



Transparentnost Srbija
Transparency Serbia

Transparency Serbia

Overview of activities

November 2018

Newsletter number 31/2018





Activities

On November 15, heads of working groups of the National Convention for the EU, at the invitation of the EU Delegation Ambassador in Serbia, Sam Fabrizi, presented the situation in certain areas important for the negotiations between Serbia and the EU. Representative of Transparency, Nemanja Nenadić, explained what are the key events related to Chapter 5. When it comes to public procurement, after a long wait, a new Public Procurement Law appeared. This draft was presented to the members of the working group for Chapter 5, and in a very open discussion, NGOs had the opportunity to face their positions with the Director of Public Procurement Directorate, Sandra Damcevic, and to present proposals for new solutions.



Sam Fabrizi @FabriziSem - Nov 15
Good and informative meeting with the National Convention on the European Union.
Empowerment and advocacy of the civil society remain fundamental prerequisites to ensure a successful and credible accession process.

(photo: <https://goo.gl/Df83ch>)

This meeting has confirmed that Serbia has a high degree of compliance of public procurement rules with relevant EU directives. However, the problem is often that the directives are not transposed in an adequate manner into the country's legal system. Thus, for example, the new draft of the LPP discusses the monitoring carried out by the PPO, which is the term that other laws in Serbia do not know, while on the other hand, it remains unclear who performs internal and inspection supervision in the sense of the Law on State Administration.

When it comes to another important area, public-private partnerships have no movement. It is still unknown when they could be open to public discussion about the long-awaited changes to the law.

In practice, problems with applying the rules are great. The biggest thing is that exceptions are applied to the largest infrastructure projects, because of which there is neither competition nor transparency. The principles underlying the European law in this area are also directly violated. After several arrangements of the kind that Serbia has concluded with China, UAE, Russia, Azerbaijan, we now have the situation to appear new actors, when building roads - firms from the US and Turkey, with reference to the interstate agreements they have with Serbia.

Another major problem with public procurement is impunity. This is due to the non-compliance of the rules in the PPL and the Law on Misdemeanors, as well as the absence of a reaction by public



prosecutors in cases of suspicion that there were deliberate abuses in connection with public procurement.

The third major problem for this area is insufficient transparency. This was especially evident in relation to PPP contracts and concessions, where, as in the case of recently given concessions for Belgrade Airport, even those annexes expressly stated not to be secret are not available. No feasibility studies are available to show why the concession is a better solution than an alternative to the development of AB.

Within the project "Support to the development of the Local Anti-Corruption Plan (LAP) in Novi Pazar", four sessions of the working group were held - 6, 7, 26 and 27 November. The draft of the LAP has been completed and in early December it is expected to publish a consolidated text and open a public debate, so that by the end of the year the Assembly adopts the plan. Then the procedure for appointing a commission to conduct the election of members of the body for monitoring the implementation of the LAP is followed.

Regarding local anti-corruption plans, we also inform that in November we were informed that USAID invited us to support five cities in Serbia in the process of drafting their plans. The new LAPs will be operating in Raska and Vranje, existing ones that are not in accordance with the Anti-Corruption Agency Model will be audited in Sjenica and Vrnjacka Banja, while in Šabac TS it will provide support to the LAP monitoring body that is recently formed.

The members of the Working Group of the National Convention on the European Union for Chapter 5 - Public Procurements, discussed with the representatives of the Public Procurement Directorate on the Draft Law on Public Procurement. The meeting, which took place on November 8 in the Human Rights House, was opened by **Nemanja Nenadić**, coordinator of the Working Group and program director of Transparency Serbia.

On Friday, November 23, Program Director of Transparency, Nemanja Nenadić, met with the Council of Europe experts on drafting guidelines to prevent undue influence on judges. On this occasion, Nenadić pointed to the findings from the Study on Social Integrity 2015, the findings of the research on political influences on judges, prosecutors and the police, as well as the findings of monitoring Serbia's progress in relation to Chapter 23 concerning the judiciary. Apart from political pressures on the work of the judges, other forms of illicit influence, which come from financial tycoons whose interests are influenced by court decisions, the influence of criminal groups, the influence of pressures coming from the media and others on the work of the courts, were also addressed.

TS associate, Zlatko Minić, presented the Local Transparency Index (LTI) at a round table organized by Partners Serbia and the Legal Scanner for representatives of CSOs on November 28. LTI is a tool for assessing the transparency of local governments and their ranking.



On Friday, November 23, Program Director of Transparency, Nemanja Nenadić, participated as a panelist presenting the results of the mapping process in the State Audit Institution and the established requirements for the Audit Management System (AMS) in the Metropol Hotel in Belgrade.

On November 20, Nenadić participated on the call in the working group for the drafting of the new Media Strategy. At this meeting, measures were taken to improve regulations and practices related to several areas in which Transparency Serbia conducted research and made recommendations. In particular, the transparency of the decisions taken on the financing of media programs, as well as the transparency of media ownership was discussed. A special topic of discussion was the procurement of media services by the authorities, which was also related to the current amendments to the Law on Public Procurement, as well as the issue of the possibility for government authorities to grant donations to the media and to be their sponsors. Regarding such activities, Nenadić advocated a complete ban on financing, not just partial, as it currently exists for financing by some public companies (those that are financed from the budget or do not do business positively).

In November, 241 news or articles were published about the activities of our organization, i.e. the news in which the quotes of the representatives of the TS were quoted. We have set up a series of initiatives and analyzes, as well as the responses of state authorities to our correspondence or complaints. We highlight [the decision of the Commissioner](#) by which he ordered the Regulatory body for electronic media to provide our organization with data on the broadcasting of pre-election messages in the campaign for the presidential elections in 2017.



Transparentnost Srbija



We are presenting a selection of texts that we published in the previous month:



Under the magnifying glass

Unseen "developing, realistic, balanced budget"

November 21st 2018.

The draft budget for Serbia for 2019 has been praised in almost all media, although no one has seen it, because it has not yet been published on the web site of the Government of Serbia.

Namely, as one of the main news, the media announced that the government adopted a draft budget for 2019 on November 20, and [mostly](#) self-praising of the Ministry of Finance and the Government for the quality of that budget were passed - that it was "developmental, realistic, balanced" is "aimed at improving the quality of life of citizens", "investing in capital projects", and "encouraging further growth of the economy".

However, even at the moment when the news about the adoption of the budget appeared in the media, even 15 hours later, at the moment of writing this text, the draft law on the budget for 2019 was not published on the [web site](#) of the Government of Serbia, so the accuracy of the budget quality assessment, and even the accuracy of basic data can not be verified. To remind, the first electronic session of the Government [was held](#) in the time of Mirko Cvetkovic, almost a decade ago. Printed draft laws have not been considered in these sessions for a long time, which should be redrafted after the session if there were some changes and scanned for publication.

ВЛАДА

ВЛАДА РЕПУБЛИКЕ СРБИЈЕ

ДОКУМЕНТИ

СЕДНИЦЕ ВЛАДЕ ЗА ВРЕМЕ МАНДАТА ВЛАДЕ РЕПУБЛИКЕ СРБИЈЕ ИЗАБРАНЕ 29. ЈУНА 2017. ГОДИНЕ

110. седница Владе Републике Србије, 20. новембар 2018. године

Предлог закона о изменама и допунама Закона о играма на срећу

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82.26 KB

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Предлог закона о изменама и допунама Закона о пореском поступку и пореској администрацији

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93.06 KB

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Предлог закона о изменама и допунама Закона о порезу на добит правних лица

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Предлог закона о измени Закона о републичким административним таксама

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Everything that was adopted at the Government session can be published almost at the same time on its web site too.

While delays in the publication of adopted documents are measured for hours or days, delays in adoption are measured in months. Thus, for the adoption of the Fiscal Strategy, the document containing the data relevant to the preparation of the budget and plans for the next three years, the Government had the deadline of 15 June, but it is not known whether even a draft of this document was made.

The Ministry of Finance had a deadline by October 15 to submit a draft law on the budget to the Government, so that the Government would have 15 days to consider the document.

On the website of the Ministry of Finance, the draft of the most important law was not published, so the public was not available for submitting comments and suggestions, and it is unknown if it was available to the members of the Government.

The Government itself had the time to submit the draft Budget Law to the Parliament by November 1, and that deadline was violated for the fifth time in a row.



This year, the deadline has been broken for 20 days, which is somewhat better than the previous years. Thus, MPs will have 25, instead of 45 days, to consider several thousand pages of the text of the budget, explanations and accompanying laws, if they wait until the final date prescribed by the Budget System Law.

Of course, if the discussion time is spent on the explanation of [meaningless amendments](#), in accordance with the practice that the ruling majority of MPs have begun just about budgeting a year ago, it will not be beneficial.

Transparency - Serbia recalls that the delay in passing key budget documents is the main reason for Serbia's poor placement in the international survey, the Open Budget Index. According to [the latest published](#) Open Budget Index, from January 2018, Serbia took 62nd place out of 115 countries, with only 43 of 100 possible points.

P.S. (November 23rd)

It needed three days for the law proposal, as it was passed, the Government of Serbia has "adopted" at the session of 20 November 2018, exceeded one kilometer of distance to the National Assembly.

The budget proposal has arrived in Parliament and is available on the [Assembly's website](#).

How much deputies, as representatives of citizens, can say about the budget will depend on and whether the SNS members will again submit meaningless amendments, which they explain and then withdraw before the plea, whose sole purpose is to prevent the debate.

Citizens did not get an opportunity to speak directly about the budget even this time. On this occasion, program director TS Nemanja Nenadic said that the impression is that there are people in the government who are in charge of completely different policies.

TS months ago welcomed the adoption of the Law on Local Self-Government which, among other things, says that public debates on local budgets will be required, and now we have at the republic level, where the most money is spent, completely denying the possibility that the public tells anything about time about the budget of Serbia.

After the Government of Serbia deprived the MPs of the legal right to consider the budget for the next year for at least 45 days, by submitting it on November 23, 2018, instead of November 1, as [required](#) by the Budget System Law, the Assembly is preparing to almost completely give up the right to argument discuss about the Government's proposals.

Namely, the President of the National Assembly, Maja Gojkovic, [scheduled](#) a session on which the budget should be discussed and another sixty-one act for November 27!

Bearing in mind that all these acts are in some way related to the budget proposal, there is a real danger of repeated practice and that all these acts are led by a consolidated debate with a limited time (600 minutes) for discussing all the amendments submitted to them. As it was first shown just when the current budget was adopted and confirmed at all Assembly sessions after that, it can be assumed that such a shortened discussion time will be used to explain [the meaningless amendments](#).



No demolition - no police assistance

November 20, 2018.

Apparently, the lack of police assistance for the demolition of restaurants in Kopaonik is neither the only one, nor the biggest problem when it comes to the removal of illegal objects. Transparency Serbia tried to determine whether the police provided assistance to the inspectors of the Ministry of Construction (MGSI) in the past, that is, whether the MGSI inspectors tried to remove illegal objects before they asked for help from the police in the past cases.

We remind that, in the case of non-breach of the illegal building at the top of Kopaonik, it was announced that MGSI does not want to act without police support, and that the MUP [will not](#) provide assistance before attempting to execute without them.

Ministries are called for different provisions of the regulations on this issue.

In order to determine how the practice was before this case, we [asked](#) MGSI for a copy of the request that was submitted to the police station in Brus to work on demolition assistance. We also asked for information on the number of cases during 2017 and 2018, or in the earlier period for which they have data, the Ministry requested assistance from the MUP to remove the facility or its part, in how many cases the MUP refused to provide assistance because it was not there was evidence of an attempt to remove the object without the help of the police, and in how many cases the Ministry provided this assistance.



The first respond we received was partial - we learned that in 2015 decisions of republic construction inspectors were carried out at four locations in national parks and nature parks, with the assistance of the police.

On the additional request sent because most of the questions from the first one were not answered, we received [information](#) on the working number of the letter sent to the police station in Brus, as well as information that prevented us from checking whether the case on Kopaonik was a lonely case or one in a row, due to the systemic problem - the non-compliance of the regulations after the Law on Police was amended.

Namely, it was not possible to determine from the MGSI [response](#) what was the previous practice - because from January 2017 until August 2018 there was no removal of facilities under the orders of the inspectors of MGSI, nor with the assistance of the police or without it.



A list of non-executable solutions

November 6, 2018.

Representatives of the Media Coalition in the Dialogue Team [submitted](#) to the Coordination Group of the Government of Serbia for Cooperation with the Media a list of 601 non-executed decisions that were brought against the complaints made to the Commissioner for violation of the right to free access to information of public importance and demanded their immediate execution.

According to Transparency's evaluation, the execution of the Information Commissioner's decision is important not only for citizens, journalists and associations that requested copies of documents and data from the authorities, but also as a basic indicator of whether there is a rule of law in Serbia.

The fact that there is at least one unresolved decision of the Commissioner, and that it passes without the reaction of the Government, which by law ensures the execution of the decision, and the Assembly, which the Commissioner realizes with this fact in the annual report, is a sign that neither the legal system is functioning nor there is a "political will" that those who break the law endure at least political consequences.

Is the president of the state dealing with public company directors?

November 5, 2018.

Media speculation about whether the President of the state, Aleksandar Vucic, dissatisfied with the fall of Serbia in ranking countries for the ease of doing business, demands the dismissal of directors of certain public companies, would not be significant, if it was denounced by anyone and presented to the citizens that the directors of public companies are set up and dismissed by the Government of Serbia, when, according to the procedure from the Law on Public Enterprises, it is established that they have not fulfilled plans or that they have been performing unprofessional work, and not the President of the Republic.

Transparency Serbia on this occasion reminds that Serbia has another, much bigger problem when it comes to directors of public companies - the vast majority of them are not even appointed after the competition, which are mandatory since 2012, but they are acting as executives. In this status, they can be easily replaced for any arbitrary reason and by political structures that have also arbitrarily placed them in those places.

The consequences are the survival of political influence where it should not be, the humiliation of the rule of law, and often the worst work of the public enterprises themselves.



Initiatives and analyzes

Law on lobbying

November 14, 2018

It is difficult to have a better indication of how Serbia meets the recommendations of international organizations since the adoption of the Law on Lobbying in early November 2018, and on the recommendation of GRECO (groups of countries for fighting corruption) from 2015. Recommendation to increase the public's influence on passing laws in Serbia is "filled" by the adoption of this law without any discussion of hundreds of proposed amendments.

General estimates of the law

One of the last anti-corruption regulations that Serbia did not have, the Law on Lobbying, was finally adopted 18 years after anti-corruption normative reforms began. The adoption of the law is planned in the national strategic documents for the fight against corruption from 2005 and 2018. GRECO in the fourth round of evaluation gave the deadline by the end of 2016 that Serbia adopted this law as the most important measure for increasing the publicity of the work of legislative bodies.



A law that will begin to apply in 9 months will not solve the key problems of non-transparent work of the authorities and the preparation of laws and other general acts. Not only because the application of laws in Serbia gives too many reasons for caution, but also because the norms of the newly adopted act are not good enough. What is in the law positive, in addition to the fact that it was adopted at all? It is good that the Law does not only regulate lobbying directed towards deputies (for which at this moment there are not many reasons because it really decides elsewhere), but also the influence on officials and employees in the executive, local self-government, public enterprises and institutions. It should also be commended that the need for integrity in lobbying is emphasized, which is a specific supervisory authority (Anti-Corruption Agency), and in particular a ban on the appearance of current and former officials as lobbyists two years after the termination of office.

However, due to its shortcomings, the range of useful solutions from the law will be limited.

First, it will only apply to attempts to influence the content of general legal acts, not individual decisions. Secondly, the law does not create any ban or obligation in relation to the impact directly affected by interested natural persons, which produces absurd consequences. For example, when taxi drivers from the Ministry of Transport and the City of Belgrade are seeking to restrict competition, when lawyers and notaries negotiate directly with the Ministry of Justice on issues concerning their interests, when a wealthy individual eager to build a sports center or amusement park requires a change of urban plans



and the granting of construction land for this purpose - data on these requirements and meetings should not be recorded in special registers.

However, if interested persons would address state bodies through professional mediators - lobbyists or lobbyists firms, then there would be a duty to report lobbyists and "lobby persons" in government authorities. Likewise, the duty of registering data in the register would exist when natural persons in the mentioned cases would not promote their interests as citizens, but through associations of taxis, public notaries or bar associations, or if instead of an individual, the company that is in his possession would address the state body. They would then have the status of an "unregistered lobbyist".

The law sets out rules on how lobbying is properly done by saying that lobbying begins with the lobbying by a lobbied person in writing, with the submission of proof of registration, a lobbying contract without contractual fee and the title of the lobbying legislation. If there is such a legal obligation, it would be logical that all other types of contacts between lobbyists and authorities are forbidden (for example, persuading officials to change the law on informal occasions and without naming lobbying for a particular client). However, since there is no explicit prohibition or sanction for such treatment, there has been a "hole in the regulations". We will have a situation similar to the one that existed for years in the field of inspection control: that inspectors are only controlled by those who have registered their business and are doing it according to regulations and that those who work "in the black" outside their jurisdiction.

For similar reasons, it could be controversial that lobbying is not considered a "public communication of attitudes and submission of proposals, expert opinions and regulatory initiatives". The legislator probably wanted to emphasize that citizens, associations and other interested parties could freely express their views and suggestions, without being considered as lobbying for which they would have to meet some special conditions, which is all in line with freedom of expression. However, the norm is written so it applies to everyone, even to lobbyists. Thus, Serbian citizens and state authorities will continue to read expert opinions that convince them that some law is good or bad, and there will be no duty for an expert who does not give his opinion independently "legitimizes" as a representative of his client's interest.

The fourth weakness is in the domain of transparency. There is a dual duty to report to the Anti-Corruption Agency: by lobbyists and lobbyist persons.

However, the Law does not prescribe the obligation to publish these reports, nor to enter data on the performed lobbying in the explanation of drafts and draft acts, so it is unknown at this time whether citizens, after this law starts to apply, have at their disposal more and more data on various impacts on the adoption of regulations.



A solution to most of the problems mentioned could be the application of a reverse approach in relation to the one initiated by the Serbian legislator. Instead of primarily regulating who and how it can lobby, it would be better if the emphasis was placed on the actions of the authorities, officials and officers, their duty to record and disclose to them who and with which proposals he addressed, regardless of the way, but and the duty to consider and respond to any argument proposal to improve regulations and practice, no matter from who they come.

Have the SNS had a database of citizens in the campaign

November 17, 2018

In the campaign before the local elections in 2018, many citizens complained, through social networks, that they received calls from the headquarters of the "Aleksandar Vucic List" headquarters on mobile phones. One such case, the call of the journalist of the Istinomer Milki Domanovic, was [filmed](#) and [published](#). TS Zlatko Minic's associate also received a call, after which he tried to determine who really called him, from which number, whether the SNS had a database with citizens' personal data and from whom information was obtained.

All the calls were typical, "callers", with more or less knowledge, they represented the data they were prepared, mostly unprepared for improvisation, but willing to lie. So it could be felt that Sinisa Mali and Goran Vesic are not candidates for councilors, but that Aleksandar Vucic is, although he will not be the mayor, that Slavija was rebuilt, "Belgrade On Water" was made, that the SNS "gave a lot of money to local governments" "opened factories, 20,000 jobs".

If the one who was called and identified by name, was interested in the fact that the "list of Aleksandar Vucic" knows his name, the mobile phone number and the municipality where he lives, the answer was also typical - "I have it on the computer."

When I learned that my electoral staff "on the computer" has me, colleague Domanovic, as well as the numbers of all those who shared similar experiences on Facebook and Twitter, I have concluded that this reminds us of collecting and defining data about a person without a legal basis and without the consent of the processed personality. Therefore, I addressed the Commissioner for information of public importance and the protection of personal data and filed an [application](#). The idea was to encourage the Commissioner to monitor the implementation of the law and determine whether the SNS, by law, set up a database and obtained data from the MTS, whose subscriber I was.





I got a ["principle answer"](#) that does not prejudice any decision in the supervisory process. I am informed, however, on the procedure prescribed by law. Although this was not my first intention, I started the route that the Commissioner directed me.

The law says: if I suspect that someone is processing information about me, I can ask him to tell me what kind of information he has. The first [correspondent](#) was sent by post to the SNS headquarters. I explained who and when he called, on whose behalf, I suspected that they had a database in which are my number and me. I asked for an explanation whether the SNS, its electoral headquarters or election coalition processed information about me, what information, whatsoever, whatsoever, and everything that the applicable [law](#) prescribes, which means that I asked them to allow me to inspect the data and issue a copy.

Considering that the person who called claimed that has the number of my mobile phone in the computer, but with whom I signed a contract with a majority state-owned operator, I wanted to check that the SNS election headquarters got data from Telekom, i.e. from MTS.

So I sent [two requests](#) to Telekom. In the first I asked them whether they provided the SNS with information about their users, including myself. In the second, I asked to find out the hidden number from which I received the call. In the event that they can not tell me who actually called me, I wanted an explanation which prevented them from notifying me, and in that case they would have conducted a case before me in front of the Commissioner against an unfamiliar subscriber.

Soon there was a [response](#) from the MTS Directorate for Private Customers dated April 20. They essentially stated that my number was not publicly available, that ownership information, location, subscriber number and call listing were not available to third parties and that Telekom guarantees the confidentiality of personal data.

As for asking me to find out who owns the number from which I was called, they replied that they did not offer it "as a commercial service," but "it is only possible if the existence of harassment or malicious calls and messages is detected". And users have the ability to file a bug report.

In the meantime, since the SNS did not respond to the request, I wrote [a complaint](#) to the Commissioner. In July, the Commissioner issued a [decision](#) ordering the SNS to decide on my initial request.

From the explanation it can be seen that the SNS communicated with the Commissioner through attorney Dragan Ivanovic, who responded to the appeal on their behalf. In the answer, the lawyer stated that the SNS does not have a database of personal data of citizens, and so with my data, that I did not provide any evidence that a "certain" SNS was calling from an unidentified number. And since I did not provide evidence, the lawyer concluded, "in a lousy" way, I made a falsehood in the complaint to the Commissioner. Therefore, the appeal should be rejected, the lawyer said.



After the lawyer claimed that the SNS had no basis, he concluded that then it was not a data handler, so it did not have an obligation to respond to the request. In addition, as the MTS announced that my data was not shared or publicly available, the SNS "could not in any way" give me a call because personal information about me and my phone number could not be known to it.

Finally, the lawyer suggested that I be punished because I complained: "The applicant's unfounded allegations clearly indicate that the *appeal is politically motivated to show the public that it is a foreigner who violates the law*, although (the party, for example) acts conscientiously, strictly adhering to the regulations of the Republic of Serbia ". Therefore, the lawyer proposes that the appeal be dismissed as incomplete or dismissed as unfounded, and that the Commissioner "*shall oblige the appellant to reimburse the appellate proceeding of the Serbian Progressive Party*".

The Commissioner, however, made a decision that the SNS should respond to the request. A month later, from the lawyer Ivanovic's office, I really received a [letter](#) in which he informed me that the SNS does not possess or process any information that relates to me, so it can not even allow me to inspect and copy them.

At that moment, I was faced with the following facts or at least claims:

1. MTS has not given SNS my phone number;
2. Someone called me and introduced me to call on behalf of the SNS and my number on the computer;
3. The SNS has no information about me or anyone else or there is no database.

This could mean:

- a) someone has misrepresented himself;
- b) The SNS does not have a database NOW, but it owned it at the time the call was sent;
- c) On behalf of the SNS, I was called by a marking agency or some other (legal) person who was engaged by the party at the time of the election campaign, who owns or owned a database.

or even that

- d) SNS is lying

or that

- e) the data has not been submitted by the MTS, but by another legal entity or state authority.



I started from point a). If someone has misrepresented himself, who knows what he really wanted and why he had my phone number. This question caused anxiety, which is the basis for me to turn to the MTS again.

I delivered a new [letter](#) titled "Report of harassment" to them at the end of August. I asked to find out who owns the number from which I was called because the SNS claims they did not call me. I explained why there is a legal basis for this (Article 116 of the Law on Electronic Communications), and for what reason I experienced harassment, I concluded that "the conditions have been met that Telekom Serbia will provide me with information about the natural or legal person to whom it is registered, that is to say, at the moment of the call he was registered, a hidden number." Also, I asked for information about the legal or natural person who paid the cost of the call that was sent to me.

From the note on the form I reported harassment; I learned that "Telekom Serbia will take all measures to prevent malicious / harassing calls in accordance with Article 116 of the Electronic Communications Act". And that article, prescribes that the operator, if he finds that a malicious or disturbing call is sent from his subscriber's number, is obliged to send a warning to that subscriber, that is, in the case of re-harassment, take other appropriate measures to prevent further harassment. If it is not called from their number, it will be forwarded to the other operator the application in order to do something in the manner described.

Since I did not receive an answer for four weeks, I reminded Telekom on my request by [mail](#). The next day, I received an SMS informing me that it is necessary that "harassment is not older than a month", that I must specify the date when there was disturbance and the time when the calls were received, to "make a check again" and re-submit the application again. I said that I did not intend to do it, because I explained everything in detail in the documents filed with the request, and I expect them to act on it.

Telekom [told](#) me several days later that they "carefully considered the request, took into account all relevant facts and performed all necessary checks". And they concluded: "One call is not considered disturbing."

In the meantime, to remove suspicions that someone is lying or skillfully avoiding presenting the actual situation regarding the misuse of personal data, I again [addressed the](#) Commissioner, with a proposal to exercise control over the application of the law, i.e. to determine whether Telekom violated the law, to whom was registered the number of the call (i.e. calls and other citizens who shared the same experience with the public) was sent, and to determine whether (legal or natural) person to which the number was registered violated the Law on the Protection of Personal Data.

I received the principal [response](#) from the Commissioner again, which "does not prejudice any decision in the procedure of supervision", but does not respond to the proposal that supervision be carried out. With the clarification of the provisions of the Law on Electronic Communications, I have been informed that the electronic communications inspectors are responsible for the supervision of its implementation,



and that the Commissioner, in connection with the calls (and the round-trip voting from door to door), stated in the [announcement](#).

There was an end to the search for answers. Perhaps I could contact the electronic communications inspectors or investigate whether the SNS reported the cost of the phone line and the whole call campaign in the report on financing the campaign submitted to the Anti-Corruption Agency.

The question is whether the answers would essentially differ or we would continue to circle, only with a slightly larger diameter.

It has stayed unclear who called, where he was given information, whether it was part of the campaign and how it was funded and who (if it was) had violated the laws. All these unanswered questions would be sufficient to open a serious debate that should result in the proposals how to prevent such cases in future campaigns.

Open letter to the Committee on Culture and Information

November 23, 2018

Transparency Serbia sent, on behalf of 60 organizations and media, a letter to the Committee on Culture and Information of the National Assembly of the Republic of Serbia:

Having in mind the enormous importance that the Commissioner for Information of Public Importance and Personal Data Protection, as an independent state body, has for providing legal protection in the exercise of these two constitutional rights of citizens,

educated by bad past experiences and harmful consequences for the work of state authorities when they are late with the selection of their managers,

starting from the standards from the existing legal solutions and good practices that provide for the selection of the best candidates in the procedure open to the public,

"Civil society organizations, media, representatives of the business, professional and scientific community invite the Committee for Culture and Information of the National Assembly of the Republic of Serbia to respect the following standards:

- in accordance with its competencies referred to in Article 29 para. 1. The Law on Free Access to Information of Public Importance, Article 58 of the Law on Personal Data Protection and Article 203 of the Rules of Procedure of the National Assembly, as **soon as possible, starts the procedure for the election of a new Commissioner**, since the current holder of this function shall expire on December 22, 2018 ;



- To make **the procedure for selecting** the best candidate for this position open, on the basis of legal solutions for the election of the president and members of the Republic Commission for the Protection of Rights in Public Procurement Procedures by **publicly inviting** all interested persons who meet the requirements to submit evidence of their qualifications, **consider the applications received and publish the results of this consideration;**
- to **specify the legal conditions for selection**, in addition to general expertise and experience in the protection and promotion of human rights, priority should be given to **candidates with specific expertise and experience** in the protection and promotion of both human rights for which the Commissioner is competent (right to access to information and the right to protection of personal data);
- In order to make an informed decision on the proposal to be sent to the National Assembly, **hold a conversation with the best** candidates at a session that will be open to the public;
- **Explain the proposed decision on the selection of the best candidate** according to each of the set conditions. "

You can see the list of signatories on TS: <http://transparentnost.org.rs/index.php/sr/aktivnost-2/pod-lupom/10300>



Press issues

The Tax Administration ungroundedly refuses to provide information on control in media

November 19, 2018

The Tax Administration illegally refused to provide organization Transparency Serbia (member of Transparency International) with information on in which media and for how many days during 2015, 2016 and 2017 it has conducted inspection. Namely, the Commissioner for Information of Public Importance and Personal Data Protection [ordered](#) the Tax Administration to provide our organization with data on controls in companies that are founders or publishers of 10 media in Bor, finding that there is no legal basis for denying information. TS [requested](#) from the Tax Administration data on the conducted control in six other cities - Belgrade, Cacak, Kikinda, Loznica, Nis and Vranje.

We sought this information within a research aimed at determining whether the inspections are equally treating different media. In addition to the Tax Administration, Transparency Serbia requested data from the Inspectorate for Labor and the Directorate for Prevention, in charge of fire protection. The administration, within the Ministry of Interior, did not respond to the requests, the Republic Labor Inspectorate sent answers, while the Tax Administration first requested an additional 40 day period, since it was allegedly needed more time to collect the data, so that afterwards the [decisions](#) refused all requirements. As a reason it was stated that "too much data is required", but also that it is "data on taxpayers" that the Tax Administration can not submit on the basis of the Law on Tax Procedure and Tax Administration.

Transparency filed [complaints](#) for all seven decisions, and the appeal concerning the media in Bor is the first one the Commissioner resolved. We expect that the decision will be the same in other cases.

In the decision, the Commissioner found that the Tax Administration's claim regarding the protection of data on taxpayers was not maintained, since Transparency Serbia requested only data on whether controls were carried out and on which days, the Tax Administration could only provide the requested data, not violating the rights of controlled entities. It was also found that the Tax Administration did not present any evidence that "the request requires too much information for which the processing would be spent very long time."

The direct reason for this research is the suspicions of the bias of inspections, which appeared particularly concerning the controls in the "Juznim Vestima" and "Vranjskim". Transparency Serbia therefore wanted to determine on a wider sample the relationship between inspections and media in individual cities.



A multiple-month refusal by the Tax Administration to provide the requested information on controls, stating the obviously ill-founded grounds for denial, raises doubts about unequal treatment and possible misconduct. All requests and responses sent in the framework of the research on the relationship of inspection bodies to the media and their advertisers were published on the TS website, and the findings of the entire research will be presented by the end of November 2018.

Conferences

Inspections and media

November 30, 2018

Transparency Serbia presented a survey aimed at determining whether the inspectors act impartially or are abused for pressures on the media, i.e. their founders and publishers, and other legal entities - advertisers or potential advertisers in the media. In addition, the research also dealt with the issue of transparency in the work of inspection bodies, as a prerequisite for public control and the identification of possible bias in the control of business entities.

Program Director TS Nemanja Nenadić pointed out that there are no solid indicators that the Serbian inspection services are being abused for pressures on media and other business entities, but added that the survey was incomplete because the Tax Administration did not provide the requested data.



Based on the information available so far, one can not draw a completely reliable conclusion whether the inspection is pressuring the media, it can not be claimed that all economic entities in the controls are treated the same way, said Nenadić.

The reason for the survey was that in the previous period "there were more complaints and doubts about the treatment of inspection bodies, with the assessment that it was a pressure on certain media". The survey covered seven towns from various parts of Serbia, and the TS requested information on media controls over the past three years from the inspection. For six towns (Bor, Cacak, Loznica, Vranje, Nis, Kikinda), the sample included all relevant media and legal entities who participated in the co-financing of media content in previous years, and the sample in Belgrade consisted of 11 media. The sample of other legal entities, i.e. advertisers or potential advertisers, consisted of companies from the furniture, meat and dairy industry sector. Data on controls were requested from tax inspection, firefighting, labor inspection, and it was assumed that they would most often be able to perform the controls of the founders of the media.



For business entities, the sample consisted of companies in the field of furniture, meat industry and dairies, and data were requested from labor inspection, tax, veterinary, market and fire protection inspections.

The TS has requested data on inspection controls with greater or lesser effort obtained from labor inspection, market and veterinary inspection. The Directorate for Prevention, which is responsible for the fire protection and within the Ministry of Internal Affairs, did not respond to the requests, while the Tax Administration first requested an additional 40-day deadline, and then rejected all requests. "The Tax Administration illegally refused to provide TS data about in which media and how many days during 2015, 2016 and 2017 it has conducted inspection supervision," said Nenadić. The Tax Administration is a key player, but we were not able to get data from it, said Nenadić.

Zlatko Minic from the TS said that the tax inspection refused even to deliver its work plans and work reports, claiming that it was an overload of information. On the new request, to provide data only for Nis, as well as information on which plans and reports it has and how much information is not "too much", the PU responded that there were no data for Nis, and the responsible one declared the other two requests secret.

The PU has practically declared a secret, referring to the Law on Tax Procedure and Tax Administration, even the data on the amount of information that does not count as an excessive amount of information, said Minić, adding that this is the best indicator of how much the PU wants to hide all the information from the public.

Therefore, the basic recommendations of the research are increasing transparency in the work of inspections, especially in the work of tax inspection.

Vesna Ristic from the Ministry of Trade, Tourism and Telecommunications, Milan Stefanovic from NALED, Danimir Vulinovic from the State Audit Institution, Svetozar Rakovic from the Independent Journalists Association of Serbia and Maja Stojanovic from the Civic Initiatives participated in the discussion after the presentation of the research.

The research was carried out thanks to the donation from the Ministry of Foreign Affairs of the Kingdom of the Netherlands. You can download the entire survey from the [TS website](http://www.transparentnost.org.rs/index.php/sr/projekti/168-inspekcije-selektivnost-i-nadzor-medija). All requests, responses from state authorities and other documents collected during the survey can be viewed or downloaded from: <http://www.transparentnost.org.rs/index.php/sr/projekti/168-inspekcije-selektivnost-i-nadzor-medija>

