

REPUBLIC OF SERBIA

Lessons learned in the development, evaluation and impact of anti-corruption strategies

(Article 5 of the United Nations Convention against Corruption)

Collection of information prior to the 10th meeting of the Open-ended Intergovernmental Working Group on the Prevention of Corruption (September 4-6, 2019)

The National Anti-Corruption Strategy and its Action Plan

In February 2013, a working group was established to draft the new (second) National Anti-Corruption Strategy (hereinafter: NACS) and its Action Plan (hereinafter: AP) for the period 2013 - 2018. After a three-month long public debate, the National Assembly adopted the new NACS on July 1, 2013. The NACS regulated ten areas and was set to accomplish important anti-corruption objectives and eliminate many deficiencies in the legal and institutional framework and practice of public authorities. The NACS recognized that corruption was an obstacle to the economic, social and democratic development of the Republic Serbia and formulated the elimination of corruption as its main objective.

The NACS for the period 2013-2018 stated that there was an awareness raised and the political will in the Republic of Serbia to attain a significant progress in the fight against corruption, while respecting all democratic values, rule of law and the protection of fundamental human rights and freedoms, and that this was the foundation used to adopt the NACS, while specific measures and activities for its implementation were envisaged under the AP.

The general objective of the NACS was to significantly eliminate corruption, as a barrier for economic, social and democratic development of the Republic of Serbia. In the course of the implementation of the NACS, public authorities and holders of public authorities, involved in the prevention and fight against corruption, were obliged to perform their authorities in line with the following general principles: (1) principle of rule of law; (2) principle of “zero tolerance” for corruption; (3) principle of accountability; (4) principle of comprehensiveness of the application of measures and cooperation with entities; (5) principle of efficiency; and (6) principle of transparency. The NACS listed priority areas for actions, which were determined on the basis of the quantitative and qualitative analysis of indicators for trends, scope, manifestation and other corruption-related issues in the Republic of Serbia, based on the different sources of information. Under the Chapter titled “Prevention of Corruption”, objectives related

to the priority areas for actions and objectives for all other areas, where corruption might occur, were defined. The NACS also formulated measures for corruption prevention and for coordination and monitoring of the NACS.

Following the above-mentioned principles, the NACS identified the priority areas related to political activities, public finance, privatization and public-private partnership, judiciary, police, spatial planning and construction, health care system, education and sport as well as the media.

The implementation of the NACS actually began with the onset of the AP for its implementation, on September 6, 2013 when the document, adopted by the Government on August 25, 2013 was published in the Official Gazette. The AP lasted until June 30, 2016 when the Revised AP for the Implementation of the NACS was adopted. The revision was envisaged as one of the obligations listed under the AP itself. The second NACS and the Revised AP lasted until the end of 2018.

The NACS contained 53 objectives, for whose fulfilment the Revised AP for the Implementation of the NACS envisaged 113 measures and 243 activities.

The AP envisaged specific measures and activities necessary for the implementation of the strategic goals, deadlines, implementing entities and resources for the implementation. The AP envisaged 33 institutions on the national level as implementing entities, including ministries, the Government and the National Assembly. It also envisaged all local self-government units in the Republic of Serbia (146) and all courts (24 higher courts and 57 basic courts of general jurisdiction) as responsible entities for implementation of activities from the AP. Indicators for activity compliance were defined, on the basis of which the level of their implementation would be measured, and success assessment indicators for the set objectives.

As per the NACS, monitoring of implementation of the NACS and its AP is under the competence of the Anti-Corruption Agency (hereinafter: ACA) established by the Law on the ACA as an independent and autonomous state authority. The Ministry of Justice is the coordinator within the Government of the Republic of Serbia in charge of mutual communication, exchange of experiences and information about activities undertaken for the purposes of implementation of the NACS and its AP. It has an organizational unit, which is responsible to coordinate implementation of the NACS. The Anti-Corruption Council overviews the results of the implementation of the NACS and its AP in public authorities.

Government Decision established the Government's Coordination Body in August 2014 with the aim to coordinate the implementation of the NACS and its AP. According to the Decision, the Coordination Body includes the Prime Minister, who also manages its work, ministers in charge of judicial and financial affairs and a representative of the Anti-Corruption Council.

The ACA monitored the implementation of the NACS and its AP, in such a manner that it collected the reports of the public authorities – the responsible entities of the AP, and all other available relevant data (findings of researches, reports of the civil society and international organizations, etc.), on the basis of which it analyzed and appraised the fulfillment of the strategic documents. Together with the Annual Report, the ACA submits the Report on the implementation of the NACS and its AP to the National Assembly of the Republic of Serbia on an annual basis.

The main objective of the drafting the Annual report of the NACS and AP is to systematize, in one document, available data on undertaken measures and activities in order to estimate the level of their implementation, to identify the challenges and difficulties occurring in the implementation and provide recommendations for its overcoming, i. e. ACA's opinion and recommendations for particular improvement of the measure/activity implementation.

From its establishment in 2010, the ACA has prepared nine reports (three reports on the implementation of the first NACS and AP and six on the implementation of the second NACS, AP and Revised AP). All reports were submitted to the National Assembly.

Action Plan for Chapter 23

Within the EU pre-accession negotiation process of the Republic of Serbia, the Government of the Republic of Serbia adopted the AP for Chapter 23 in 2016. The Government of Serbia established the Council for the implementation of the AP for Chapter 23, which monitors the implementation of the activities envisaged in this document.

The process of revision of the AP for Chapter 23 commenced in February 2018 with the meeting of Negotiating Group for Chapter 23, followed by internal analysis of each implementing entity and proposals for amending the AP in relation to interim benchmarks for the Chapter 23.

The process of drafting working version of this document was particularly focused on interim benchmarks, assessment of fulfillment of activities done by the Council for the implementation of the AP for Chapter 23, analyses of the implementing entities as well as identified challenges in the implementation and monitoring of the implementation of the corresponding activities.

The revision of the AP for Chapter 23 was necessary in order to make an overview of the activities that clearly point to the future direction; make interventions that properly reflect recommendations of the Screening report for Chapter 23 and remedy difficulties encountered in realization and monitoring of the implementation of the activities. In that process, an interim benchmark was added to each recommendation of the

Screening report for Chapter 23; the activities that were fully implemented were deleted; some activities have been reformulated/(re)defined; the timelines were changed and realistically set in relation to the realization of each activity individually and a particular institution was stated as being responsible for the implementation of each individual activity.

All activities can be divided into the following groups: normative regulation and harmonization; institutional and administrative capacity building and enhancement of skills and competencies through adequate educational programs. There are two types of indicators: impact indicators (at the level of recommendation) and result indicators (at the level of activity).

In December 2018, a working version was submitted to all implementing entities for their comments followed by the meeting of Negotiating Group for Chapter 23 as well as corresponding bilateral meetings. Ministry of Justice established an expert team, consisting of representatives of the Ministry of Justice, prominent experts in the area, engaged through IPA 2013 Project “Prevention and Fight against Corruption” as to harmonize working version of the pertinent document.

In 2018, this Project also supported drafting of the Gap Analysis of the Mechanisms for Implementation of the NACS, the AP for its implementation and the AP for Chapter 23. The goal of the Gap Analysis was to formulate specific actions, which would help to overcome the identified gaps in the implementation of the national anti-corruption strategic documents and to help reach the expected performance or desired state.

In line with the negotiating framework, the first draft of the revised AP was developed through a process of consultation with representatives of key stakeholders in order to provide full support for its implementation. The text of the First Draft of the Revised Action Plan for Chapter 23 has been published in January 2019 on the website of the Ministry of Justice with the call for the civil society organizations and public at large to submit proposals and suggestions. After reviewing the comments and submitted suggestions, the Ministry of Justice will develop a new draft of the revised AP for Chapter 23 and send it to the European Commission for opinion as well as to all stakeholders, for further discussion.

The areas encompass judiciary (independence; impartiality and accountability; professionalism/competence/efficiency and war crimes); fight against corruption (implementation of anti-corruption measures; prevention of corruption and repression of corruption) and fundamental rights (prohibition of torture, degrading and ill-treatment and punishment; Ombudsman, the Provincial Ombudsman and Ombudsman offices at local level; prison system; freedom of thought, conscience and religion; freedom of expression, including freedom and pluralism of the media; principle of anti-discrimination and position of socially vulnerable groups; procedural safeguards;

position of national minorities; position of refugees and internally displaced persons; measures against racism and xenophobia and personal data protection.

Local anti-corruption plans

The idea about adopting local anti-corruption plans has been promoted ever since the adoption of the NACS in 2013. The NACS identified the lack of a systemic anti-corruption policy at the local self-government (hereinafter: LSG) level, i. e. a policy that would be applicable to all LSGs, but would also take into account their specific qualities and needs.

In addition, the AP for Chapter 23 envisages that preventive mechanisms for tackling corruption should be strengthened at the LSG level, which has been identified as one of the fields particularly vulnerable to corruption in the European Commission Screening Report's Recommendations for this Chapter. This document calls for the adoption and implementation of a local anti-corruption plan (LAP) by cities and municipalities.

With a view to assisting cities and municipalities in their efforts to adopt adequate LAPs, the AP for Chapter 23 has envisaged that the ACA should draw up the Model LAP to be used by LSGs as a basis for developing their own LAP. In order to identify the subject matter of the Model LAP, i. e. the fields and processes to be included in such plans, in 2016 the ACA has carried out an analysis of the legal framework which regulates LSG, specifically its part which carries a particular risk of corruption. Based on this analysis and other relevant sources of information, as well as information and standards for drawing up action plans, ACA has prepared this Model LAP, accompanied with detailed guidelines and recommendations for its adoption and monitoring.

In 2017 the Model LAP was developed in consultation with relevant civil society organizations and in cooperation with the Standing Conference of Towns and Municipalities – National Association of Local Authorities in Serbia. In addition, it was a subject of a wide public consultation.

The LAP constitutes a preventive anti-corruption mechanism and a mechanism for introducing the principle of good management and governance in the operation of LSG authorities and administration and other public authorities at the local level that meet the needs and serve the interests of the local population and community.

The Model LAP is based on identification of normative, institutional, organizational and practical risks of corruption and implementation of measures aimed at eliminating those risks, causes of corruption, misuse and irregularities and overall removal of bad governance in the broadest sense of the word. The majority of objectives and measures included in the Model LAP, as well as those to be defined by LSGs themselves, should rely on some of the identified risks. Furthermore, the values underlying any LAP and the process of its adoption, implementation and monitoring are mostly the same values that

underpin any concept of good governance, along with the respect of some additional values related to the local level of government. These values are: accountability, transparency, participation or involvement of citizens and the local community, efficiency and effectiveness, proactivity and authenticity and respect for specificities of each LSG and local community. The Model LAP covers 17 fields: adoption of regulations by LSG authorities; managing conflict of interest at the local level; uncovering corruption by protecting whistle-blowers and administering reports and complaints about the work of officers and LSG authorities filed by service users; relations between LSGs and public services, state-owned enterprises and other organisations founded by LSGs and partially or completely funded and controlled by LSGs; public-private partnerships and concessions; managing the public property of LSGs; managing donations received by LSGs; regulating administrative procedures and improving oversight of procedures for exercising rights and duties by users of LSG services; developing aid and solidarity programmes to ensure the exercise of rights of persons with disabilities and protection of rights of vulnerable groups; allocation of funds from the LSG's budget to advance the public interests of the local community; inspection oversight; spatial and urban planning and construction; setting up working bodies at the LSG level; public procurement; strengthening internal mechanisms of financial control; strengthening the mechanisms of community oversight and control in the process of planning and implementing LSG's budget and creating legal, institutional, organizational and technical prerequisites for coordinating the implementation of the LAP and its monitoring.

Within each specific field, Model LAP defines certain elements of strategic documents (outlines, objectives and measures), while each LSG should, according to its capacities and needs, broaden its LAP to other areas, define the way of implementation of measures, i. e. define activities, deadlines, responsible persons, financial resources for implementation and indicators.

With respect to certain operational and practical steps to be taken in the process of adopting a LAP, the Model LAP includes a description of desirable steps and the course of the process that each LSG should follow and/or adapt to its specificities. Particular attention was given to the issues of setting up a working group for LAP development and its operation, public hearing on draft LAP, LAP adoption, setting up of a permanent working body in charge of LAP implementation and monitoring. Coordination of LAP implementation plays a key role in its application and every LSG should ensure organizational prerequisites for internal coordination of LAP implementation. This issue is elaborated in detail in the Model LAP.

One of the core values of LAP is participation or involvement of citizens and the local community. Although LSGs are responsible for LAP-related activities and the majority of measures should be implemented by LSG authorities and administrations, the

positive results and effects of this document should be felt by the entire community. Therefore, it is highlighted that all relevant local actors, such as civil society organizations, professional, trade and other associations, media, trade unions, private sector, informal groups and all citizens need to be included in the process of its preparation and in particular in the process of overseeing its implementation.

In order to include civil society organizations in this important process, in 2018 the ACA allocated grants to five civil society organizations for implementation of projects aimed at supporting selected LSG to draft their LAP and establish the body for monitoring of its implementation in line with the ACA's Model, as well as to improve human capacities of LSG for future autonomous drafting and monitoring of public policies implementation.

In addition, the ACA organized the campaign "LAP for Stronger Integrity" in 2018, aimed at raising awareness of the citizens on adoption and implementation of LAP. Through the campaign the ACA indicated the purpose of LAP and called on the LSG, which did not adopt it to do so, as well as citizens to actively participate in this process thus contributing to the improvement of the work of their local community as well as its resistance to corruption risks.

Monitoring of LAP implementation is an essential step in the whole process. Model LAP points out that every LSG should set up a body that will be responsible for monitoring its implementation and informing the public and other concerned actors in the local community. It is vital that the body in charge of monitoring LAP implementation be independent of the LSG, i. e. its authorities, executives and officers. In that regard, as stated in the Model LAP, the LSG should organize and ensure that the process of appointing members to this body is carried out in a manner, which will ensure that further along the way this body can function independently. The Model LAP, therefore, proposes clear instruction on the composition of the commission, selection criteria and other elements of importance for this particular issue.

The ACA is keeping the database on the process of adoption of LAP and establishment of bodies in charge of monitoring LAP implementation, as well as assessing whether the adopted LAP is prepared according to the Model LAP.

Sector-based anti-corruption strategies and measures

The Ministry of Interior has adopted a broad scope of legal measures as to prevent and fight corruption. The Law on Police prescribes procedures related, inter alia, to recruitment and promotion and disciplinary measures focused on strengthening of accountability of management structure of the Ministry. The main objective of the adopted measures is to prevent misconduct of police staff and other employees of the

Ministry through proper implementation of the adopted measures. The Law on Police also stipulates the provisions aimed at improvement of the Sector for Internal Control of this Ministry in the area of corruption prevention mechanisms, such as integrity testing, corruption risk assessment and control of asset declarations and changes made therein for management structure of the Ministry and positions prone to corruption risks, as per the corruption risk assessment, thus creating a baseline for detecting causes, threats and challenges posed by corruption. These preventive mechanisms have been developed on the basis of experience of EU Member States.

Ministry of Interior has also been focused on continuous professional enhancement of the staff on this area, networking and best practice exchange with other institutions, public awareness raising, etc. These activities also involve extensive cooperation with the ACA and international organizations as to enhance capacities for the implementation of corruption prevention mechanisms, including IT component and professional capacity of police staff of the Sector for Internal Control.

Based on the AP for Chapter 23 and OECD recommendations related to integrity strengthening and combating corruption in education, the Ministry of Education, Science and Technological Development adopted the AP for Combating Corruption in Education. The activities encompassed by the respective AP pertain to employment in pre-university and university institutions; enrollment in pre-university and university institutions; grading in pre-university and university institutions; financing of education institutions; improvement of inspection oversight; accreditation of institutions and programs; integrity strengthening in education – Code of Ethics and conduct rules for pupils, students and teachers; improvement of integrity of institutions in terms of the standards and quality assurance; work of leadership and management bodies of education institutions and improvement of the work of the Ministry.

Best practice examples

The ACA provided support for two innovations in the process of monitoring the implementation of the NACS and its AP for the period 2013-2018 within the Project "Support to the strengthening of mechanisms for prevention of corruption and institutional development of the ACA" implemented from 2014 to 2016, with the support of the Ministry of Foreign Affairs of the Kingdom of Norway.

The first innovation pertains to the testing of a program for alternative reporting on the implementation of the NACS by civil society organizations, selected at two public competitions organized by the ACA in 2014 and 2015. The ACA paid significant attention to design precise selection criteria in order to ensure the quality of the monitoring process and reports, but also to ensure participation of a wide range of civil society organizations. Selection criteria were primarily focused on the reporting capacity

of the respective organization, i. e. whether the organization had relevant experience in report writing in terms of situation analysis in specific areas, i. e. analysis of public policies implementation in the specific area. The most important criteria was the quality of the methodology that the civil society organizations proposed for the alternative reporting. Based on the indicated criteria, the ACA has selected three civil society organizations to draft the alternative reports on the implementation of NACS and AP for 2014 and three civil society organizations to draft the alternative reports on the implementation of NACS and AP for 2015. The conclusions and recommendations from civil society organizations' alternative reports were embedded in the ACA's annual reports on the implementation of the NACS and its AP for 2014 and 2015, thus significantly contributing to its quality and providing critical and expert review of the majority of measures whose fulfillment was evaluated in the reports.

In addition, the ACA organized alternative reporting cycle in 2017 for allocation of grants to civil society organizations as to draft alternative reports on the implementation of the AP for Chapter 23. General objective was to provide alternative information on implementation of the AP for Chapter 23, i. e. its sub-chapter Fight against Corruption, five activities from sub-chapter Judiciary and three from the one related to Fundamental Rights. Specific objectives were related, inter alia, to reinforcement of participation of civil society organizations in the process of monitoring of the implementation of the AP for Chapter 23, visibility of findings and conclusions of civil society organizations in terms of implementation of this document as well as to contribution to building capacities of civil society organizations in the area of combating corruption.

The other innovation relates to the introduction of application software for electronic reporting on the implementation of the NACS and its AP, in order to facilitate reporting and monitoring, prevent delays in submitting reports of implementing entities, at least partially overcome the challenges related to the uneven quality of their reports and, finally allow easier systematization and statistical and analytical data processing. This software has currently been updated as to be used for the purpose of monitoring the implementation of the activities deriving from the AP for Chapter 23.

Lessons learned

The lessons learned distilled from the information indicated above have been taken into account by the Republic of Serbia as to improve the overall process of compliance with the Article 5 of the UN Convention against Corruption:

- Divide roles and responsibilities in a more precise manner, as to ensure proper implementation;

- Ensure full compliance with obligations deriving from the strategic documents, including stipulated deadlines;
- Enhance and ensure uniform quality of the reports of implementing entities;
- Bolster (internal and external) coordination mechanisms for implementation of strategic documents;
- Improve capacities of the implementing entities at both national and local level.