



Transparency Serbia

Overview of activities

September 2018

Newsletter number 29/2018





Activities

Transparency Serbia participated on September 5th at the meeting of civil society organizations and professional associations with Prime Minister Ana Brnabic. The meeting was organized by the National Convention on the EU, and the main topics were the change of the Constitution and the position of the judiciary and the completion of the negotiations between Belgrade and Pristina. Within the first panel, TS associate Zlatko Minic pointed to the situation in the field of fight against corruption, primarily from the standpoint of fulfilling the Action Plan for Chapter 23.

The level of non-compliance with the Action Plan's obligations is very high, even according to the findings of the Government's Implementation Monitoring Council (the current state is that 56% of matured activities are fully realized or "being continuously realized"). According to the monitoring findings TS conducted on the sample at the beginning of this year (<https://goo.gl/dJrymq>), the situation is even worse, since in many activities the claims of the responsible institutions are taken for granted, and there is a baseless assessment for the activity which is partly fulfilled or which completion is in progress, and nothing substantially has been done.

However, these two facts are even more worrying. The first is that obviously no problem-solving system is in operation. Failure to fulfill obligations is without consequences for those who are responsible. The Quarterly Report of the Government's AP Monitoring Council for Chapter 23 identifies problems, but this perception does not lead to fulfillment of the obligation before the time for the next report to appear. A solution to this could be the issue of the implementation of these measures to be opened at every session of the Government until a solution is found and a clear definition of the authority of the Government Coordination Body led by the previous Prime Minister, but which met only twice in the term of his mandate.

The other problem is that more than half of the time has passed for the AP to be realized, and that it did not lead to significant changes, even when the activities are fully realized. For example, the adoption of the Law on the Protection of the Whistleblowers did not achieve the ultimate goal – reporting larger numbers of corruption cases.

Likewise, it will not be particularly useful when a new Law on Prevention of Corruption is finally adopted, which is the part of that plan, since the current draft does not solve the key problems that led to the change of the law.

We have also pointed to the problems in the letter to the Ministry of Justice (<https://goo.gl/d1KnfZ>) and publicly (<https://goo.gl/NqYw5W>). We saw the reaction of the minister (<https://goo.gl/pMPMi8>) as a political marketing for the general public, but we were frustrated by recalling the opinions of international mechanisms and institutions that assessed whether the minimum standards were met, and not whether we can achieve as much as possible.

When it comes to amendments to the Law on Free Access to Information of Public Importance, the draft has solutions that represent a step back and for the three important laws – public procurement, public-



private partnerships and financing of political activities – the drafts have not been published. That is why a fundamental revision of the action plan is needed, so as to be as precise and as ambitious as possible, so that we do not come to the situation of not using the unique moment of EU integration, but also the situation in which our success in this field would depend on the arbitrary assessments of external observers, Minic said to the Prime Minister.

Prime Minister devoted most of the answers and discussion to the amendments to the Constitution. Regarding the fight against corruption, she stated that she saw the first draft of the amendments to the Public Procurement Law, gave her additional suggestions and that she would inform the convention when the draft is expected to appear before the public. In connection with other anti-corruption issues, she expressed a desire to organize a special meeting on this topic.

Program Director TS Nemanja Nenadic, had in the period 12-14 of September 2018, as one of the participants, a series of meetings in Berlin with officials of the Federal Republic of Germany who are following the issues of European integration of Serbia and representatives of non-governmental organizations based in Berlin, as well as representatives of Transparency International, whose headquarters are in that city. The topic of the meeting was the state of the rule of law in Serbia, the current problems of European Integration in relation to negotiating chapter 23, and in particular there were speeches on current developments in the reform of the judiciary and the need to revise the Action Plan for Chapter 23 in order for its implement to be better followed through the achieved effects.

From September 4 to September 7, as a lecturer, Nenadic participated in two two-days workshops dedicated to coordination and cooperation in the fight against corruption at the local level. At the workshops in Nis and Kraljevo, representatives of several tens of local self-governments from nearby cities and municipalities, as well as several civil society organizations, took part. The workshops were focused on considering possibilities for coordination between local authorities and non-governmental sector in the coordination of anti-corruption activities, as well as cooperation in the implementation of anti-corruption measures. The second lecturer was Simona Habic, who previously led the Transparency International branch in Slovenia. Among other things, the following topics were considered: Obligations of state authorities and local self-government bodies in Serbia in the fight against corruption; Anticipated mechanisms for coordination in the fight against corruption in the existing legal and strategic framework of the Republic of Serbia and their application in practice; Cooperation between civil society organization and central and local authorities in the fight against corruption; Developing and implementing local anti-corruption plans, with particular reference to cooperation between local authorities, state bodies and civil society organizations, and the establishment of independent monitoring of the implementation of LAP; Communication between cities and municipalities and civil society organizations /citizens in relation to anti-corruption issues, the right to access information and the use of that right to prevent corruption, with a special emphasis on the availability of public funds; Integrity plans and their implementation in the prevention of corruption; Mechanisms for reporting illegal and harmful actions observed by civil servants and citizens and their implementation.



In the work of the groups, the participants created activities from the Local Anti-Corruption Plan that could be realized through cooperation between local authorities and civil society, as well as the implementation of mechanisms for reporting suspicions of corruption in several scenarios.

We used these meetings to promote current, completed and future TS projects, in particular the Anti-Corruption Counseling, the Local Government Transparency Index LTI, the analysis of the implementation of integrity plans, public procurement projects, and the exchange of experiences related to the process of developing and monitoring anti-corruption plans.

The workshops are otherwise organized within the project "Prevention and Fight against Corruption" funded by the EU within the IPA 2013, and it is planned to hold two more conferences with the same topic in Novi Sad and Belgrade. The project is managed by Roman Prah, an expert from Slovenia.

Program Director of TS participated on September 10 and 11 at [seminars](#) for the local self-government representatives in Pozarevac. These meetings were dedicated to the realization of the right to access information, and on them Nemanja Nenadic spoke about the anticorruption effect of access to information and proactive publication of information about the work of public authorities. Representatives of local self-governments, public companies and institutions from Pozarevac, Smederevo and surrounding area actively participated in the discussion and discussed the issues of implementation of the Law on Free Access to Information, as well as numerous other related regulations, including the Law on Public Procurement, the Law on the Budget System and others. It has also been told about the development of local anti-corruption plans. Seminars were held within the "Commissioner's Day" in Pozarevac, in the premises of the City.

Zlata Djordjevic participated on September 3rd at civil society meeting with the leaders of this project. The meeting presented a public opinion survey on attitudes on corruption and the fight against corruption, which showed that the key problems that Serbian citizens face are basically economic. Thus, 61% of citizens consider unemployment, low wages and poverty the main problems, and every night citizen (11%) sees corruption as the main problem of Serbia.

Compared to previous surveys, over the past eight years, there has been a growth in the percentage of respondents who had direct and indirect experience with corruption, and the average value of the given myth is approximately 74 Euros. However, as many as 28 percent of citizens would not report corruption because they believe that nothing would change. The survey showed that the citizens expect the fight against corruption to be led by the police, the Anti-Corruption Agency and the Government. They consider that political parties are the most corrupted (71 percent), and the most corrupted professions are doctors, police officers, officials and custom officials.

Within the project "Supporting the preparation of the Local Anti-Corruption Plan and establishing a body for monitoring the implementation of the LAP in the City of Novi Pazar", we held a press conference in Novi Pazar and together with the representatives of the City of Novi Pazar, individuals and representatives of civil society organizations to get involved in the working group for making LAP and



application for participation in the thematic sessions. A working group was formed and the first sessions were scheduled for October 2nd and 3rd.

Zlata Djordjevic participated on September 19th at a focus group meeting with civil society organizations and media on the topic of what kind the Anti-Corruption Agency data can be publicly available. The meeting was organized within the Twinning project “Prevention and Fight against Corruption” in partnership with the National Anti-Corruption Agency of Italy and Italian Ministry of Justice and the Higher School of Justice as well as the General Prosecutor’s Office of the Kingdom of Spain. In the discussion, Djordjevic pointed out that all data that the Anti-Corruption Agency is now publishing on its website should be published in the form of open data, so that they can be further used, meaning that they could be used by a wider circle of the interested public. This would be particularly important for civil society and the media that use the data published by ACAS in their analysis and research, and in this way they would be able to cross them more easily.

Zlatko Minic participated on the 25th and 26th of September at a meeting of representatives of the 22 European branch of Transparency International in Bratislava. A joint research of the transparency of the capital cities was considered at the meeting. In the pilot project, to be completed already in November, a research based on a smaller number of indicators will be done.

In addition to proposing indicators on the meeting, this was an opportunity to exchange experiences of similar research that Transparency’s branches carry in their countries. TS conducted the first survey of LTI ([Local Government Transparency Index](#)) in 2015, covering all municipalities and cities in Serbia, the second from 2017 was done on a smaller sample, and we hope that in the beginning of 2019 we will do a new research.

On Wednesday, September 26th, program Director of TS Nemanja Nenadic held training for 12 journalists, mostly coming from local media, on the topic of corruption and the fight against corruption. In addition to considering the theoretical and legal elements of corruption, the training was about the research it has conducted and the initiatives set in motion by Transparency-Serbia. Also, one of the topics was the anti-corruption provisions of the Serbian Press Code of Conduct. The training was conducted as a part of the NUNS project.

In the period between the 25th and 27th of September 2018, a [workshop](#) for participants from the public, private and non-governmental sectors was held in Belgrade on the theme United Nations Convention against Corruption (Multi-Stakeholder Workshop on the United Nations Convention Against Corruption and its Review Mechanism).

The workshop was attended by representatives of international organizations, as well as representatives of organizations and institutions from this sector from all countries of the region, including EU members. The event was organized by the United Nations Office on Drugs and Crime-UNODC and Regional Anti-Corruption Initiative - RAI. In addition to getting to know opportunities and examples of cooperation between actors from all three sectors, with the obligations of the Convention itself, there were also words on the need to ensure the public of findings from a review mechanism of the fact whether a



country fulfilled its obligations under certain UNCAC chapters. Serbia ratified this Convention and was included in the first round of review, but only a summary of the findings was then published, as it was the case in several other countries.

Since we are expecting a second round of consideration, this will be an occasion for publishing the complete findings of the evaluators and the data on the fulfillment of obligations which would be given by our state authorities. Numerous representatives of the Transparency International from the Berlin Secretariat and from the countries of the region, including the new Regional Coordinator of TI for Eastern and Southeastern Europe, Lidija Prokic, who presented the findings from the regional research on the system of social integrity in the Western Balkans, NIS, were speaking on the conference. Program Director of Transparency Serbia Nemanja Nenadic, participated in the work of this meeting and presented some findings of the TS research on elements of the captured state in urban planning and in the work of public companies, which will be published soon.

On Friday, September 28th Serbia marked the Day of the Public's Right to Know. The event was organized by the Commissioner for Information of Public Importance and Personal Data Protection, the OSCE Mission to Serbia, the Coalition for Freedom of Access to Information, the Association of Journalists of Serbia and the Independent Journalists Association.

The gathering was addressed by: Rodoljub Sabic, Commissioner for Information of Public Importance and Personal Data Protection, H.E. Sam Fabrici, Head of Delegation of the European Union in Serbia, H.E. Ambassador Andrea Oricio, Head of OSCE Mission to Serbia and Silvija Panovic Djuric in the name of the Council of Europe.

In the past month, we have published a series of responses that we received from the state government regarding cases of pointing corruption in the media. In the vast majority of cases from the prosecution, we received answers that no criminal charges were brought to them, and that they were not dealing with the alleged suspicions or public accusations. We have published on our [Initiative and Analysis](#) page even more initiatives to the national authorities regarding the opening of the data.

Anticorruption Advisory Service (ALAC) Transparency Serbia in the previous period had 57 new cases – 33 on the basis of telephone calls to the free number 0800 081 081 and 24 based on the information received at the ts@transparentnost.org.rs and savetovaliste@transparentnost.org.rs by mail, by direct contact, or based on information found in press clipping and on the internet. In the bulletin we present two cases from the practice of Counseling Center.

In August, 230 news or articles were published about the activities of our organization, i.e. the news in which the views of the representatives of the TS were quoted.

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



Under the magnifying glass

Pre-election pressures on employees in the public sector

September 29th 2018.

In the election campaign in Serbia we have not yet seen direct threats to public sector employees like those sent by the President of the Republic Srpska and the leader of the SNSD Milorad Dodik, in the campaign in BiH, for which our colleagues from TI BiH filed a [criminal complaint](#).

According to TLBiH Dodik threatened pensioners that they would not receive a one-time assistance if they did not vote for SNSD, health workers who support trade union leaders that they will not receive salary increases, and TPP Gacko employees will be [dismissed if they vote for the opposition](#).

We could, however, hear a secret video that in Serbia in the past years, as the [media reported](#), in which the president of the municipality ordered the dismissing of the employees who do not want to go to the SNS rally.

We have also read [media reports](#) about forcing workers in the public sector to attend political meetings, and we have also [saw](#) footage of JP workers dressing party jackets before the rally. All of this has been registered by the TS in the campaign reports of all [previous](#) years since 2012.

Also, the use of public resources in the campaign, speeches of politicians directed against the opposition, at meeting where they



advent as functionaries, became a regular phenomena in Serbia, registered by local organizations, as well as the European Commission in the reports in Serbia and the observers of the OSCE/ODIHR Mission.

The problem is that the reaction of the competent state authorities is absent. So, for an example, in case of promoting the list of SNS in the Zemun Grammar School, when several laws were violated, the Anti-Corruption Agency and the Education Inspection [concluded that this was not a political gathering](#).

Serbian Deputy Prime Minister Zorana Mihajlovic has also promoted the SNS and criticized opposition candidates, as a minister of construction and traffic in Obrenovac in 2018 during the campaign, and her statement was published on the Ministry's website, which is undoubtedly a violation of the Anti-Corruption Agency Act, which prohibits official from using public resources and meetings at which they participate and meetings in their capacity as functionaries, for the promotion of political parties or political entities.



In March, the Anti-Corruption Agency has given us the answer that a preliminary check is being carried out on whether she violated the law, and this week, on the new request, [the answer](#) is that it is still "in the process of a previous check"

Give and take

September 28th 2018.

There are cases for which a long pre-criminal procedure is required; the authorities should be given not only peace, but also time to work. That's why we, having checked how those responsible are doing their job, pulled out a case two years ago. In the TV show "Insider in Jura" it was announced that in 2013 the Ministry of Labor asked from the company Jura a donation – no less than two cars "for improvement of working conditions". Jura donated it. And the story saw the light of the day at the time when the accusations appeared that Jura violated the rights of employees, and that the inspections, within the Ministry of Labor, were closing his eyes.

Jura did not hide that it had donated the vehicles: "The donation of two cars was realized after obtaining a request from the Ministry to improve the working conditions due to the lack of official vehicles. As members of the local community, we decided to officially fulfill the request without any hidden intent," Jura said in [response](#) to the Insider.

At a time when all this was announced (May 2016), the Ministry, the Government and the State Audit Institution (DRI) were called by TS to investigate the case, initiate the punishment of those responsible, return vehicles that were passed to the law, and initiated the procedure for amending the regulations in order to solve



the conflict of interests regarding gifts received by state authorities.

Namely, the Law on Donations and Humanitarian Aid prohibits the granting of or acceptance of passenger cars as a donation, as well as services, money, securities, property and other rights. In this case, not only has this limit been violated in the Law on Donations, there are already significantly more serious problems. First, the very situation in which a state body from a private firm that may be subject to inspection control asks for a "donation" can constitute essentially a bribe of extortion, which differs from the criminal offense only in that the benefit is not acquired by the individual but by the body.

An additional element of the absurd is the fact that the state, on the one hand, stimulates investors with tax money (Jura received significant subsidies, as TS [wrote](#)), and on the other hand, asks the same investor for vehicles that should have been procured from the budget.



Two years later we [requested](#) information and documents on the actions of the Higher Public Prosecutor's Office in Kragujevac on the hierarchical lower public prosecutor's offices in connection with this case – about the examination of a possible criminal offense prosecuted ex officio, and whether the prosecution led an investigation, criminal proceedings or concluded that there was no basis for this, which evidence was collected in relation to the case and what was the outcome of the criminal proceedings if it was conducted.

Many questions and the [answer](#) are short: in the period from 2013 ending with September 3rd 2018 in Kragujevac, no criminal complaint was filed against the persons mentioned in the request. They did not answer the question of whether they acted on their own, but the answer can be guessed.

They replied, however, to the part of the letter in which the TS stated that the request, if the prosecution failed to act, could be treated as an initiative to undertake measures within its jurisdiction. Therefore, they took measures within their jurisdiction: the request was submitted to the VJT in Kraljevo – the Special Department for the Suppression of Corruption, having in mind the implementation of the Law on Organization and Jurisdiction of State Authorities in Combating Organized Crime, Terrorism and Corruption.

Even the Public Prosecutor's Office in Kraljevo did not sit with his bare hands, but [replied](#) that he had not been brought criminal charges related to the donation. And someone else is in charge of the initiative. The donation was "done" at the headquarters of the ministry, in Belgrade, so the acting Public Prosecutor's Office in Belgrade is in charge of acting on the

initiative, to which the TS, concluded by the prosecutors from Kraljevo, has sent an identical request.

And on this same [request](#) sent to the Higher Public Prosecutor's Office in Belgrade, even more crass [answer](#) was received – no case was created. The VJT did not declare and initiative to undertake measures within its jurisdiction.

TS [addressed](#) to the State Audit Institution: On the 21st of August in 2018 we sent a request and initiative, with a request to us if it acted within its powers regarding this donation. We also asked DRI to inform us whether she had planned to include it the audit procedures the grant contracts concluded by users of public funds.

Finally, if the DRI detected the existence of the systemic problem we are referring to, we asked for information about possible initiatives initiated by other state authorities to resolve these problems. There are no answers for now.

As there is no reply or on [request](#) to the Ministry of Labor to provide us with a donation contract, a copy of a written communication or a note of oral communication preceding the donation (request for donation or response to the offer of donation) and documents on how it was considered whether the contract should be concluded and whether they should receive a gift in light of the legality and possible negative effects on the work of the ministry.

Institutions as reality show

September 23rd 2018.

The publication of the REM member's announcement [on the site](#) of this independent regulatory body, with all the arguments such as "whose hair length is absolutely identical to



both his mind and knowledge of matter” is a good indicator of the new stage of institutional decay in the Republic of Serbia.

There is of course nothing controversial about the fact that a member of the REM Council has a negative opinion about the Minister personally or about his attitude regarding the broadcasting of “reality programs” on TV stations with a national frequency. It would not be controversial that REM, as an institution, took a firm stand against any interference by members of the Government in matters within their competence and that institution made a statement about it.

On the other hand, when informal speeches of a member of the collective body appear at the place where the decisions are made and the official statements of the REM are announced, and when the “serious” and “frivolous” media both transmit it as important news then the discussion between representatives of public institutions about the programs it turns out to be a reality – an idea in which a real or fictitious conflict between actors should entertained the audience.

Instead, citizens have the right to receive a clear answer from REM whether national broadcasters respect all obligations and rules, and from the Ministry of Culture and Information, whether, as the body in charge of preparing and amending media regulations, considered the introduction of the rules for which the minister publicly interceded.

Similarly, the Prime Minister and the Deputy Prime Minister (Brnabic, Stefanovic) have the opportunity every Thursday to tell Minister Vukosavljevic personally what they think about his statement in the closed sessions of the

Government, or to publicly raise the issue of his dismissal in the Assembly, explaining what he did not do well. Giving the “friendly criticism” to colleagues through the media is more like maintaining a tension in front of the audience which is watching what is happening on the scene, rather than institutionalizing the problem.

Come back in 18 years

September 21st 2018.

Transparency Serbia filed an [appeal](#) against the City of Belgrade to the Commissioner for Information of Public Importance and [urgency](#) to the Government of Serbia because these two authorities did not respond to the request to provide information on the construction of public buildings in Belgrade Waterfront.

This silence of the two state bodies is complementing a long line of arrogance, irregularities and illegalities, in connection with the Belgrade Waterfront project. One item deserves constant attention of the public, if not for something else, because of the fact that it is almost 300 million Euros, or 33 billion dinars.

That is, in fact, the value of the contribution for the construction land which, according to the “lex specialis” does not have to be paid to the investor if he, in return, builds public facilities in the same value. And if the investor, thanks to the “lex specialis” builds these buildings, he will build them without a public procurement procedure, entrusting the business to the companies of their choice.

This is the reason that the red lights with the inscription “corruption risk” light up.



In the absence of competition, the investor who conducts the works will have an interest in showing as much price for his work as possible, in order to pay as much of the contribution to the ending of construction land. Above all, we do not know what the plan is for the construction of public buildings (a document has never been published), has anything been built so far (whether it is a “promotional booth” or a private café, or is it a “promenade”) and how much it costs (that is, with how much it has been booked, because it will be difficult to find out how much it really cost).



The contract, normally, foresees that the entire project is being built for 30 years, and that 50% will be completed in 20 years, so that it could be expected that the public will then be given a report on what is really planned and what was built. In order not to wait for another 18 years, we [asked](#) the Government of Serbia on August 21st for information on land and the construction and reconstruction of public buildings in the area of the project “Belgrade Waterfront”, which includes data on the type of buildings that were built or reconstructed, performed works on land, the value of these investments, the procedure applied to the selection of the contractor and performed

expert and financial supervision, from the conclusion of the contract to the day of the action on the request.

We [asked](#) the Belgrade authorities whether City has made a decision that the works on land construction, including the construction of public buildings, public property realized by the investor on the basis of the contract on the construction of the project “Belgrade Waterfront” – are recognized as the settlement of the total obligation in the name of the contribution for the regular of construction land and whether such proposal or initiative is addressed to these authorities.

Namely, “lex specialis” stipulated that the fee could be settled, but it is necessary that the local self-government unit decides to do so. In case where such a decision was not made, we asked for copies of the documents from which it can be seen how many contributions have been received for the editing of construction land in the area where Belgrade Waterfront project is being implemented. And if the costs are settled – to provide us with reports on what is built from public buildings, or how much work has been done on the editing of construction land, including the construction of public surfaces, as well as the construction of publicly owned facilities investor based on contract.

The competent authorities have not responded yet, which is why we filed an appeal or urgency. Namely, against decisions (or in case of silence) of six bodies, including the Government, cannot be submitted an appeal, but only a complaint to the Administrative Court, but the procedure requires that an urgency is sent before the complaint.



Initiatives and analyzes

Problems of fighting corruption in the context of European integration

September 25th 2018.

If it is to be judged by the rhetoric of EU officials, the Member States and the Republic of Serbia in the last few years, after accession negotiations are opened with Serbia, the most important issues are those concerning the achievement of a sustainable solution for Kosovo and the rule of law. As far as Kosovo is concerned, negotiations are being held between representatives of the Republic of Serbia and representatives of the “temporary institutions” there with the mediation of the EU, and it is clear that this is the process whose outcome depends not only on Serbia, but also on the actions of actors on the other side of the negotiating table.

On the other hand, when it comes to the progress that Serbia should show in the “rule of law”, it should be equally clear that it is about the standards Serbia itself needs to achieve, and not the issues that are “negotiated” in the right sense of the word. Therefore, in principle, the approach is not correct to negotiate whether Serbia has achieved the rule of law, by which Serbia would argue that the modest results are sufficient and the European Union would ask Serbia to have better laws and apply them more.

For the same reason, it is not entirely correct to present the rule of law as a process that requires some time to pass, as a standard that cannot be reached “overnight”, as is often done by European and Serbian officials. Namely, the achievement of standards in the rule of law in Serbia has long ago been a much smaller issue in the need to improve the regulations, establish state bodies and strengthen their capacity. The predominant part of the problem is that state bodies that exist have the capacity but not the will to implement the laws that Serbia has already adopted.

The fight against corruption is one of the areas of rule of law where the results are not good enough. The European Union’s progress in this area is accompanied by negotiations on Chapter 23, in which this issue is specifically dealt with, but also in many parts of other chapters, such as 24, relating to security, 5, relating to public procurement and public – private partnerships, Chapter 32 relating to financial control and others.

As it is well known, Chapters 23 and 24 are among those that have been open first, and for which progress in achieving “final criteria” will be traced to the very end of European integration. This progress is followed through the semi-annual so-called nonpaper reports, not just annually.

It is often emphasized that the EU has opted for such an approach due to poor experiences with the last three cases of accession – Bulgaria, Romania and Croatia – where new members were received, although they did not fully meet standards in this area. However, according to the author’s view of this text, judging by the current course of “negotiation” in relation to Chapter 23 it cannot be concluded that



the EU has drawn enough lessons and that an approach that will deliver results within the set deadlines is selected.

For now, there are two such deadlines – first defined by the Action Plan for Negotiating Chapter 23, where all activities should be implemented in the period 2016-2020. The second deadline is the indicative time of Serbia's accession from the February EU Strategy, according to which the admission could be 2025, if by 2023 the criteria are met.

The author of this text has repeatedly had the opportunity to introduce EU officials and Member States in direct talks with the findings of Transparency-Serbia, independently or within the framework of the prEUgovor OCD coalition, presented to domestic institutions and the public, according to which the current plans of activities, even if they were fully met, would not lead to the reduction of corruption to the level of individual incidents to which a society finds a response by punishing an individual who has violated the rules. A typical response to such fears was that, regardless of the content of the action plan and its fulfillment, success would be judged at the end of the process, by concluding that the "criteria for closing the chapter" were met.

Such an approach can be "easy" from the point of view of final EU assessors, who would be little in touch with giving an assessment of whether success is satisfactory or not-is it, for example, that at same point before the enlargement will be made a final verdict for the corruption of one, five or ten high-ranking public officials an evidence of the functioning of the system.

Such an approach could also be suitable for the authorities in Serbia, if they counted that at the key moment of enlargement to the readiness assessment, another reasons would be significantly influencing, for example, geopolitical reasons. In no case, however, the "looseness" of the benchmark is not suitable for citizens of Serbia for which the process of European integration is a unique opportunity to establish a more effective system of combating corruption.

The system for improving the fight against corruption, established by the action plan of April 2016, does not work. At first glance, it could be said that the problem is that only 56% of matured liabilities are fully met or are "continuously executed". These findings from the official government statistics should otherwise be taken with a reserve because the estimates of fulfillment are often based on the claims of the taxpayer and not on the examination of the effects of the applied measures.

The bigger problem is that the situation would not be much better or that the percentage of fulfillment is higher. For example, if the amended Anti-Corruption Law Act has been adopted to date and the implementation of related activities (by-laws, trainings, and promotions) the success would seem to be higher. However, the adoption of the current text of the draft Law on Prevention of Corruption, intended to replace the existing Law on the Agency, would not solve almost any problem due to which the reform started. The Agency would not have the power to perform its tasks more efficiently, would not be organized so as to be less subject to the influence of those it should control, nor would it create the conditions to devote more attention to resolving conflicts of interests of current and former officials in place of excessive administration and consent.



The basic problem with the Action Plan, and this does not only concern the Serbian institutions, is that it is not designed to measure the impact of individual activities against the goal, and the revision of this document, planned for 2018, should be used to eliminate the problem at root. This can best be demonstrated in the case of an activity that was realized even before the current AP was officially concluded-the adoption of the Law on the Protection of the Accuser. This law is indeed applied, and some accusers, on the basis of its provisions, received judicial protection that would otherwise be denied. However, the purpose of adopting this law was to increase the number of reported criminal offenses of corruption. Not only this general goal has not been achieved, which is evident from the prosecutorial annual statistics, but there is no systematic monitoring of possible correlations with the application of the ZZU.

Another important problem for AP is the wrong choice of activities. For example, in the case of free access to information of public importance, activities are planned to improve the part of the legal framework, and none in relation to the most visible problem-that in several hundred cases each year, the authorities, contrary to law, do not act upon the final decision of the Commissioner for Information , that the Government does not ensure the execution of these decisions, and that the National Assembly does nothing to solve these problems after receiving data in the annual report of the Commissioner.

No matter how the amended Action Plan has been improved, the situation will not be corrected unless the approach to solving the problem „on the go“ is changed, through much better coordination and monitoring. The current monitoring system, in which the body of the Government (the Council for Monitoring and Application of Chapter 23) quarterly collects and publishes information that activities have not been carried out, that institutions cannot agree on what their job is or simply do not finish it, and no visible measures are taken by the government, obviously cannot lead to the goal.

Experience does not give the reason for optimism, either in case the authority for monitoring application is transferred to the Anti-Corruption Agency, as planned. Namely, the Agency has been responsible for monitoring the implementation of the national action plan for the fight against corruption for five years, and reports on this to the Assembly. The results are devastating-a large part of the taxpayers do not at all provide verified information on the fulfillment of obligations, and this remains without the reaction of the National Assembly. Also, the body for coordinating the implementation of the anti-corruption strategy, headed by the Prime Minister, who should take over the monitoring of the chapter on combating corruption, not only does not solve the problems identified, but has not met for years.



Press Releases

Constitutional amendments will not reduce political influence on the judiciary

September 14th 2018.

Transparency Serbia (part of Transparency International) indicates that the third published working text of constitutional changes in the field of justice also does not contain explanation nor a review of the comments submitted during public debate.

Citizens were thus deprived of information about why the Ministry of Justice, among several possibilities, defined the minimum standards set by the Venice Commission for several provisions, why certain solutions deviate from the Action Plan for Chapter 23, and for that reason rejected arguments from numerous associations and experts made during the previous public hearing

Since the complex process of constitutional changes has been initiated to reduce the political influence on judges and prosecutors, as a goal set by the national and European strategic acts of 2013 and 2016, the current proposal, according to which only 50% of the members of the future judge and 40% members of the new prosecutorial council are elected by judges and prosecutors themselves, and the other deputies cannot be considered good.

It is true that the situation in which judges and prosecutors primarily decide on their colleagues carries with them risks, but these risks should be removed by legal norms that would increase the publicity of the work of the judicial councils and reduce the scope for their discretionary decision-making, and not by indirect political control, by the groups of „prominent lawyers“ that will be elected by a parliamentary majority.

Regarding political influence on the work of the judiciary, program director TS Nemanja Nenadic stated the following:

“If there was a will to reduce political influence on the work of VSS and DVT, this could have been done independently of the constitutional changes. Since the government and the Assembly in 2013 concluded that it was not appropriate for the Justice Minister and the President of the Assembly’s Judicial Council to be members of the judicial bodies, those politicians could immediately stop participating in the election and dismissal of judges and prosecutors. Also, there is still a vast space to reduce inappropriate impacts through a change in practice, for the beginning by informing the public about what has been done and what should be done in prosecution of perpetrators by the competent public prosecutor rather than political officials”.

We remind that the amendments to the Constitution in the field of judiciary are only one of the issues where the highest legal act needs to be changed. In addition, in order to more effectively combat corruption, amendments to the Constitution are also needed in order to set stronger guarantees for the public work of state bodies, especially in connection with the conclusion of the contract, in order to



improve the position of independent state bodies, so it would be appropriate that constitutional reform covers those areas.

The following are links to the proposals and initiatives of the TS in relation to the constitutional changes:

[Comments of the TS to the remarks of the Venice Commission on the first version of the constitutional amendments](#)

[Remarks of the TS to the first version of the working text of the constitutional amendments](#)

[Proposals of the TS on the fight against corruption – the necessary amendments to the Constitution](#)

