and ensure transparency of procedure for allocation of public funds to projects of civil society organizations and concurrently set reporting criteria for spending of allocated funds.

Media

- Introduce contents promoting the fight against corruption in programs broadcast by public broadcasting institutions and corporations.

Political entities

- Strengthen capacities of political entities for applying and conforming to provisions of the Law on Financing of Political Activities.

COMMENTARY OF COMPLIANCE WITH RECOMMENDATIONS FROM THE FIRST REPORT ON THE WORK OF THE AGENCY

The first Report on the work of the Anti-Corruption Agency⁸, gives eighteen recommendations that were the result of one year of experience of the Agency's staff in enforcing the legal framework governing competencies, status and role of this independent state institution in the combating corruption.

Of the eighteen recommendations, implementing five recommendations are under the purview of the National Assembly and the Government, one recommendation is under the purview of the Government, seven recommendations are in the purview of public administration authorities, one is in the purview of a certain number of government authorities⁹, and four relate to enhancing the work of the Agency itself and are of internal character.

This Section recalls recommendations directed at public administration bodies.

Of the recommendations in the purview of the National Assembly and the Government, two recommendations have been fulfilled, a new Law on Financing of Political Activities has been adopted, and provisions of two laws¹⁰ adopted by the National Assembly in 2010 and 2011 respectively have been harmonized with provisions of the Law on the Anti-Corruption Agency in the area of conflict of interest of public officials, one recommendation has been fulfilled in part as in 2012 the Government passed the Decree on Incentive Funds for Programs or Shortfall for Financing Programs of Public Interest Implemented by Associations¹¹, while two recommendations remain unfulfilled: provision of the Law on the Agency stipulating regulation of status of employees pursuant to the Civil Servants Act has not been amended and the institutional framework to compensate the lack of investigative powers of the Agency in controlling asset disclosure reports of public officials has not been established.

Ensuring adequate office space for the Anti-Corruption Agency only partly fulfils the recommendation relating to the Government. Although the Agency moved to a new building in September 2011, the issue of lasting working premises remains open as the building has not been purchased and the state only leases premises currently used by the Agency.

8 Annual Report on the work of the Anti-Corruption Agency for 2010, available at

http://www.acas.rs/images/stories/Godisnji_izvestaj_o_radu_Agencije_-_25_mart_2011.pdf.

9 Recommendation referred to IT connection of data bases on assets and incomes of legal entities and natural persons of the Anti-Corruption Agency and MoI, Finance Ministry, Tax Administration, Republic Geodetic Authority and the Business Registers Agency.

10 The National Assembly adopted the Law on Advocacy ("Official Gazette of the RS", no. 31/11) and the Amending Law to the Health Protection Act ("Official Gazette of the RS", no. 107/05, 72/09, 88/10, 99/10 and 57/11).

11 Decree does not include all public administration bodies granting donations to civil society organizations; furthermore, the Decree related only to donations to associations of citizens, thus leaving outside the operation of the decree the donations allocated by public administration bodies to other civil society organizations.

Regarding recommendations relating to all bodies of public administration, one recommendation has been fully complied with: a high number of public administration bodies report to the Agency assuming of office by public officials or termination thereof. The recommendation to designate a focal point in public administration bodies tasked to contact the Agency regarding drafting integrity plans, reporting on the Strategy and Action Plan and trainings¹² has not been fulfilled. Four recommendations have not been complied with, namely that all public administration bodies are required to organize anti-corruption education for staff, which has not been done; legal framework allowing administrative authorities to resolve on duties and rights of citizens in stipulated timeframe – which is not only indicative – has not been established, as neither has the legal framework introducing accountability of public officials for inefficient action and decision-taking in applications of citizens in the government authority they manage. The four non-complied recommendations referred to designating of responsible officer in public administration bodies tasked with collaboration with the Agency in the area of international anti-corruption cooperation. One recommendation, relating to public administration bodies, has ceased to be active as members of working groups from these bodies who were involved in formulating draft integrity plans have completed their work; hence the issue of their motivation, knowledge and competence to work in formulating drafts is no longer current.

Finally, the recommendation referring to the necessity for IT connection of all public administration bodies having data of relevance for scrutinizing disclosure reports of public officials with the Agency, such as the Ministry of Interior, Ministry of Finance, Tax Police, Tax Administration, Republic Geodetic Authority and the Business Registers Agency, has not been complied with. The Agency has initiated talks with the Tax Administration, Business Registers Agency and the Republic Geodetic Authority on the above topic, but no concrete agreement or accord has been made to date concerning link-up of IT systems, i.e. data bases on assets and incomes of natural persons whereby the Agency could discharge its competencies more efficiently in controlling assets of public officials.

The National Assembly issued a Conclusion on the Annual Report on the Work of the Anti-Corruption Agency for 2010.¹³ The Conclusion, *inter alia*, states that the “National Assembly shall, in discharge of its legislative, oversight and electoral function, observe the recommendations contained in the Report of the Anti-Corruption Agency and shall, in accordance with defined competencies, monitor the work of executive bodies and holders of public powers from the aspect of compliance with these recommendations”. It further states that the “National Assembly is undertaking the obligation to ensure harmonizing of legislative solutions in the process of enacting new and amending current laws, whilst recognizing European standards, and to create a single and consistent legal framework governing the anti-corruption field”.

On 22 February 2012 the Anti-Corruption Agency had sent a letter to the National Assembly asking for an answer as to how has the National Assembly acted pursuant to said Conclusion, particularly points mentioned above.

The answer from the National Assembly¹⁴ states, *inter alia*, that the National Assembly

12 Of the 4,920 public administration bodies, 1,488 have appointed focal persons for cooperation with the Agency in corruption prevention.

13 Conclusion issued on 14 July 2011 (“Official Gazette of the RS”, no. 52/11).

14 Answer from the National Assembly to the Anti-Corruption Agency, no: 02-515/12 dated 8 March 2012

evaluates harmonization of Bills and other acts with the Constitution and legal system and adopted standards for combating corruption, and thus ensures control of harmonization of laws and consistency thereof from the aspect of combating corruption. The answer, furthermore, states that in 2011 the National Assembly passed a new Law on Financing of Political Activities, and deems it key in combating corruption and that the Justice and Administration Committee organized on this occasion a public hearing attended, in addition to members of parliament, by representatives of government authorities, independent government bodies and NGOs. In addition to adopting the Law on Financing of Political Activities, the National Assembly in 2011 also adopted the Amending Law to the Law on Election of Members of Parliament (rescinding blank resignations and setting rules for the order of candidates on the election list) and further states that, at the recommendation from the Agency's Annual report for 2010 to harmonise certain laws¹⁵ with the Law on the Anti-Corruption Agency regarding conflict of interest of public officials, the National Assembly passed a new Law on Advocacy and the Amending Law to the Health Protection Act.

As part of its oversight function the National Assembly monitors enforcement of adopted laws by reviewing the report on the work of the Government and individual ministries; relevant Committees regularly review quarterly information on the work of individual ministries, and the ministries and other holders of executive powers inform the Committees on issues from their purview. Throughout 2011 the relevant Committees reviewed quarterly reports on the work of ministries and accordingly informed the National Assembly.

By reviewing annual reports of independent government authorities, organizations and bodies, the National Assembly perceives the status in implementing of laws in the areas indicated in the reports, as well as the efficiency of ministries responsible for enforcement of these laws. Throughout 2011, after deliberation at the session of the Judicial and Administration Committee, the national Committee reviewed and adopted a proposal of the conclusion for annual reports of the Protector of Citizens, Anti-Corruption Agency, Commissioner for Information of Public Importance and Personal Data Protection, Commissioner for Protection of Equality, High Judicial Council and the State Prosecutors Council. The report of the Commissioner for Information of Public Importance and Personal Data Protection was also deliberated by the Culture and Information Committee, which in turn proposed conclusions that were adopted by the National Assembly. The annual report on the work of the Medical Council of Serbia and proposed conclusions thereto by the Culture and Information Committee has not as yet been taken under consideration by the National Assembly.

In line with the competencies of the committee to deliberate initiatives, petitions, complaints and proposals from its purview, the Committee on Health and the Family adopted conclusions, in respect to complaints of corruption in healthcare, appealing to all government authorities to act in accordance with their competencies in all cases of suspected corruption in healthcare, particularly to judicial authorities to prosecute such cases in shortest possible time.

Finally, the answer underscores that enhanced oversight function of the National Assembly is one of the key tasks in the coming period.

The answer lists activities of the National Assembly over the previous year that includes

¹⁵ Specifically, the Law on the National Bank of Serbia, the Health Protection Act, the Law on Prohibition of Discrimination and the Law on Advocacy.

forwarding of reports, information and opinions at the request of the Anti-Corruption Agency. It, furthermore, points out that the Administrative Committee has given a total of 12 positive opinions for discharging a second public function pursuant to Article 28 of the Law on the Anti-Corruption Agency, as well as one positive opinion for engaging in other activity or job pursuant to Article 30 thereof.

The debates at the sessions of the Judicial and Administrative Committee and the National Assembly regarding the proposal of decision for termination of office pursuant to the decision of the Anti-Corruption Agency on existence of conflict of interest in individual case, a point was made concerning inconsistency and contradiction in Article 29 of the Law on the Anti-Corruption Agency. It ensued from the debate that it is imperative to re-evaluate these legislative solutions and propose corresponding amendments or issue an authentic interpretation of provisions in order to eliminate any uncertainty in respect to their intended meaning.

Drafting of the Code of Conduct of members of parliament, whose draft version has been prepared and forwarded to members of the Administrative Committee, is one of the more significant tasks nearing completion.

REPORT OF THE BOARD OF THE AGENCY

BACKGROUND

Article 6 of the Law on the Anti-Corruption Agency sets forth that bodies of the Agency are the Board and the Director, and Article 9 thereof provides that the Board of the Agency shall have nine members elected by the National Assembly at the motion of the authorized proponents. At the session on 18 March 2009 the National Assembly elected at the proposal of the Administrative Committee prof. dr Zoran Stojiljkovic, associate professor of the Faculty of Political Sciences of the Belgrade University, at the proposal of the Government prof. dr Tanja Miskovic, at the proposal of the High Court of Cassation Mileva Gajinov, retired judge of the Supreme Court of Serbia, at the proposal of the State Audit Institution prof. dr Evica Petrovic, at the proposal of the Protector of Citizens and the Commissioner for Information of public Importance, through joint agreement, prof. dr Branko Lubarda, professor of the Law Faculty of the Belgrade University, at the proposal of the Social and Economic Council prof. dr Cedomir Cupic, professor of the Faculty of Political Sciences of the Belgrade University, at the proposal of the Serbian Bar Association dr Slobodan Beljanski, attorney-at-law and Zlatko Minic, journalist, at the proposal of the association of journalists in the Republic of Serbia.

The term in office of members of the Board of the Agency shall is four years. The law sets forth that member of the Board of the Agency cannot be member of a political party and/or political entity and is subject to all obligations and bans set therein that relate to officials, with the exception of the ban to engage in other activity or job during discharge of public office that requires full-time engagement or permanent employment. The Board of the Agency was constituted at the first session held on 15 April 2009. In the meantime, this function has ceased for Board members dr Evica Petrovic and dr Tanja Miskovic by resignation due to assuming other public office, in order to avoid potential conflict of interest with the office of Board member. The National Assembly, at the proposal of the President of the Republic, elected as Board member on 29 May 2009 dr Radmila Vasic, professor of the Law Faculty of the Belgrade University, and on 31 March 2011 elected Zlata Djordjevic, journalist, at the proposal of the Government.

The Board continues to operate in incomplete composition, given that the State Audit Institution failed to submit to the National Assembly a proposal for the candidate for election to the Board of the Agency. The Board has sent an official communication to this legally authorized proponent to meet its obligation regarding nomination of candidate for election to the Board, but this has not been complied with to date.

In respect to the scope of competencies, Article 7 of the Law stipulates that the Board of the Agency appoints and dismisses the Director of the Agency, decides on increase of the Director's salary, rules on appeals against decisions of the Director pronouncing measures in line with the Law, adopts the annual report on the work of the Agency and submits it to the National Assembly, performs oversight of the Director's work and property status, proposes the budget for the work of the Agency, passes its Rules of Procedure and performs other tasks set forth by the Law. At the proposal of the Director the Board may establish advisory or working bodies of the Agency.

The Board, in implementing the Law, takes second-instance decisions on appeals of public officials, whereby taking legal stands and deliberating legal issues. The Board realises

its oversight function by reviewing reports on the work of the Agency in the period between Board meetings, and proposals of general acts passed by the Director, collaborates with the Director in implementing all activities pertaining to the Agency's competencies.

In line with Article 14, paragraph 2 of the Law, the work of the Board of the Agency is managed by the chairperson, elected among their own number by members of the Board. After expiry of the term in office as chairman of the Board of prof. dr Cedomir Cupic, prof dr Zoran Stojiljkovic was elected as chairman of the Board on 18 May 2011. After resignation of Board member prof. dr Tanja Miscevic, who also discharged the duty of deputy chairperson of the Board, Zlatko Minic was elected deputy chairman of the Board on 19 January 2011. The chairman of the Board represents the Board before government authorities and other domestic and foreign bodies and organizations, administers organization of work and enforcement of tasks and decisions of the Board, prepares and calls meetings of the Board, proposes the agenda for the meetings, chairs the meetings, signs decisions and acts of the Board, calls press conferences and gives statements to the media in line with defined positions of the Board, organizes cooperation with other international organizations and bodies engaged in comparable activities, as provided by the Rules of Procedure of the Board.

Professional, administrative and technical support to the Board is performed by the Board's Secretariat, managed by the Secretary. The Secretary is appointed by the Board from the ranks of Agency staff, at the proposal of the Board Chairman. The Secretary of the Board prepares sessions of the Board, coordinates work of Board members, assists the Board chairman in discharging tasks from his/her purview, prepares draft decisions in collaboration with advisors, administers compiling, delivery and publication of written decisions, and performs other tasks in line with law, general acts and instructions of the Board or chairman of the Board.

Alongside the appointed Board Secretary, there shall be two lawyers working in the Secretariat of the Board, with the title of senior advisers.

FORMS AND SCOPE OF WORK

Key results and challenges:

At the motion of the Agency the Constitutional Court issued a decision establishing that the provisions of Article 29, paragraph 3 of the Amending Law to the Law on the Anti-Corruption Agency is not in compliance with the Constitution and ratified international agreement.

The Constitutional Court has taken 10 months from filing of the motion to take the decision establishing that provisions of Article 29, paragraph 3 of the Amending Law to the Law on the Anti-Corruption Agency amending Article 82 of the Law (introducing an exception for officials "found-in-office" to be allowed to continue to discharge one public office alongside the public office to which they were elected directly by citizens, as well as the public office they are required to discharge by operation of law or other act) is not in compliance with the Constitution and ratified international agreement. Uncertainty concerning constitutionality of the challenged legislative provision had, to some extent, compromised the effects of the Agency's work and prejudiced its role provided by law, as an independent and autonomous oversight body. Hence the Board had requested for a second time from the Constitutional Court to take a decision without delay.

In certain provisions of the Law on the Anti-Corruption Agency, even after

adoption of amendments, there are ambiguities and contradictions that should be eliminated, therefore a working versions of an Amending Law to the Law on the Anti-Corruption Agency has been made.

The Annual report on the work of the Agency for 2010 has been adopted and submitted to the National Assembly.

On the occasion of the International Anti-corruption Day the Agency, with the support of the European Union Delegation in Belgrade and USAID Mission in Serbia, organized on 8 December in the Palace of Serbia in Belgrade a conference on "Public Policies and Practice in the Fight against Corruption", with keynote addresses by, *inter alia*, Board member prof. dr Cedomir Cupic on the subject of Institutional Ways of Efficient Combating of Corruption, and Board member prof. dr Branko Lubarda on the topic of Protection of Whistleblowers in Comparative and National Law.

Some members of the Board took part in the specific working group for drafting the Law on Financing of Political Activities (prof. dr Zoran Stojiljkovic) and the specific working group for drafting the National Anti-Corruption Strategy and Action Plan (Zlatko Minic).

Certain politicians have attempted to discredit the work of the Board through their statements, to which the Board responded with a press release declaring, *inter alia*, that this concerns political rhetoric endeavouring to draw in the Agency. Furthermore, filing misdemeanour charges was followed by inappropriate reactions by some officials, which was strongly censured by the Board.

What has been done

The Board held 16 meetings and 2 telephone sessions. Meetings of the Board are public, except when deliberating appeals against decisions of the Director.

In 2011 the Board issued decisions on 37 appeals of officials against decisions of the Director.

Acting on appeals against first-instance decisions the Board has taken 24 decisions rejecting the appeals as unfounded, 2 decisions to admit appeal, vacate first-instance decisions and return cases for reconsideration, 2 decisions to return the cases to first-instance body to amend proceedings and one decision to dismiss proceedings.

Acting on appeals against first-instance conclusions, the Board has taken two decisions rejecting the appeals and 4 decisions admitting appeals, vacating first-instance conclusions and returning the cases for reconsideration.

In one case the Board deliberated the motion for review of procedure and decided to reject the appeal. Also, in one case the Board rejected the motion to rescind a final decision pursuant to official oversight.

Two cases on appeal were submitted to the Board in December and were resolved in March 2012.

Disposed Appeals and Extraordinary legal remedies in 2011

	Appeals against Decisions					Appeals against Conclusions		Motion for Review of Proceeding	Motion for rescinding final decision pursuant to official oversight
	Dismissed	Rejected	Admitted	Returned for amending	Discontinuance	Rejected	Admitted	Rejected	Rejected
	24	0	2	2	1	2	4	1	1
Total disposed	37								

Content of decisions appealed or extraordinary legal remedy filed and which were disposed of in 2011

Decision of the Agency for violation of provisions of Article 28 of the Law	10
Measure of Caution	10
Measure of Publication of Announcement of Violation of the Law	5
Measure of Public Announcement of Recommendation for Dismissal	8
Conclusion on Rejecting the Petition to Grant Approval	1
Conclusion on Rejecting Appeal	1
Conclusion on Dismissing the Motion for <i>Restitutio in integrum</i>	1
Conclusion on Rejecting Appeal as Lapsed	1
Total	37

Between meetings members of the Board examined cases, collected necessary data worked with advisors on formulating draft decisions and, in respect to complex legal issues, studied regulations governing the contentious legal issue. In addition to deciding on appeals, the Board has taken a decision on adopting legal opinion regarding the right to appeal of the Director.

Concurrent with their professional affinities, some members of the Board gave particular contribution in deciding on appeals, namely the retired judge of the Supreme Court of Serbia Mileva Gajinov, attorney-at-law dr Slobodan Beljanski and professors of the Law Faculty of the Belgrade University dr Radmila Vasic and dr Branko Lubarda.

The Board gave a positive opinion for the Draft Rules on Internal Organisation and Job Classification in specialist departments of the Anti-Corruption Agency. The Board also deliberated and adopted the financial report for 2010 and took the decision re-allocate the funds earmarked for purchase of official vehicle, redirecting these to the Ministry of Health for purchase of incubators for babies.

Members of the Board also deliberated the Rules on Protection of Persons Reporting Suspicion of Corruption (Whistleblowers) and gave their suggestions and proposals. The Board deems necessary that anti-corruption prevention bodies and the line ministry commence drafting the Whistleblowers Protection Act. Moreover, Board members also deliberated the Rules on Records of Contributions and Assets, Annual Financial Report and the report on election campaign costs of political entity and accompanying forms.

The Board also reviewed the Draft National Anti-corruption Strategy and Action Plan and gave a number of structural and conceptual comments.

Board members prof. dr Zoran Stojiljkovic, Zlatko Minic, dr Slobodan Beljanski, Zlata Djordjevic and prof. dr Branko Lubarda took part in 6 panel discussions in city libraries in Belgrade, Novi Sad, Nis, Pozarevac, Krusevac and Indjija organized by the Librarian Society of Serbia as part of the project "Transparency, good governance and fighting corruption". Public panels, as form of education and continuing campaign, have shown themselves as significant in awareness raising of citizens on the detrimental effects of corruption and the importance of fighting corruption.

In 2011 the first meeting took place between the Board and the Anti-corruption Council. The Board also collaborated with independent regulatory bodies and, thus, the Board chairman prof. dr Zoran Stojiljkovic met with the Commissioner for Information of public Importance and the Protector of Citizens in regard to drafting the Whistleblowers Protection Act.

The Board chairman prof. dr Zoran Stojiljkovic, deputy chairman Zlatko Minic and Board member Zlata Djordjevic took part in meetings with journalist organized by the Conrad Adenauer Foundation. The Board deems necessary that the media public service provides time for informative and educational activities of anti-corruption prevention bodies in systematic manner, through specific thematic slots, and that editorial boards designate journalists who would regularly follow activities of anti-corruption prevention bodies.

Board chairman prof. dr Zoran Stojiljkovic was engaged as member of the core working group for drafting the Law on Financing Political Activities. He attended the public reading of the Financing of Political Activities Bill in the National Assembly of Serbia and took part in seminars for

representatives of political parties on the subject of implementation of the new Law on Financing Political Activities and bylaws and accompanying forms, organized by CeSID. By analysing electoral practice and elections the Board shall, in conjunction with other bodies and organizations focusing on elections, evaluate the level of success in applying the legislative regulations and bylaws in force. Board chairman, prof. dr Zoran Stojiljkovic, also took part in the Conference “Fighting Corruption in Serbia – Integrity of Serbian Institutions in Fighting Corruption” organized by Transparency – Serbia and at the round table on the occasion of presenting the Report on Pressures and Control of Media in Serbia, organized by the Anti-corruption Council. He also spoke at the presentation of the results of the IVth round of public opinion polling on corruption in Serbia, made by *TNS Medium Gallup* within the framework of the UNDP project “Enhancing Anti-corruption Efforts in Serbia”.

Deputy Board chairman Zlatko Minic attended a number of meetings with representatives of international organizations and relevant bodies and authorities involved in the public procurement regulatory system. He worked together with the organization Transparency – Serbia on the National Integrity on Media Study. He was particularly involved in collaboration with the media. Representing the Board he took part in a working visit to the Slovenian Commission for Corruption Prevention in Ljubljana.

Board member Zlata Djordjevic took part, as lecturer, in 3 three-day seminars for youth on the topic of “Anti-corruption Mechanisms”, organized in conjunction with representatives of the Standing Conference of Towns and Municipalities, the State Audit Institution, Transparency Serbia, BETA News Agency and local broadcaster Radio Zrenjanin. She also lectured at the seminar “Anti-corruption Mechanisms in Serbia” for final year students and graduates applying in the three competitions to date for professional training in the Agency. She was also engaged as trainer at the three-day seminar for journalists from all over Serbia on the subject of Investigative Journalism and Public Finances, organized by the Independent Association of Journalists of Serbia together with UNDP (on applying domestic and international experiences and knowledge on corruption, its recognition, finding proof and using materials in the process of investigative journalism).

Board member prof. dr Cedomir Cupic spoke on the issue of protecting whistleblowers at the round table organized by the Agency on the occasion of presentation of the Rules on Whistleblowers. He also took part in the debate on the subject of “Profession – between Corruption and Integrity” organized by the Bureau for Social Researches (BIRODI) and the Fund for Open Society Serbia. The motive for the conference was BIRODI’s research from the first half of 2011 among professional associations in Serbia on their institutional, normative and staffing capacities to fight corruption, as part of the “Building Integrity Plans for Professionals” project. He also attended the conference organized by the Commissioner for Information of Public Importance and the Embassy of Great Britain on the duty of public administration authorities to publish journal of work. Together with dr Slobodan Beljanski he took part in the conference “Corruption against Health Care” organized by the Regional medical Association of Vojvodina, as well as at the panel discussion “Corruption in University Education in Serbia and How to Prevent It” organized by the Centre for Development of Education of the Belgrade Open School.

Board chairman prof. dr Zoran Stojiljkovic, Board member prof. dr Cedomir Cupic and Board member dr Slobodan Beljanski published papers on fighting corruption in the magazine “Challenges of European Integrations”. Dr Slobodan Beljanski also published the paper “Advantages and Weaknesses of the Law on Financing Political Activities” in the magazine “Law

Bulletin“.

Analysis and Proposal for Enhancing the Work of the Board and the Agency:

Board members put forward proposals for enhancing the work of the Board and the Agency at regular meetings and at the annual five-day retreat in Porec, whose organisation was supported in entirety by UNDP Belgrade.

This year's retreat was attended by Board members prof. dr Zoran Stojiljkovic, Zlatko Minic, prof. Dr Radmila Vasic, Zlata Djordjevic, Mileva Gajinov and prof. dr Cedomir Cupic, Agency Director, assistant Director and heads of the most important departments of the Agency. The objective of the retreat was to discuss results to date and work plans until May 2012, with particular focus on problems and manner of their resolution aimed at sweeping and coordinated action of the Agency. Guests at the retreat were Drago Kos, the then president of GRECO and current chairman of the Slovenian Anti-corruption Commission, Davor Dubravica head of the Sector for Suppression of Corruption of the Justice Ministry of the Republic of Croatia and Zlatko Draganovic, head of the Commission for Conflict of Interest in the Republic of Croatia. Conclusions of the retreat are that there is a need:

- to redesign data on the Agency's web site;
- to increase informing the general public on the work of the Agency;
- to introduce new software, in order to keep registers updated and more efficient for the purpose of record keeping and control;
- to define formats for notifying the public on conducting control of assets;
- to adopt the Strategy and Action Plan by end of year;
- for public campaigns on Agency activities and qualified divisions of work between sectors;
- to adopt a media plan;
- to find ways for increased engagement of Board members on issues of their proficiency, particularly when adopting financial reports of the agency and bylaws.

Throughout the year regular press conferences were held and media advisories published on current issues concerning the work of the Board. The Board chairman and individual members regularly gave press statements, interviews and appeared in radio and TV programs.

Goals:

In fighting corruption the Board is guided by principles defined in 7 points:

1. The Board shall in its actions in line with the Law insist on consistent compliance with the Law by all subjects whose work the Agency is empowered to regulate and control;
2. The Board shall encourage and support awareness and conscience of all incumbents of public office not to be engrossed only in their rights, personal and particular interests, but to rationally and diligently attend to their duties and/or obligations. This will raise the level of their responsibility and their overall integrity;
3. The mainstay of activities under particular attention of the Board will be the public and the media. The public shall be regularly and frequently informed of the plans and current activities

of the Agency and its Board. Press conferences will be organized and statements issued on all issues that the public is entitled to know and is interested in insofar as fighting corruption is concerned. In respect to the former, effort shall be invested to say only what is corroborated by grounds and proof. Sensationalism and groundless and argumentative imputations shall be avoided;

4. The Board shall promote constant coordination with government authorities, organizations and institutions whose duty is to combat corruption. The public shall be informed of this coordination – both of successful and unsuccessful activities, underscoring those who responsibly undertake their duties and/or comply with law, but also cautioning those who inhibit or obstruct the fight against corruption;

5. The Board shall develop cooperation with independent state authorities – Commissioner for Information of Public Importance, Protector of Citizens and State Audit Institution and also with the Anti-Corruption Council as governmental body, and independent government oversight, control and regulatory bodies;

6. The Board shall possibilities provided by law to initiate amendments aimed at improving of law, in order to regulate by law as many as possible of manifestations and issues related to corruption. Moreover, experts and institutions shall be engaged for researching various forms of corruptive acts;

7. The Board shall, together with the Director and specialist department of the Agency, continue with the established cooperation with international organizations, such as the United Nations Development Programme (UNDP), Organisation for Security and Co-operation in Europe (OSCE), Council of Europe, Delegation of the EU to Serbia, Transparency International, anti-corruption bodies world-wide, particularly in neighbouring countries, and with foreign and national non-governmental organisations.

CONFLICT OF INTEREST

1.1. Key Results

- Number of pronounced measures to public officials for conflict of interest increased fourfold from 2010¹⁶.

1.2. Other results from the purview

In 2011 the Agency disposed of 492 cases of conflict of interest of public officials, as follows:

- 37 decisions on pronouncing measure of caution (in 2010 the Agency had taken 11 such decisions);
- 24 decisions on pronouncing the measure of publication of recommendation for dismissal of official (in 2010 the Agency had issued 3 such decisions);
- 6 decisions on pronouncing the measure of public announcement of decision on violation of law (in 2010 the Agency issued 3 such decisions);
- 46 decisions determining breach of Article 28 of the Law on the Agency on assuming other public office with conclusion on termination of other public office by force of law (in 2010 the Agency issued 20 such decisions);
- 40 decisions taken on basis of Article 82 of the Law on the Anti-Corruption Agency, determining incompatibility of functions and ordering officials to cease discharging incompatible function within set timeframe (in 2010 the Agency issued 82 such decisions);
- 75 decisions taken on granting approval for discharge of other public office and/or other job or occupation (in 2010 the Agency issued 40 such decisions to public officials assuming office during 2010 after coming into force of the Law on the Agency in 2010);
- 23 decisions issued rejecting petitions for granting approval for discharge of another public office and/or job or occupation (in 2010 the Agency issued 25 such decisions);
- 169 opinions given on interpretation and application of the Law on the Agency in

¹⁶ In 2011 the Agency pronounced a total of 67 measures to public officials for conflict of interest, against 17 such measures in 2010.

respect to conflict of interest of public officials (in 2010 the Agency issued 228 such opinions);

- 42 cases disposed by conclusions on rejecting the petitions as lapsed or incomplete (in 2010 the Agency issued 13 such conclusions);
- 30 cases disposed by notification to parties that the Agency determined in preliminary procedure that no grounds exists for conducting proceedings before the Agency (in 2010 the Agency disposed 14 cases in this manner).

1.3. Action of the Agency in Conflict of Interest

As may be inferred from the attached statistics the largest single number of petitions in the area of conflict of interest referred to seeking opinions on interpretation and implementing provisions of the Law on the Agency. The opinions mainly related to defining status of public officials and/or requesting an answer whether in subject cases someone is deemed a public official or not and whether, on such grounds, is he/she subject to obligations deriving from the Law on the Anti-Corruption Agency. The second group of most frequent opinions given by the Agency are the answers concerning compatibility of certain public offices and/or public offices and other jobs and occupations. Although 2011 is the second year of implementation of the Law, the high number of requested opinions denotes a significant number of cases where clarification of current legislative provisions is imperative. To that end the Agency, through its actions, is building case law to be applied in similar cases and which will in time constrict the space for ambiguity and dilemmas that currently exists.

The second type of procedures by number before the Agency in this field relate to petitions for granting approval to discharge another public office and/or job or occupation. The fact that throughout 2011 more decisions granting than rejecting approval have been issued (75 against 23) denotes the existence of a significant number of functions, jobs and occupations that are mutually compatible and do not represent grounds for conflict of interest. To this end, staff of the Division for resolving Conflict of Interest completed the draft proposal of the Rules for Determining Public Offices that may be discharged without Agency Approval, currently under evaluation by the Board of the Agency.

Over the preceding period officers of the Division, in collaboration with colleagues from the Division of Register, commenced checking record data of 72 public officials at universities and high-education institutions whose founder is the Republic of Serbia, in respect to discharge of multiple public functions. Previous experience with officials at universities and high-education institutions has shown that a significant number of them ignore provisions of the Law relating to conflict of interest; hence their control should prevent potential conflict of interest in high education.

1.4. Description of Individual Cases

1.4.1. Conflict of Interest of Public Officials

The Agency *ex officio* investigated the press allegations that one public official holding a management position in an institution had employed ten persons closely related to him. During the control procedure the Agency received from the secretary of said institution data and evidence that the subject official had employed at least seven of his close relatives. The Agency took under consideration only evidence relating to close relatives employed during 2010 and 2011, namely his son and daughter, who are deemed associated persons by interest pursuant to Article 2, paragraph 1, item 4 of the Law on the Anti-Corruption Agency. Based on the above, there were reasonable grounds to suspect that the subject official benefited, i.e. acquired material gain for associated persons and thus questioned the confidence of citizens in conscientious and responsible discharge of public office, whilst failing to notify his superior and the Agency regarding suspicion of existence of conflict of interest, thus violating provisions of Articles 27 and 32 of the Law on the Agency. Consequently, proceedings were instituted against the subject persons and upon completion of evidentiary procedure the Agency pronounced the measure of public announcement of the recommendation for dismissal from public office. The subject official appealed the decision and currently proceedings are underway before the second-instance body.

The Agency was made aware that a director of an institution founded by the Government of the Republic of Serbia is concurrently the owner of a company and medical practice with which this institution had business relations. In order to obtain information of existence of conflict of interest the Agency invited all budget spending units, known to the Agency of having business relations with the company and medical practice in ownership of subject official, to forward information whether they have transferred funds to the account of said company and medical practice, i.e. whether they have done business with them. Certain budget spending units notified the Agency that they had obtained goods and concluded contracts with the company in public procurement procedure, while the institution wherein the public official is the director notified the Agency that this institution had concluded a sublease agreement with the medical practice for business premises. The Agency instituted procedure against the official to determine violation of provisions of the Law on the Anti-Corruption Agency, and since the company failed to comply with Article 36 of the Law on the Agency, requirements were met also to institute misdemeanour proceedings against the subject company and its responsible officer. Proceedings are underway.

In proceedings launched pursuant to report, the Anti-Corruption Agency determined that a managing official of an institution acted contrary to provisions of Article 27, paragraphs 1 and 2 in connection to Article 2, paragraph 1, point 1 of the Law on the Anti-Corruption Agency, by taking part as the responsible officer in disciplinary proceedings resulting in termination of employment of an employee in that institution, although in personal conflict with the employee and for instituting a lawsuit against the institution for recovery of travel expenses, thus putting his private interest before the interest of the institution whose legal representatives he is, thus questioning the confidence of citizens in conscientious and responsible discharge of public office, hence the Anti-Corruption Agency reached a decisions pronouncing to said official the measure of public announcement of recommendation for dismissal. The said official has appealed the decision and procedure is currently underway before the second-instance body.

1.4.2. Incompatibility of Public Offices

Acting upon petition of an official the Agency issued a decision determining that concurrent discharge of public offices of councilman and assistant mayor is incompatible and obligating the official to cease discharging incompatible functions within 30 days from the date of receiving the decision and to notify the Agency accordingly. As the Agency had not received the required notice within the set time frame, the Agency instituted proceedings against the official for violating of provisions of the Law on the Agency and so notified the official, giving him the opportunity to state all circumstances he deems relevant for his assertions. Following this, the official submitted a copy of his resignation as town councilman, and the Agency had on two occasions requested from the town assembly to forward the decision on resignation of the subject person. However, the town assembly notified the Agency that the subject person has withdrawn his resignation and continued with concurrent discharge of incompatible offices. The Agency re-launched proceedings against the official and granted him the opportunity give a statement concerning mentioned circumstances. In his explanation the official stated that he discharges two offices in two different bodies and that these two offices are not mutually connected. The Agency, deeming the stated facts without justification, issued a decision pronouncing the measure of caution to the official, with the requirement to submit, within 15 days from the date of receiving of the decision, proof of compliance with provisions of the Law on the Agency prohibiting concurrent discharge of said functions. As the official failed to submit proof of discontinuing concurrent discharge of incompatible functions within the set timeframe, the Agency issued a decision pronouncing to the official the measure of public announcement of the recommendation for dismissal from the office of assistant mayor.

1.5. Actions of Public Authorities and Officials pursuant to Agency Decisions

Of the mentioned number of final decisions 95% have been enforced and the remaining decisions are in the phase of enforcement.

Insofar as conflict of interest is concerned, the Agency's practice to date shows that for a number of officials just the fact of instituting proceedings against them was sufficient for compliance with the avoided obligation. A certain number of officials, after instituting of proceedings and pronouncing of measure of caution or measure of termination of the other public office which is in conflict with the office he/she is already discharging, have complied with the law.

The Agency's records show that the Government of the Republic of Serbia has displayed the highest degree of promptness in enforcing the Agency's decisions in resolving conflict of interest. On the other hand, a tendency was noticed with certain number of local self-government authorities to implement decisions of the Agency only after multiple warnings from the Agency.

In three cases, public authorities that had elected, appointed or nominated public officials whom the Agency determined by decision are in violation of Article 28 of the Law, had notified the Agency that they will not bring a decision on termination of office for these officials. In the case of a member of the High Judicial Council, who is at the same time a dean of one of the state faculties, the National Assembly has taken a decision whereby refusing to confirm termination of office by force of law. In one case the General Secretariat of the Government of the Republic of Serbia

notified the Agency that the official has been relieved from public office, however not the one which the Agency determined should cease by force of law but from the other which he had assumed earlier. In one case where the Agency pronounced to a public official the measure of public announcement of recommendation for dismissal due to concurrent discharge of public office requirement full-time engagement and other occupation, the Agency received notification from the local self-government assembly that had appointed the official Director of Veterinary Service, that it will not relieve the official as he is essential for the functioning of the local self-government.

In the case of a director of a specialized Republic medical institution, against whom the Agency pronounced the measure of public announcement of recommendation for dismissal, the official was relieved only after repeated insistence to the Ministry of Health, and several months after the Agency's decision became final. In case of one official whose office demands full-time engagement, and who was concurrently holding the post of director of part of a mine, the final decision of the Agency ordering discontinuance of concurrent discharge of office and job was enforced only after approaching the General Labour Inspectorate. The Agency launched misdemeanour proceedings against the responsible officer of the enterprise.

In a number of cases, after instituting procedures to determine violation of law, the Agency had received notice of submitted resignations that were not corroborated with proof that the resignations were debated. In two cases the Agency was notified that public officials had submitted, and then revoked, resignations. In such cases the Agency continues with the procedure to determine violation of law.

1.6. Obstacles

The Division for Resolving Conflict of Interest, in implementing the Law on the Anti-Corruption Agency and other laws, continued in 2011 to be faced with inconsistency of legislation governing the subject matter of conflict of interest, an aggravating factor in actions of the Agency in resolving conflict of interest.

To this end certain progress has been made, firstly by the Decision of the Constitutional Court of 7 December 2011, determining unconstitutionality of provisions of Article 29 of the Amending Law to the Law on the Anti-Corruption Agency, pursuant to the initiative for assessment of constitutionality filed by the Agency. This resolved the issue of 86 cases of so-called "found-in-office" public officials holding a number of incompatible offices who, after passing of the Amending Law to the Law on the Anti-Corruption Agency, were "put on hold" until passing of the Constitutional Court decision¹⁷.

The National Assembly adopted the Amending Law to the Health Protection Act¹⁸ and the Law on Advocacy¹⁹, taking care to harmonise provisions of these Laws with the Law on the Anti-

17 This refers to officials who were holding two offices at the moment of coming into force of the Law, where they had assumed one by direct election of citizens. They were exempted from the mentioned Amending Law to the Agency Law, but after passing of the Constitutional Court decision proclaiming Article 29 unconstitutional, the Agency could commence action in resolving cases of incompatible offices.

18 "Official Gazette of the RS", no. 107/05 and 72/09, 88/10, 99/10, 57/11.

19 "Official Gazette of the RS", no. 31/2011.

Corruption Agency in the area of conflict of interest of public officials.

1.7. Recommendation

- Continue with the practice of harmonizing provisions of regulations governing conflict of interest of public officials with the Law on the Anti-Corruption Agency, in order to establish a consistent legal framework governing this field.

CONTROL OF ASSETS OF OFFICIALS

2.1. Key Result

- Number of completed checks of disclosure reports of officials' assets increased twofold from 2010.²⁰

2.2. Other Results within the Purview

- Of 586 disclosure reports of officials that were subject to control throughout 2011, checking of 513 disclosure reports of officials' assets has been concluded;
- 8 requests filed for misdemeanour action against officials for lapse in registering assets and failure to transfer managing rights in companies;
- Criminal charges filed with the competent prosecution against one official for filing false information on assets;
- In case of two officials the competent prosecution notified for further action from its purview;
- At the initiative of the MoI and the prosecution, the Agency made available disclosure reports of two officials against whom these bodies launched *ex officio* proceedings on reasonable grounds that they have committed the criminal offense of giving false information on assets and failure to register assets.

2.3. Outcome of filed Charges

In 2011 the Agency checked 586 disclosure reports of officials' assets, pursuant to annual plan of control of disclosure reports, and pursuant to complaints. In line with the above plan, in 2011 the Agency controlled disclosure reports of the prime minister and deputy prime minister, ministers, state secretaries, members of parliament and mayors. In addition, presidents of municipalities, directors and members of managing and supervisory boards of republic public companies were subject of *ad hoc* controls during this period. Of the overall number of controlled reports, checks were concluded for 513 disclosure reports. Checking of the remaining reports is still active.

In control of a disclosure report of one official the Agency determined reasonable grounds

²⁰ In 2011 control of 513 disclosure reports was completed, while in 2010 control of 192 such reports was completed.

that the official filed false information on assets in the report. Consequently, the Agency filed criminal charges against the official with the relevant prosecution on reasonable grounds that he has committed a criminal offence stipulated under the Law on the Agency. However, the relevant prosecution rejected the criminal charge on grounds that in the specific case there are no elements for criminal prosecution of the official against whom charges have been filed.

During checking of disclosure reports of officials the Agency filed eight requests for misdemeanour action. In four cases requests were filed for lapse in submitting disclosure reports and in the remaining four cases the officials failed to comply with statutory duty to transfer managing rights in companies. Of the eight filed requests for misdemeanour action, the courts passed meritory judgement only in two cases: in one case the court passed a decision on acquittal (appealed by the Agency with response still pending), and in the second case the court decreed the official responsible for misdemeanour and pronounced a reprimand. In all other cases misdemeanour proceedings are still active.

2.4. Cooperation with other Authorities and Institutions

The procedure for control of assets of officials implies checking of various types of data in possession of various state authorities or public services. Thus cooperation with different institutions is key for exercising this competence. In 2011 the Agency had successful cooperation with the Ministry of Interior, Ministry of Finance, Tax Police, Tax Administration, Republic Geodetic Authority and the Business registers Agency. Effective cooperation presumes that the above authorities and institutions respond to correspondence from the Agency and forward to the Agency in due time the requested information on assets of officials that they keep in their registers.

Cooperation with a certain number of banks is satisfactory. However, this field is not precisely regulated by the Law on the Agency and, hence, banks interpretation of this imprecision is that there is no mandatory requirement for them to forward requested data to the Agency. The Agency approached the National Bank requesting that it uses its competence to ensure that all banks doing business on the territory of the Republic of Serbia forward information at request of the Agency. However, this issue is not as yet resolved, as one bank filed a request with the Ministry of Justice for interpretation of provisions of the law whereby the Agency is entitled to demand such information directly from them. The response from the Ministry has not yet been received and, hence, cooperation with banks continues *ad hoc*.

2.5. Obstacles

In comparison to 2010 the obstacles the Agency has faced in controlling disclosure reports of officials have remained, to large extent, same in 2011. Due to new office space the Agency has been able to recruit additional staff, thus technical correctness of data in disclosure reports is now under the authority of the Division for Registers of the Anti-Corruption Agency. This means that staff of the Division for Control of Officials Property can fully devote to in-depth control of disclosure reports instead of checking formal correctness of disclosure reports that they had done in 2010.

One of the biggest obstacles in this area is the fact that the Agency has no direct access to data bases of other competent government authorities, such as the Ministry of Interior, Tax Police, Tax Administration, republic Geodetic Authority, but has to obtain such data through written requests and answers thereto. Comparative practice of certain countries, even those in our region²¹, shows that the system of control functions much better and more efficiently if there is IT networking between the body empowered to control disclosure reports of officials and other authorities and institutions in possession of various data on income and property of citizens.

2.6. Recommendations

- IT connection of Anti-Corruption Agency data base and data bases of other authorities keeping records of importance for control of officials' assets.²²
- By amending appropriate legislative provisions enhance the competence of the Agency in control of assets so as to grant the Agency powers to directly demand information from banks, and not through other public administration authorities (police and prosecution).

21 In the Republic of Croatia, the Commission for Resolving Conflict of Interest, with purview to control disclosure reports of public officials, can by way of PIN (personal identification number) access all information on property and income of an individual maintained by the Tax Administration.

22 For example, MoI, Ministry of Finance, Tax Police, Tax Administration, republic Geodetic Authority, Business Registers Agency.

REGISTERS OF OFFICIALS, PROPERTY AND GIFTS

3.1. Key Results

- At the end of 2011 the register of officials contained 20,617 names, which is a fivefold increase from the end of 2010 when the register contained 4,000 units;
- Application software for electronic keeping of register of officials, register of property and catalogue of gifts has been designed and installed.

3.2. Other Results Within the Preview

- Amendments made to the Rules on the Register of Officials and the Register of Property of Officials, as well as amendments to the Rules on Gifts to Officials;
- Instructions for Fillings the Disclosure Report Form and the Forms of the Reports on Office and Gifts drawn up;
- Catalogue of gifts to officials with 485 gifts published for the first time;
- Record of legal entities wherein public officials have more than 20% share made and published, as well as the record of public procurement procedures of these legal entities; at the end of 2011 the records contained information on five legal entities that regularly submit information and that have been involved in 69 public procurements;
- 129 officials transferred managing rights to another natural person or legal entity who is not an associated person, to exercise such rights on their behalf and for the official until such time as public office of the official terminates;
- Cooperation achieved with a number of government authorities, organizations, public enterprises, companies, institutions and establishments, aimed at compliance with statutory obligations.

3.3. Registers

The foremost goal in establishing and operation of registers stipulated by Law is enhancing transparency in work of public administration bodies and public officials and form of oversight of their work. Insofar as the register of officials is concerned, the Agency receives and sorts source documents (receives form “Notice of Assuming Office/Termination of Office/Re-election”), administratively corrects improperly filled forms, draws up registers of government authorities and institutions with statutory duty to forward information on officials, drafts preliminary design for electronic keeping of register of officials, designs electronic records of public data from the registers and publishes them on its web page.

In 2011 in excess of 12,000 forms filled out by officials have been received (a 74% increase from 2010) and 599 new cases.²³ More than 1,000 filled-out forms had omissions that required

²³ The Agency forms a separate case file for each public authority forwarding forms on public officials.

updating and correction (administrative correction of data), namely, improperly filled or incomplete data entered in the forms.

In 2011 the Agency received a total of 3,853 reports on assets and income, 1,262 of which have been processed and put on the Agency's web site. This number is less than in 2010, which was the first year of operation of the Agency and when all officials had duty to register assets. This resulted in over 17,000 disclosure reports in that year.

The Agency established in 2011 a catalogue of gifts to public officials. This catalogue was made public for the first time last year and included 485 registered gifts.

Most frequent gifts in the preceding year were books, paintings, photographs, plaques, various wines and other spirits, glass and ceramic vases, bowls, glasses and various figurines. Most gifts were given on formal occasions /"protocol gifts"/

The Agency maintains records of privatization procedures and public procurement by legal entities wherein a public official holds more than 20% share or stocks. The purpose of these records is to enable insight of potential influence on the public procurement procedure that may be exerted by the public official when concurrently in the position of tenderer (as shareholder in a company, for example) and procurement official (as representative of public authority). *Until end of 2011 five legal entities submitted data on such public procurements, whose total number was 69.* The fact that only few legal entities submit information of this nature indicates that this field requires increased information efforts, in order that all in such position comply with their statutory duty.

In performing tasks from this purview the Agency carries out control of transfer of managing rights to another natural person or legal entity who is not an associated person, to exercise such rights on their behalf and for the official until such time as public office of the official terminates, and in other cases provided by law. The person to whom an official transfers managing rights becomes an associated person. This measure should enable "deconcentration" of influence an official may have in a situation when concurrently exercising managing rights in a company (thus having a certain private interest) and discharging public office in a government authority. *In 2011 there were 129 officials in such position, i.e. transferred managing rights.*

In discharge of these competencies a phenomena was noted that requires underscoring, namely the submitting of a large number of technically incorrect disclosure reports and notifications on assuming/termination of office. The foremost reason for incorrectness is avoiding or giving incomplete information, deriving mainly from ignorance of regulations governing this matter, as well as ignorance of duties incumbent upon officials by operation of the Law. The Agency, consequently, amended the Rules on the register of Officials and the Register of Property of Officials that should, in the coming period, enhance maintaining of registers and prevent occurrence of omissions.

Novelties introduced by the amendments to the Rules on register of Officials and the Register of Property of Officials.

Electronic completing and keeping of the register of officials and the register of property of officials has been made possible by designing appropriate software. Introduction of on-line filling of forms gives mandatory boxes, drop-down menus and control of ID numbers, thus reducing possibility for mistake and omission to list data required by regulations. Proof that a form has been properly filled is the automatically generated bar code that is received after sending of electronically-processed document, confirming successful procedure and that the document is on the Agency's server.

After this, the document with the bar code and signature is forwarded in hard copy. This will enhance the efficiency of Departments/Divisions in processing, controlling and publishing data on the Agency's web site. New software favours also the reporting individuals by enabling saving of the filled out forms and, if necessary, modification.

3.4. Obstacles and Challenges

A significant challenge in establishing registers provided by Law is the high influx of documents and insufficient staff to efficiently process the voluminous material. A problem in work was also the fact that disclosure reports are submitted in hard copy, even hand written, which hampered entering into the provisional electronic system, hence public registers could not have been completed. A further challenge for the Agency in this regard was the high percentage of incomplete disclosure reports; notifications of assuming office, as well as notice of transfer of managing right, and this impeded the work on establishing the registers and unnecessarily engaged the Agency's meagre resources.

The recommendation from the last year's report relating to the duty of government authorities to notify the Agency in due time in respect to assuming and termination of office, has been fulfilled to large extent, through constant communication with responsible officers in government authorities and informing and/or reminding of statutory obligations they have to the Agency. This is evidenced by the increasing number of received forms and case files. Still, this is a process and this recommendation should be considered a "permanent tasking".

In order to accelerate the process of entering such data into the registers the Agency employed a further 3 staffers, resulting in faster and more efficient updating of data. Furthermore, design of application software fostered establishing of computerized register of officials, register of property of officials and catalogue of gifts.

However, the main challenge that the Agency will face in the coming period is the full implementation of amendments to the Rules on the Register of Officials and the Register of Property of Officials, as well as full implementation of new application software in the election years when a significant increase in materials and reports that need processing is expected.

3.5. Recommendations

- Government authorities, organizations, public enterprises, companies, institutions and establishments should designate a focal person for contact and cooperation with the Agency, in order to discharge stipulated obligations.
- All government authorities should notify the Agency in due time concerning assuming office and termination of office of all officials, and forward information on gifts they have received while discharging office.
- Officials and responsible officers in government authorities, organizations, public enterprises, companies, institutions and establishments should conduct training aimed at implementing regulations and use of new application software.

OVERSIGHT OF FINANCING OF POLITICAL ENTITIES

4.1. Key Results

- New legal framework for oversight of financing of political entities established.
- Network of 165 associates established to monitor the election campaign in 23 towns and cities in Serbia.

4.2. Other result within the Purview

- A Guide through the Law on Financing of Political Activities drafted.
- Methodology of election campaign monitoring drafted.
- Upgrading of data base of political entities, predominantly political parties, important for control of their financing.
- Cooperation enhanced with other government authorities, mainly the Ministry of Finance, Province Secretariat for Finance, finance and budget departments of local self-government.
- Cooperation enhanced with all banks whose clients are political parties.
- Better communication established with political parties aimed at acquiring necessary data.

4.3. New role of the Agency in Controlling Financing of Political Entities

The Law on Financing Political Activities was passed by the National Assembly of the Republic of Serbia on 14 June 2011, and came into force on 22 June 2011. The Law defines competencies of the Anti-Corruption Agency in control of financing of activities of political entities. Pursuant to the Law, political activities are regular work and activities during election campaign of political entities, where this denotes political parties, coalitions and citizens' groups.

The Anti-Corruption Agency is the competent authority for control of financing of regular work and election campaigns of political entities. In these terms, the direct subjects of control are the political entities themselves, whilst indirect subjects of control may be also legal entities and natural persons, associated in some way with political entities, either as contributors or as persons not allowed to finance political entities, but who anyway do so.

For more efficient control of financing of political activities the Director of the Agency was

given powers to pass bylaws necessary for implementing of the Law and, within the framework of such bylaws, specify forms for the annual financial report and the report on election campaign costs. As of April 2012, political entities shall file the annual financial report on new forms and, after the 2012 elections, the report on election campaign costs.

In the annual financial report political entities report on their aggregate financial transactions throughout the calendar year. The report on contributions collected during the election campaign and costs of such campaign encompasses financial transactions from the date of calling of elections until the date of proclaiming final election results.

The Agency controls financing of political entities pursuant to methodology it has developed, and which is constantly improved by intensifying relations with other government authorities and banks, by new skills and knowledge of staff and through developing software for data processing.

4.4. Capacity Building for monitoring Election Campaigns

An important innovation in the field of control is building the methodology for election campaign monitoring. In November and December 2011 the Agency selected, through public announcement, observers for election campaigns who will follow in the field the activities of political entities during election campaign and, based on data collected in this manner, the Agency will be able to project costs of election campaign. This will be one of the reference points for checking the reports on election campaign costs. This type of control will be implemented for the first time ever in Serbia.

Given that, as things stand now, the biggest campaigning will be in cities regardless of level of elections, a decision was taken to form a network of 165 observers to cover the territory of 23 cities and towns (Belgrade and 22 towns) in the Republic of Serbia, where they will monitor activities of political entities in the election campaigns for parliamentary, provincial and local elections. The number of observers in each of the towns has been determined pursuant to the number of voters in each of them.

The procedure for selection observers commenced in November and December. The procedure involved three phases: filing of application, interviewing candidates and training of short listed candidates. The first two phases were implemented in November and December. To the public vacancy announcement for observers 431 applications were received, and out of this number 398 applications were correct and these candidates were invited for interview. 380 candidates responded for the interview and 209 qualified for training, as the last phase in selection of observers.

4.5. Oversight of Political Parties

In the procedure for control of financing of political parties, reports by citizens and legal entities play a significant role. In November and December 2011 the Agency received 7 reports of violation of provisions of the Law on Financing of Political Activities. Procedure on one of the reports is underway while the others were determined unfounded. Still, it is important to underline

that until the enactment of the new law the Agency had never received any report of violation of the Law on Financing of Political Parties. It should be particularly noted that the reports came after a series of lectures on the topic of implementing provisions of laws and bylaws in 22 towns and the City of Belgrade, organized by the Agency in collaboration with CESID and with the support of the OSCE Mission to Serbia and USAID. (More in the section – Education).

Regarding the annual financial reports of political parties for 2010 and which were controlled in 2011, it is important to say that all political parties financed from the budget of the Republic of Serbia, with the exception of the Christian Democratic Party of Serbia (DHSS), filed reports in due time. It must also be mentioned that this deadline (April 15) was not set forth by previous law was more of a customary rule, but was nevertheless respected.

In 2011 the Agency filed two motions for misdemeanour action, one against the Serbia Progressive Party (Srpska napredna stranka – SNS) on 17 June and the other against G17 Plus on 14 October. Both proceedings are still active.

4.6. Obstacles

In the Annual report on the work of the Anti-Corruption Agency for 2010 the two main obstacles in the sphere of financing of political entities were defined as: poor solutions in the Law on Financing of Political Parties and the “silent” resistance of political parties regarding compliance with statutory provisions. Both obstacles have been removed, the first in entirety and the second in part, by more responsible attitude of political parties. Naturally, there are exceptions in the second case but the actions of the majority of political parties are such that one may speak of a positive shift in respect to their attitude. As was said in the previous year’s report, a certain number of parties refused to conduct an audit of their annual reports, invoking provisions of the Law on Accounting and Audit. It has been noted this attitude has been modified and that parties have commenced with audit of their business, with the exception of G17 Plus, which refused to audit its annual report for 2010 and consequently, the Agency has filed a motion with the misdemeanour court for misdemeanour action against this party.

Although it may be said that the obstacles the Agency faced in 2010 have been overcome, this in no way implies that new ones have not arisen in 2011.

Over these two years one of the fundamental problems is the inefficient work of misdemeanour courts. The drawn-out action by the courts inhibits to great extent efficient enforcement of law and establishing a system of accountability for unlawful acts.

At the end of 2011 the Agency filed 6 motions for misdemeanour action. Out of that number only two have been concluded. One case against the political party Jednistvena Srbija (JS) for failing to submit the report on election campaign costs for elections in Zabalj (held in May 2010), where the motion was rejected as lapsed. Misdemeanour courts in Belgrade and Jagodina instigated a conflict of jurisdiction which lasted for 6 months and, hence, they themselves caused barring by the statute of limitations. The second case was against the Serbian Radical Party (Srpska radikalna stranka – SRS), instituted on same grounds as against the JS. This case was concluded by dismissing of the motion since the deliberation of the court was that the Agency, despite a body with competence for control, does not have competence to file motion for misdemeanour action.

The Agency appealed both decisions before the High Misdemeanour Court. The remaining cases from 2010 have not as yet been adjudicated.

4.7. Recommendations

- Amend the Misdemeanour Act to extend the statute of limitations for violations set forth in the Law on the Anti-Corruption Agency and the Law on financing Political Activities.
- Strengthen capacities of political entities in applying and compliance with the Law on Financing Political Activities.
- Enhance efficiency of actions before misdemeanour courts.
- Build capacities of the State Audit Institution in the area of auditing financial reports of political parties.

COMPLAINTS

5.1. Key Results

- Efficiency of the Agency in processing complaints increased two-and-a-half times in comparison to the previous reporting period²⁴.
- One criminal charge filed and one motion for misdemeanour action pursuant to submitted complaints.
- Action commenced in cases when protection is demanded by the so-called “whistle blowers”, wherein measure of caution was pronounced to entities undertaking retaliatory action.

5.2. Other Results within the Purview

- Acting upon complaints the Agency concluded 210 cases.
 - In 85 cases there were no grounds for action.
 - In 61 cases the complaint was referred to other public authorities with competent jurisdiction (for example, the Ministry of Interior, relevant prosecution, etc.).
 - In 24 cases the party was notified that the Agency that the subject matter was not in the Agency’s competence and was informed which competent authority to approach.
 - In 38 cases the Agency acted upon the complaint, approached the competence public authority and notified the party of the answer.
 - One criminal and one misdemeanour charge filed.
- Methodology for classification of cases finalized and records thereof established.
- Procedures for action by the Agency upon complaints established and relevant schematic procedure diagram made.
- In three actions pursuant to motion for protection due to reporting suspicion of corruption the procedure has entered the final phase.

5.3. Records

In its work the Anti-Corruption Agency acts upon complaints, applications for protection of persons reporting suspicion of corruption and requests for opinion. The Agency forms case files

²⁴ In 2011 the Agency processed 660 complaints, while in 2010 the Agency processed 277 complaints.

based on the above submissions, of which those relating to complaints represent the substance of the work of the Agency as complaints, in most cases, contain important information directing the Agency where to focus efforts in research and analysis of corruptive practice and phenomena.

In one of the phases of action records are formed of cases which serve, *inter alia*, also as statistical base for various analyses and for research of the attitude of citizens towards certain particular form of corruption. In the records cases are categorized into two classification groups. One classification group comprises cases arranged by subject entities and sectors where potential corruptive practises were indicated, and the other comprises cases arranged by various risk areas where corruption was reported. These classification groups are further classified into corresponding sub-groups, thus providing for continuous monitoring of the corruption phenomenon in various public authorities and according to thematic criteria.

5.4. Procedures

In 2011 the process of standardizing actions on complaints of Agency staff continued and, to this end detailed procedures have been established down to the level of each staffer, and a schematic procedure diagram has been made.

5.5. Work on Cases

In 2011 the Agency had a total of 704 cases in work, of which 339 cases were carried over from 2010, while 365 cases arrived throughout 2011. Of the total number of processed cases during the reporting period work has been completed in 295 cases.

Statistical analysis of complaints by sectors and public authorities, which were acted upon in 2011, indicate that citizens in most cases pointed to irregularities in the work of public administration bodies and the judiciary. Although not as numerous as those in the area of public administration and the judiciary, complaints indication potential corruption in health care are of particular importance, as the implication of corruption in this area is the most serious due to the values that could consequently be put at risk – human life and health..

5.6. Whistle blowers

The Agency is applying the Rules on Protection of Persons Reporting Suspicion of Corruption, which were passed in mid-2011. Until end of 2011 in 10 cases the Agency received the application for protection of whistleblowers. Of this number, in 3 cases there were no legal grounds to treat the appellant as a whistleblower, while procedures pursuant to 3 applications for protection are in the final phase.

5.7. Corruption in Health Care

Complaints upon which the Agency acted in 2011 indicated two areas of risk practises within the framework of health care system that facilitate corruption. These anomalies derive, to

high extent, from the inconsistency of the legal framework that governs providing of medical services and effectuating health protection, whereby individuals within the health care system are given enormous discretionary powers in decision taking, with concurrent absence of mechanisms to invoke their accountability and sanctioning in cases of abuse of these powers.

The first area of risk practises indicated by complaints relates to the possibility for medical staff to engage in supplementary work. Namely, since regulations governing the field of health care, as *lex specialis*, derogate provisions of general labour regulations, medical doctors are given a privileged treatment by allowing them to conclude a contract on supplementary work, instead of overtime, and to charge for medical services after regular working hours according to special tariffs. At the same time this creates a unique, legally permissible situation, where public resources are used for private practice. Consequently, regulations practically motivate the medical doctor to refer patients to themselves after working hours, or to a private service medical provider wherein engaged pursuant to permissible supplementary work.

The complaint reporting irregularities in work of the Oncology Institute of Vojvodina, and acted upon by the Department, pointed to circumstances that certain doctors are using their position and lacunae in the legal framework to reduce the number of patients realizing health protection during working hours pursuant to mandatory health insurance, and using this time to extend medical services to patients from abroad and to patients who are able to pay the full price of these services. This resulted in forming “waiting lists” for patients who wanted (or had to) realize their medical care through mandatory health insurance and who had to wait for the necessary medical examination up to several months, despite being with serious illnesses and whose clinical picture of the illness changed during the waiting period, thus inhibiting its effective monitoring, diagnosing and adequate therapy.

Another anomaly in the health care system, indicated by some of the complaints, relates to establishing unusual, to say the least, commercial ties between pharmaceutical companies and doctors and, to significant degree, with professors at faculties or directors of health care institutions. As in the previous risk area this anomaly is legally impeccable from the aspect of regulations in force, albeit in its essence unethical and, by its implications, unfair. Namely, the Law on Medicines and Medical Devices²⁵ and the Rules on Prescribing and Issuing Medicines²⁶ allows doctors in Serbia to “prescribe” medicines to patients in prescriptions using the commercial names of medicines instead their generic names. In European countries prescribing medicines by their commercial name is prohibited. When a doctor recommends a medicine under its commercial name he/she is in essence recommending to the patient a medicine that “rates high” on the market by, *inter alia*, its price and profit for the distributor and manufacturer. As patients usually purchase medicines recommended by the doctor, this favours a particular product on the market and/or the manufacturer producing such product, thereby creating a situation alike to a cartel agreement. On the other hand, such practice places the doctors in a role of the most important promoters and salespersons of medicines in Serbia, and the manufacturers and distributors have a vested economic interest to motivate doctors to place their product into their “portfolio”. Complaints show that manufacturers and distributors, in order to achieve the above goal, make gifts of substantial value to the doctors, or pay them sums of money for factious lectures or research.

25 “Official Gazette of the RS”, no. 30/10.

26 “Official Gazette of the RS”, no. 16/94, 22/97 and 52/02.

5.8. Corruption in Public Administration

Complaints submitted to the Agency by citizens for irregularities in the work of public administration authorities related in most part to inefficient conducting of administrative action by inspection bodies. Actions on complaints determined abuse of vested powers as the primary cause of such work of the bodies conducting inspection.

As in the analysis of the corruption phenomenon in health care, the analysis of potentially corruptive practises in the system of public administration, and particularly in various forms and levels of inspection control indicates the presence of extraordinary discretionary powers and absence of criteria for their use in deciding on rights and duties of citizens and protection of public interest. Relevant regulations that enable such use of discretionary powers render meaningless provisions of law defining principles of action in administrative matter (the principle of protection of the right of citizens and public interest, efficiency, truth and cost-effective procedure).

Voluntarism in use of discretionary powers, as indicated by the complaints, is manifested in various forms, the most symptomatic, as registered by the Agency in action upon complaint in 2011, relating to presenting finding of fact in the record of performed inspections that is not commensurate with the actual state, and rendering meaningless the issued administrative act by procrastination of its enforcement (the Agency in action upon complaints found cases where administrative authorities, primarily inspectorates, omitted to implement administrative enforcement of their administrative acts even 5, 10, 12 and 14 years from the date of their issuance).

Until passing of a separate law regulating the area of inspection supervision, as provided under the current State Administration Act, absence of effective control and efficient sanctioning of misfeasance will continue to plague the field of administration, relegating the principle of good governance to the level of tepid declaration.

5.9. Obstacles

There were cases in the Agency's practice where persons against whom complaints were filed for suspicion of corruption, resorted to retaliatory actions against the whistle blowers, where retribution was not confined only to the working environment of the whistle blower but were, in some cases, followed thus feeling threatened for their safety and that of their families.

Having in mind the potency and form of pressures to which persons willing to expose corruption may be subjected, and the seriousness and effect of potential consequences of their action, it is fully justified why potential whistle blowers prefer to submit anonymous complaints instead of the one where they would disclose their personal data. On the other hand, statistical analysis conducted in systems with developed mechanisms for protection of whistle blowers indicates that most of the prosecuted corruption cases were "introduced" into the system through complaints.

The biggest obstacle for the Agency's competence to act upon complaints of citizens is the

statutory restriction of its purview to control and investigate issues from the complaints by itself. The Agency is compelled to rely to high extent on information and data obtained on request from competent bodies. Sluggishness and inefficiency of such communication and absence of enforcement in the outcome of such proceedings greatly diminishes the success rate of the Agency in these tasks. Furthermore, the Law on the Agency provides that the Agency does not act on anonymous complaints of citizens, thus leaving it with the only option to refer such complaints to relevant authorities. Having in mind that the standard established by the UN Convention against Corruption in Article 13, obligates State Parties to enable relevant national bodies to act also on anonymous reports of corruption cases, in order to enable a higher degree of protection both to the person reporting and in disclosures made in public interest, thus in future cooperation should be enhanced with all authorities/agencies involved in combating corruption in respect to the issue of action on such complaints.

5.10. Recommendations

- Undertake measures to apply in practice the standard set forth in Article 13 of the UN Convention against Corruption regarding anonymous reporting in order to enable a higher degree of protection of the persons reporting and higher degree of uncovering corruption.
- Amend relevant regulations to obligate doctors to prescribe medication under its generic name instead of commercial.

EDUCATION

6.1. Key Results

- In 2011 a total of 1,883 persons attended various anti-corruption trainings organized and conducted by the Agency.
- The number of representatives of public authorities attending anti-corruption training organized by the Agency in 2011 increased by 61% from 2010.

6.2. Other results within the Purview

- 109 representatives of public administration authorities in Serbia trained to draft integrity plans.
- Program on ethics and integrity for public officials and public sector employees conceived and implementation commenced.
- Public officials and civil servants in local self-government bodies from 110 localities attended 39 trainings organized and conducted by the Agency in 28 towns in Serbia.
- Educational sessions on the new legal framework governing financing of political entities, organized and conducted by the Agency in 23 towns and municipalities in Serbia, were attended by 450 representatives of 20 political parties.
- Four-month internship programme in the Agency completed by 21 interns.
- Anti-corruption training in the Agency attended by 125 youth (university and secondary school students).
- Realization of the project “Focus: one municipality” in Indjija commenced.

6.3. Training for Drafting Integrity Plans

Five two-day seminars were held in the period from January to May 2011 for representatives of public administration authorities tasked to participate in working groups for drafting model integrity plans. These seminars represented the introduction to the process of drafting model integrity plans organized and coordinated by the Anti-Corruption Agency.

On the first day of the seminar participants were acquainted with the corruption phenomenon at global and local level, systems for prevention of corruption, the notion and role of independent national bodies in fighting corruption, competencies of the Agency, mechanisms for

prevention of corruption conferred upon the Agency by its mandate, importance of ethics and personal integrity in the context of building the integrity of the institution, experiences of Slovenia in enforcement of preventive measures for prevention of corruption, concept, essence and importance of drafting integrity plans as an anti-corruption measure. The second day of the seminar covered the manner of drafting integrity plans by phases. They were presented with a draft decision on commencing drafting of integrity plans, preparing the program for drafting integrity plans, manner of recognizing and identifying risks in operational areas of an institution, as well as manner of defining preventive measures for management and elimination of recognised risks. Following that, each group was given a practical assignment to commence with defining the processes most exposed to risk of corruption within a set institution, to be followed with adequate measures for prevention, reducing and elimination of such risks. After the introductory seminar the participants were actively throughout 2011 in drafting 69 different models of integrity plans.²⁷

6.4. Ethics and Integrity – Training for Civil Servants

In the second half of 2011 the Agency drafted a training programme for different target groups on the topic of ethics and integrity. The training programme was presented to representatives of human resources services of government authorities, local self-government authorities and public enterprises on the territory of the City of Belgrade. The first meeting was organized in May, in three two-hour sessions, where the mandate of the Agency was presented and the idea announced to organize ethics and integrity training. A total of 74 representatives from human resources services of public administration authorities on the territory of the City of Belgrade responded to the invitation. The possibility of organizing such training in two ways was discussed: additional training for representatives of human resources services in order to organize training for their staff in their institutions or for the institutions to provide the requirements for the Agency's representatives to visit and hold training for staff.

The second round of training on the topic of ethics and integrity for representatives of human resources services was organized in two two-day sessions during December 2011. Total number of participants at the training on strengthening individual and institutional integrity of public administration staff was 38. The Agency plans in 2012 to realize the agreement on continuing cooperation with representatives of human resources services.

6.5. Training for Public Officials and Staff in Local Self-Government Bodies

In 2011 the Agency organized and conducted 39 seminars for public officials and staff in public administration bodies founded by local self-governments. Seminars were organized in 28 towns in Serbia, and were attended by representatives from 110 towns and municipalities. These seminars were organized together with local self-governments who provided the venue and assisted in notifying the target groups.

In May and June 2011 the Agency visited 11 municipalities and towns in Serbia where representatives of local self-governments, public enterprises and other organizations and agencies founded by local self-government from all towns and municipalities from the region, were invited.

²⁷ See Chapter: Annual report on the work of the Agency: Integrity Plans

These meetings were attended by 248 representatives of public administration bodies, presenting over a period of three hours the mandate of the Agency, the subject of integrity and accountability of the individual and public administration institution, statutory duties regarding registering gifts and the register of gifts maintained by the Agency, as well as integrity plans.

Due to the innovative procedure for registering property of officials through on-line application, and the fact that drafting model integrity plans was drawing to a conclusion, the Agency organized in December 2011 and January 2012 in 20 towns and municipalities a series of seminars for public officials in local self-government bodies and in public enterprises at local level. The seminars were attended by 735 participants. The topics of the seminars were issues from the field of conflict of interest, registers of gifts, officials and property of officials, as well as integrity plans.

6.6. Training for Representatives of Political Parties

Where the new laws and bylaws introduce completely new solutions or solutions deviating significantly from the previous ones, it transpires that a significant number of violations of legal norms is a consequence of insufficient knowledge, lack of understanding of provisions or lack of necessary skills for complying with the stipulated duties. As the purpose of any law is not to only and exclusively apply sanctions, but to put in place an effective legal framework and mechanisms for functioning of the system, it was necessary to pre-empt potential infringement of law as a consequence of insufficient understanding of stipulated rules and, thus, application of sanction and to instruct those to whom the law refers on procedures and permissible and impermissible conduct.

The Law on Financing Political Activities came into force on 22 June 2011. Immediately upon coming into force of the Law, political parties approached the Agency with petitions for opinion relating to specific situations. The Agency, in order to help political entities in conforming to the Law, put all frequently asked questions – whether formally or informally – and the answers thereto on its web site.

In October 2011, in collaboration with CESID and with the support of OSCE Mission to Serbia and USAID, the Guide through the Law on Financing of Political Activities was published, which contains explanations of all norms that were, in the Agency's experience, unclear to political entities. The Guide, in addition to the Law, contains also the Rules on Records of Contributions and Assets, annual financial report and report on costs of election campaign of a political entity, together with accompanying forms.

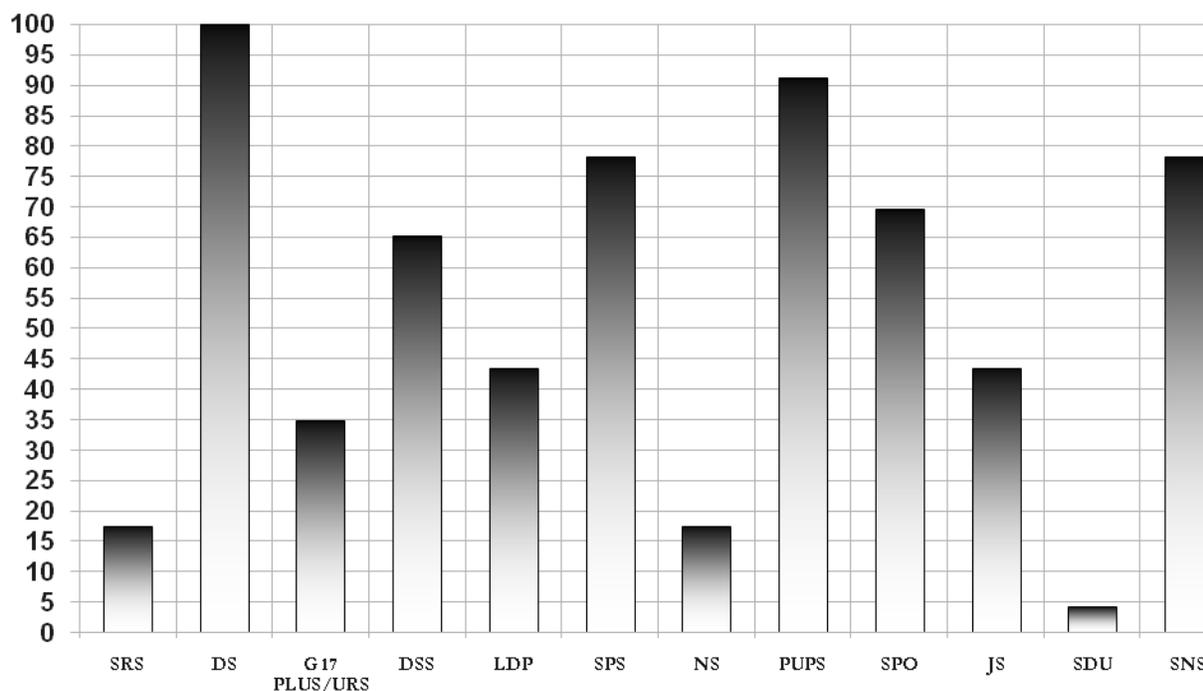
In the period November-December 2011 training was conducted in 23 towns (Belgrade and 22 towns in Serbia) to which representatives of all parliamentary parties were invited. The trainings were attended by 450 representatives of political parties.

The graph below shows the attendance rate at the trainings in percentages. The graph shows political parties represented on the whole territory of the Republic of Serbia.

Trainings in particular towns were attended by representatives of the League of Social Democrats of Vojvodina (LSV), Alliance of Vojvodina Hungarians (SVM), Sandzak Democratic Party (SDP), Bosniak Democratic Party of Sandzak (BDSS), Party of Democratic Action (PDD), People's Party (NP), Party for Democratic Action of Sandzak (SDA), Together for Sumadija (ZZS).

Activity of the above parties is mostly regional hence their depiction in the graph below, showing the whole territory of Serbia, would present a distorted picture.

Attendance of political parties financing trainings
November - December 2011



6.7. Training for Interns

In 2011 three groups of 7 interns each completed a four-month internship with the Agency, as part of a project funded by the Kingdom of Norway. Interns were selected through public competition published prior to each internship cycle. Total number of candidates applying in three competitions was 305. From the very beginning of internship all interns were involved once a week in education on topics related to the purview of the Agency, and on other topics related to fighting corruption and building integrity. The goal of this important activity was to inform and expand the knowledge of interns on the purview of the Agency, and also to form allies of these young people who will, after ending of internship, work on strengthening the integrity of institutions where they will be employed.

6.8. Training for Youth Population

In 2011 a total of 125 young people – university and high school students passed through anti-corruption training.

In collaboration with independent state agencies, non-governmental organizations and the

media, three three-day seminars were organized in April and May: two in Belgrade and one in Novi Sad. Total number of participants at the three seminars was 56, and the covered topics were: mechanisms for fighting corruption at international level, national anti-corruption mechanisms, role of independent state agencies: State Audit Institution, Commissioner for Information of Public Importance, Anti-Corruption Agency; role of the organisation Transparency at international level; National Anti-corruption Strategy and Action Plan; issue of conflict of interest; role of media and youth in fighting corruption.

The Agency organized and conducted three 3-day trainings for 69 students and graduates who applied for internship during the year but were not selected. Topics of these trainings covered all segments of note for prevention of combating, particularly in the field of strengthening ethics and integrity. At the end of the seminar the participants received appropriate certificates from the Agency. The expected outcome of these seminars was for the participants to draft projects targeting involvement of youth in fighting corruption. The Agency endeavoured, and will continue to do so in the future, to train and empower the youth population to plan implement the planned projects.

6.9. The: “Focus: One Municipality” Project

As part of the Agency’s plan to establish cooperation with one municipality in Serbia aimed at organizing a network of social partners in a local community who would jointly work on educating and awareness raising of citizens on the insidiousness of corruption, mechanisms to fight it, integrity of institutions, personal integrity of employees and citizens, the Agency made contact with representatives of local self-government in Indjija, the local culture hall, school administrations, school parliaments, Youth Office and local TV station.

The first meeting with representatives of local self-government was held in February and on that occasion a presentation was made of the plan and programme of anti-corruption education for different target groups, prepared by the Agency. Lectures were held in March for local self-government employees on the subject of personal and institutional integrity, purview of the Agency and mechanisms for prevention of corruption. Lectures were attended by 25 participants.

A meeting was held in April with principles of primary and secondary schools and representatives of school parliaments; and agreement was reached there to hold training for representatives of school parliaments. Two three-hour sessions for 15 representatives of all school parliaments in Indjija were held in May on the topic of corruption as global phenomena, national anti-corruption mechanisms, independent state agencies and the role of the Agency, role of civil sector and youth in fighting corruption.

Lectures were organized and held in May for local self-government officials in Indjija on the subject of individual and institutional integrity, Agency’s mandate, implementing of the National Strategy and Action Plan, conflict of interest.

In June, in collaboration with the Serbian Library Association which is the leading partner of the “Transparency, good governance and freedom from corruption” project, panel discussions were organized in the library in Indjija with keynote addresses by representatives of the Serbian Library Association, representatives of the Board of the Agency and representatives of specialist

departments of the Agency.

As this is only the beginning of the work on the “Focus: One Municipality” project, the Agency shall continue to work on the implementation of planned activities also in the coming year.

6.10. Obstacles

Regarding the recommendation given in the report for the previous year, the Agency concludes that the relevant institutions (National Assembly and the Government) neither accepted nor implemented the recommendation to introduce mandatory ethics and integrity training for officials and employees in public administration bodies. On the other hand there is a noticeable increase in 2011 as compared to 2010 in attendance at trainings organized by the Agency by representatives of public administration bodies. While in 2010 764 representatives of public administration bodies attended trainings/seminars/lectures, the number in 2011 was 1244, an increase of 61%. Regardless, the Agency remains on the standpoint that anti-corruption training for officials and employees in the public sector should be made mandatory and, hence, it is necessary for the National Assembly and the Government to take the necessary steps to implement this recommendation.

6.11. Recommendation

- All public institutions should provide mandatory training for employees (both general staff and officials) on the subject of ethics, corruption prevention and strengthening integrity and public accountability of employees and institutions, based on the program drafted by the Anti-Corruption Agency.

COMMUNICATION WITH CIVIL SOCIETY AND AWARENESS RAISING OF CITIZENS

7.1. Key Results

- Circa 700 papers from primary and secondary school pupils and university students from 100 places in Serbia were received in the competition “Set the right course, say it isn’t fair”/Uhvati pravi smer, kazi da nije fer!/, on the occasion of 9 December, the International Anti-corruption Day.

7.2. All Results within the Purview

- Round table held on the occasion of presentation of the Draft Law on Financing Political Activities.
- Round table held on the occasion of presentation of the draft Rules on Protection of Persons Reporting Suspicion of Corruption.
- Conference “Anti-Corruption Policies and Practices”²⁸ on the occasion of 9 December, the International Anti-Corruption Day, presenting 42 media reports and/or contributions.
- Two-day media campaign conducted on the occasion of 9 December, the International Anti-corruption Day, by inserting leaflets in dailies “24 sata” and “Blic”.
- More than 35 interviews given by the Director of the Agency and 20 interviews with Board members of the Anti-Corruption Agency.
- 18 media advisories issued.
- 77 request from journalist for additional information on the work of the Agency answered.
- Five meetings²⁹ with editors and journalists from leading printed, electronic and on-line media organized, who were informed in detail of Agency’s activities to promote protection of whistleblowers, control of financing of political and electoral activities of political entities, analysis of regulations governing the right to disability pension.
- Three press conferences held.

28 Conference held with the support of the European Union, USAID and the Konrad Adenauer Foundation.

29 Meetings with media representatives held with cooperation of the Konrad Adenauer Foundation.

- A total of 2119 mentions of the Anti-Corruption Agency were recorded in printed, electronic and on-line media.
- Two-volume publication “Annual report on the Work of the Anti-Corruption Agency for 2010” and the “Report on Implementation of the National Anti-corruption Strategy and Action Plan for Implementation of the Strategy” published in Serbian and English languages, and the electronic version made available on the Agency’s web site³⁰.

7.3. Competition for Pupils and Students

The Anti-Corruption Agency organized and conducted a competition for pupils of primary and secondary schools and students in Serbia, under the title “Set the right course, say it isn’t fair”/Uhvati pravi smer, kazi da nije fer!/, who were invited to present their literary, art, audio-visual works, newspaper texts and slogans on the given topic. The occasion for the competition was 9 December, the International Anti-corruption Day. In realizing the competition assistance was extended to the Agency by the Ministry of Education and Science and the Ministry of Youth and Sports. All schools in Serbia were notified of the competition through schools administrations and a notice of the competition was placed in a number of portals and internet presentations of various institutions and media.

In response to the competition 700 works of pupils and students from 100 places on the territory of Serbia were received. Awards were given for works in the following categories: literary work or newspaper text, arts, audio-visual work, slogan. Each category was divided into age groups, and three awards were given in each category and group: 20 subscriptions to the “National geographic” journal, 20 vouchers for purchase of books, books by donors, and promotion material of the Anti-Corruption Agency.

In this way the Agency is involved for the second year running in raising awareness of citizens, primarily pupils and their teachers, on the necessity for active involvement in fighting corruption.

7.4. Conference on the occasion of the International Anti-Corruption Day

On the occasion of 9 December, the International Anti-corruption Day, the Anti-Corruption Agency organized a one-day conference “Anti-Corruption Policies and Practises“. The conference was attended by 120 participants, among who were representatives of the Government, National Assembly, independent agencies, non-governmental organisations, international organizations and political parties. The objective of the conference was to provide a forum for participants to present their views, experiences and challenges in the anti-corruption field. In conclusion of the conference panellists underscored the importance of a well-designed and implemented public policy for efficient fighting of corruption.

30 Documents available in Serbian at (http://www.acas.rs/sr_cir/component/content/article/229.html) and in English at (<http://www.acas.rs/en/component/content/article/229.html>)

Following the working part of the conference, awards were handed to the winners of the competition “Set the right course, say it isn’t fair”/Uhvati pravi smer, kazi da nije fer!/.

On the day before and on the day of the conference the Agency distributed a leaflet in dailies “Blic” and “24 sata” whose purpose was to bring to the attention of citizens the International Anti-Corruption Day and the role and responsibility of all citizens in fighting corruption.

7.5. Transparent Financing of Political Parties and Election Campaigns

Given the importance of a well-regulated system of financing of political entities and election campaigns in the field of combating corruption, the Agency, concurrently with drafting of the Draft Law on Financing Political Activities, conducted an awareness-raising campaign for citizens on that subject. At the round table on “Presentation of the Draft Law on Financing Political Activities” organized on 3 March 2011 the Anti-Corruption Agency brought together more than 90 representatives of government authorities, international organizations, political parties, civil society and media, in order to:

- promote the principle of the UN Convention against Corruption that includes “enhancing transparency in funding candidatures for elected public office and, where applicable, funding of political parties“;
- present new legislative solutions (e.g. election bond, competencies of the Agency in monitoring and control of funding of election activities of parties et al.) and
- underscore the strong support to the Draft from the international community (GRECO, UN, OSCE³¹).

As part of the public awareness raising campaign and better media reporting, funding of political activities was on several occasions the main theme of informal meetings with editors and journalists in June, press conferences in December, and numerous press statements and interviews given by the Director and members of the Board.³²

7.6. Round Table on the Rules for Protection of Persons Reporting Suspicion of Corruption

In July 2011 the Anti-Corruption Agency organized an expert debate on the draft Rules for Protection of Persons reporting Suspicion of Corruption. The debate was attended by representatives of government authorities, non-governmental organizations, international organizations and the media. Key note address at opening of this event and presentation of

31 Dr Marcin Valecki, head of the OSCE/ODIHR group, in a separate presentation at this round table gave a positive opinion of OSCE/ODIHR and the Venice Commission on the working draft of the Law on Financing of Political Activities.

32 Analysis of press clippings shows that 31.7% were partly or totally devoted to funding of political parties, the Law, or pointing to potential or actual unlawful actions by officials of political entities.

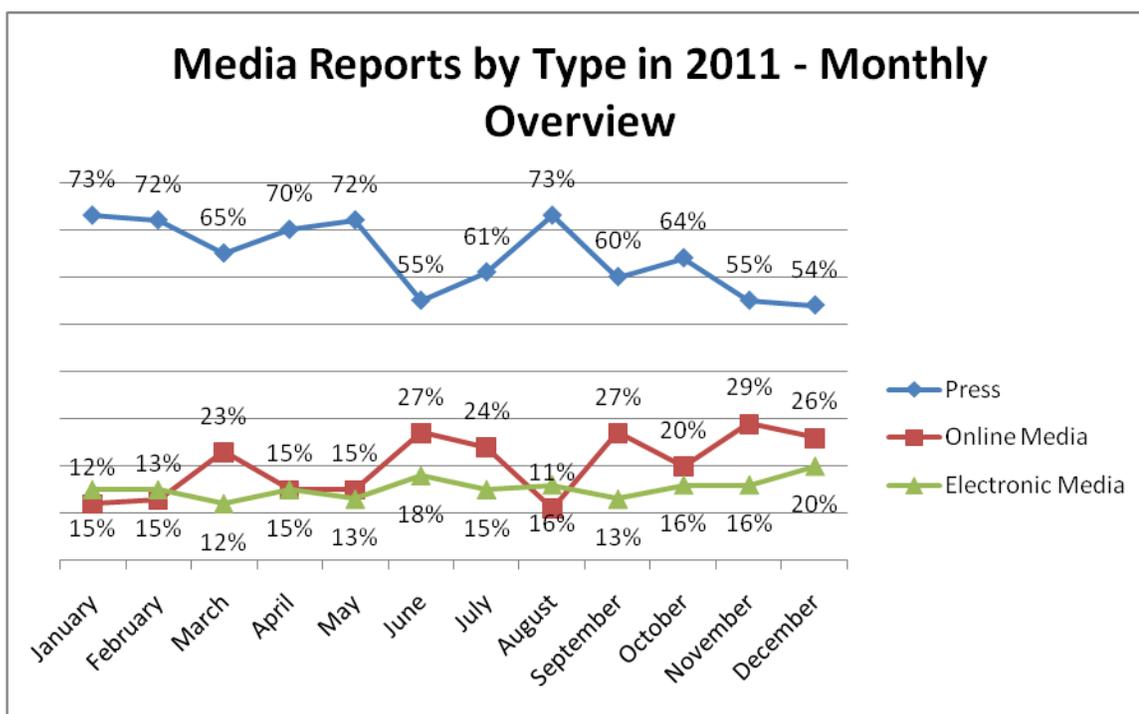
comments on the Rules for Protection of Persons reporting Suspicion of Corruption were given, in addition to Agency representative, by the Commissioner for Access to Information of Public Importance and Personal Data Protection and representatives of the internet portal “Pistaljka” (whistle blower).

All participants in the discussion concurred that a comprehensive system for protection of whistle blowers requires legislative regulation by reason that, *inter alia*, absence of law raises the issue of protection that the Agency may extend, since the competencies of superiors who could retaliate against the whistle blower are based in law, whilst the competencies of the Agency to prevent him/her are based on bylaw. The discussion addressed some other important issues, such as the possibility to protect whistle blowers from the private sector, *bona fide* intentions of the whistle blower, cleared specifying of protection from retaliation, possibility to regulate protection of whistle blowers not only in the anti-corruption field but in other problematic areas such as environmental protection, protection at work et al. The expert debate and all suggestions made by participants contributed significantly in launching the process of developing a future comprehensive system for protection of whistle blowers in Serbia.

7.7. Reports by Media on the Anti-Corruption Agency

According to press clippings majority of reports on the Anti-Corruption Agency in 2011 were published in printed media, while mentions in electronic and on-line media are approximately the same. The line in media reporting was predominantly neutral – 88%, positive mentions 9% and negative only 3%.

Source: <http://www.kliping.rs>



7.8. Obstacles

The main obstacle in the anti-corruption awareness-raising of citizens was the lack of funds to organise and implement planned activities. In the 2011 budget the Agency earmarked certain funds for conducting of campaign and promoting anti-corruption culture. However, due to revision of 2011 budget the Agency was required to return funds allocated for the above purpose and, consequently, ensured the missing funds from donations of international organisations. The former justifies the conclusion that the state has not ensured full viability of the Agency, particularly of those competencies that require allocation of funds for conducting public campaigns and anti-corruption awareness-raising of citizens.

7.9. Recommendations

- The State should ensure full viability of the Anti-Corruption Agency and provide from the State Budget funds for exercising all competencies conferred upon the Anti-Corruption Agency.
- Introduce into programmes of public broadcasters contents promoting the fight against corruption.

COOPERATION WITH CIVIL SOCIETY

8.1. Key Results

- Mechanism of the Agency established for civil society organizations to compete for financial support to projects directed at capacity building of the society to combat corruption, which defines criteria and acceptability requirements relating to both submitters of projects and the content and budget of such proposals.

8.2. All results

- Methodology formulated for evaluation of projects submitted by civil society organizations pursuant to competition.
- Competition conducted for support to projects of civil society organizations directed at capacity building of the society to combat corruption.
- Agreement concluded granting 2,000,000 RSD to the Belgrade Centre for Security Policy for implement the project “Corruption Risk Map in the Security Sector of Serbia”.

8.3. Competition for Support to Projects of Civil Society Organisations

The legal framework that would establish rules and criteria for allocation of funds from the budget of the Republic of Serbia as donations to non-profit organizations for the purpose of realizing programmes/projects of public interest has not been established neither in 2011 (see Agency recommendation: *Annual Report on the work of the Agency for 2010*, p. 50), despite the fact that the Office of the Government for Cooperation with Civil Society, mandated to coordinate drafting of the relevant legislation, was established at the beginning of 2011.³³

In respect thereto, the issue of type of legislation that would regulate this area is of importance, given that transparency of procedure for allocation of public funds should be ensured both at level of republic authorities and at level of local self-government authorities. On the other hand, the latitude of the regulation in terms of defining the type of non-profit entities eligible for funding is of crucial importance. Likewise, this regulation should contain also provisions defining criteria for reporting on use of approved funds in implementing programme/project activities, together with criteria relating to conclusion of agreement with non-profit organisation for realization of the approved programme/project.

Nevertheless, in order to strengthen cooperation with civil society in the anti-corruption field, both prevention and education, the Agency defined criteria and acceptability requirements

33 See: http://www.civilnodrustvo.gov.rs/?page_id=119&lang=sr.

relating to submitters of project proposals, content and budget of these proposals and set criteria and rules for evaluation of submitted proposals. The methodology contains: a) acceptability criteria relating to submitter of the project proposal; b) acceptability criteria relating to content of project proposal; c) acceptability criteria relating to costs eligible in the project proposal budget; d) criteria for evaluation of project proposal; and e) rules for the evaluation procedure and selection of project proposal which will be given funds for implementation of envisaged activities.

Thus it was possible for the Agency to announce in September 2011 a competition for support to projects of civil society organizations directed and capacity building of the society to fight corruption. The terms defined the short list of organizations eligible to compete (only associations in terms of the Law on Associations³⁴), and it was decided that funds will be given only to one small-value project whose implementation would be simple to oversee. The total amount of funds in the first project cycle, earmarked for achieving the above specific project objective, was 2,000,000 RSD.

Project proposals for the competition were submitted by the Belgrade Centre for Security Policy, Novi Sad School of Journalism, Toplice Centre for Democracy and Human Rights, Centre for Political Research "Argument" and the Centre for Development of Civil Society "Protecta". The award went to the project proposal "Corruption Risk Map in the Security Sector of Serbia" submitted by the Belgrade Centre for Security Policy. The project focuses on analysis, uncovering of causes and publishing of a map of main corruption risks in the Army, police and security services of Serbia, as well as in public authorities to which these are subordinate.³⁵

8.4. Cooperation with CeSID

Throughout 2011 the Agency cooperated well with the Centre for Free Elections and Democracy (CeSID) in training of political parties. This collaboration started back when the Law on Financing Political Activities was being drafted, as both representatives from CeSID and the Agency were members of the working group formulating this Draft Law. Cooperation continued through joint drafting of the "Guide through the Law on Financing Political Activities" and joint holding of trainings for representatives of political parties, on the subject of application of statutory and bylaw norms governing this matter.³⁶

8.5. Obstacles

In addition to the lack of rules on criteria and requirements for allocation of funds for programmes/projects of civil society organizations and rules for reporting programme/project expenditures, a particular challenge was to introduce the programme-oriented budgets of non-profit organizations into the structure of the state budget, territorial autonomy and local self-government budgets. Due to such structure of public budgets it is not possible to ensure transparency relating to the purpose of approved funds, manner of their expenditure, as well as goals for which the

34 "Official Gazette of the RS", no. 51/09.

35 All documents related to announcement of competition, and results thereof, may be found at http://www.acas.rs/sr_cir/sektor-za-poslove-prevencije/istrazivanje-i-saradnja-sa-civilnim-drustvom.html.

36 See Chapter; Annual report of the work of the Agency for 2011 - Education.

approved funds are used. This, likewise, diminishes the effectiveness and pertinence of disposing with public funds and makes the whole system of managing of public resources “porous” to various misuses.

Insofar as the competition announced by the Agency for support to projects directed at capacity building of society in combating corruption is concerned, civil society organizations failed to show any notable interest. Although the competition was published in two dailies with national coverage (“Blic” and “Politika”), as well as on internet web sites of the “Centre for Development of the Non-profit Sector”, “Citizen’s Initiative” and network of associations “Coalition for Oversight of Public Finances”, probable reasons for a weak response were the amount of funds earmarked for this purpose and stricter requirements for submitters of project proposals. Also, it is possible that the reason for a weaker response lies in the fact that this was the initial phase of establishing contact with a new donor.

8.6. Recommendations

- Develop cooperation of government authorities with civil society, including also social partners and tripartite institutions (social-economic councils), to highest possible extent.
- In the area of allocation of budget resources for programmes/projects of civil society organizations, without delay define criteria and ensure transparency of procedure for allocation of public funds for such projects and, concurrently, define reporting criteria for expenditure of approved funds.

INTEGRITY PLANS

9.1. Key Results

- 69 draft (model) integrity plans made, adapted for different types of institutions.
- Electronic application made with content for 69 draft integrity plans.

9.2. Other Results within the Purview

- Work of 14 working groups with representatives of different government authorities coordinated.
- Methodology for drafting integrity plans defined.
- Structure of draft integrity plans defined.
- Data obtained from working groups and from conducted research for validation and amending draft integrity plans collected and analysed.
- Content for 69 integrity plans made, adapted to different types of institutions.
- More than 1,000 representatives from government authorities acquainted with the concept, meaning, importance, goal and manner of drafting integrity plans.
- Records with necessary data of government authorities required to draft integrity plans, established.
- Manual designed for drafting and implementing integrity plans with model acts necessary for drafting integrity plans.
- Instructions for commencing drafting of integrity plans made in electronic format.

9.3. Procedures for Drafting Model Integrity Plans

With the aim to support institutions to pass integrity plans, the Anti-Corruption Agency formulated drafts, i.e. models of integrity plans, adapted to different types of institutions. A total of 69 drafts were made, classified by systems.

Draft integrity plans were made in form of electronic application found on the Agency's server and may be accessed by any institution with user name and password. The content of draft integrity plan was made through two processes: 1) based on data, proposals and suggestions given to

the Agency by members of working groups tasked with formulating the drafts, 2) based on analysis of data obtained through research for validation and amending of the contents of draft integrity plans.

Seven draft integrity plans were made for the education system according to type of institutions that by their purview pertain to this system:

1. Ministry of Education and Science;
2. Intellectual Property Office;
3. University;
4. Faculty/ college;
5. Secondary/primary school;
6. Pre-school institution;
7. Residential institutions for students

Working groups for drafting integrity plans involved representatives from different government authorities (a total of 109 members), categorised into 14 systems: 1) political system, 2) judiciary system, 3) police system, 4) public administration and local self-government system, 5) defence system, 6) finance system, 7) economy and agriculture system, 8) social policy system, 9) health care system, 10) education and science system, 11) culture and sports system, 12) environment and infrastructure system, 13) system of protection of data, human rights and public interest and 14) public enterprises system.

Members of working groups in collaboration with the Agency defined areas and procedures in institutions that are most exposed to occurrence and development of corruption. The result of this work that lasted from December 2010 until September 2011 is the formulation of adequate measures for elimination and prevention of noted risks.

Draft integrity plan contains areas recognized as most exposed to risk of corruption. The identified areas were divided as follows: shared areas, ethics and personal integrity area and specific areas. Shared areas are those that no institution can operate without properly. Ethics and personal integrity area refers to conduct of employees and officials in public sector in line with moral values and discharge of public authority for the purpose whereby established. Specific areas relate to the competencies of an institution, realising its social function and/or the function for which the institution has been established. In each of the above areas processed have been identified necessary for its operation, and within each process individual and specific risks were identified that may compromise its efficiency and quality, as well as measures for prevention and control of recognized risks.

9.3.1. Shared Areas

- Managing of the institution;

- Managing of finances;
- Managing of public procurement;
- Managing of documents;
- Human resources management;
- Security.

9.3.2. Ethics and Personal Integrity Area

- Conflict of interest;
- Accepting gifts;
- Effective action on reports of corruption, ethically and professionally unacceptable conduct;
- Protection of staff reporting corruption, ethically and professionally unacceptable conduct.

9.3.3. Specific Areas

Refer to concrete competencies of the institution (for example: System of local self-government - area/competence: building-planning affairs).

Specific areas are referred to in draft integrity of only those institutions for which data was obtained from working group members or that were obtained from conducted research.

Based on such draft each institutions performs a self-evaluation, by having staff and a working group express their agreement or disagreement with identified risks in all processes and areas, in line with the offered methodology. Likewise, working groups can define processes, risks and measures for risk elimination that are institution specific.

The institution can access appropriate model integrity plans based on username and password received from the Anti-Corruption Agency. All incumbents are duty bound to draw up their integrity plans before the end of 2012.

9.4. Obstacles

Although the Agency enhanced communication with a large number of incumbents through trainings, meetings and consultations to inform of novelties in applying this extremely important preventive mechanism, the issue of lack of motivation of staff to take a more active role in drafting integrity plans in their institutions still remains. Reasons for such attitude are most often the lack of adequate coordination within the subject institution thus inhibiting access to all information,

documents and officials to staff engaged in working groups, and consequently they perceive their engagement on these tasks as another obligation they have to discharge, in a situation wherein they are already overburdened with their every day duties.

9.5. Recommendations

- All government authorities should discharge their statutory duty to formulate integrity plans without delay.
- An integrity plan should be a product of objective self-evaluation of risk from corruption and other irregularities within the institution, and not a document enacted only to meet another statutory obligation.
- The process for drafting integrity plans should involve as many employees of an institution as possible, since a higher number of persons engaged on various jobs in the institution may more comprehensively identify and assess internal risks and propose adequate measures/activities for their reduction or elimination.
- If the institution is organized to discharge its duties through organizational units (stations, field offices ...) on the territory of the Republic of Serbia, the specificities of each of these should be acknowledged, and passing of integrity plans should reflect these very specificities.

RESEARCH

10.1. Key Results

- Adopted draft integrity plans verified.
- Capacity building of the Agency to independently conduct research in the field of corruption commenced.

10.2. All results within the Purview

- Phases of the process for designing control cards for verification and supplementing draft integrity plans defined.
- Methodology defined for designing control cards for verification and supplementing draft integrity plans.
- Data collected and analysis performed of indicators from control cards for verification of draft integrity plans.

10.3. Research to validate and Supplement Draft Integrity Plans³⁷

As part of the project supported by the Ministry of Foreign Affairs of the Kingdom of Norway, the Agency envisaged developing and implementing mechanisms for validation and supplementing adopted draft integrity plans. Draft integrity plans have been developed through a process where the Agency coordinated working groups comprising accredited representatives of public authorities from 14 systems: 1) political system, 2) judicial system, 3) police system, 4) state administration and local self-government system, 5) defence system, 6) finance system, 7) economy and agriculture system, 8) social policy system, 9) health care system, 10) education system, 11) culture and sports system, 12) environment and infrastructure system, 13) system of protection of data, human rights and public interest and 14) system of public enterprises.

The aim of the research was to validate the degree of identification of actual risks by representative working groups in formulating draft integrity plans and potential supplementing thereof, in case identified risks omitted by working groups are in the process of validation. The mechanism should help define whether risks can be applied (replicated) to all public administration authorities of same type (same competencies), and/or whether managers and staff recognize them in their daily work and operation. Furthermore, the mechanism should also serve to supplement current risks and measures for improvement in specific areas (competencies) of each type of institution. So-called common areas, such as employment and human resources management or

³⁷ Annex 2 of the Report on the work of the Agency for 2011 is an integral report on research for validation and supplementing draft integrity plans.

public procurement, were not subject to validation and supplementing since the majority of public administration authorities act in line with the general regime established by the relevant legal framework. At the same time, given that these areas have been covered by all working groups, it is evident that sufficient information has been obtained in these fields to provide a solid base for the content of the relevant draft.

To validate draft integrity plans a sample of 52 public authorities was compiled, divided into 12 systems and 18 types. Due to limited time frame for validation that would be articulate in terms of usability of results for finalising draft integrity plans, a selection of public authorities was made on two criteria: 1) selection of types of public authorities for which insufficient material was obtained by working groups for formulating draft integrity plans, or where materials lacked clarity; and 2) selection of types whose drafts can be replicated to a high number of authorities of same type. Moreover, by reason of limited resources validation was confined to and focused on the territory of three cities – Belgrade, Smederevo and Sremska Mitrovica. Validation and supplementing of draft integrity plans was conducted through interviews of representatives of public authorities by means of a questionnaire compiled on basis of drafts made until then.

Research was successfully conducted in 47 public administration authorities. In five authorities interviews were not conducted in scheduled times for collecting information, chiefly due to lack of time of managers and staff in those bodies to respond to the request for research. A total of 90 persons were interviewed: administrators of public authorities, their deputies or assistants, and in most authorities also the staff, i.e. those employed in internal units to which processes mentioned in draft integrity plans referred to.

Risks in the work of public authorities, both those representing validation of those previously determined and those identified during research, if grouped by common denominator, relate to several key areas where infringement of institutional integrity of public authorities may occur. These areas are as follows:

Lack of procedures to conduct the processes in practice, or existence of procedures that are: a) unclear, b) not implemented, i.e. implemented selectively, or c) not respected;

Examples:

No procedure in place for career advancement of employees (police directorate).

In practice there are deviations from the procedure to allocate cases pursuant to order (public prosecution).

Persons implementing training for unemployed persons to acquire new skills and knowledge to not observe the envisaged plan and procedures for conducting training (field office of the National Employment Service).

Lack of criteria for action by public authorities or existence of criteria that are: a) unclear, b) subjective, or c) ambiguous;

Examples:

Criteria for appointing guardians for senior citizens without legal capacity are general (centre for social work).

Requirements for competition for (co)financing projects are imprecise or non-existent (ministry).

Selection of criteria for controlling correctness and completeness of information in tax return is wrong (tax administration field office).

Lack of control mechanisms over processes and lack of accountability in cases where control demonstrates irregularities in work or violation of regulations;

Examples:

Inadequate control of payment of fees and stamp duties and order of processing cases (cadastre of real property service).

Inadequate and inefficient control of implementation of approved projects (ministry).

Control of receiving of patients does not exist – patients received arbitrarily (health care centre).

Insufficient transparency in work of public authorities.

Examples:

Decisions on allocating funds to associations not published on web sites of institution (ministry).

Patients not informed of required documentation for specialist examinations (clinic and institute).

Manner of price formation and the prices of services of public enterprises are not published (public enterprise).

Out of a total of 148 tested risks in 18 types of public authorities previously identified by the Agency in collaboration with working groups, the majority have been validated. The number of completely validated risks is 48, i.e. 34%, while the number of completely dismissed risks was 4 (3%). Of the 148 proposed measures for improvement, 8 (5%) are deemed inadequate, 11 (7%) partially adequate, while 129 (88%) are considered adequate. In aggregate, the number of risk supplements and measures of improvement, both in processes where risks have been defined and in newly-defined processes during the research, was 120. Thus, to the 148 defined risks a further 80% were added by interviewed representatives of public authorities.

10.4. Obstacles

The research conducted by the Agency has shown, *inter alia*, that public authorities display a degree of reluctance to comply with activities to provide answers to external requests concerning their work. This indicates that internal or external evaluation of performance of public authorities is not a part of their every day operational culture nor is they a tool to be utilized for enhancement of their own work. A consequence of the absence of practices in this area is that participation in research is contingent upon personal enthusiasm of administrators or individuals in institutions, and or their personal value judgements of the nature and purpose of the public sector, while the quality of collected data depends on (non)existence of motivation of employees of public authorities and on (non)comprehension of the substance and purpose for performance evaluation. For example, while two field offices of the Tax Administration were open to cooperation in the research, with full understanding of the processes and their role therein, a third refused to respond to the questionnaire and referred the researchers to the Tax Administration head Office, as the only instance competent to speak on behalf of that public authority.

10.5. Note

As the research was conducted to validate draft integrity plans and that recommendations deriving from the relevant report are identical to those already given in the Chapter on integrity plans, the Agency will not repeat them in this section.

THE NATIONAL ANTI-CORRUPTION STRATEGY

11.1. Key Results

- The Agency drafted the Report on the Implementation of the National Anti-corruption Strategy and the Action Plan for the Implementation of the Strategy for 2011.
- The Agency collected data and information through consultation with the institutions interested in the process of drafting of the new Anti-corruption Strategy and defined the concept of the Strategy.

11.2. Other Results within this Purview

Within this purview, during the reporting period, the Agency monitored the implementation of the current Anti-corruption Strategy from 2005 and the Action Plan from 2006. At the same time, the Agency took part in drafting of the new Anti-corruption Strategy, a process still going on.

- The concept of the Strategy was defined so as to include the strengthening of good governance mechanisms in public authorities through a horizontal approach and fulfilment of objectives in areas that are marked as corruption high-risk areas and of high priority in fight against corruption.
- The basic principles of mechanisms for the implementation, monitoring and reporting on the implementation of the Strategy and Action Plan were proposed.
- The criteria were set for the selection of the duty bearers tasked with drafting, monitoring and reporting on the implementation of sector action plans.
- Measures, activities and indicators within the Action Plan for the implementation of the Strategy were determined.
- Questions were defined to serve as the basis for the duty bearers under the Action Plan to report on the implementation of the current Strategy and Action Plan for the purpose of the 2011 Annual Report.

11.3. New National Anti-corruption Strategy for the Period 2012 to 2016

One of the recommendations made by the Agency in the last year's Strategy and Action Plan Implementation Report was that despite the general impression that both the Strategy and Action Plan were for the most part unfulfilled, or just partially fulfilled, the five-year deadline for the Strategy, or the four-year deadline for the Action Plan, seemed to be a reasonable time period. After

this period, it would be necessary to initiate a review of both documents based on an evaluation and assessment of implementation, as well as in accordance with the new socio-political and economic developments which create the environment for fight against corruption in Serbia today. Similar recommendations were given to Serbia also within the European integration progress monitoring.

The Ministry of Justice of the RS issued a Decision on 14 June 2011 to set up a Working Group to draft a strategic framework for fight against corruption for the period 2012 - 2016. The WG is composed of the representatives of the Ministry of Justice, Ministry of Interior, Anti-corruption Agency, Anti-corruption Council, Serbian Chamber of Commerce, the media and civil society (Transparency Serbia and Bureau for Democratic Research). This is the core working group tasked with preparing the draft Strategy and Action Plan and forwarding it to the wider working group that is composed of the representatives of all Serbian ministries, regulatory bodies, leading research institutions, NGOs, professional associations and judicial bodies in the Republic of Serbia. The wider WG is supposed to produce the final drafts jointly with the core WG and submit them to the Ministry of Justice of the RS.

11.4. Strategy and Action Plan Drafting Process

11.4.1. Needs Assessment

The WG decided that before defining the concept and key elements of the Strategy, it would be necessary to carry out a needs assessment to identify said elements.

The European Integration Progress Monitoring reports had also pointed to such a need.

The needs assessment for fighting corruption in Serbia was done with the support of the United Nations Development Programme. It identified 7 general risks in the public sector that create an environment susceptible for emergence and development of corruption: 1) unnecessary decision-making procedures applied by public authorities; 2) lack of clearly defined criteria and legal procedures for decision-making that would limit the discretionary powers of public authorities; 3) insufficient transparency of the work of public authorities; 4) lack of or failure to apply efficient control mechanisms overseeing the work of public authorities; 5) lack of or failure to apply efficient accountability mechanisms for public authorities, as well as lack of sanctions for dereliction or violation of duties; 6) insufficiently functional system of sanctioning corrupt behaviour; 7) underdeveloped corruption prevention mechanisms.

The listed risks that mostly concern the quality of management are crucial causes of corruption in Serbia. This was also confirmed in the process of developing integrity plans where the Agency, in cooperation with 109 representatives of leading institutions, in the course of one year, identified the main corruption risks within institutions which fully correspond to the findings of the needs assessment.³⁸ These conclusions were verified and complemented in an additional survey conducted in 47 institutions where their representatives gave their own assessment of the processes threatening the integrity of the institution.³⁹ These findings have a great value considering that they were established in a widely participating process, that is, the data was received from institutions

38 See the 2011 Annual Report of the Anti-corruption Agency, Chapter: Integrity Plans

39 See the 2011 Annual Report of the Anti-corruption Agency, Chapter: Research.

which carry out daily procedures which contain elements with a high corruption risk.

11.4.2. Concept of the Strategy

The members of the Working Group agree with the author of the needs assessment that the key anti-corruption measures in the public sector should be elimination of unnecessary procedures, limiting of discretionary powers, increasing of transparency and oversight, consistent application of the rules on accountability and consequences of dereliction or violation of duties, efficient sanctioning and development of corruption prevention mechanisms. The key objectives of the Strategy have been defined in line with said measures.

This holistic Strategy concept provides a systemic approach to addressing the main causes of corruption. It horizontally covers all public authorities and actively involves them in the fight against corruption, allowing them to reform them from within and strengthening the resistance of the entire system to corruption, as well as its capacities to fight corruption. The goals have been so that they can realistically be achieved in five years' time, and that the strategic documents can be applied to all processes within both the public sector and the part of the private sector which uses public resources and exercises public powers.

The key goals and measures in the new Strategy are not categorised by individual systems like in the 2005 Strategy, so as to avoid the risk of failing to include a specific system or give it due attention. The new Strategy also outlined the mechanisms for monitoring the implementation of the Strategy and reporting on the fulfilment of its goals.

The holistic Strategy concept also calls for sector action plans, which will ensue immediately upon the adoption of the Strategy and its Action Plan. The applicability of the measures in these two documents to all procedures that are non-resistant or poorly resistant to corruption will thus gain a more specific and visible form. Sector action plans will ensure the application of the measures in all sectors by simultaneously taking into account their specific features. They will make sure that use is made of all the advantages of the sector approach to drafting of the Strategy, which may not have necessarily been availed of due to the application of the holistic concept.

11.4.3. Participation in Drafting of the Strategy

The drafting procedure was entirely open both for observers and international partners, and the representatives of the UNDP, EU Delegation in Serbia, OSCE and US Embassy took part in the drafting of both the Strategy and Action Plan. Their support largely contributed to the transparency and quality of the drafting process.

The first draft of the Strategy was criticized as having too generalized objectives that were defined as more related to the reform of public administration than fight against corruption, and above all, that the text failed to show the priorities of Serbia in this area in the coming period. Also, it was not clear in what way the Strategy dealt with the issues that were marked as bearing high corruption risk in the international European Integration progress reports.

The wider Working Group had a meeting in November when the first draft was presented.

They gave their comments and suggestions both in this meeting and in the ensuing period when they were using pre-set forms.

In the same period, the draft Strategy was presented to the members of the ACA Board and they expressed their remarks and numerous suggestions about the concept and content of the document.

Based on all comments about the concept of the Strategy and a new consultative process and needs assessment, priority goals were then included in the Strategy.

The measures and activities leading to the achievement of the priority goals will be applied directly based on the Action Plan, and no sector action plans will be necessary for their implementation. Therefore, there is no risk that the procedure of adopting of these documents could slow down the achievement of priority goals.

The Working Group established a list of priorities as follows: 1) political corruption; 2) management of public resources (internal audit and financial management and control); public procurement; privatisation; status of employees in public authorities; management and control of the funds of international institutions, organizations and states); 3) processing of criminal acts related to corruption; 4) public enterprises; 5) urban and landscape planning; 6) protection of whistleblowers; 7) judicial sector; 8) police; 9) health sector; 10) educational sector; 11) capacity-building of independent institutions; 12) the media; and 13) sport integrity.

The horizontal approach is kept in the Chapter *Good Governance – General Corruption Prevention Mechanisms*.

11.5. The 2011 Report on the Implementation of the Strategy and Action Plan

The Anti-corruption Agency drafted the first Report on the Implementation of the National Anti-corruption Strategy (2005, hereinafter, the Strategy) and the Action Plan for the Implementation of the Strategy (2006, hereinafter, the Action Plan). The Report was submitted to the National Assembly of the RS as part of the Agency's 2010 Annual Report on 25 March 2011, and on 14 July the Assembly debated on these two reports and adopted conclusions. The Report was printed as a booklet and published on the Agency's web site. The findings of the Report were the subject of several presentations organized in the last year.

As a compilation of a large bulk of information on this subject, the Report was also used in the process of drafting of the new anti-corruption strategic framework. The lessons learned regarding the challenges in the reporting on, analysis and evaluation of the current Strategy and Action Plan helped a lot to forestall the perceived difficulties to a largest possible extent in the phase of drafting of the new strategic documents. Hence, the Agency, being in charge of overseeing and reporting on the implementation, designed and proposed mechanisms for implementation, oversight and reporting on implementation, the criteria for selection of the duty bearers tasked with drafting, overseeing and reporting on the implementation of sector action plans, as well as a series of measures, activities and indicators for the measurement of realization of activities from the Action Plan.

The challenges met in the process of drafting of the first report on the implementation of the Strategy and Action Plan were largely present also in the second round of reporting, both those related to the very text of the Strategy and Action Plan, and those directly concerned with the reporting process.⁴⁰

The Agency could not overcome difficulties arising from the text of these two documents, but tried to partially moderate the challenges from the second group by applying a different reporting methodology. Namely, as in the case of the last year's report, the starting point for collecting information were the answers of the duty bearers, but the answers were collected in a slightly different way. The Agency compiled a list of concrete questions leading to more focused answers that could be a good basis for the assessment of fulfilment of the strategic documents. The criterion applied by the Agency in selecting the sample of respondents was whether the specific public authority or a group of public authorities, considering their competences, could give an answer essential for the assessment of fulfilment. The questions were sent to the National Assembly of the RS, Government of Serbia, all ministries, and some other selected public authorities.

On the other hand, the old questionnaires for reporting about individual quarters of 2011 were used by the City of Belgrade, Municipality of Vracar, Municipality of Zvezdara, Municipality of Surdulica, the National Bank of Serbia, the Ministry of Finance and the Administrative District of Macva, while the Ministry of Interior submitted a report on the implementation of the sector anti-corruption action plan.

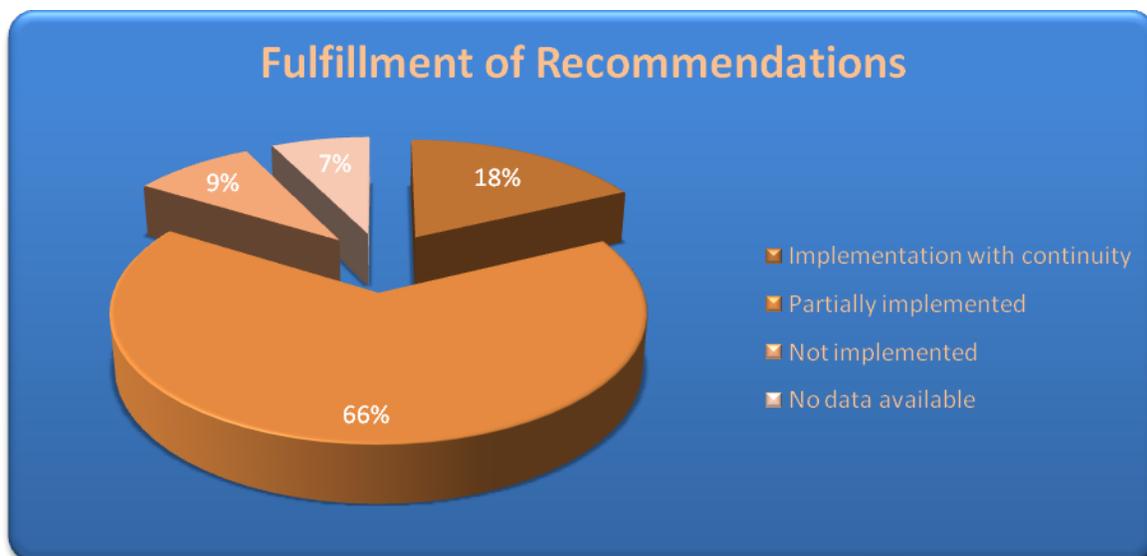
The answers from the new questionnaires, having a better focus on the problem, provided much more concrete material for analysis than last year's forms. The duty bearers, in communication with the Agency, stated that reporting was made easier for them in this way. Still, some negative aspects of the reporting process from 2010 repeated this year as well. Namely, the usefulness and quality of given answers is still unequal, the answers are not straightforward, but rather too descriptive and without focus on the problem due to which a recommendation was made by the strategic document. Consequently, in numerous cases, reporting was merely the listing of activities that are often just remotely connected with an activity or recommendation. This gives an impression that activities were not carried out with the intention to fulfil obligations from the strategic documents, that is, that they were not carried out as part of anti-corruption efforts, but rather as regular activities of the duty bearers which can somehow be associated with the issues from the Strategy and Action Plan. For this reason, just like last year, it was impossible to give an analysis of the fulfilment of the Strategy and Action Plan just on the basis of said information. The Agency had to collect again information from various reports of international organizations and development agencies, the reports of domestic NGOs and professional associations and various research papers and analyses.

Assessment of the Implementation of the Strategy

The Anti-corruption Agency found that out of 123 examined recommendations from the

⁴⁰ See more on these challenges in the last year's Report on the Implementation of the Strategy and Action Plan , pp. 3 – 6, www.acas.rs.

Strategy, 22 were carried out with continuity (18%), 81 were carried out partially, but with possible additional improvements (66%), 11 recommendations were not implemented (9%), while in the case of 9 recommendations, the Agency could not retrieve data for analysis (7%).



As shown in the picture, most recommendations were only partially implemented this year again. This trend is evident in all systems of the Strategy, which reinforces the impression that there is no systemic approach to the tasks set in the strategic document and that there are no capacities for efficient functioning of public authorities and other institutions in this area. On the other hand, even in the case of the 18% of recommendations that are carried out with continuity, it is not possible to assess the real effect on suppressing corruption in practice. Especially concerning is the fact that the Agency could not retrieve data for analysis in 7% of cases, and the reasons for this, among other things, is that public authorities failed to answer all questions from the questionnaire, and no additional source of information was found regarding these recommendations.

In view of this, it can be derived that 3/4 recommendations from the Strategy, that were the subject of examination, still remains within partially implemented (66%) and non-implemented recommendations (9%). However, although these conclusions undoubtedly help to form a general picture of the implementation of the Strategy, it should be noted that they are the result of numeric indicators that equally value all recommendations but do not necessarily reflect the significance of each recommendation for the fulfilment of Strategy objectives.

11.6. Obstacles

As explained above, the obstacles identified in this area in the last year's report remained completely the same in 2011. The difficulties are related to the text of the Strategy and Action Plan and reporting on both documents.

New concerns the Agency faced in the process of drafting the new Anti-corruption Strategy are related to the standards of defining public policies in Serbia. It goes without saying that a good needs assessment for the area for which a public policy is being formulated, as well as a proper consultative process, guarantees certain level of quality and feasibility of a public policy. On the

other hand, it is very difficult to carry out both processes quickly, and it is just the case in Serbia that this should be done in a short term. Thus, little time is planned for these two elements that could at first sight seem to be even redundant. It is especially the case with the consultative process that should in the first place be part of the needs assessment, considering that it should not be finished in only one round of consultation, but should go on as long as there are open questions about certain matter and until final conclusions about how to resolve or eliminate certain problem are reached. The time constraints could most probably be attributed to inadequate planning, especially that based on a needs assessment.

11.7. Recommendations

- To identify and undertake necessary measures to ensure a systemic and continuous approach of public authorities to implementation of the tasks from the Strategy and Action Plan.
- Improve the content of the reports on fulfilment of obligations under the Strategy and Action Plan that are submitted to the Agency and ensure consistent compliance with the duty of quarterly reporting.
- Formulate standards for the process of defining public policies in Serbia which guarantee that:
 - The policies are defined on the basis of a needs assessment that also meets precisely prescribed and publicly accessible standards;
 - The text of a public policy has integrated a consultative process that also meets precisely prescribed and publicly accessible standards;
 - The process of defining a public policy involves people who have skills and capacity to carry out these task;
- Design a mechanism to enhance the capacity of public authorities to formulate public policies.

REGULATIONS

12.1. Key Results

- The Rules on the Protection of Persons Who Report Suspected Corruption (Rules on Whistleblowers).
- The Rules on the Donations and Assets Record, on Annual Financial Statement and on the Report on Election Campaign Costs of Political Entities.
- The Rules on the Observers of the Electoral Campaign of Political Entities.
- Analysis of the procedure to exercise the right to disability pension.

12.2. Other Results

- Comments to the draft Amendment Act to the Planning and Development Act and Model Local Acts for Legalisation.
- Participation in the working group for drafting amendments to the Criminal Procedure Code of Serbia.

12.3. The Role of the Agency in Anti-corruption Regulatory Activities

The activities of the Anti-corruption Agency regarding regulations consist of drafting and adopting of by-laws necessary for the implementation of relevant legislation, participation of the Agency in the drafting of new and amending of existing anti-corruption regulations which are within the purview of state authorities, and analysis of such regulations.

In 2011, the Agency drafted and adopted the Rules on the Protection of Persons Who Report Suspected Corruption (Rules on Whistleblowers) in accordance with the Anti-corruption Agency Act; the Rules on the Donations and Assets Record, on Annual Financial Statement and on the Report on Election Campaign Costs of Political Entities, and the Rules on the Observers of the Electoral Campaign of Political Parties in accordance with the Law on Financing of Political Activities.

With regard to other anti-corruption regulations, the Agency, in accordance with its capacities at a given moment, monitored and participated in the drafting of the new and amending of existing regulations and reacted to cases perceived as a high corruption risk in the implementation of specific legislation.

12.4. Adoption of the Rules

12.4.1. Rules on the Protection of Persons Who Report Suspected Corruption

Rules on Whistleblowers

The attempts to introduce into the criminal justice system of Serbia the protection from unjustified acts against persons who, under certain circumstances, report to a competent body their justified suspicion of corruption⁴¹, started with the ratification of the UN Anti-corruption Convention, Civil Law Convention on Corruption⁴², and finally, after clear suggestions from the international community to incorporate these provisions into practice, manifested through the Evaluation Report on the Republic of Serbia that was adopted by GRECO⁴³.

After the arguments of the representatives of the Government of Serbia regarding previous legislative interventions in this area were assessed by GRECO as measures of a limited scope⁴⁴, the Anti-corruption Agency Act was amended⁴⁵. The amendments provide that a civil servant, or employee in certain sectors of public administration, who in good will reports to the Agency a case of suspected corruption in the body he works with, may not suffer negative consequences (art. 56, para 2). The law also provides that in order to protect such persons the Agency should provide necessary help in accordance with the law and protect their identity, while the very procedure of providing necessary assistance should be regulated under a by-law that is adopted by the Director (art 56, para 3 to 5).

Pursuant to said provision of the law, in July 2011 the Agency passed the Rules on the Protection of Persons Who Report suspected Corruption. However, it should be noted that given the lack of legislation regulating the nature, content, and scope of the right to be protected, the types and ways of disclosure in the public interest, the form, character and types of corresponding protection, the Agency had little manoeuvring space. As a result, this act had mostly to deal with regulating the actions of the Agency in a situation when somebody reports suspected corruption, and not with the protection itself. The phrasing of article 56 of the Anti-corruption Agency Act supports this, as this provision does not refer to the protection that the Agency should provide, but to assistance “for the purpose of protection ... in accordance with the law” (para 3). As the Rules could not go beyond such legal framework, the need to ensure an efficient system of protection of persons who report suspected corruption remains equally pressing. This was also one of the conclusions of the expert debate at the presentation of the draft Rules that the Agency organized in July 2011.⁴⁶

41 The Ratification Act for the UNCAC „Official Gazette of Serbia and Montenegro – International Agreements“, no. 12/05.

42 The Ratification Act for the Civil Law Convention „Official Gazette of the RS – International Agreements“, no. 102/07.

43 Joint evaluation of the first and second rounds of evaluation; The Serbia Evaluation Report, GRECO, 29. Plenary session, 19. – 23. June, 2006. pp. 33.

44 First and second rounds of evaluation jointly, Additional Compliance Report on Serbia, GRECO, 47th Plenary session, 7 – 11 June 2010

⁴⁵ Amendment Act to the Anti-corruption Agency Act, Official Gazette of the RS, no. 53/10

46 See, Conclusions from expert debate, at http://www.acas.rs/sr_cir/component/content/article/41/275.html.

12.4.2. Rules on Donations and Assets Record

In October, the Agency adopted the Rules on Donations and Assets Record, on Annual Financial Statement and on the Report on Election Campaign Costs of Political Entities. The Rules regulate the form and manner of keeping records, as well as the form, content and manner of submitting of reports. The Rules provide for new forms for the records and reports in accordance with the law, having taken into account specific features of political parties and entities in general, considering the nature of their activities and organization. A novelty is the possibility of electronic submission of reports that will minimize the factor of “human error” in entering the data, and also considerably save time for data processing. This leads to two significant results: the reports can become accessible to the public in a shorter time, thus increasing the transparency of financing of political entities, and it also allows for quicker control of the content of the forms considering that most form-related deficiencies are eliminated at the moment of submission.

12.4.3. Rules on Observers of Electoral Campaign

In November 2011, the Agency adopted the Rules on the Observers of Electoral Campaign of Political Entities that regulate the network of observers and their competences and duties. Given that this is the first time in Serbia that the electoral campaign of political entities is going to be monitored for the purpose of costs control, it was necessary to adopt relevant regulations.⁴⁷ The Rules provide for three levels of observers within the network (central coordinator, coordinator, and field observers). The Director of the Agency issues a decision determining the number of observers taking into account the type of elections and the territory to be covered. The form for observer’s report is an integral part of the Rules, but was not published together with this act, since it was developed as the result of a methodology of observing created by the Agency and should not be accessible to a wider public due to concerns of efficient control.

12.5. Analysis of Regulations

12.5.1. Analysis of the Procedure to Exercise the Right to Disability Pension

In January 2011, the daily *Blic* published an article about alleged ‘purchase’ of disability pensions in the city of Novi Sad. The Blic team simulated an interview to a civil servant and established that it was possible with this institution to ‘fix’ medical and other necessary documentation, and obtain a decision from the commission on the right to a disability pension amounting to around 20,000 CSD for a fee of 4500 Euros.⁴⁸ Similar cases that ended in arrests and criminal prosecutions were recorded in Sombor,⁴⁹ Leskovac⁵⁰ and Smederevo.⁵¹

47 See more about the process of creating the network of observers in the 2011 ACA Annual Report; Chapter: Control of Financing of Political Entities.

48 Blic “Civil Servant asks 4500 Euros bribe for disability pension“, 13 January 2011, <http://www.blic.rs/Vesti/Hronika/228943/Drzavni-cinovnik-za-invalidsku-penziju-trazi-mito-od-4500-evra>.

49 Blic, “Doctors were selling pensions for 5000 Euros“, 25 January 2011, <http://www.blic.rs/Vesti/Hronika/231359/Lekari-prodavali-penzije-za-5000-evra>.

50 Blic, „Offered disability pensions for a couple of thousands of Euros“, 30 January 2011,

Considering a wide presence of this practice, the Agency decided to examine whether this is just a case of violation of regulations or there are some systemic deficiencies in the procedure for exercising the right to disability pension that could be eliminated through amending of regulations and thus prevent this practice or bring it to the lowest possible degree.

For this purpose the Agency used, inter alia, information obtained from the Republic Fund for Pension and Disability Insurance, Ministry of Labour and Social Policy, as well as the data from the Republic Public Prosecutor's Office about the most common forms of the abuse of regulations that have been identified in the processing of cases. To our request for information about the procedure for exercising the right to disability pension, the Ministry of Health declared itself as having no jurisdiction.

Looking at the information received from the Republic Public Prosecutor's Office it can be concluded that in a large number of cases corruption appears through a misfeasance in the phase that precedes the procedure with the Pension and Disability Fund (PSD) so that the PSD starts the procedure with forged documents. Corruption in these cases requires a joint enterprise and participation of several persons, and big responsibility for the regularity of the procedure lies with the medical expert, controller and director of the Directorate who assigns the cases for expertise.

The information received from PSD shows that a set of measures was introduced in order to increase the efficiency of the procedure and prevent abuses. Thus, the director had set up a special commission for internal control of expertise; also, after expertise, a case is sent to the head of department who controls the regularity of the process; state of the art equipment is used for functional diagnostics; the staff undergo continuous education and training, and a mandatory medical control is introduced every three years except for some serious illnesses provided under the law.

Based on a detailed analysis of the entire procedure for disability pension, the Agency perceived certain risks creating room for corruption as follows:

- 1) There is no adequate control to check whether the initiative for disability pension comes from the general practitioner of own choice;
- 2) Sometimes insufficient employment or medical documentation is accepted as formally adequate by the assistant expert or medical expert in the preliminary procedure (Form no. 1);
- 3) There is no mandatory time limit to process a request in preliminary proceedings or a mandatory time limit for procedure upon the request for expertise and scheduling of expertise;
- 4) The manner of choosing the medical expert (by the director) and lack of a clear procedure and criteria for their selection;
- 5) There is no obligation to send patients to functional diagnostics in cases of illnesses where by direct examination it is not possible to make a diagnosis, especially by a doctor who is not specialized, and in cases of disagreement between the findings of the specialist and medical expert;

<http://www.blic.rs/Vesti/Hronika/232399/Nudio-invalidske-penzije-za-nekoliko-hiljada---evra-mita>.

51 Blic, „Trial continues for abuses related to disability pensions“, 13 January 2011,

<http://www.blic.rs/Vesti/Hronika/229122/Nastavljeno-sudjenje-za-malverzacije-oko-invalidskih-penzija>.

- 6) There is no procedure to take an independent decision in cases where the findings of the medical expert and the controller do not coincide, or for a mandatory review of these cases.

Based on this, the Agency designed measures for elimination of said risks:

- 1) To set up a system to control the validity of data from the Form no. 1 (by competent inspection services);
- 2) Ensure better attention to and control of evidence on the employment service of a beneficiary – by the medical expertise assistant and better attention and control by the medical expert in assessing the compliance of medical documentation;
- 3) Set up time limits for processing of requests and orders for expertise;
- 4) Establish procedures and criteria for the selection of medical expert and controller;
- 5) Provide for mandatory referral of a beneficiary to the Functional Diagnostics Section in cases where by direct examination it is not possible to make a diagnosis, and where the medical expert is not a specialist for particular illnesses;
- 6) Provide for mandatory review procedure where the findings of the medical expert and the controller do not coincide.

A summary of the results of this analysis and the recommendations were sent to the Republic Fund for Pension and Disability Insurance, and the main results were presented to the media. The Agency has not received any notification of any subsequent measures undertaken in order to suppress this practice.

12.6. Comments to the Amendment Act to Planning and Development Act

In January 2011 the Ministry of Environment and Landscape Planning and the Standing Conference of Towns and Municipalities presented the draft Amendment Act to the Planning and Development Act, which was supposed to make simpler and cheaper the legalization of illegally constructed objects in Serbia, whose number at that moment was around 790,000.⁵² At the same time, the media published comments of experts who claimed that such proposals to speed up the legalization process opened large room for corruption.⁵³ The Anti-corruption Agency also published a statement suggesting that certain provisions were giving rise to potential abuse, especially some of the criteria for entitlement to discounted fees based on the social status; delegation of tasks related to issuance of necessary documentation to a local self-government body, given that not all documents are obtained from state institutions but also from private firms, as well as the possibility for a local self-government body to hire private firms to design project documentation and then to assess the validity of such documentation in the process of legalization. The amendments were criticized also regarding the conversion of the right to usage to the right to ownership over land.⁵⁴

52 Ministry of Environment, Mining and Landscape Planning „Solutions presented for streamlining and reducing the costs of legalization“, 19 January 2011, <http://www.ekoplan.gov.rs/src/Predstavljena-resenja-za-pojednostavljenje-i-pojefinjenje-procesa-legalizacije-1064-c31-content.htm>.

53 Danas, „Dulic pushes municipal administrations into conflict of interest“, 20 January 2011, http://www.danas.rs/danasrs/ekonomija/dulic_gura_opstine_u_sukob_interesa.4.html?news_id=208109.

54 Danas, “Government makes it easier for tycoons“, 2 February 2011, http://www.danas.rs/danasrs/ekonomija/vlada_olaksava_posao_tajkunima.4.html?news_id=208909.

At the same time, articles in the media provoked uncertainty and concerns among the citizens regarding the procedure and costs of obtaining a decision on investment maintenance of houses, and unequal criteria for differentiating between investment and regular maintenance in different local self-government units.⁵⁵ On the other hand, the amendments to the Planning and Development Act announced at that time introduced a definition of regular maintenance, although the manner of maintenance of residential buildings and apartments, type of maintenance works, and other similar questions are governed by the Housing Act, the Act on Maintenance of Residential Buildings and the Decree on Maintenance of Residential Buildings and Apartments. The Agency made their statement regarding this and warned that the regulation of the same matter in two different ways in two separate regulations, as well as their inconsistent application and interpretation from one local self-government to another may lead to unequal treatment of citizens and hence jeopardize legal certainty in the procedures for obtaining decisions on investment maintenance of apartments.

After such reactions, the Ministry of Environment and Spatial Planning invited the Agency to take part in the working group for drafting of the Amendment Act to the Planning and Development Act and of the Model Local Acts for Legalisation. In this way, the Agency was given the opportunity to officially give their comments and suggestions on such provisions of these acts that, in the opinion of the Agency, create room for corruption.

12.7. Obstacles

The biggest obstacle to the passage of by-laws is related to the adoption of the Rules on Whistleblowers. As already pointed out, due to the lack of substantive regulations that would define the character, content and scope of the rights that should be protected, the types and ways of disclosure in the public interest, the character and form of corresponding protection, the manoeuvring space for the Agency was very narrow. Consequently, these Rules mostly deal with regulating the actions of the Agency in case someone reports suspected corruption, and not with the protection itself. Considering also that the Rules could not go beyond the limits determined in the provisions of article 56 of the Anti-corruption Agency Act, the need for an efficient legal framework for the protection of persons who report suspected corruption remains equally pressing.

The Agency recently started the application of other two Rules containing new rules for financing of electoral campaigns which will fully be applied in the upcoming elections.

Another set of Agency's activities concerning regulations includes the competence to launch initiatives for amending and adopting of anti-corruption regulations, cooperation with other state bodies in the preparation of anti-corruption regulations and expert assistance in fighting corruption (art. 5 para 1 items 6, 11 and 12 of the Anti-corruption Agency Act). Also, with a view to implementing the National Anti-corruption Strategy, the Agency has the power to file initiatives for amendment of regulations (art. 62, para 3). This implies the analysis of regulations and participation in the adoption of new amendments to existing regulations that are within the purview of other state authorities.

⁵⁵ Blic, "Permit for major home refurbishment costs at least 200 Euros", 2 February 2011, <http://www.blic.rs/Vesti/Beograd/232996/Dozvola-za-velike--radove-u-stanu-kosta-bar--200-evra>.

Flaws in the legal framework cause systemic corruption in a large number of cases— it is the corruption that the whole system or a part of it makes possible and lets through, which is impossible to suppress just by responding to individual cases. Amending of regulations, provided it is done properly, should therefore help a lot in suppressing systemic corruption. Also, being systemic corruption, it requires a systemic approach where all parts of the society will recognize their role.



Probably the most significant component of the analyses of regulations, which guarantees certain level of quality, is the participation of all stakeholders. Continuity of analyses is also required, that is, permanent testing of their mutual compliance, but also compliance with the context where they are implemented, with the new developments and trends, as well as testing and measurement of possibilities and capacities for their application. Continuity of analyses will enable a timely reaction to abuses and gradual elimination of all deficiencies in the regulations. Finally, the findings of the analyses should be easily available to the interested public, and it is important to have a mechanism within the system that will efficiently respond to the analyses of the regulations regardless of who is the author.

This competence of the Agency and said standards of the analyses of regulations that guarantee an adequate approach to this element of the prevention of corruption confront the Agency with several major obstacles.

Namely, the Anti-corruption Agency Act does not specifically provide for the criteria that can help make a list of anti-corruption regulations that would undoubtedly be within this competence of the Agency. The main challenge lies in the complexity of the wide-spread phenomenon of corruption that appears in many areas and activities so that a great number of regulations are corruption-sensitive. Some regulations are evidently entirely anti-corruption, such as the Anti-corruption Agency Act or the Rules on the Protection of Persons Who Report Suspected Corruption, while others are just partially anti-corruption, such as the Criminal Code in the chapter providing for corruption-related criminal offences, the Public Procurement Act or the Act on Free Access to Information of Public Importance. On the other hand, there are many regulations that in certain parts open room for corruption. These are not anti-corruption regulations, but there is a reasonable expectation of the public that the Agency also analyses such regulations and gives

recommendations for their improvement, especially when the media publish comments about their violation. Still, these regulations are so numerous and their subject matter so versatile that it is impossible that any institution alone can fully meet up such expectations. Therefore, in a long term, it is much more useful to build up the capacities of all relevant bodies of public authorities for corruption risk assessment in regulations, and the role of the Agency could be limited to the definition of methodology for these procedures and provision of any other assistance required for the analyses. In any case, since the decision about the classification of a regulation would not be left to arbitration of each public authority on a case-by-case basis, the Agency is of the opinion that there should be clear, precise and transparent criteria to decide whether a regulation is anti-corruption entirely or partially, or it is merely a regulation that can open room for corruption.

Another obstacle comes from the fact that there is no mandatory obligation of any proponent of a piece of legislation to consult the Agency whenever a new law is drafted or an existing one amended, even if it is relevant for fight against corruption. Such decision is left to the good will of every public authority. For instance, the Ministry of Finance failed to involve the interested parties, including the Agency, into the process of amending the Public Procurement Act, although public procurement is an area mentioned in many reports and analyses as bearing a high corruption risk. Also, as mentioned above, the Agency was invited to the working group for drafting of amendments to the Planning and Development Act and Model Local Acts for Legalisation only after it publicly reacted to the announced questionable solutions. In view of this, it should be noted that due to the lack of said criteria, the proponents of legislation can not be quite sure whether and in what cases, they are obliged to invite the Agency to take part in drafting or amending of legislation.

12.8. Recommendations

- To pass in a short term a special law that will lay down a general legal framework for the protection of persons who do disclosures in the public interest in various areas of social life.
- Involve in the drafting of the Law on Whistleblowers a wide circle of interested entities – representatives of the public, private and civil sectors. Special attention should be paid to the participation of independent oversight bodies.
- Amend the Anti-corruption Agency Act so that the Agency has the competence to draft methodology for corruption risk assessment of regulations that would be binding in all cases of drafting of new or amending of existing legislation.
- Amend the Anti-corruption Agency Act so that the Agency has the competence to set the criteria to determine anti-corruption regulations and provide for the obligation of bodies proposing a piece of legislation to consult the Agency in all cases of drafting of new or amending of existing legislation.
- Ensure that in every public authority – as an entity proposing a law or enacting a by-law – the relevant staff are trained in the methodology of corruption risk assessment.

INTERNATIONAL COOPERATION

13.1. The Role and Significance of International Cooperation

International cooperation is of utmost importance for the prevention and suppression of corruption given that corruption is linked with organized crime and economic crime, including money-laundering, and creates a serious threat to a sustainable democratic and economic development and institutional stability of every country. Suppression of corruption is a responsibility of all countries, which makes international cooperation (efficient exchange of information and experience, promotion of best practices and implementation of coordinated strategies, standards and criteria against corruption) even more needed. The International Cooperation Department, within its purview, develops and promotes cooperation with the relevant authorities or institutions in other countries, international organizations, European and regional organizations and initiatives for the prevention and suppression of corruption.

13.2. Key Results

- The Agency established permanent cooperation with The United Nations Convention against Corruption-UNCAC⁵⁶.
- The Agency became a member of the network „European Partners against Corruption-EPAC“.

13.3. Other Results within the Purview:

- To the end of establishing cooperation with other government institutions and coordination of activities and reporting to international institutions and missions, in 2011 the Agency continued regular cooperation with the Ministry of Justice, European Integration Office, Ministry of Foreign Affairs and National Assembly.
- Regarding the work of international institutions and application of international standards, the Agency continued and improved regular cooperation with the European Union Delegation in Serbia, UNODC, UNDP, CoE and OSCE.
- The Agency established cooperation with the International Anti-corruption Academy (IACA).
- The Agency established cooperation with the Regional School of Public Administration-ReSPA with the seat in Danilovgrad.⁵⁷

⁵⁶ Serbia ratifies the UN Convention 22 October 2005 („Official Gazette of Serbia and Montenegro – International Agreements“, no. 12/05).

⁵⁷ An organization founded with the aim of encouraging regional cooperation in public administration in the countries

- Representatives of the Agency took part in the 50th, 51st, 52nd, and 53rd plenary session of GRECO.
- The Agency drafted the report on the implementation of The United Nations Convention against Corruption.
- The Agency took part in the meeting of the Interim Inter-governmental Working Group of the signatory states of The United Nations Convention against Corruption (UNCAC).
- The Agency took part in the WG for the review of the Implementation of UNCAC.
- The Agency produced answers to the EC Questionnaire for the drafting of the opinion on Serbia's request for EU membership.
- The first year (out of two) of the implementation of the project for the support of the Agency funded by the Norwegian Government was completed. A software application was introduced which improved and accelerated the internal IT communication and interconnection of internal units, and also enabled on-line entries into the registry, that is, entering of relevant reports from public officials. Three groups of interns (21 in total) successfully completed a four-month training with the Agency;
- With the support of OSCE, consultants from Slovenia were engaged to assist in developing draft integrity plans.
- A UNDP funded project was implemented. It continues into 2012 and it is aimed at strengthening anti-corruption efforts in Serbia.
- The implementation of the project IPA 2008 started and will be continued in 2012. This project is focused on capacity-building of the Agency, improvement of legal and institutional framework for fighting corruption and cooperation between the Agency and other institutions, as well as awareness-raising about corruption and corruption prevention mechanisms.
- The cooperation with the Judicial Reform and Government Accountability Project – JRGA funded by USAID started. The project is focused on training and transfer of know-how to carry out control of financing of political parties and electoral campaigns, assistance with the application of regulations governing the conflict of interest and assets declarations, as well as support in improving the management of motions in the Agency's Department for Motions.

of the Western Balkans, and support to creating accountable, effective and professional systems of public administration in the European integration process. Among activities carried out by this organization the most important are: trainings, conferences, creation of expert networks, and publishing, with the goal of transfer of knowledge and skills, exchange of experiences both in the region and between the regional and EU countries.

13.4. Cooperation with the UN Secretariat and the Conference of UNCAC states

The basic objectives under the UNCAC are the promotion and strengthening of measures leading to a more efficient prevention and fight against corruption; promotion, facilitation of and support to international cooperation and prevention and suppression of corruption, including recovery of assets and promotion of integrity, responsibility and appropriate management of public affairs and public property. The Conference of UNCAC States was established with the view of enhancing the capacities and cooperation of the signatory states in the achievement of the Convention objectives and improvement and review of the application of the Convention.

With the aim of strengthening the cooperation of Signatory States and efficient application of international standards, the Agency took part in the work of the Interim Intergovernmental Group that was founded by the Conference of Signatory States and whose task is to develop and improve the know-how, exchange experiences and standardize practices for the prevention of corruption.

With the same aim, the Agency took part in the Fourth Session of Conference of UNCAC States in Marrakesh, Morocco, from 24 – 28 October 2011, presenting the Agency's competences, activities, and achievements. Based on the presented achievements and with the view of strengthening the cooperation of independent institutions in fighting corruption, the Agency was invited to participate and present its work at the Second Preparatory Meeting of the OSCE⁵⁸ Economic and Environmental Forum titled *Promoting Good Governance and Combating Corruption in Support of Socio-Economic Development*, to be held in Ireland in April 2012.

13.5. Cooperation with EPAC

EPAC is an independent, informal and non-political network of operational bodies for the oversight of the work of police and operational bodies for fight against corruption of the member states of the EU and CoE (61) whose task is to carry out independent oversight of the work of the police and prevent and fight corruption. Their goal is to establish, maintain and develop contacts between specialized competent bodies, promote independent and impartial fight against corruption, promote international legal instruments and mechanisms, support the development and improvement of common operational standards and practices of institutions in charge of overseeing the work of the police and anti-corruption bodies, create platforms for exchange of information and expert opinions.

The cooperation of the Agency with the colleagues from EPAC is excellent; it is mainly concerned with the exchange of information, coordination of important reports and proposals with the aim of determining priority areas as topics for annual meetings, possible training and expert programmes.

⁵⁸ The Economic and Environmental Forum is the highest level of annual meeting in the area of economy and ecology gathering over 400 participants from 56 member countries in order to discuss practical solutions for common problems in said areas.

13.6. Cooperation with GRECO

The representatives of the Agency took part in the 50th, 51st, 52nd and 53rd plenary sessions of GRECO. At the 51st session, the Serbian Delegation reported that the Serbian Government approved the draft Law on Financing of Political Parties. ODIHR and the European Commission gave their expert opinion on the draft and it was created so as to address the recommendations of these institutions and GRECO. At that point the draft Law was expected to be adopted⁵⁹ by end of June 2011.

At their third plenary session in Strasbourg in September 2010, GRECO adopted the Evaluation Report on Serbia and made 10 recommendations⁶⁰ concerning the financing of political

59 The National Assembly of RS passed the Law on Financing of Political Activities on 14 June 2011.

- 60 To:
 - 1) set precisely the time period of electoral campaign;
 - 2) reexamine the existing limits of revenues and expenditures and consider the possibility of separating the maximum amount collected from private sources for the campaign from the total amount of funds that is allocated from public funds for these purposes;
 - 3) extend the deadline for submission of electoral campaign costs reports to more than 10 days after the voting day, so that proper book entry of revenues and expenditures of electoral campaigns can be made (item 69);
- To provide for a precise time limit for submission of annual financial statements of political parties to the Anti-corruption Agency (item 70);
- To:
 - 1) set precise rules for assessment and reporting of non-pecuniary donations (except for voluntary work);
 - 2) set clear criteria for the use of public facilities for political parties' activities and electoral campaigns;
 - 3) insert in the Law on Financing of Political Parties special provisions on loans, in particular the requirement that loans are appropriately reflected in financial statements and subject to limitation of private donations in all cases where the loan terms and conditions are different from the usual market conditions (item 71);
- Provide for the requirement that all donations exceeding certain amount, as well as the expenditures of political parties are executed through a bank account (item 72);
- Look for ways to increase the transparency of accounts and activities of legal entities that are directly or indirectly connected with political parties or are otherwise under their control (item 75);
- Ensure consistent publishing of the financial statements of political parties, especially by clearly stating who is responsible for publishing of financial statements on both regular activities and electoral campaigns and set clear deadlines (item 76);
- To:
 - 1) set clear and consistent rules on audit requirements for political parties;
 - 2) ensure the necessary independence of auditors who review the bills and accounts of political parties (item 77);
- To:
 - 1) precisely define the mandate and powers of the Agency regarding oversight of financing of political parties and electoral campaigns;

parties. Serbia is supposed to make its statement or submit the report on the implementation of said recommendations by 30 April 2012. The new Law on Financing of Political Activities incorporated all recommendations by GRECO.

13.7. Cooperation with the International Anti-corruption Academy

The International Anti-corruption Academy is an international organization created at the joint initiative of UNODC, Republic of Austria, European Anti-fraud Bureau (OLAF) and other interested parties. The Academy was organized with the goal to overcome current deficiencies in the anti-corruption know-how and practices. The Academy functions as an independent centre for excellence in education, training, networking and cooperation, as well as for academic research in fight against corruption. The goal of the Academy is to promote efficient prevention and fight against corruption.

Given that the Academy is a relatively new organization, the cooperation with the Agency has mostly comprised the exchange of opinions and providing of answers about the purview of the Agency, governing legislation, and other relevant information.

13.8. Obstacles

An obstacle that the Agency faced in 2011 in the area of international cooperation was caused by the fact that many state authorities still fail to comply with their obligation under the Anti-corruption Agency Act to inform the Agency about their activities in the area of international cooperation in fight against corruption. Cooperation exists on an informal level and ad hoc situations where it is necessary to coordinate certain reports or information.

The consequences of incompliance with this obligation affect the efficiency of cooperation with state authorities and aggravate the lack of understanding of the purpose and role of the Agency in drafting of strategic documents that present the needs of the Republic of Serbia for international cooperation. Such documents define current priorities of Serbia and constitute the baseline document for donors who decide about project proposals, that is, the compliance or relevance of proposed projects for the priority areas for Serbia.

2) entrust, in an unambiguous way, the Agency with the leading role in this regard;
 3) increase the financial and human resources of the Agency so as to make it equipped to ensure a genuine, proactive and efficient control of financing of political parties (item 82);

- To:
 - 1) review existing sanctions for the violations of rules on financing of political parties so that they are efficient, proportionate and adequate;
 - 2) clearly define the violations of the rules on financing that may lead to a loss of funds from public sources and provide for a clear procedure for sanctioning, and;
 - 3) ensure that also the donors take responsibility for violations of the law (item 86);
- To extend the statute of limitations for the violations of the Law on Financing of Political Parties (item 87).

One of the biggest challenges for the Agency in the area of international cooperation or implementation of activities funded from IPA (2008) is the fact that two key experts, the team leader and legal expert for legislation, could not adequately meet the capacity-building needs of the Agency. For this reason the Agency asked that said experts be changed, which temporarily slowed down the dynamics of the project implementation. After the new experts were hired, the project implementation continued in accordance with planned dynamics and activities.

13.9. Recommendations

- It is necessary to designate contact persons in the relevant state institutions who would have the duty to inform the Agency about their anti-corruption activities in the area of international cooperation that are carried out or planned in these institutions.
- To consider the possibility of ratifying the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions⁶¹, which seeks to prevent bribery in international business transactions, including trade and investment.

⁶¹ The basic goal and purpose of the Convention is ensuring equality in measures that the signatory states should undertake in fighting extortion of bribes from individuals and economic entities in international business transactions.

CAPACITY-BUILDING OF THE AGENCY

14.1. Key Results

- The Agency was provided with better technical capacities and adequate office space.
- Based on a needs assessment, the Agency developed in-service training programmes for their employees.

14.2. Other Results

- The Agency was moved to a new building that fully meets its needs for office space.
- An independent IT system has been introduced in the new premises (the system is independent from the unified system of government authorities) and totally managed by the Agency's staff.
- Additional hardware equipment has been provided that fully meets the needs of the Agency, according to both operational and security standards.
- The Agency developed Terms of Reference for additional software application for the needs of the Department for Oversight of Financing of Political Entities.
- The Agency advertised two public announcements for vacancies in the Agency.
- With the support of OSCE Mission to Serbia, the staff of the Department for Oversight of Financing of Political Entities underwent training in forensic accounting and training on the mechanisms of control of money flows in politics.
- The budget realization was 79,7% of the total funds allocated from the budget under the 2011 Budget of the Republic of Serbia Act (which is a significant increase in efficiency compared to 2010 when the budget realization was 58,7%).
- 75% of the public procurement planned for 2011 was realized.

14.3. Relocation of the Agency

In September 2011 the Agency officially moved its headquarters from the old address of 'Palace of Serbia' to the new address in the street of Carice Milice 1. Currently, the new premises are being leased; however the 2012 Budget of the Republic of Serbia Act provides for funds for the purchase of the building, which would be a permanent solution for office space requirements. The new facilities have a gross area of 1.822 square metres and fully meet the needs of the Agency.

14.4. New IT System and Additional Computer Equipment

The main component of the new software⁶² used by the Agency is the "Document Management System" (DMS). DMS allows for a centralized storing and rapid searching of all documents of the Agency. Also, all documents that come to the Agency are first scanned in the Archives, which makes unnecessary manual handling of hard copies (hard copy originals may be kept in one place). DMS has many advantages, the most important being searching history, ordering of work flows, regulation of the right to documents, etc.

In addition to DMS that is used by all organizational units of the Agency, additional software modules for the needs of specific units have been developed. For instance, the Registry Department uses a special module for the processing of the register of property, register of public officials' assets, register of functions and register of gifts.

In the end of 2011, the development of additional software started which will be used for electronic submission of annual financial statements of political entities and of the reports on electoral campaign costs, as well as for the processing of received reports and data about political entities. This will accelerate the procedure of checking formal compliance and create conditions for a more comprehensive check and analysis of data, which creates the operational framework for a more efficient control of the assets of political entities.

In 2011 the European Commission provided the Agency with computer equipment worth 757.387,00 Euros using the IPA 2008 funds. The equipment consists of workstations, laptops, printers, scanners, etc. In addition to hardware equipment, the Agency was provided with the "reporting services, SAP Business Objects". One component of said equipment is a state-of the art „VoIP“ telephone system. This equipment ensures the redundancy of the system and external storage.

14.5. Training Programme for Agency Staff

In 2011 a needs assessment was conducted regarding the training needs of the staff. Based on the assessment, the Agency prepared the plan, programme and schedule of training. The implementation will start in 2012.

The training programme comprises the Anti-corruption Training package, the General Training package and the Methods of Training.

The Anti-corruption Training Package consists of: Leading Principles and Legal Instruments (2 modules), Institutional Forms (2 modules) and Anti-corruption Policies and Measures (3 modules). The General training package consists of: Leadership and Management Skills (2 modules); Strategic Planning (3 modules); Policy Development (2 modules); Human Resources Management and Development (2 modules); Communication skills (1 module); Training for Trainers (1 module).

⁶² Funds for the development of the software in the amount of 80% were provided under the project „Support to the Anti-corruption Agency in fighting corruption“ supported by the Kingdom of Norway.

All employees of the Agency are obliged to undergo training in accordance with their needs.

14.6. Training for the Staff of the Department for Oversight of Financing of Political Entities

With the support of the OSCE Mission to Serbia, the staff of the Department for Oversight of Financing of Political Entities underwent training in forensic accounting - detection of hidden assets, in the period April – June 2011. Mrs Miroslava Milenovic, licensed forensic accountant with long experience in this area, delivered the training. Guest lecturers were the representatives of the Ministry of Interior, Tax Administration and Administration for Prevention of Money-laundering.

In December, the staff of this Department were delivered a two-day training in the mechanisms of money-flow control in politics. This training was also organized with the help of OSCE and the trainer was Marcin Walecky, Head of ODIHR and expert of the Venice Commission.

14.7. Recruitment for the Agency

The first public announcement of vacancies in 2011 was advertised in the Official Gazette of the RS no. 3 and the daily “Danas”, as well as on the Agency’s web site. The announcement was published on 24 January 2011 and was intended for the recruitment of one civil servant in appointed position, seven executive positions and one state employee. Of the total of 9 announced vacancies, eight were filled in.

The second public announcement in 2011 was advertised in the Official Gazette of the RS no. 42, the daily “Danas”, as well as on the Agency’s web site. The announcement was published on 13 June 2011 and was intended for the recruitment of one civil servant in appointed position, seven executive positions and one state employee. Of the total of 10 announced vacancies, seven were filled in.

Staff of the Agency:

Structure of Staff as at 31Jan. 2011.			Structure of Staff as at 31 Dec. 2011.		
Staff employed on a temporary basis	Staff employed on permanent basis	Staff engaged based on special service agreement	Staff employed on a temporary basis	Staff employed on permanent basis	Staff engaged based on special service agreement
5	45	4	2	60	1

The hiring of staff for the Agency was not conducted according to the dynamics planned for 2011, primarily due to a lack of office space in the first three quarters. This resulted in a lower

spending of the budget lines for salaries and other staff related costs (costs of stationery, insurance, telephone charges, entitlements, etc.)

14.8. Obstacles

The biggest obstacle for the Agency, the lack of office space needed for the work and functioning of this institution, was partially eliminated during the year.

Last September, the Agency moved from the Palace of Serbia to a business building at the address 1 Carice Milice St. The building is being leased from the enterprise "Srbijaprojekt" a.d. as it entirely meets the needs of the Agency. The 2011 budget rebalance allocated funds for the purchase of the building, and the Republic Directorate for the Property of the RS conducted the prescribed legal procedure for the purchase. However, the project has not been realized since the time for the legal procedures that should be carried by the Ministry of Finance was too short and the purchase was postponed for 2012.

Despite the allocated funds, the purchase is still uncertain, since the funds are provided through loans from business banks, and this requires passing of relevant legislation.

In case the Republic of Serbia fails to execute the payment of the purchasing price agreed by the sales and purchase agreement for said building, the question of temporary and permanent working space of the Agency arises, which could not only affect the functioning of this institution, but could also have consequences for the obligations of the Republic of Serbia under the international documents and recommendations.

Certain challenge for the Agency is strengthening of human resources and hiring of highly qualified staff with qualifications and skills required by the specific purview of the Agency. The existing legal solution largely limits hiring of such staff due to strictly formal requirements determined by the Law on Civil Servants. Besides, opportunities for career promotion and continuous training and awarding according to achievements are inadequate, bearing in mind the tasks and responsibilities of the Agency. This should be taken into account and ways should be sought to overcome these obstacles so as to avoid the risk of a high fluctuation of the staff and possible consequences on overall performance of the Agency. An efficient way to overcome this problem would be to amend the Anti-corruption Agency Act, that is, the provisions which refer to the rights and obligations of the staff regulated under the Law on Civil Servants.

14.9. Recommendations

- To amend the provision of the Anti-corruption Agency Act regulating the employment status of the staff of Agency's departments in order to allow for hiring of highly qualified staff possessing the knowledge and skills required by the specific purview of the Agency.
- Provide permanent working space for the Agency that would meet their needs.

FINANCIAL STATEMENT

15.1. Revenues and Expenditures Data

The 2011 Budget of the RS Act provided funds for the work of the Agency in the amount of 152.445.000,00 dinars from the revenues line "01-budget revenues". The spending until the end of 2011 amounted to 121.322.000,00 dinars, or 79,7% of the total allocated funds.

15.1.1. Review of Expenditures for the Period 1 January 2011 to 31 December 2011

Source of financing 01 – Budget of the RS
(In thousands)

ек. κлас.	Budget Line	Revenues (RSD)	Expenditures (RSD)	Unspent (RSD)
411	Salaries	73.821	61.745	12.076
412	Taxes and contributions on salaries	13.307	11.005	2.302
413	Allowements in kind, presents for the kids of the staff	600	303	297
414	Social payments to employees	4.128	1.220	2.908
415	Public transportation costs for the staff	2.100	1.656	444
416	Awards for the staff and other special expenditures	345	344	1
421	Fixed expenditures – telephone lines, utilities, insurance for the staff and vehicles	18.980	16.086	2.894
422	Travel costs in the country and abroad	3.064	2.018	1.046
423	Fees for the members of the Board	20.246	10.358	398
423	Costs of development of software application (participation 20% of the total price including VAT)		3.528	
423	Special Service Agreements		2.900	
423	Other services		3.062	

425	Regular repairs and maintenance	3.468	97	3.371
426	Stationery and technical literature	1.601	1.523	78
481	Grants to NGOs	2.000	1.999	1
482	Taxes, tax fees and penalties	140	79	61
483	Fines and penalties on the basis of court decisions	20	8	12
511	Facilities and buildings	2.600	2.549	51
512	Machinery and equipment	6.025	842	5.183
TOTAL:		152.445	121.322	31.123

The main reasons for the spending as shown above are as follows:

- The lack of office space partly affected or slowed down the dynamics of recruitment for the Agency, which resulted in a lower spending than planned under the lines of salaries, in-kind allowances and fixed expenditures (telephone costs, insurance for the staff, etc.), stationery and office furniture.
- Saving regarding expenditures for travels abroad, so that only those trips where the presence of the representatives of the Agency was an international obligation of the RS were realized.

15.1.2. REVIEW OF EXPENDITURES FOR THE PERIOD 1 JANUARY 2011 TO 31 DECEMBER 2011 FROM DONATIONS

(in thousands)

ek. klas.	Budget Line	Revenues (RSD)	Expenditures (RSD)	Unspent (RSD)
421	Fixed expenditures – telephone lines, utilities, insurance for the staff and vehicles	880	11	869
422	Travel costs in the country and abroad	3.932	1.737	2.195
423	Costs of development of software application (participation 80% of the total price without VAT)	25.583	11.960	8.483
423	Special Service Agreements (fees for interns)		2.640	
423	Special Service Agreements (expert fees per project)		2.500	
TOTAL:		30.395	18.848	11.547

Of which:

- Source of financing 05 – from donations by foreign countries in the amount of 29.902.000,00 dinars.
- Source of financing 06 - from donations by international organizations in the amount of 440.000,00 dinars.
- Source of financing 15 – non-disbursed funds from donations from the previous year in the amount of 53.000,00 dinars.

15.1.3. Public Procurement

In accordance with the public procurement planned for 2011, the Agency initiated two public procurement procedures, and one public procurement procedure started in 2010 was finalized in 2011:

- Public Procurement – Open procedure pursuant to art. 21 para 1 of the Public Procurement Act no. 3/2010 - "Development of Application Software for the Needs of the Anti-corruption Agency". The procedure was initiated on 13 October 2010. The estimated value of the procurement is 21.000.000,00 CSD without VAT. The procedure was carried over from 2010. The funds for this purpose were provided under the 2011 Budget of the RS Act, whereby 80% of the agreed price was provided through the project "Supporting the Anti-corruption Agency in Fighting Corruption" funded by Norway, the source of funding is 05-revenues from foreign countries, and 20% of the agreed price from the budget. The most favourable bid was from Prozone d.o.o., Puskinova 26, Novi Sad, in the amount of RSD 14.950.000 without VAT.
- Public procurement – Small-value public procurement procedure pursuant to art 26, para 1 of the Public Procurement Act no. 1/2011 - "Purchase of fuel for motor vehicles". The estimated value of the procurement is RSD 500.000 without VAT. The funds for this purpose were provided under the 2011 Budget of the RS Act (source of financing 01-budget revenues), and the most favourable bid was from "NIS" a.d. Novi Sad.
- Public procurement – Small-value public procurement procedure pursuant to art 26, para 1 of the Public Procurement Act no. 2/2011- "Interior Design Project for Business Premises". The estimated value of the procurement is RSD 2.200.000,00 without VAT. The funds for this purpose were provided under the 2011 Budget of the RS Act (source of financing 01-budget revenues), and the most favourable bid was from "ARCVS" d.o.o. Belgrade amounting to RSD 2.160.000 without VAT.

The public procurement procedure for the purchase of one corporate vehicle did not start although planned by the 2011 Public Procurement Plan. The funds in the amount of RSD 2.500.000 had been allocated and the consent of the Government of RS timely obtained. Under the decision of the Director of the Agency, these funds were reallocated to the Ministry of Health, i.e. the Institute of Neonatology. The entire amount was spent for the purchase of a modern incubator, the contribution of the Agency to the campaign "Battle for Babies".

A few capital assets were purchased in 2011 whose value was lower than that requiring a public procurement procedure:

- 8 mini kitchen lines (one for each floor) for the needs of the employees;
- 2 flip charts for the Department for Education, Campaigns and Cooperation with CSO;
- 2 paper shredding machines;
- 2 mobile phone sets.