

Report on the Implenetation
of the National Anticorruption
Strategy and Action Plan for the
Implementation of the National
Anticorruption Strategy for 2010

Copyright © 2011
Anticorruption Agency
Boulevard Mihailo Pupin No. 2
11000 Belgrade, Serbia
www.acas.rs

Publisher: Anticorruption Agency

Editing: Jelena Manić, Programme Analyst, Good Governance, UNDP Serbia

Translation: Duška Tomanović

Design: Olivera Batajić Sretenović

Photography: Vladimir Milovanović, InfoLink

Printing house: Dedraplast, Belgrade

Printed in Belgrade, Serbia

The First Edition, July 2011

No. of copies: 150

ISBN: XXXX


Copyright © 2011 Anticorruption Agency. All rights reserved. This publication contains proprietary information of the Anticorruption Agency. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form by any means, electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the Anticorruption Agency.



REPORT ON THE IMPLEMENTATION




OF THE NATIONAL



ANTICORRUPTION STRATEGY




AND THE ACTION PLAN



FOR THE IMPLEMENTATION



OF THE NATIONAL



ANTICORRUPTION STRATEGY



FOR 2010

Dear Sir/Madam,

The following is a two-volume publication reflecting the Anticorruption Agency's first year of work since its inception. Each of the volumes represents a distinct unit. In order to fully appreciate and comprehend what the Agency has achieved in the past year, we kindly ask that you read through the publication in its entirety.

The first volume is comprised of the 2010 Annual Report on the Work of the Anticorruption Agency (hereinafter *the Report*) and the Report on the Work of the Department for Conflict of Interest Resolution. The introduction of this volume contains a summary of the Agency's structure, its strategic objectives, challenges and achievements, as well as a recommendation which the Agency has made to the National Assembly of the Republic of Serbia and the public at large.

Following the introduction, the Report describes the internal organizational structure of the Agency. This serves to provide a detailed insight into not only the way the Agency operates, but also its efforts in implementing the Anticorruption Law. In addition, this part of the Report also outlines the challenges the Agency has encountered. Of further interest are the practical examples and studies which the Agency has delivered during the first year of implementing the Law.

The Annex of the Report pays special attention to the central topic of 2010 – the conflict of interest among public officials. This topic has caught the attention of the general public and public officials so the Agency believes that it merits this separate analysis.

The second volume consists of the Report on the Implementation of the National Anticorruption Strategy and the supporting Action Plan. This document was drafted by the Agency, as prescribed by Article 26 of the Law on the Anticorruption Agency. Together, these volumes represent the first comprehensive report since the National Assembly adopted the Strategy, and the Government adopted the Action Plan, five years ago. The report, including a narrative and a table overview, is available electronically on the Agency's official webpage (http://www.acas.rs/images/stories/Aneks1_TabelarniPrikaz.pdf).

This publication is also available on the official webpage of the Anticorruption Agency (<http://www.acas.rs>) and on the United Nations Development Programme, Serbia webpage (<http://www.undp.org.rs>). It can be accessed in both Serbian and English.

THE AGENCY

PART I INTRODUCTION

1.1	Strategy and Action Plan Adoption Process	11
1.2	Methodology	13
1.3	Structure of the Report	14

PART II GENERAL

2.1	Challenges in the Process of Drafting the Report	19
2.1.1	<i>Reporting Process</i>	20
2.1.2	<i>Strategy and Action Plan</i>	22
2.1.2.1	<i>National Anticorruption Strategy</i>	23
2.1.2.2	<i>Definition of Corruption</i>	24
2.1.2.3	<i>Strategy Prerequisites</i>	24
2.1.2.4	<i>International Cooperation and Application of International Standards in Fighting Corruption</i>	29
2.1.2.5	<i>Systems and Fields</i>	31
2.1.2.6	<i>Implementation of the Strategy</i>	31
2.1.2.7	<i>Action Plan for the Implementation of the National Anticorruption Strategy</i>	31
2.1.2.8	<i>Assessment of the Enforcement of the Strategy and Action Plan</i>	35
2.1.3	<i>Conclusion and General Recommendations</i>	37
2.1.3.1	<i>Political System</i>	37
2.1.3.2	<i>Judicial System and Police</i>	38
2.1.3.3	<i>State Administration, Territorial Autonomy, Local Self-Government and Public Services System</i>	40
2.1.3.4	<i>Public Finance System</i>	40
2.1.3.5	<i>Economic System</i>	42
2.1.3.6	<i>Media</i>	43
2.1.3.7	<i>Participation of the Civil Society and the Public in Combating Corruption</i>	44
2.1.3.8	<i>General Recommendations</i>	45

PART III SPECIFIC FIELDS

3.1	Political System	51
3.2	Judicial System and Police	59
3.3	System of State Administration, Territorial Autonomy, Local Self-Government and Public Services	68
3.4	Public Finance System	77
3.5	Economic System	86
3.6	Media	96
3.7	Participation of the Civil Society and the Public in Combating Corruption	103

PART I INTRODUCTION



1.1 STRATEGY AND ACTION PLAN ADOPTION PROCESS

The **National Anticorruption Strategy**¹ was adopted by a Decision of the National Assembly of the Republic of Serbia of 8 December 2005.² The Decision obliges the Government of the Republic of Serbia to adopt an Action Plan for the Implementation of the Strategy, secure funds for its implementation, ensure the adoption of sectoral anti-corruption action plans and propose the adoption of a law on an autonomous and independent anti-corruption body. The Decision also obliges all state authorities in the Strategy to directly cooperate in its development, the design and implementation of the Action Plan and sectoral anti-corruption action plans and charges the autonomous and independent anti-corruption body to report to the National Assembly of the Republic of Serbia on the implementation of the Decision at least once a year.

The **Action Plan for the Implementation of the National Anticorruption Strategy**³ was adopted by a Government of the Republic of Serbia Decision in late 2006. Unfortunately, the Action Plan was not promoted as a document of such relevance should be. Although it has been available on the Internet since it was adopted, it remains unknown whether it has been disseminated to all the entities obliged to implement it (hereinafter: implementing entities), i.e. whether they have been systemically notified of the tasks they are to fulfil under it. According to one assessment, for instance, the Action Plan does not elaborate the Strategy recommendations well enough and it was adopted in

1. Hereinafter: Strategy.

2. *Action Plan for the Implementation of the National Anticorruption Strategy*, Official Gazette of the Republic of Serbia No. 109/05, Belgrade, 2005 available in Serbian at http://www.transparentnost.org.rs/index.php?option=com_content&view=article&id=84&Itemid=31&lang=sr

3. Hereinafter: Action Plan.

its present form because the representatives of the executive authorities in the Commission wanted to fulfil the obligation to adopt it as soon as possible.⁴

The Government of the Republic of Serbia in 2006 passed a Decision on Establishing the Commission for the Implementation of the National Anticorruption Strategy and the Recommendations of the Group of States against Corruption (GRECO).⁵ The composition of the Commission was subsequently modified by Government decisions to reflect the personnel changes in the Ministry of Justice given that the Minister of Justice chairs the Commission. The Commission's meetings were irregular, but it did adopt its Rules of Procedure, design the Action Plan and review some other issues. It, however, failed to identify mechanisms for monitoring the fulfilment of the obligations in the Strategy and Action Plan or deal with the design of sectoral action plans. Given the lack of systemic oversight of the fulfilment of the Strategy and Action Plan tasks by the state and other implementing entities until the establishment of the Anticorruption Agency,⁶ the establishment of this autonomous and independent body also charged with such oversight, was of major relevance to the implementation of these two documents.

The Anticorruption Agency⁷ was established as an autonomous and independent state authority pursuant to the Law on the Anticorruption Agency,⁸ of the Agency, including, *inter alia*, oversight of the implementation of the Strategy, Action Plan and sectoral action plans and rendering opinions on their enforcement. According to the data available to the Agency, three Ministries – the Ministries of Internal Affairs, Youth and Sports, and Health – have designed their sectoral action plans to date.

4. *Analysis of the Obligations of the National Assembly Arising from the National Anticorruption Strategy and Proposals for Further Action*, Transparency Serbia, Belgrade, 2006 available in Serbian at http://www.transparentnost.org.rs/index.php?option=com_content&view=article&id=84&Itemid=31&lang=sr

5. *Decision on Establishing the Commission for the Implementation of the National Anticorruption Strategy and the Recommendations of the Group of States against Corruption (GRECO)*, Official Gazette the Republic of Serbia, No. 63/06, Belgrade, 2006 available in Serbian at http://www.g17pluspo.wwwyu.com/SAVET_KORUPCIJA.doc

6. *Analysis of the Obligations of the National Assembly Arising from the National Anticorruption Strategy and Proposals for Further Action*, Transparency Serbia, Belgrade, 2006, available in Serbian at http://www.transparentnost.org.rs/images/stories/materijali/dokumenta/Inicijative/Analiza_obaveza_NS_iz_Nacionalne_strategije_za_borbu_protiv_korupcije.doc

7. Hereinafter: Agency.

8. *Law on the Anticorruption Agency*, Official Gazette of the Republic of Serbia No. 97/08 Belgrade, October 2008, available in Serbian at <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html> and *Law on Amendments to the Law on the Anticorruption Agency*, Official Gazette the Republic of Serbia, No. 53/10, Belgrade, July 2010, available in Serbian at <http://www.parlament.rs/upload/archive/files/cir/doc/zakoni/2010/1857-10.zip>

This document is the first report on the implementation of the Strategy and Action Plan⁹ submitted to the National Assembly of the Republic of Serbia pursuant to Article 26(2) of the Law on the Anticorruption Agency and it covers the period from 2005 to 2010 insofar as possible. The Report aims to assess the degree in which the Strategy recommendations and Action Plan activities have been fulfilled, analyse whether specific activities have contributed to the achievement of the specific anti-corruption goals and indicate the problems identified in the process of their fulfillment. The Strategy and Action Plan themselves do not envisage the appropriate plans or methodologies for monitoring and evaluating the obligations laid down in them. During its analysis, the Agency also attempted to formulate specific guidelines to improve or, where necessary, modify the Strategy and Action Plan. The Report addresses both the decision makers and the Strategy and Action Plan implementing entities, experts and all members of the public interested in the status of the fight against corruption in the Republic of Serbia.

1.2 METHODOLOGY

The authors of this Report intended to include in it most of the available information on the fulfilment of the tasks formulated in the Strategy and Action Plan.

The analysis is based on the **responses that had been submitted to the Agency by the entities implementing the Action Plan**. These implementing entities provided answers to the questions in the reporting questionnaire the Agency had disseminated to them. The questionnaire was designed to collect information on whether a specific activity has been implemented and to what degree, reasons as to why an activity has not been implemented, how an activity was implemented, whether it achieved the set objective and what the objective reflects, which problems occurred during implementation, and any proposals for further action or recommendations on any changes in the activity by the entity that has implemented it.

Use of the questionnaire format in the reporting process proved to have both positive and negative sides. On the positive side, the implementing entities had the opportunity to answer the questions in their own words. This, however, has a downside in that it made the process of analysing the responses more difficult due to their diversity and lack of relevant databases. Specifically, most entities gave descriptive answers, i.e. without providing valid data and sources to sup-

9. Hereinafter: Report.

port their assessments. The reporting was thus reduced to self-evaluation.

To complement the report and arrive at as accurate conclusions as possible using the available data, the Agency also conducted an **additional analysis of the fulfilment** of the Strategy recommendations and Action Plan activities. Such analysis was based on the interviews with the representatives of selected state and other institutions, as well as experts in the specific fields covered by the Strategy. The interviews aimed at collecting experts' opinions on corruption in their relative fields, experts' views of the causes, forms, scope and effects of corruption, their assessments of the situation, views of the prerequisites and responsibility for combating corruption, and their general views of how the Strategy and Action Plan have been implemented.

During their work on the Report, the authors also reviewed the reports prepared by international organisations and development agencies, as well as national non-governmental organisations, public opinion surveys, information published in the media, etc.

1.3 STRUCTURE OF THE REPORT

The Report on the Implementation of the Strategy and Action Plan is divided into four **chapters**: Introduction, General Part, Specific Fields and Annex.

The **Introduction** provides a short overview of the Strategy and Action Plan adoption process, a description of the methodology used during the production of the Report and an explanation of the Report structure.

The chapter entitled **General Part** presents the challenges the Agency faced during the production of the Report, lists the statistical indicators and gives a general assessment of the Strategy and Action Plan, an assessment of the fulfilment of the prerequisites listed in the Strategy i.e. an overview of the general social, political and economic contexts in which the Strategy and Action Plan have been enforced, a general assessment of international cooperation and application of international anti-corruption standards, and a list of key findings on the implementation of both documents, a conclusion and general recommendations.

The chapter entitled **Specific Fields** is divided into sections, each of which focuses on a specific system in the Strategy and Action Plan. Each section contains a general assessment of the situation and of the fulfilment of the Strategy recommendations, as well as the main recommendations for further action in the system.

The **Annex** elaborates as thoroughly as possible each individual Strategy recommendation and the corresponding activities in the Action Plan. Within each recommendation, the authors analyse the undertaken activities, note whether the recommendation has been fulfilled in its entirety, partly fulfilled or unfulfilled, i.e. whether the activity has been fully implemented, partly implemented or not implemented, and, where appropriate, give the Agency's opinion on further action with respect to the recommendations.¹⁰

10. *The Tabulation of Report on the Implementation of the National Anticorruption Strategy and the Action Plan for the Implementation of the National Anticorruption Strategy* is not printed in this publication but it is available in Serbian at http://www.acas.rs/images/stories/Aneks1_TabelarniPrikaz.pdf

PART II GENERAL



2.1 CHALLENGES IN THE PROCESS OF DRAFTING THE REPORT

The challenges the Republic of Serbia has faced in combating corruption are direct, i.e. challenges are directly related to the anti-corruption activities, and indirect, i.e. challenges arising from the overall social context influencing the fight against corruption.

The direct challenges comprise the low anti-corruption activism of the society as a whole, the low degree of sanctioning corrupt conduct, above all of holders of public office, the lack of incentives to fight corruption at the state administration level, the impression that anti-corruption activities are not approached systematically, as well as great expectations of anti-corruption mechanisms which lack the adequate capacities.

Indirect challenges include, among others, the impression that the bureaucracy lacks the will to change, insufficient staff capacities and poor working conditions in the public sector, the high poverty rate and low average education levels of the population, as well as a very low level of civic activism.¹¹

The Agency faced two types of challenges during its work on the Report on the Implementation of the Strategy and Action Plan. It cites them below to help the reader understand the report drafting process and the potential constraints of the analysis and conclusions on the fulfilment of the Strategy recommendations and Action Plan activities:

11. *Research on the Implementation of the Strategy and Action Plan for the Implementation of the National Anticorruption Strategy*, Social Research Bureau, Belgrade, January 2011.

1. Challenges regarding the process of reporting on the fulfilment of the Strategy and Action Plan obligations.
2. Challenges regarding the content and quality of the Strategy and Action Plan.

2.1.1 Reporting Process

Ever since it was established, the Anticorruption Agency has in collaboration with the NGO Transparency Serbia worked on establishing cooperation with all the Action Plan implementing entities among the state authorities. Such cooperation was supposed to provide data on the implementation of the Strategy and Action Plan needed to analyse the degree in which the tasks in the two documents have been fulfilled. The response of the entities was meagre and the impression of their readiness to cooperate dissatisfactory. This is why the Prime Minister of the Republic of Serbia and the Agency Director organised a conference in June 2010, at which the Anticorruption Agency and the Government of the Republic of Serbia signed a Memorandum of Understanding on Cooperation in the Fulfilment of Obligations in the National Anticorruption Strategy and the Action Plan for the Implementation of the Strategy. Under the Memorandum, the Government and state administration authorities are obliged to submit periodical quarterly reports on the fulfilment of obligations and tasks in these two documents and each designate a contact person who will be responsible for cooperation with the Agency with respect to such reporting.

The July 2010 amendments to the Law on the Anticorruption Agency impose upon the entities charged with implementing the Strategy, Action Plan and sectoral action plans the obligation to report on their implementation on a quarterly basis (Art. 62(2)). In September and October 2010, the Agency organised a series of meetings in Belgrade and across Serbia (covering all local self-government units) to which it invited officers of all ministries, independent and the highest ranked state officials, as well as the provincial and municipal authorities charged with cooperation with the Agency. At these meetings the Agency presented the status and activities of the Agency, the Strategy and Action Plan, and the questionnaires on the fulfilment of the recommendations and activities in these documents to be used in the reporting process to ensure uniformity in reporting.

While drafting the Report, the Agency:

- Designed a framework register of state authorities under the obligation to report on the implementation of the Strategy and Action Plan to the Agency.
- Established a register of officers designated to report on the implementation of the Strategy and Action Plan.

- Organised and held 16 coordination meetings with the representatives of the state, administration, provincial and municipal authorities to discuss the implementation of the recommendations in the Strategy and Action Plan;
- Informed 24 representatives of 20 state authorities, 24 representatives of 21 administration authorities, 22 representatives of 17 provincial authorities, 128 representatives of municipal authorities and 23 representatives of the Belgrade municipalities and the City of Belgrade of the obligations of state, provincial and municipal authorities about the Law on the Anticorruption Agency, the Strategy and the Action Plan.

The Agency faced the following challenges during the reporting process:

- By end February 2011, 72 implementing entities submitted their Reporting Questionnaires to the Agency. This response rate is clearly insufficient although the precise number of such entities remains unspecified; namely, the Action Plan envisages that some activities will be implemented by all state and local authorities, all budget beneficiaries or all public authorities in terms of the Law on Free Access to Information of Public Importance (according to the Catalogue compiled by the Office of the Free Access to Information of Public Importance and Personal Data Protection Commissioner, there are around 11,000 such public authorities in Serbia).
- The implementing entities took part in the reporting process only at the Agency's invitation and initiative i.e. not one of them fulfilled the obligation to report on the implementation of the Strategy and Action Plan under the Law on the Anticorruption Agency at their own initiative.
- The impression is that reporting on the implementation of the Strategy and Action Plan is perceived as yet another obligation burdening the staff in the institutions charged with fulfilling the obligations and already overburdened by their daily workloads. The possibility of the full and quality fulfilment of the reporting obligation by these staff is thus brought into question.
- The analysis of the replies in the questionnaire submitted by the implementing entities was hindered by the uneven usefulness and meagreness of the replies and lack of relevant databases, analyses and more exhaustive conclusions and recommendations. Namely, most answers were descriptive and the assessments were not corroborated by valid data and sources. Reporting was thus reduced to self-evaluation.

2.1.2 Strategy and Action Plan

- One of the weaknesses of the Strategy is that it fails to specifically focus on the education and health systems, which are extremely important in terms of fighting corruption.
- On the other hand, the impression is that the Action Plan did not make full use of the potentials indicated in the Strategy and that it gives rise to dilemmas about whether the activities it comprises properly concretise the Strategy recommendations. The following features of the Action Plan posed the greatest challenges during the drafting of the Report:

(a) **Too broadly or vaguely formulated activities in the Action Plan**, giving rise to dilemmas when assessing whether an activity has been implemented or not. For instance, it is extremely difficult to assess whether regulations have been consistently enforced or improved in the absence of precise pre-defined criteria, particularly when even the implementing entities failed to provide data on activities formulated in such a manner. In such instances, the Agency did not go into assessing whether an activity has been implemented or not, as it is of the view that it did not have the sufficient capacity to perform such analyses within all the systems covered by the Strategy.

(b) **Too broadly or vaguely formulated or qualitatively defined indicators of objectives**, therefore they cannot be used to measure the success i.e. the degree to which an activity has been implemented. Some of the indicators of objectives in the Action Plan were, for example, formulated in the following manner: alignment of the national legal system with international standards, transparency of the activities of the state authorities, general prevention of corruption, prevention of the causes of corruption, increase in the stability of the functioning of the state administration system, reduction of political influence on professional decisions, lowering risk of corruption, prevention of conflict of interest, permanent regulation of the field, engagement of the citizens in combating corruption, development of an anti-corruption culture among young people, etc.

(c) **Too broadly defined implementing entities**, wherefore it is unclear how to establish a system for overseeing and holding liable an entity for failing to implement an activity, when all state authorities or all budget beneficiaries are listed as the implementers.

(d) A challenge not arising so much from the document but from the fact that it has been applied for already four years and that the competences **of some implementing entities have changed** in the meantime, as was the case with the Republican Legislation Secretariat or some ministries, or that they no longer exist, such as the Ministry of Capital Investments.

(e) Finally, the impression is that the Action Plan **was designed in an insufficiently broad participative process** in which all the potential implementing entities would have been asked to render their opinions on the best way to concretise the Strategy recommendations, on the relevance and feasibility of specific activities, on the problems that may arise in their implementation and the required resources. Involvement of the authorities that would be assuming the obligations in the design of the Action Plan would have ensured their ownership of the document and their greater commitment to the fulfilment of the obligations and would have thus most probably resulted in the fulfilment of the Strategy and Action Plan tasks to a more satisfactory level.

2.1.2.1 National Anticorruption Strategy

The National Anticorruption Strategy recommends measures geared at helping reduce corruption and creating an anticorruption culture at the level achieved by developed European countries. This general goal is to be achieved by fulfilling the following sixteen specific objectives: permanent elimination of opportunities for the emergence and development of corruption; establishment of a legislative and institutional framework for preventing and suppressing corruption; consistent establishment of criminal and ethical liability for unlawful activities; establishment of ethical standards; efficient application of international anticorruption standards; transparent financing of political parties, elections and election campaigns; prevention of conflicts of interest in the public sector; lawful and responsible enforcement of decisions; increase in the efficiency of the law enforcement bodies and oversight institutions; public administration reform; open and transparent budget planning and spending procedures and public oversight of budget spending; training of and assistance to the private sector in implementing anticorruption measures; definition of the role of the media in combating corruption; stimulating public and civil society involvement in the fight against corruption; cooperation with and raising the general awareness of the rights and obligations of government authorities, commercial entities, the civil society and citizens with respect to corruption; involvement in the regional and international anticorruption efforts.

Based on the collected data and analyses, the Anticorruption Agency can conclude that efforts to achieve all the above objectives are visible and that some of them have been partly achieved, albeit mostly those regarding the establishment of the legal and institutional framework for preventing and suppressing corruption, prevention of conflicts of interest in the public

sector and involvement in the regional and international anti-corruption efforts.

The Strategy comprises three key elements which are to be applied concurrently and in coordination:

- Efficient enforcement of anticorruption regulations, es for corruption,
- Prevention, i.e. elimination of opportunities for corruption and
- Raising the awareness and education of the public to ensure public support to the implementation of the Anticorruption Strategy.

2.1.2.2 Definition of Corruption

The Strategy defines corruption as a relationship based on misfeasance in the public or private sector with the goal to acquire gain for oneself or another. The Law on the Anticorruption Agency gives a somewhat broader definition of corruption as a relationship based on abuse of office or social status and influence, in the public or private sector, with the view to acquire gain for oneself or another.

2.1.2.3 Strategy Prerequisites

Social, Political and Economic Contexts in which the Strategy has been Applied

The authors of the Strategy listed in Chapter I the prerequisites for the Strategy, i.e. all the important conditions that need to be fulfilled to ensure the unhindered fulfilment of the recommendations and the achievement of the expected and satisfactory effects. These prerequisites have, however, been defined in a general manner and lack indicators to measure the degree to what they have been fulfilled, wherefore the authors of this Report were unable to assess them.

On the other hand, the Agency believes that it would be useful to provide a brief overview of the socio-political and economic setting in which the Strategy recommendations and Action Plan activities are currently being fulfilled. Political scientists have recently increasingly sought to understand why some states and societies are clearly more vulnerable to abusive political and economic opportunism than others and, in response, have proposed a number of typologies that indicate linkages between the incidences of corruption and specific stages of political, economic and social development.¹² This is, inter alia, why awareness and understanding of the context in which the anticorruption measures are taken, are extremely important when explaining why spe-

12. Sahr J. Kpundeh, *Political Will in Fighting Corruption & Integrity Improvement Initiatives in Developing Countries*, VI Chapter, New York, 2000, p. 94 and 95, available at <http://mirror.undp.org/magnet/Docs/efa/corruption/Chapter06.pdf>

cific tasks listed in the strategic documents have not been fulfilled at all or partly, or have not been fulfilled in a satisfactory manner, or when formulating proposals on how to overcome the situation.

Political will is listed as the first prerequisite of the Strategy. This is a complex phenomenon and refers to the intent of societal actors to attack the manifestations and causes of corruption in an effort to reduce or eliminate them. Political will is not visible separate from some sort of action. Measuring it can only be done indirectly. Evidence of political will, therefore, is often cited *ex post facto*, from a retrospective point of view. Political will is also a dynamic phenomenon, which does not exist in a vacuum and is influenced by a set of environmental factors.¹³

Although political will is at first glance clearly one of the chief prerequisites for successful fighting of corruption, political will is also extremely difficult to measure and assess, and is actually most often assessed on the basis of a subjective indirect (perception) or a personal (experiential) impression of the citizens, political decision makers and implementers, foreign observers, media and other interested entities. The greatest challenge in assessing political will is to distinguish between reform approaches genuinely aimed at effecting change and those serving merely to build and improve the political image of the representatives of public authorities.

According to a public opinion survey on corruption that TNS Medium Gallup conducted in Serbia in March 2010, 87% of the respondents believe that politicians do not genuinely want to fight corruption because they benefit from it. The percentage of respondents who share this view has significantly increased compared to that of the October 2009 survey, when it stood at 81%.¹⁴ Media often claim that there is no political will to fight corruption in Serbia, but this claim, although undoubtedly warranting consideration, is still a subjective assessment not based on any clearly identified methodology. The Agency thus does not think it would be useful to make such an assessment, because its assessment, too, would reflect the subjective impression of the Report's authors. Instead, it is believed that thought should be given to designing a methodology and indicators for measuring political will, i.e. the will, and possibly the capacities, to fight corruption, which would enable a much more serious and realistic analysis of the enforcement of anticorruption meas-

13. Derick W. Brinkerhoff, *Identifying and Assessing Political Will for Anti-Corruption Efforts* Working Paper 13, U.S. Agency for International Development (Implementing Policy Change Project), Washington, D.C. 1999 available at www.usaid.gov/our_work/democracy_and_governance/publications/ipc/wp-13-ms.pdf

14. *Serbia Corruption Benchmarking Survey – 2nd Round*, TNS Medium Gallup, Belgrade, March 2010, available in Serbian at <http://www.undp.org.rs/index.cfm?event=public.publicationsDetails&reviewid=D48A72BE-0E94-3A47-1F191045F961C13C>

ures in the future. In the absence of such a methodology, the existence of political will is best demonstrated by the automatic and systemic responses of the institutions to individual cases and the existence of effective cooperation among the authorities, organisations and bodies charged with fighting corruption. Agencies and other independent bodies established to perform oversight in this area also constitute a form of “institutionalised political will”.¹⁵

The Anticorruption Council is an expert advisory body of the Government of the Republic of Serbia established in October 2001 to review anticorruption activities, propose measures to efficiently fight corruption to the Government and monitor their implementation, as well as initiate the adoption of anticorruption regulations, programmes and other anticorruption and measures. Since August 2003, the Council has had an office for technical and administrative affairs tasked with receiving and reviewing complaints about individual cases submitted by citizens. Although the Council as a professional advisory body does not have a responsibility to act on the citizens’ complaints, it is precisely these complaints that have often proven to be an important source of information for reports and initiatives.¹⁶ The Anticorruption Council has in the preceding period contributed to greater public knowledge about several high profile cases.¹⁷

Serbia had three election cycles in the past five years: parliamentary elections (January 2007), presidential elections (January–February 2008) and parliamentary and general local elections (May 2008). The referendum on the new Constitution of the Republic of Serbia was held in October 2006. The executive authorities perform only technical duties during election campaigns and negotiations on the new government after parliamentary elections. This lack of political stability has undoubtedly left its trace on the continuity and efficiency of implementing series of reforms and strategic documents and, thus, probably on the enforcement of the National Anticorruption Strategy and the accompanying Action Plan.

At a minimum, any vibrant and sustainable democracy requires a balance between state and society and between political and economic power. In terms of the relationship of the

15. Sahr J. Kpundeh, *Political Will in Fighting Corruption*, Corruption & Integrity Improvement Initiatives in Developing Countries, VI Chapter, New York, 2000, p. 98 available at <http://mirror.undp.org/magnet/Docs/efa/corruption/Chapter06.pdf>

16. *Savet će tražiti zaštitu od vlade Srbije*, dnevni list “Danas”, 7 November 2007 available in Serbian at http://www.danas.rs/danasrs/hronika/savet_ce_traziti_zastitu_vlade_srbije.3.html?news_id=126949

17. *Serbia 2010 Progress Report*, Brussels SEC(2010) 1330, European Commission, Brussels, November 2010, p. 10 available at http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf

former, officials are strong enough to act authoritatively, yet subject to full accountability; in the latter, neither officials nor economic interests are so weak as to be exploited by the other.¹⁸

According to the 2010 Progress Report of the European Commission on Serbia, the implementation of the constitutional framework is well advanced, but Serbia is yet to enact laws governing public property and the resources of the Autonomous Province of Vojvodina. Steps to improve the work of the National Assembly were made by the adoption of the Law on the National Assembly and its rules of procedure, but efforts are necessary to further improve the quality of the legislative output and the electoral framework legislation needs to be brought fully into line with the European standards. The government continued to be stable and the consensus on strategic priorities, including EU integration, was maintained. However, both the preparation and implementation of new legislation need to become more effective. Although the capacity of the public administration was qualified as good, the EC noted that reform in this area was advancing at a slow and uneven pace and said that further improvement of the legislative framework and a stronger commitment to respect the mandate of independent regulatory bodies and provide them with adequate resources were needed. According to the EC, Serbia's judicial system only partially meets its priorities. There are serious concerns over the way recent reforms were implemented, in particular the reappointment of judges and prosecutors. The EC assessed that the legal framework for human rights protection was in place and generally respected but that further efforts in education on international human rights standards and their implementation were needed.

In its assessment of the economic criteria, the EC stated that macroeconomic stability was broadly preserved against the backdrop of the global crisis owing to the adoption of timely measures in agreement with the IMF, that there was consensus on the fundamentals of a market economy and that medium-term fiscal and structural reforms would have to be implemented without delay to enhance the resilience of the economy. Under the impact of the economic crisis, labour market conditions deteriorated as employment fell and unemployment approached 20%. Salaries remained almost unchanged in real terms. Given the adverse impacts of the economic crisis and despite the ad hoc fiscal adjustments, the 2009 budget deficit was substantially higher than in previous years. The corrective short-term measures will need to be backed up by full-fledged

18. Sahr J. Kpundeh, *Political Will in Fighting Corruption, Corruption & Integrity Improvement Initiatives in Developing Countries*, VI Chapter, New York, 2000, p. 95 available at <http://mirror.undp.org/magnet/Docs/efa/corruption/Chapter06.pdf>

systemic reforms, such as reform of the pension and healthcare systems, to improve fiscal sustainability in the medium to long term. Progress in selling socially owned companies was limited, while the number of revoked privatisation deals increased. There has been some progress, particularly regarding the registration of new companies and submission of the financial statements of those already operating. However, excessive red tape and complex legislation remain in place and continue to hamper the business environment. Weaknesses of the rule of law and prevalent corruption continued to limit legal predictability and undermined trust in the legal system among economic operators, in particular regarding effective enforcement of property rights. Market mechanisms remained hampered by distortions, legal uncertainty, heavy state involvement in production, and insufficient competition. The economy continued to suffer from a shortage of skilled labour while supply has been only gradually adjusting to market needs. Domestic investment has been declining as local sources have been scarce and FDI has also lost momentum given the globally unfavourable economic conditions. The informal sector remains an important challenge. The state continues to influence substantially on competitiveness through its legal and financial mechanisms. In the field of information society, implementation of legislation remains slow, and inadequate market and regulatory developments in the electronic communications sector are of particular concern. Similarly, a number of provisions of the Law on Public Information continue to raise concerns.¹⁹

According to the above-mentioned public opinion survey, corruption is perceived as the fourth most important problem of Serbia's society, preceded by unemployment, poverty and low wages. Most respondents think that political life and business are the most afflicted by corruption (82% and 71% of the respondents respectively), but the majority of citizens (60%) thinks that corruption affects their private lives as well. Nearly 90% of the respondents think corruption is commonplace in Serbia. The perception of corruption showed a negative trend compared to October 2009 – most citizens (45%) think that the level of corruption has increased, 38% think it was the same as in October 2009, while only 7% think it decreased.²⁰ According to the 2010 Global Corruption Barometer, the average rating of the Serbian Government's performance in fighting corruption

19. *Serbia 2010 Progress Report*, Brussels SEC(2010) 1330, European Commission, Brussels, November 2010 available at http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf

20. Sahr J. Kpundeh, *Political Will in Fighting Corruption*, Corruption & Integrity Improvement Initiatives in Developing Countries, VI Chapter, New York, 2000, p. 98, <http://mirror.undp.org/magnet/Docs/efa/corruption/Chapter06.pdf>

dropped from 2.38 in 2009 to 2.24 in 2010.²¹ Serbia, which was rated 3.5 on a scale of 0 to 10, ranked 78th on the Transparency International Corruption Perception Index.²²

The Strategy prerequisites regarding the existence of oversight of and responsibility for its implementation along with clearly defined obligations and deadlines, as well as periodic assessments of the achieved results and adjustment to the emerging needs, were for the most part fulfilled by the establishment of the Anticorruption Agency.

Moreover, the general impression is that cooperation between the public and private sectors, civil society and citizens is gradually improving. However, the Office for Cooperation with Civil Society established by the Government in April 2010 is not fully operational yet and cooperation between the state authorities and civil society is still uneven.²³

2.1.2.4 International Cooperation and Application of International Standards in Fighting Corruption

The Anticorruption Agency cooperates with the following international organisations: Group of Countries against Corruption (GRECO), European Partners against Corruption (EPAC), the Regional Anticorruption Initiative (RAI), the United Nations Development Programme (UNDP) in Serbia, the UN Office on Drugs and Crime (UNODC), the Republic of Slovenia Corruption Prevention Commission and the independent Hong Kong Anticorruption Commission. The Agency is also managing international projects aimed at strengthening the institutional capacities to fight corruption in cooperation with the government institutions of specific EU member states.

The Ministry of Justice of the Republic of Serbia follows and participates in the work of all relevant international anticorruption institutions and initiatives, primarily within the Council of Europe (GRECO and MONEYVAL), the United Nations (UNODC and UNCAC) and the Organisation for Security and Cooperation in Europe (OSCE). The Republic of Serbia also takes part in the work of the Regional Cooperation Council and the Regional Anticorruption Initiative.

GRECO adopted its Compliance Report on the Republic of Serbia, Joint First and Second Evaluation Rounds, at its 38th plenary session on 9–13 June 2008. The Report assesses that Serbia

21. *2010 Global Corruption Barometer*, Transparency International, Berlin, December 2010 available at http://www.transparency.org/content/download/55725/890310/CPI_report_ForWeb.pdf

22. *Corruption Perception Index 2010*, Transparency International, Berlin, 2010 available at http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results

23. *Serbia 2010 Progress Report*, Brussels SEC(2010) 1330, European Commission, Brussels, November 2010, p. 13, available at http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf

successfully implemented 12 of the 25 recommendations and dealt with 13 recommendations in a satisfactory manner. In its Addendum to the Compliance Report on the Republic of Serbia adopted at the 47th plenary session held on 7–11 June 2010, GRECO concluded that out of 25 recommendations issued to the Republic of Serbia 20 have been implemented or dealt with in a satisfactory manner.²⁴

As for alignment of the national legislation with international anticorruption standards, Serbia has adopted the following documents since the adoption of the Strategy and Action Plan: UN Convention against Corruption, the Criminal Law Convention on Corruption and Additional Protocol thereto, the Civil Law Convention on Corruption, and the CoE Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime. The legislative framework is aligned with the Organisation for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (as reaffirmed by CoE experts on 11 October 2007). With the aim of to harmonize the national legislation with international standards, Serbia amended the relevant provisions incriminating illegal mediation, active and passive bribery, the concepts of public official and foreign official, abuse of office, money laundering, financing of terrorism and introduced a new crime – influence peddling. The provisions on the concept of property and the seizure of proceeds have been further elaborated.

Pursuant to the Strategy and international recommendations, the Ministry of Justice drafted the Law on the Anticorruption Agency in accordance with the CoE expertise. The Law was adopted in 2008. Pursuant to Article 6 of the UN Convention against Corruption, the Agency is established as an independent and autonomous state authority, charged, inter alia, with monitoring the implementation of the Strategy. In order to strengthen the Agency's independence, the Law lays down that the Agency shall propose and independently manage its own budget.²⁵

In its Serbia 2010 Progress Report, the European Commission concluded that the institutional framework to fight corruption was in place with the Anticorruption Agency starting its work in January 2010. However, the EC noted that corruption remained prevalent in many areas and continued to be a serious problem. The legislative framework still has shortcomings, in particular with regard to supervision of financing of political parties and the protection of whistleblowers. Thus, the Anticorruption Agency

24. *Joint First and Second Evaluation Rounds – Addendum to the Compliance Report on the Republic of Serbia*, RC-I/II (2008) 1E Addendum, GRECO, Strasbourg, 11 June 2010, pp. 47–52, available at [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC1&2\(2008\)1_Add_Serbia_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC1&2(2008)1_Add_Serbia_EN.pdf)

25. *Answers to the Reporting Questionnaire on the Implementation of the Strategy and Action Plan*, Ministry of Justice of the Republic of Serbia, Belgrade, January 2011.

needs to be strengthened, while the implementation of existing laws needs to be improved. Further efforts are needed to better process corruption cases, from investigation to final convictions.²⁶

2.1.2.5 Systems and Fields

Chapter Two of the Strategy formulates **168 recommendations grouped in seven fields**:

1. Political system – 20 recommendations
2. Judicial system and police – 48 recommendations
3. State administration, territorial autonomy, local self-government and public services system – 23 recommendations
4. Public finance system – 32 recommendations
5. Economic system – 17 recommendations
6. Media – 13 recommendations
7. Participation of the civil society and the public in combating corruption – 15 recommendations

2.1.2.6 Implementation of the Strategy

The last chapter of the Strategy deals with its **implementation** and envisages the establishment of an independent and autonomous body under a separate law. According to the Strategy, this body is to have the following competences: monitor the implementation of the Strategy and Action Plan; co-ordinate state authorities in the fight against corruption; enforce conflict of interest regulations with respect to officials in all branches of government; oversee the implementation of regulations governing political party and election campaign funding; oversee the work of authorities engaged in combating corruption; develop integrity plans in the public and private sectors; initiate amendments to and enactment of regulations of state authorities; ensure regular periodic reporting to the National Assembly and publicity of work; international and regional co-operation in combating corruption. This obligation was fulfilled by the adoption of the Law on the Anticorruption Agency and the Agency was entrusted with all of the above competences, apart from overseeing the work of authorities engaged in combating corruption.

2.1.2.7 Action Plan for the Implementation of the National Anticorruption Strategy

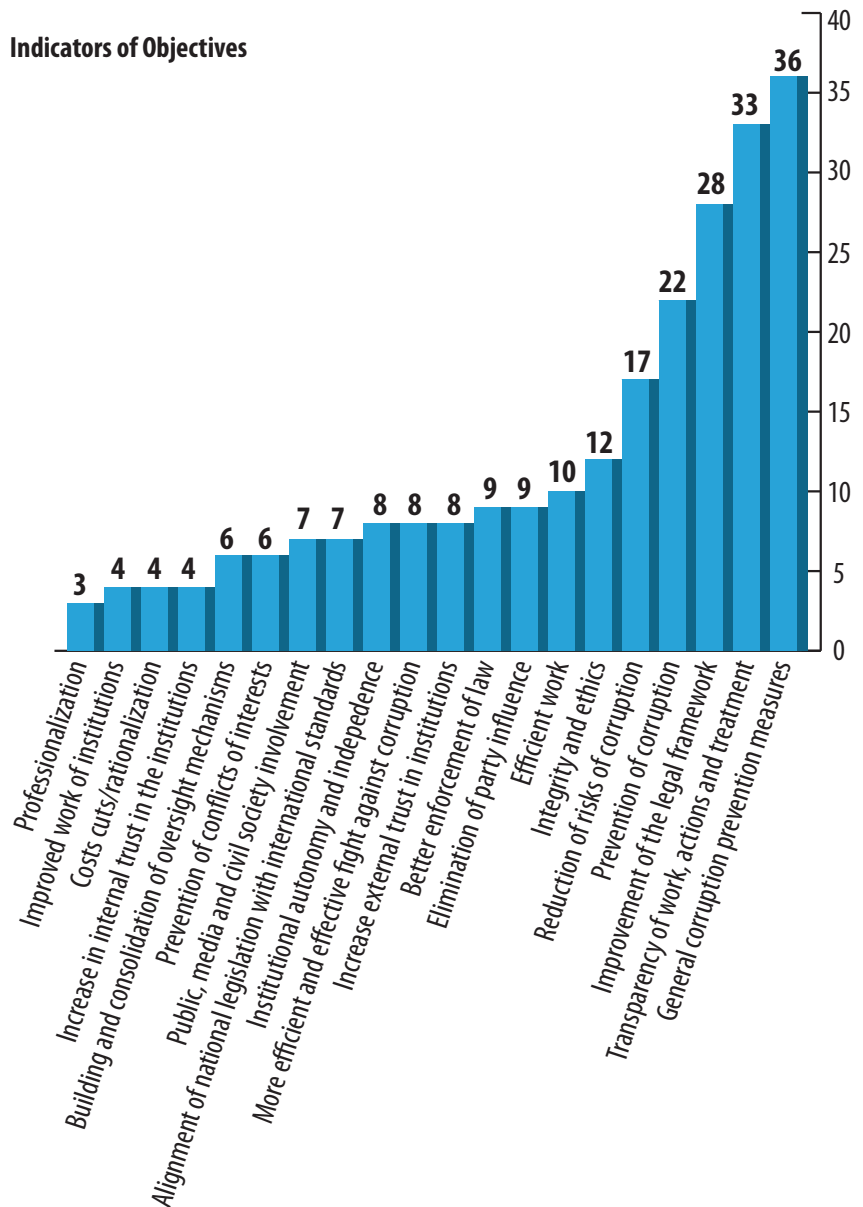
The Action Plan for the Implementation of the National Anticorruption Strategy is an extensive document specifying the

26. *Serbia 2010 Progress Report*, Brussels SEC(2010) 1330, European Commission, Brussels, November 2010, pp. 10–11, available at http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf

Strategy recommendations through **473 activities**. It defines the implementing entities, deadlines, potential problems, indicators of objectives and required resources for each activity.

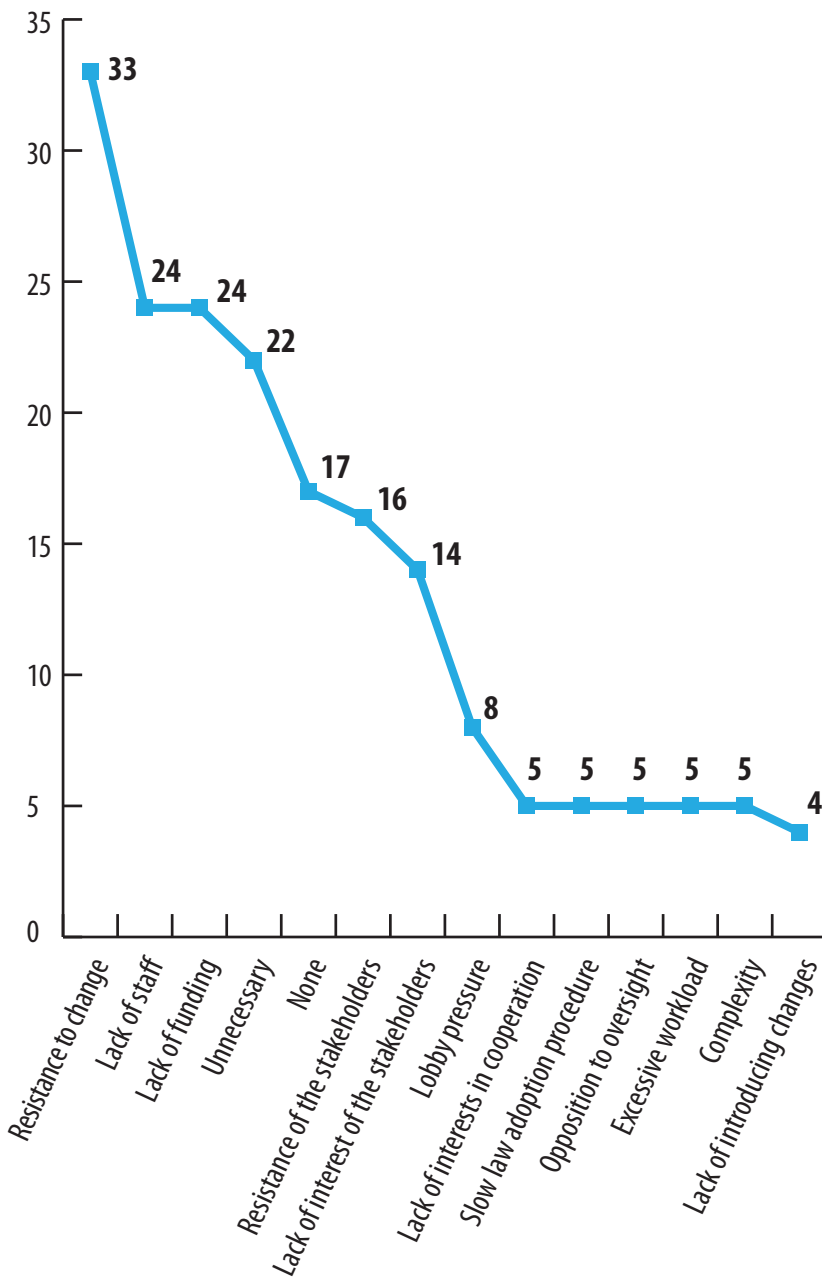
Given that no analysis or scrutiny of the degree to what these measures have been implemented has been conducted since the Action Plan was adopted and that this document has not been amended, most of the specified deadlines have expired. Therefore it is unnecessary to assess whether they have been exceeded. As mentioned, the analysis of the achieved results was constrained by the “indicators of objectives”, as this definition does not allow for the formulation of the indicators of results. The definitions of the objectives are too broad and seem not to be closely linked to the measures defined in the Action Plan. The way in which the indicators of objectives are formulated, corresponds more to the concept of “impact” that the the measures are expected to produce.

Indicators of Objectives



An analysis of the indicators of objectives can provide a picture of the planned impact on the fight against corruption, i.e. the objectives to be achieved by the application of the Action Plan. These objectives can be divided into three groups – the first group is directly linked to the creation of an anticorruption infrastructure, the second to the creation of an environment for combating corruption through the development of transparency and trust in institutions, while the third group is related to the improvement of the general legal and institutional framework at the level of society, i.e. completion of transition.

Potential Problems



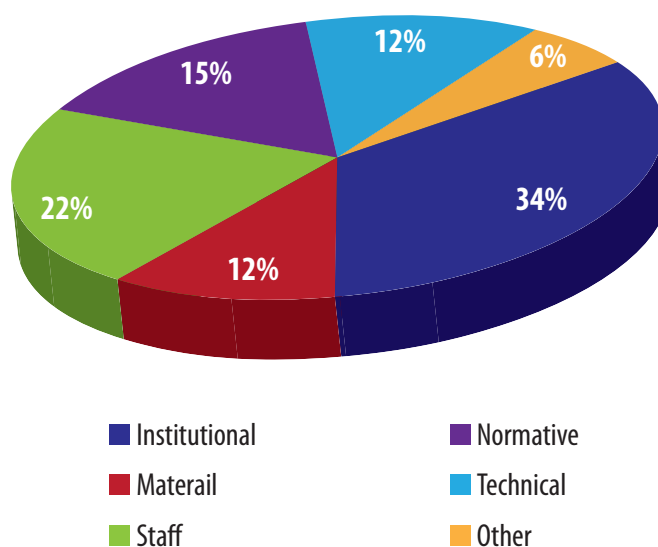
The following table presents the breakdown of the potential problems by system:

Systems	Obstacles
Political system	Resistance to change, Lack of staff
Judicial system and police	Resistance to change, Lack of staff and funds, View that the measure is unnecessary
State administration... system	Lack of staff and funds, View that the measure is unnecessary
Public finance system	Lack of staff, Resistance to change
Economic system	Lack of staff, Lack of interest, View that the measure is unnecessary
Media	Lack of interest, Resistance of media stakeholders
Public and civil society	Lack of interest, View that the measure is unnecessary

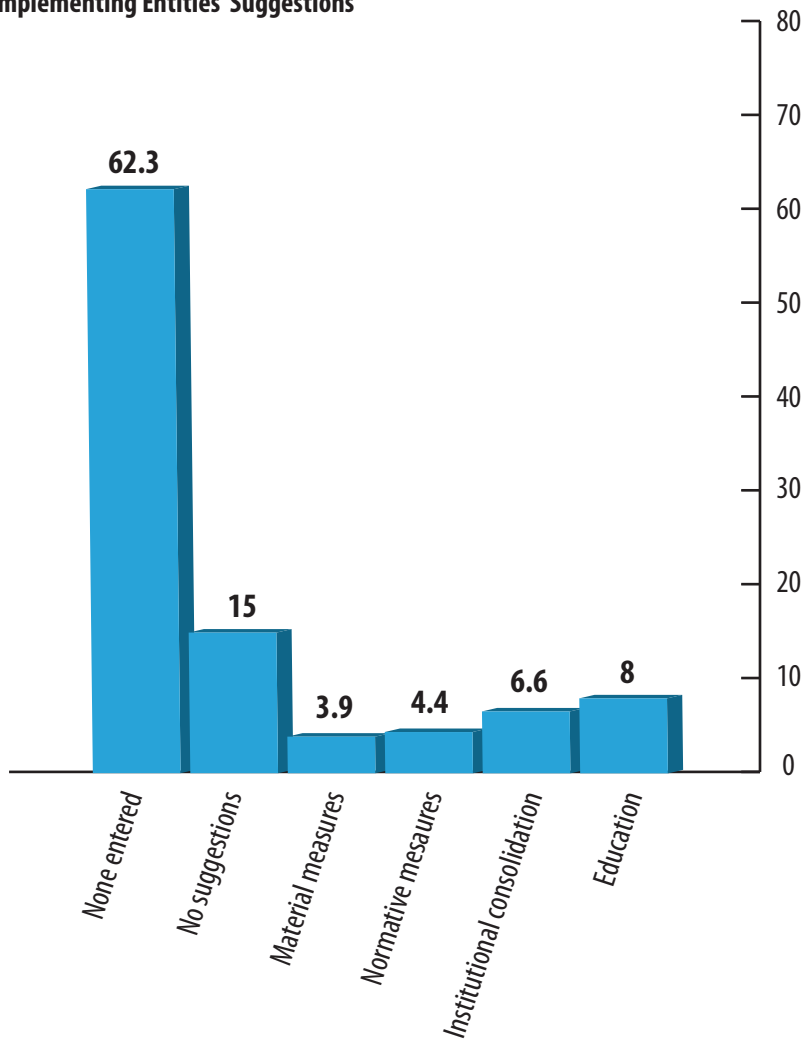
The results of the statistical analysis of the replies to the Reporting Questionnaire on the Implementation of the Strategy and Action Plan submitted to the Agency by the implementing entities provide insight in the implementation of the Strategy and Action Plan.

The obstacles in conducting the activities these entities highlighted are predominantly institutional in character, and are followed by financial, personnel and normative obstacles. These data indicate that the enforcement of the Action Plan faces systemic challenges.

Obstacles to the Implementation of the Action Plan Activities



Implementing Entities' Suggestions



The implementing entities also made suggestions on how the obstacles can be overcome: anticorruption education, strengthening of the institutions, normative measures, provision of greater funds and better technical conditions. Interestingly, nearly two thirds of the respondents failed to answer the question about the obstacles, while as many as 15% had made no suggestions on how to overcome them.²⁷

2.1.2.8 Assessment of the Enforcement of the Strategy and Action Plan

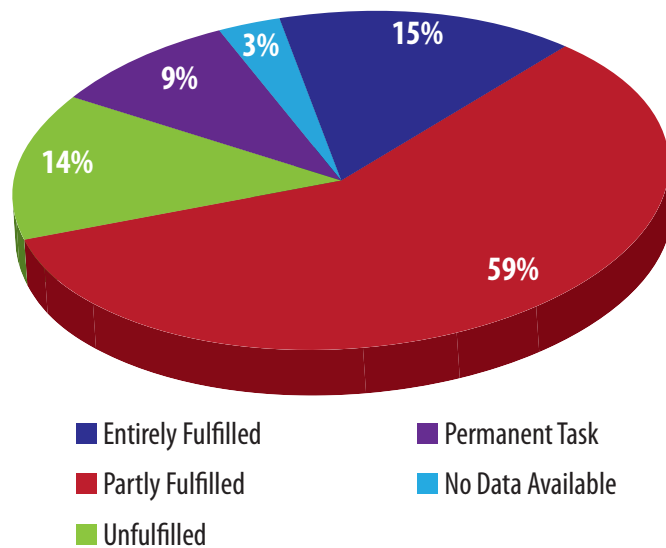
Out of the 168 Strategy recommendations, the Anticorruption Agency concluded that:

- 25 recommendations have been entirely fulfilled
- 99 recommendations have been partly fulfilled
- 24 recommendations have not been fulfilled

²⁷ *Research on the Implementation of the Strategy and Action Plan for the Implementation of the National Anticorruption Strategy*, Social Research Bureau, Belgrade, January 2011.

- 15 recommendations have been continuously fulfilled as permanent tasks
- No data were available on the fulfilment of 5 recommendations

Fulfilment of the Strategy Recommendations



As illustrated, only 15% of the Strategy recommendations have been entirely fulfilled. Nearly one tenth (9%) were being mostly continuously fulfilled, given that the Action Plan defined the accompanying activities as permanent tasks. The majority of Strategy recommendations (59%) have been partly fulfilled, a trend present in all systems (i.e. in each of the systems, most of the recommendations have been partly fulfilled). Fourteen percent of the Strategy recommendations have not been fulfilled at all. Notwithstanding its efforts, the Agency was unable to obtain data on the fulfilment of 3% of the recommendations. These data may lead to the conclusion that, five years after its adoption, the Strategy is for the most part still topical, i.e. that further efforts have to be invested to fulfil 4/5s of the tasks in the unfulfilled, partly fulfilled recommendations and the recommendations considered as permanent tasks due to the nature of their respective activities envisaged by the Action Plan.

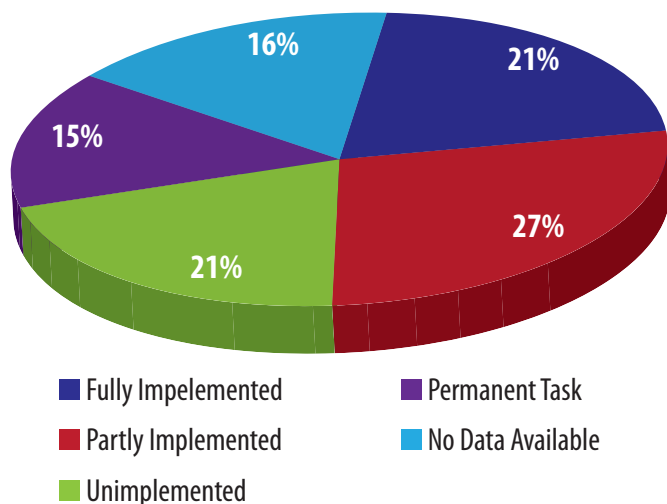
Although these conclusions undoubtedly help form a general picture of the degree to what the Strategy has been fulfilled, it should, however, be noted that they are the result of numerical indicators attaching equal value to each of the recommendations and that they may not necessarily reflect the relevance of every single recommendation to the achievement of the Strategy goals.

The Strategy recommendations are concretised through 473 activities in the Action Plan. The Anticorruption Agency concluded that:

- 97 activities have been fully implemented
- 128 activities have been partly implemented

- 99 activities have not been implemented
- 73 activities defined as permanent tasks have been continuously implemented
- No data were available on the implementation of 76 activities

Implementation of Action Plan Activities



The general picture one has about the implementation of the Action Plan activities is somewhat more uniform than in the case of the recommendations. Here, too, most of the activities were partly implemented (27%). Nearly as many (21%) have been fully implemented. The percentage of non-implemented activities also stands at 21%. Fewer activities (15%) are being continuously implemented. The Agency was unable to obtain data on the implementation of 16% of the activities. It should be noted here that many of these activities assume the analysis of the relevant regulations, which is frequently stated as a task in the Action Plan. Unfortunately, data on such analyses are rarely posted on the websites of the implementing entities; furthermore, most of them have not submitted such information to the Agency.

2.1.3 Conclusion and General Recommendations

The following section presents the key findings of the Anticorruption Agency during its review of the implementation of the National Anticorruption Strategy recommendations and the activities in the Action Plan for the Implementation of the Strategy. The general recommendations on how to improve the process of achieving the Strategy's goals and tasks were formulated on the basis of these findings.

2.1.3.1 Political System

Serbia has ratified the international conventions listed in the Strategy and taken part in the work of all relevant international anticorruption organisations and initiatives.

The Commissioner for Access to Information of Public Importance and Personal Data Protection achieved significant results in the field of access to information, but the fulfilment of this right is still unsatisfactory. It can be explained by, inter alia, due to the absence of more comprehensive oversight of the enforcement of the Law on Free Access to Information of Public Importance assigned to the Ministry of State Administration and Local Self-Government, including undertaking of measures that ensure initiation of misdemeanour proceedings against public authorities for violating this right or failing to publish information booklets about their work.²⁸

The transparency of the work of the National Assembly of the Republic of Serbia has improved but is still insufficient because the system that would ensure constant availability of information regarding its work has not been built. The Law on the National Assembly and its new Rules of Procedure provide a sound basis for the further development of this extremely important prerequisite for preventing and fighting corruption in Serbia.

The Anticorruption Agency, established under the Law on the Anticorruption Agency, began operating on 1 January 2010. The Law lays down the obligations with respect to the adoption of integrity plans, submission of relevant documents and information, reporting on the implementation of the Strategy, Action Plan and sectoral action plans, prevention of conflicts of interest and the Agency's involvement in the process of adopting and amending regulations of relevance to combating corruption.

A law on the financing of political activities has been drafted with the aim of improving the regulation of this matter, and a working version of the Law on Lobbying has been presented to the public. The Law on the Election of National Assembly Deputies has not been amended yet, wherefore voting for Assembly deputies has not been personalised and the constitutional status of the Assembly deputies and the way in which they are elected remain unharmonised. Clear and objective criteria for evaluating the efficiency of Government activities in fighting corruption have not been designed.

2.1.3.2 Judicial System and Police

The judicial reform in Serbia was launched with the adoption of a set of judicial laws in December 2008. The newly established High Judicial Council and State Prosecutorial Council conducted the general election of judges, public prosecutors and their deputies in 2009. However, specific aspects of the reform, notably

²⁸ *Answers to the Reporting Questionnaire on the Implementation of the Strategy and Action Plan*, Commissioner for Information of Public Importance and Personal Data Protection Commissioner, Belgrade, October 2010.

the general election procedure, were criticised by professional associations of judges and prosecutors; both the European Commission and GRECO voiced their concern about them in their reports. In its response to the EC Questionnaire, the Ministry of Justice stated that it had drafted the relevant amendments to the laws in cooperation with the European Commission and Venice Commission. The amendments adopted in December 2010 are aimed at eliminating the identified shortcomings.

The work of the courts was reorganised by the set of new judiciary laws, but it remains to be seen whether the changes will speed up proceedings and relieve the judges of the unnecessary administrative burden. In its Serbia 2010 Progress Report, the European Commission stated that the large backlog of pending cases remained a matter of concern, in particular as the recent reforms impacted negatively on the overall efficiency of the judicial system.

A law protecting whistleblowers has not been adopted yet. This issue is partly regulated by several laws. GRECO considers that the legislative measures taken so far represent an initial step which, if properly followed-up, could lead to a more comprehensive/detailed protection framework for civil servants reporting suspicions of corruption in good faith.

Since the adoption of the Strategy and Action Plan, the legislature has enacted a law on the criminal liability of legal persons; anti-corruption departments have been established within the Republican Public Prosecution Office; the laws on the judiciary lay down preventive measures and safeguards for preventing conflicts of interest of judges and prosecutors, while the Law on the Anticorruption Agency includes judicial officials in its definition of public officials, whereby they are subject to the obligations and forms of scrutiny; the law prohibits and punishes political activities of judges and prosecutors and establishes an oversight system; the Court Rules of Procedure oblige courts to publish information on proceedings in which a final decision has been rendered in instances provided for by the law or specific regulations and in instances of particular public interest. The Law on the Public Prosecution Offices introduces mandatory ex post facto checks of prosecutorial decisions issued not to initiate or to discontinue prosecution of corruption-related crimes or dilatoriness, and a department charged with monitoring and implementing this recommendation has been established; the law envisages the application of specific techniques to detect corruption-related crimes and allows for the use of undercover investigators if a corruption-related crime is committed by an organised crime group; witness protection is governed by the Law on the Programme of Protection of Participants in Criminal Pro-

ceedings; seizure of proceeds from corruption is also regulated by law, and a Seized Property Management Directorate has been established; legal grounds for limiting activities by persons found irrevocably guilty of corruption-related crimes have been established; efforts are continuously invested in increasing the number of police officers fighting corruption; a legal framework has been established to eliminate political criteria in the recruitment of police staff in favour of merit-based recruitment and partisan political activity by police staff has been prohibited.

A general restriction of the right to be elected for the individuals found guilty of committing corruption-related crimes has not, however, been introduced. The judges' Code of Ethics has been adopted but a code of ethics for public prosecutors is still pending. A court of honour has not been established yet, and a Law on Attorneys that would comprise provisions on the professional ethics of lawyers is about to be adopted.

2.1.3.3 State Administration, Territorial Autonomy, Local Self-Government and Public Services System

The State Administration Reform Strategy and accompanying Action Plan for the 2004–2008 Period have been implemented and the implementation of the new strategic document and Action Plan for the 2009–2012 Period is under way. According to the EC 2010 Serbia Progress Report, some progress has been made in reforming Serbia's public administration. However, the legislative framework remains incomplete and the 1997 Law on General Administrative Procedures is still applied. The Law on Administrative Disputes is not fully in line with European standards.

Although the EC qualifies the capacity of the public administration as good, it notes that reform in this area is advancing at a slow and uneven pace. According to the data available to Agency, three ministries – the Ministry of Internal Affairs, the Ministry of Youth and Sports and the Ministry of Health – have to date drafted their sectoral action plans. Since the adoption of the Law on the Anticorruption Agency, design of sectoral action plans is now also a legal obligation.

A Code of Conduct of Civil Servants establishing the rules of conduct and standards of integrity has been passed. The 2009 Classified Information Law provides the system of defining and protecting classified information. Specific provisions of the Law have, however, caused concern among experts.

The principle of rotation of administration and public service staff working on positions susceptible to corruption has not been introduced; nor have all the state authorities introduced mechanisms for reporting unlawful or unethical work of state administration and public staff.

2.1.3.4 Public Finance System

According to the Public Expenditure and Financial Accountability (PEFA) methodology, solid progress in the quality of public finance management systems and processes has been achieved between 2007 and 2010. The biggest improvement in overall scoring was recorded in the quality and timeliness of in-year budget reports and of annual financial statements. Furthermore, the establishment of the State Audit Institution and financial management control have raised scores in those areas, but further improvements are needed.

After numerous problems, the State Audit Institution became operational although it still faces problems in having adequate office space as well as the equipment it needs for its daily operations and staff training.

The Public Procurement Law and its by-laws envisage a more transparent procedure, improve the general awareness of public procurement procedures and introduce the position of public procurement officer. A Public Procurement Directorate has been established to advise the clients and the bidders. However, the PEFA Assessment and the Public Financial Management Performance Report state that improvements in this area have not been greater because of a lack of effective capacity and that the efficiency of procurement planning has not improved. The process of submission of public procurement complaints and their review is designed poorly and does not ensure the timely review of complaints. Monitoring of the public procurement system conducted by Transparency Serbia led to the conclusion that the public procurement system has in general proven moderately successful as regards the enforcement of the main provisions of the Public Procurement Law. There is a lack of will to do more than the law strictly requires in this area or to fully achieve the principles it promotes in order to improve transparency, budget planning and justify the needs for public procurement.

The PEFA Assessment also notes the shortcomings in policy planning and its implementation that results in weaknesses of budget formulation, which currently focuses on aggregate expenditure, rather than on resource allocation reflecting the beneficiaries' policies and plans. The National Assembly has a month and a half to review the budget, but it actually had less than 30 days to complete this task in the preceding years. There are strict guidelines with respect to the amounts and nature of changes and there are observed, but they do allow for considerable administrative reallocations.

The mechanism for assessing the expediency of the budget beneficiaries' needs during budget planning has not been established. The Budget Preparation Instructions lay down the criteria for assessing the needs for the required funds which the budget

beneficiaries are to satisfy during planning, while the State Audit Institution is to supervise their abidance by this criteria.

2.1.3.5 Economic System

The establishment of the Register of Companies and introduction of a system for the registration of companies in the Register eliminated state's right to issue licences in this area at its own discretion and reduced scope for corruption in the system of establishing companies.

The Government of the Republic of Serbia adopted the Strategy of Regulatory Reform in the Republic of Serbia for the 2008–2011 period, which comprises a number of measures primarily aimed at cutting the administrative costs of doing business by 25% by 2011 and the simplification of administrative procedures in order to considerably improve Serbia's international rating with respect to the quality of the business environment. The measures mostly focus on advancing the existing system of analysing the effects of the regulations and the voiding or amending the inefficient regulations – the Comprehensive Regulations Reform (CRR). According to the CRR Implementation Unit November 2010 report, out of the 216 recommendations the Government adopted, 69 recommendations were implemented, the implementation of 146 was under way, while no activities had been undertaken with respect to 93 recommendations apart from the Unit's attempt to conform them with the competent regulatory bodies. Apart from amendments of regulations, the Unit also recommended that a total of 196 unnecessary regulations (15 decrees, 11 decisions and 170 other enactments) be declared null and void; most of these recommendations have been implemented.

In its Serbia 2010 Progress Report, the European Commission states that privatisation procedures continue to be an area of serious concern, as independent supervision is not yet established. Privatisation of socially owned companies is limited, while the number of privatisations annulled – due to non-compliance with the contracted obligations – rose to almost one quarter of the firms initially scheduled for privatisation.

A new Law on the Protection of Competition was adopted in 2009. The Chamber of Authorised Auditors, established under the Law on Accounting and Auditing, is charged with organising tests of future auditors and granting and revoking licences for financial report auditing. The National Accounting Commission, tasked with monitoring the implementation of international regulations and standards and consequently proposing the appropriate solutions for the national legislation, was established under the same law.

The Chamber of Commerce of Serbia in 2005 adopted the Business Ethics Code and Corporate Governance Code based

on the International Chamber of Commerce (ICC) code of good business practices, which constitutes the basis for the adoption of the business codes of ethics of its members.

The 1989 Law on Private Entrepreneurs is still in effect. The mechanisms for workers who wish to report corruption in the undertakings and the mechanisms for protecting them have not been established within these undertakings.

2.1.3.6 Media

Regulations distinguishing between the advertising activity and information function within a media outlet have not been adopted, i.e. there is no legal framework to prevent the influence of advertisers and donors on media autonomy. Nor have regulations been amended to ensure the independence of the media and improve the status of journalists within the media. Regulations on the transparency of media ownership and preventing unlawful media concentration, which were in force at the time the Strategy was adopted, are still in effect but a working version of the Law on Unlawful Media Concentration and Transparency of Media Ownership has been drafted in the meantime.

An expert study on the media in Serbia was prepared in early 2010 with the assistance of the European Commission. Apart from conducting the study of the national media, it also provides an overview of the European regulatory framework and a comparative analysis of three selected countries. The drafting of the Media Development Strategy in the Republic of Serbia for the 2011–2016 Period and a Law on Advertising is under way.

The Association of Independent Electronic Media stated that the controversies surrounding the drafting of the Serbian Media Sector Development Strategy and the draft version of the Advertising Law rendered it impossible to consider that experts were consulted during work on the two documents, although representatives of the media were initially involved in the working group writing the Advertising Law.

The Independent Journalists' Association of Serbia (NUNS) and the Association of Journalists of Serbia (UNS) adopted the Code of Journalists of Serbia in 2006. The mechanisms, which are to ensure the enforcement of the Code cannot, however, be considered effective given the small number of proceedings over its violations. The statutes of the two press associations regulate the procedure before their Courts of Honour.

The 2009 Amendments to the Law on Public Information significantly raised the fines and changed the nature of penalties for specific violations of the law via media outlets. These amendments provoked numerous polemics among experts. The Protector of Citizens submitted an initiative for the review of the constitutionality of most of the amendments and the Constitu-

tional Court of Serbia rendered a decision finding that specific provisions in the challenged amendments were not compatible with the Constitution or international conventions.

2.1.3.7 Participation of the Civil Society and the Public in Combating Corruption

The Information of Public Importance Commissioner's Office published on its website the Catalogue of Public Authorities to which the Law on Free Access to Information of Public Importance applies and which includes the names of around 11,000 public authorities. The Catalogue does not have a constitutive character but is definitely useful both to private citizens and all others who may wish to exercise the right to access to information, the very authorities under the obligation to provide free access to information and the Ministry charged with monitoring the implementation of the Law.

The practice of state authorities of inviting representatives of citizens and professional associations to take part in the process of the adoption of important anti-corruption regulations or decisions has not been formalised yet. It is uneven and depends on the readiness of each individual state authority to cooperate with the representatives of the civil society, its awareness of the importance of involving the associations in the process, and the associations' initiative.

Representatives of the interested associations were consulted during the drafting of the Law on Associations adopted in 2008; the legislator has also taken into account the experiences of other countries and international standards. However, under the tax laws, associations have to pay tax on donations, which are treated as gifts, as well as other taxes like all other legal persons (e.g. VAT, income tax).

The analysis of the Centre for the Development of the Non-Profit Sector on expenditure under "budget subsidies for non-governmental organisations" (budget line 481) established that, apart from non-governmental organisations, money under this line has also been used to fund sports and youth organisations, religious communities and political parties. The reports by the beneficiaries of the funds have not been made public, wherefore Serbia's tax-payers have no information about the specific activities, goods or services their money has been spent on.²⁹

Associations are not eligible for tax reliefs and practices vary with respect to the publication of public calls for applications for funding associations implementing programmes of public inter-

²⁹ *Analysis of the Execution of Budget Subsidies for Non-Governmental Organisations*, Centre for the Development of the Non-Profit Sector, December 2010, available at <http://www.crnps.org.rs/2010/analiza-izvršenja-budžetskih-dotacija-za-nevladineorganizacije>

est. Moreover, public and state-owned companies are under no obligation to allocate subsidies via public calls for applications. There is no uniform system of supervision of how budget subsidies approved to associations are spent. Some budget beneficiaries require reports on implemented projects and the spent funds and stipulate the transfer of funds by the submission of reports. Others do not. The State Audit Institution is authorised to audit the spending of funds allocated to the associations from the budget but the law merely provides this institution with the possibility and does not oblige it to perform such audits.

2.1.3.8 General Recommendations

The Agency is of the view that the implementation of the following would be conducive to the achievement of anti-corruption goals:

1. Revise the National Anticorruption Strategy and the Action Plan for its implementation on the basis of the evaluation and assessment of the implementation of the two documents and in accordance with the changed socio-political and economic environment in which the fight against corruption is taking place in Serbia today. Namely, although the general impression is that the Strategy and Action Plan, for the most part, have not been implemented or have been implemented only partially, it seems that this may be the right time to launch the process of their review given that the Strategy has been implemented for five and the Action Plan for four years. In the event the authorities decide not to revise the Strategy, the Agency believes that it would be useful to amend the Action Plan or adopt a new one in order to facilitate the process and advance the quality of monitoring of the fulfilment of the recommendations.³⁰
2. Invest additional efforts to ensure that the implementing entities take a more meaningful, direct, systematic and continuous approach to the fulfilment of the tasks in the Strategy and Action Plan, that they use the documents as working instructions and a basis for designing their own action plans to fight corruption. Improve the content of the reports on the fulfilment of the Strategy and Action Plan obligations submitted to the Agency and ensure the consistent fulfilment of the obligation to submit quarterly reports.
3. Put in place a legal framework allowing the Agency to involve itself more directly in the procedures for amending the existing and adopting new anti-corruption regulations.
4. Continue strengthening the publicity and transparency of the work of the state authorities, particularly by creating conditions for the application of information technology along

³⁰. See the section: Challenges in the Process of Drafting the Report.

with publishing as much information of public importance as possible.

5. Invest additional efforts to ensure better working conditions for the new institutions (independent bodies) and develop a uniform practice of reviewing their reports in accordance with the Law on the National Assembly.
6. Continue investing efforts to ensure the elimination of the shortcomings in the judicial reform process and complete the process in accordance with international standards and in consultation with the expert public. Take the necessary measures to improve judicial efficiency, introduce information technology to the greatest possible extent and wherever feasible to relieve the judiciary of unnecessary administrative work.
7. Introduce multidisciplinary work on all important investigations of corruption-related crimes, and an efficient system for reviewing reports of pressures.
8. Complete the legislative framework by the adoption of a new law on administrative procedure and the full harmonisation of the Law on Administrative Disputes with European standards,³¹ and continue efforts to ensure a uniform state administration reform process.
9. Ensure the design of sectoral anti-corruption action plans in accordance with the National Assembly Decision on the adoption of the Strategy and the Law on the Anticorruption Agency.
10. Introduce the principle of rotation of administration and public service staff on jobs susceptible to corruption and establish mechanisms for reporting on unlawful and unethical work of state and public staff.
11. Facilitate improved cooperation between the state authorities and the Anticorruption Agency.
12. Ensure the consistent application of the Public Procurement Law and its principles and advance the public procurement tender complaint submission and review process.
13. Establish a mechanism for assessing whether the budget reflects the budget beneficiaries' needs during budget planning.
14. Ensure the consistent implementation of the Budget Law in terms of the publication of the draft budget and final statements.
15. Advance the system of establishing internal auditors.
16. Ensure the adequate and independent monitoring of privatisation processes.

31. *Serbia 2010 Progress Report*, Brussels SEC(2010) 1330, European Commission, Brussels, November 2010, p.8, available at http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf

17. Establish mechanisms for staff who want to report corruption within an undertaking and mechanisms for their protection within the undertaking.
18. Adopt regulations distinguishing between the advertising activity and information function within a media outlet and regulations ensuring the transparency of media ownership and preventing unlawful media concentration.
19. Improve the effectiveness of mechanisms for applying the Code of Journalists of Serbia.
20. Adequately formalise the practice by which the state authorities invite representatives of citizens' and professional associations to participate in the process of adoption of important anti-corruption regulations.
21. Systemically regulate the right of citizens to submit complaints about the work of state authorities and the state authorities' obligation to reply to them within the legal deadline.

PART III **SPECIFIC FIELDS**



3.1 POLITICAL SYSTEM

Serbia's political system is the first field the Strategy elaborates. This section comprises twenty recommendations, most of which pertain to: the alignment of the national legislation with international standards and general improvement of the national legislation by the adoption of new or the amendment of the existing regulations, strengthening the publicity and transparency of the work of state authorities and availability of information of public importance, and the creation of a legal and institutional framework ensuring greater efficiency, quality, integrity, responsibility and of oversight systems within public authorities. Political party funding, election of Assembly deputies and lobbying are the most important fields in which the Strategy authors recommend the adoption of new laws.

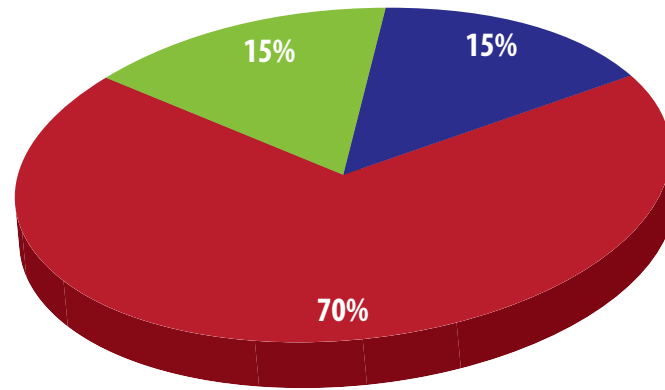
The Anticorruption Agency concluded that out of the 20 Strategy recommendations in this section:

- 3 recommendations have been entirely fulfilled
- 14 recommendations have been partly fulfilled, and
- 3 recommendations have not been fulfilled

Twenty recommendations were concretised through 55 activities in the Action Plan, of which:

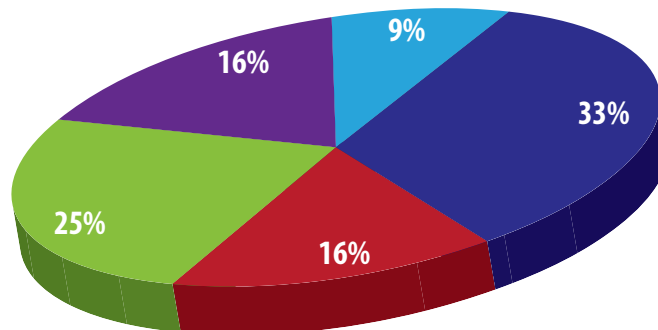
- 18 activities have been fully implemented
- 9 activities have been partly implemented
- 14 activities have not been implemented
- 9 activities defined as permanent tasks have been continuously implemented
- No data were available on the implementation of 5 activities

Political System Fulfilment of Strategy Recommendations



■ Entirely Fulfilled ■ Partly Fulfilled ■ Unfulfilled

Political System Implementation of Action Plan Activities



■ Fully Implemented ■ Permanent Task
■ Partly Implemented ■ No Data Available
■ Unimplemented

As demonstrated, most of the recommendations within the system were partly fulfilled (70%), nothing has been done with respect to 15% of them, and 15% of the recommendations have been entirely fulfilled. On the other hand, 33% of the activities have been fully implemented, 16% have been partly implemented, while 26% have not been implemented at all. Sixteen percent of the activities, defined as permanent tasks, have for the most part been continuously implemented.

General Overview³²

As regards the alignment of national legislation with international anti-corruption standards (**Recommendation 1**), Serbia has ratified the following documents since the adoption of the Strategy and Action Plan: the UN Convention against Corruption, the Criminal Law Convention on Corruption and Additional

³². See the above section Strategy Prerequisites for a more detailed overview of the political system.

Protocol thereto, the Civil Law Convention on Corruption, and the CoE Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime. The legislative framework has been harmonised with the Organisation for Economic Development and Co-operation Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (as reaffirmed by CoE experts on 11 October 2007). With the aim of aligning the national legislation with international standards, Serbia amended the relevant provisions incriminating illegal mediation, active and passive bribery, the concepts of public official and foreign official, abuse of post, money laundering financing of terrorism and introduced a new crime – trafficking in influence. Moreover, provisions on the concept of property and the seizure of proceeds have been further elaborated.

Based on the Strategy and international recommendations and in accordance with CoE expertise, the Ministry of Justice drafted the Law on the Anticorruption Agency, which was enacted in 2008. Pursuant to Article 6 of the UN Convention against Corruption, the Agency is an autonomous and independent state authority charged, inter alia, with monitoring the implementation of the Strategy. With the aim of strengthening the Agency's independence, the Law lays down that the Agency shall propose and independently manage its own budget.³³

GRECO adopted its Compliance Report on the Republic of Serbia, Joint First and Second Evaluation Rounds, at its 38th plenary session on 9–13 June 2008. The Report assesses that Serbia implemented satisfactorily 12 of the 25 recommendations and dealt with 13 recommendations in a satisfactory manner. In its Addendum to the Compliance Report on the Republic of Serbia adopted at the 47th plenary session held on 7–11 June 2010, GRECO concluded that out of the 25 recommendations issued to the Republic of Serbia, 20 of them have been implemented or dealt with in a satisfactory manner. In this report, GRECO, inter alia, notes that the legislative measures taken so far represent an initial step which, if properly followed-up, could lead to a more comprehensive/detailed protection framework for civil servants reporting suspicions of corruption in good faith, and concludes that this remained partly implemented.³⁴

Serbia has taken part in the work of all relevant international anti-corruption organisations and initiatives: GRECO, MONEYVAL, UNODC, UNCAC, OSCE, RCC, RAI, EPAC, etc.

33. *Answers to the Reporting Questionnaire on the Implementation of the Strategy and Action Plan*, Ministry of Justice of the Republic of Serbia, Belgrade, January 2011.

34. *Joint First and Second Evaluation Rounds – Addendum to the Compliance Report on the Republic of Serbia*, RC-1/II (2008) 1E Addendum, GRECO, Strasbourg, 11 June 2010, pp. 47–52, available at [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC1&t\(2008\)1_Add_Serbia_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC1&t(2008)1_Add_Serbia_EN.pdf)

As regards strengthening the publicity and transparency in the work of the state authorities (**Recommendation 2**), the most relevant activities are those conducted by the Information of Public Importance Commissioner, established under the Law on Free Access to Information of Public Importance. The Commissioner's work and the enforcement of the Law yielded significant results with respect to increasing the transparency in the work of state authorities. The right to access information of public importance has been ensured and public authorities are obliged to publish and regularly update the information booklets about their work, etc. Transparency in the work of public authorities still has not reached a satisfactory level, above all due to the non-functioning of a mechanism ensuring the mandatory enforcement of the Commissioner's decisions and due to the absence of more comprehensive oversight of the enforcement of the Law by the Ministry of State Administration and Local-Self Government, including undertaking of measures ensuring the initiation of misdemeanour proceedings against public authorities for violating this right or failing to publish information booklets about their work.

The National Assembly's public outreach (**Recommendation 3**) is of crucial importance not only from the viewpoint of access to information of public importance and transparency in the work of public institutions, but also in view of the need to understand the role of the National Assembly of the Republic of Serbia (NARS), of the perception of the quality of its work and the citizens' trust in it. Opinion polls conducted by Strategic Marketing and the Centre for Free Elections and Democracy show consistently low public approval of the NARS.³⁵ Furthermore, the public opinion survey on corruption conducted by TNS Medium Gallup in March 2010 shows that the citizens' views of the Government and other state institutions are still very negative.³⁶ These public attitudes can, inter alia, be ascribed to the fact that the public is insufficiently or improperly informed of the work of the public authorities, including the NARS.

As far as greater transparency in the work of the NARS deputies is concerned (**Recommendation 3**), the Agency concludes that the transparency in the work of the National Assembly has improved over the previous period, albeit insufficiently, because the system of constant access to information on the NARS' work has not been established yet. The Law on the NARS and its new

35. *Outreach, Participation and Transparency in the National Assembly of the Republic Of Serbia*, East-West Management Institute, USAID, Separation of Powers Program, available at <http://ewmispp.org/archive/file/resources/Outreach-Participation-and-Transparency-in-the-NARS-Report.pdf>

36. *Serbia Corruption Benchmarking Survey – 2nd Round*, TNS Medium Gallup, Belgrade, March 2010, available in Serbian at <http://www.undp.org.rs/index.cfm?event=public.publicationsDetails&reviewId=D48A72BE-0E94-3A47-1F191045F961C13C>

Rules of Procedure provide solid foundations for the further development of this extremely important prerequisite for preventing and combating corruption in Serbia. Furthermore, these two documents expand the concept of publicity, which, in addition to the press, also comprises representatives of national and international associations, organisations and interested citizens. It is crucial that this understanding of publicity is maintained and that the provisions allowing the presence and participation of the public in the work of the NARS are consistently enforced. According to the NARS, a new Internet portal is being designed; it will publish detailed reports on the voting and other activities of the deputies.³⁷ The Assembly of the Autonomous Province of Vojvodina publishes its agendas, session minutes and financial reports within the information booklet about its work.

Increase in the efficiency of the oversight role of the National Assembly (**Recommendation 4**) can be expected now that the Law on the National Assembly and its Rules of Procedure have been adopted, given that both documents regulate this issue as well, provided that the principle of separation of powers is consistently applied and that a uniform practice of reviewing reports by independent state authorities submitted to this institution is established.

The Anticorruption Agency, which began operating on 1 January 2010, was established by the Law on the Anticorruption Agency. The Law introduced the following:

- The obligation of state authorities and organisations, provincial and local self government authorities, public services and public companies to adopt integrity plans (**Recommendation 9**) – the Agency adopted the Integrity Plan Design and Implementation Guidelines in October 2010 and was organising seminars and meetings with implementing entities at the time this Report was completed. At those meetings, the Agency has been informing them of the concept, goal and essence of integrity plans and the relevant legal framework. The authorities are expected to adopt their integrity plans in 2012 and the Agency shall then begin monitoring their implementation.
- The obligation of state authorities and organisations, provincial and local self-government authorities, public services and other legal persons exercising public powers to submit all documents and information required by the Agency within 15 days (**Recommendation 10**). Under the Law, the non-fulfilment of this obligation may be grounds for initiating misdemeanour proceedings. The Agency's hitherto communication and

³⁷ *Answers to the Reporting Questionnaire on the Implementation of the Strategy and Action Plan*, National Assembly of the Republic of Serbia, Belgrade, November 2010.

cooperation with state authorities has mostly been good, but the quality of the submitted responses, usually with respect to complex issues, has not always been satisfactory.

- The obligation of the entities implementing the Strategy, Action Plan and sectoral action plans to submit quarterly reports on the implementation of these documents to the Agency and the Agency's obligation to submit a report on its work in the previous year, comprising also a report on the implementation of these documents, by 31 March at the latest (**Recommendation 11**) – not all implementers of the Action Plan activities fulfilled their obligation to submit quarterly reports – 72 of them submitted their answers to the Reporting Questionnaire on the Implementation of the Strategy and Action Plan by February 2011.
- The Agency may initiate the adoption or amendment of regulations relevant to combating corruption and is also charged with cooperation with other state authorities on the drafting of anti-corruption regulations (**Recommendation 18**) – the Agency can, however, only indirectly affect the adoption or non-adoption of a regulation or its content. It does not have at its disposal any legal instruments by which it can prevent the adoption of or invalidate a norm leaving room for corruption.

The Law on the Anticorruption Agency also obliges public officials to notify their immediate superiors and the Agency in writing whether they or related persons are or may be in conflict of interest within eight days from the day they take office and throughout their terms of office (**Recommendation 13**). In its reviews of conflicts of interest, the Agency has to date:

- Rendered 228 opinions on the interpretation or application of the Law.
- Issued 20 decisions on the termination of office of public officials by force of law, 11 measures of caution, 3 measures of public announcement of a violation of the Law, 3 measures of public announcement of the recommendation for dismissal, 82 decisions establishing incompatibility of office and giving deadlines within which the discharge of incompatible offices must cease (pursuant to the provision in Article 82 of the amended Law), 12 decisions establishing the incompatibility of discharging an office and the performance of another job or activity and setting deadlines within which the performance of the other job or activity must cease (pursuant to Article 31 of the amended Law).
- Issued consent to the discharge of an office in 20 cases and consent to the performance of another job or activity in as many cases.

- Withheld consent to the discharge of another office in 9 cases and withheld consent to the performance of another job or activity in 16 cases.
- Established compatibility of office in 854 cases pursuant to Article 82 of the amended Law and found in 737 cases that an official may perform another job or activity alongside his/her public office (pursuant to Article 31 of the amended Law) without it issuing formal consent.
- Adopted 13 conclusions dismissing the applications for consent to the performance of another office, job or activity.³⁸
- Adopted 14 conclusions on the discontinuation of the procedure.

The July 2010 amendments to the Law on the Anticorruption Agency oblige public officials holding more than one office on the day the Law came into effect to notify the Agency thereof. In the event the Agency finds that the discharge of more than one office jeopardises the impartial discharge of public office, i.e. that it constitutes a conflict of interest, the Agency shall set the official a deadline by which s/he shall cease discharging incompatible offices. Officials directly elected by citizens to their offices are exempted from this obligation, which prompted the Agency to file an initiative with the Constitutional Court of Serbia asking it to review the constitutionality of the provision on their exemption in September 2010. The Agency is of the view that this solution contravenes the Constitution of Serbia and the UN Convention against Corruption. The procedure before the Constitutional Court was still under way at the time this Report was completed.

As regards the ban on partisan political activity for specific categories of officials (**Recommendation 12**), the Agency concluded that this recommendation has been fulfilled by the adoption of specific regulations prohibiting such activity (of judges, public prosecutors and their deputies, the Protector of Citizens, Information of Public Importance Commissioner, National Bank Governor and Vice-Governors, members of the State Audit Institution Council) but that it remained unclear which specific categories of officials the authors of the Strategy had in mind when they formulated this recommendation.

The Agency also concluded that the procedure for stripping holders of public office – National Assembly deputies, judges, public prosecutors and their deputies, etc. – of their immunity, has been regulated (**Recommendation 15**).

³⁸ Before the adoption of the amendments to the Law on the Anti-Corruption Agency, the Agency had adopted 260 conclusions dismissing applications for consent submitted by officials who had been holding multiple offices. The Agency invalidated these conclusions after the Law was amended and treated the applications as notifications pursuant to Article 82 of the amended Law.

It is important to highlight that the following Strategy tasks related to the political system have not been fulfilled:

- The Law on the Election of National Assembly Deputies has not been amended yet, wherefore the electoral legislation still lacks the elements personalising the election of the deputies and the constitutional status of the deputies; the manner in which they are elected have not been harmonised, although media reports visibly demonstrate the great interest of experts and the public at large in these topics (**Recommendations 5 and 6**).
- Clear and objective criteria for evaluating the Government's efforts in fighting corruption have not been designed (**Recommendation 7**).
- Clear criteria ensuring adequate remuneration of public officials and consistent determination of their accountability for their performance, including their dismissal, have not been established (**Recommendation 8**).
- The Constitution has not limited immunity to appearances and statements made with respect to the discharge of public office – material immunity (**Recommendation 14**).
- The new Law on Financing of Political Activities, drafted to improve the mechanisms of oversight, monitoring, reporting, external audit obligations, sanctioning and prevention, has not been yet submitted to the Government for review (**Recommendation 16**).
- The Law on Lobbying has not been adopted yet. The working version of this law has been presented to the public and its adoption is expected in the first half of 2011 (**Recommendation 19**).
- A Code of Conduct of the National Assembly deputies and staff prohibiting corrupt behaviour and ensuring its effectiveness has not been adopted (**Recommendation 20**).
- The obligation of the Government to publish its appointment and dismissal decisions, specifying the criteria fulfilled by the successful candidate or the reasons for his/her dismissal, has not been introduced (**Recommendation 17**).

In addition to recommending that activities be undertaken to ensure the fulfilment of the outstanding Strategy tasks and the consistent implementation of new obligations and regulations improving the anti-corruption legislation, the Anticorruption Agency is of the view that the following would be advisable in the field of the political system:

- Define in a consultative process criteria on the basis of which a regulation can be incorporated in the list of anti-corruption regulations and devise mechanisms for clearly establishing

whether or not the existing laws and those to be adopted are in compliance with international standards in a specific field, with the exception of instances when international instruments are directly incorporated in the national legislation.

- Ensure more comprehensive oversight of the enforcement of the Law on Free Access to Information of Public Importance by the Ministry of State Administration and Local Self-Government and take measures ensuring initiation of misdemeanour proceedings against public authorities for violating this right or failing to publish information booklets about their work.
- Ensure further strengthening of the publicity and transparency of the work of state authorities, particularly by creating conditions for the use of information technology and the publication of as much information of public importance as possible.
- Ensure that the NARS website comprises information on how the deputies voted, the committee reports, decisions and conclusions, reports on their work and reports by institutions subject to NARS oversight, the texts of the amendments, information on the opinions of the authors of the amendments and competent committees on the amendments, audio recordings and transcripts of plenary and committee sessions, information on public procurement, financial reports, reasoned nominations of officials elected by the NARS and data on the deputies' attendance at plenary and committee sessions. This recommendation also applies to all other state authorities in accordance with their remits.
- Invest additional efforts to ensure the best possible working conditions for the new institutions (independent bodies) and develop a uniform practice of reviewing the reports by the independent bodies in accordance with the Law on the National Assembly.
- Improve the content of the reports on the fulfilment of the Strategy and Action Plan obligations submitted to the Agency and ensure the consistent fulfilment of the obligation to submit quarterly reports.
- Provide a legal framework allowing the Anticorruption Agency more direct involvement in the process of adopting new and amending the existing anti-corruption regulations.

3.2 JUDICIAL SYSTEM AND POLICE

The next area the Strategy focuses on is the judicial system and the police, given that their independence, impartiality, efficiency and accountability are prerequisite for building the rule of law and that their empowerment is an extremely important task. The fact that the greatest number of recommendations (48) in

the Strategy is devoted to this system might indicate that either this area was in need of most changes in 2005 or that the authors of the Strategy were of the view that these institutions play the most extensive and most important role in suppressing corruption. The position of the judicial institutions and police in this area is specific and can be viewed from two perspectives: the judiciary and the police as authorities dealing with corruption and the judiciary and the police as systems in which cases of corruption happen.

According to TNS Medium Gallup's survey of March 2010, over 80% of the citizens think that the judiciary in Serbia is too corrupt to fight corruption and 71% feel the same about the police. Judges rate second on the list of most corrupt institutions (70%), right after political parties (80%); attorneys/lawyers rank fourth (68%), prosecutors sixth (66%) and the police seventh (66%) on this list of sixteen institutions. In the view of the citizens, apart from the Government (57%), the police (41%) and the judiciary (26%) are the most powerful institutions that should play the leading role in the fight against corruption although these institutions are, paradoxically, perceived as the most corrupt as well. Furthermore, the citizens think that strict penal measures are the most effective mechanism for preventing corruption (70%).³⁹

The Anticorruption Agency concluded that out of the 48 recommendations in the Strategy:

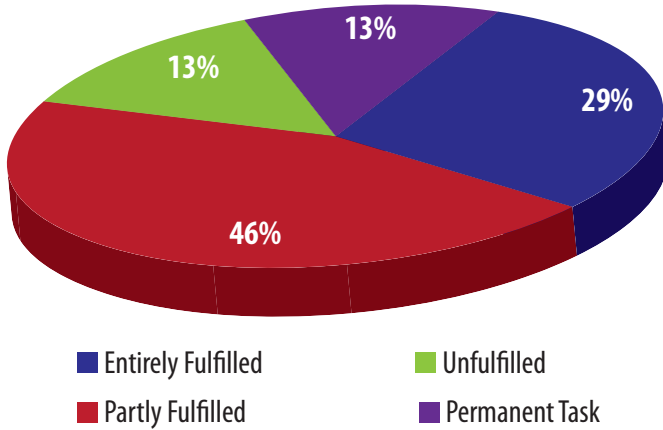
- 14 recommendations have been entirely fulfilled
- 22 recommendations have been partly fulfilled
- 6 recommendations have not been fulfilled
- 6 recommendations have been continuously fulfilled as permanent tasks

The 48 recommendations were concretised through 134 activities in the Action Plan, of which:

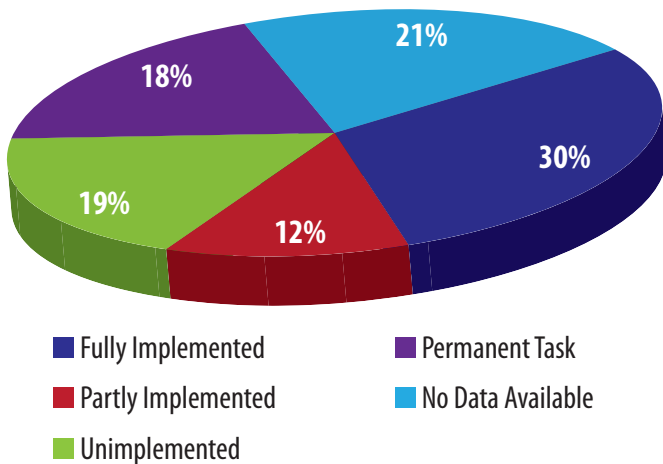
- 40 activities have been fully implemented
- 16 activities have been partly implemented
- 26 activities have not been implemented
- 24 activities defined as permanent tasks have been continuously implemented
- No data were available on the implementation of 28 activities

³⁹. *Serbia Corruption Benchmarking Survey – 2nd Round* TNS Medium Gallup, Belgrade, March 2010 available in Serbian at <http://www.undp.org.rs/index.cfm?event=public.publicationsDetails&revid=D48A72BE-0E94-3A47-1F191045F961C13C>

**Judicial System and Police
Fulfilment of Strategy Recommendations**



**Judicial System and Police
Implementation of Action Plan Activities**



Similar to the political system field, most of the recommendations have been partly fulfilled (46%); 29% of the recommendations have been entirely fulfilled, while nothing has been done with respect to 12% of them. Nearly one-third (30%) of the activities have been implemented, but one-fifth has not. The Agency has not obtained data on the implementation of another 20% of the activities. Thirteen percent of the recommendations, i.e. 18% of the activities, were defined as permanent tasks.

General Overview

The Law on the Anticorruption Agency defines corruption as a relationship based on abuse of office or social status and influence, in the public or private sector, with the view to acquire gain for oneself or another (**Recommendation 22**).

The judicial reform (**Recommendation 25**) was launched in Serbia by the adoption of a set of judiciary laws on 22 December 2008. The set of judiciary laws comprises the Law on the High Judicial Council, the Law on Judges, the Law on the Organisation of

Courts, the Law on the Public Prosecution Office, the Law on the State Prosecutorial Council, the Law on the Seats and Jurisdictions of Courts and Public Prosecution Offices and the Law Amending the Law on Misdemeanours. The general election of judges was conducted pursuant to these laws and the 2006 Constitutional Law on the Implementation of the Constitution of the Republic of Serbia in order to effect the necessary rejuvenation of the judicial staff, due to the establishment of an entirely new court network and of hitherto non-existent courts (the Supreme Court of Cassation, Appellate Courts and the Administrative Court), and due to the fact that the election of judges is now regulated in an entirely new manner⁴⁰ newly-formed High Judicial Council (HJC) and State Prosecutorial Council (SPC) conducted the general election of judges, public prosecutors and deputy public prosecutors in 2009.

A number of serious criticisms of the reform process, especially its transparency, were, however, voiced in the judiciary, particularly by the associations of judges and prosecutors, during the preparations for and the implementation of the general election procedure.

In its Serbia 2010 Progress Report, the European Commission, too, states that major aspects of the recent reforms are a matter of serious concern. The reappointment procedure for judges and prosecutors was carried out in a non-transparent way, putting at risk the principle of the independence of the judiciary. The bodies responsible for this exercise, the High Judicial Council and the State Prosecutorial Council, acted in a transitory and incomplete composition, which neglected adequate representation of the profession and created a high risk of political influence. Objective criteria for reappointment, which had been developed in close cooperation with the Council of Europe's Venice Commission, were not applied. Judges and prosecutors were not heard during the procedure and did not receive adequate explanations for the decisions. First-time candidates (876 judges and 88 deputy prosecutors) were appointed without conducting interviews or applying merit-based criteria. The overall number of judges and prosecutors was not calculated in a reliable way and adjusted several times after the reappointment had already been carried out. The right to appeal for non re-appointed judges was limited to recourse to the Constitutional Court, which does not have the capacity to fully review the decisions. Out of more than 1,500 appeals, only one case has been dealt with. In this case, the Constitutional Court, for procedural reasons, annulled the initial decision.⁴¹

40. *Answers to the Reporting Questionnaire on the Implementation of the Strategy and Action Plan*, Ministry of Justice of the Republic of Serbia, Belgrade, January 2011.

41. *Serbia 2010 Progress Report*, Brussels SEC(2010) 1330, European Commission, Brussels, November 2010, p.8 available at http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf

GRECO also voiced its concern about the general judicial reappointment procedure due to deviations from the principle of irremovability, insufficient transparency of the method for assessing appointment and promotion criteria, lack of adequate explanations concerning the available legal remedies/course of action to challenge the decisions of the HJC and SPC, which resulted in the lodging of numerous complaints before the Constitutional Court. GRECO, a body established under the aegis of the Council of Europe, could not disregard the concerns already expressed by other bodies of the Council of Europe, in particular, the Parliamentary Assembly, the Venice Commission and the Consultative Council of European Judges concerning the general appointment process of judges and prosecutors, as effected in Serbia, and the way in which this process may affect the public's trust in the judicial system.⁴²

In its replies to the European Commission Questionnaire, the Ministry of Justice stated that it prepared amendments to the Law on the High Judicial Council, Law on the State Prosecutorial Council, Law on Judges and Law on Public Prosecution Offices in cooperation with the European Commission and Venice Commission to address these shortcomings and that these amendments were adopted by the National Assembly on 29 December 2010. These amendments enable: the review of the general election procedure, i.e. the review of decisions taken on the non-election, election of first-time candidates and on re-election by the High Judicial Council and State Prosecutorial Council in their permanent compositions; the election of the members of the two bodies from the ranks of judges, public prosecutors and deputy public prosecutors in accordance with highest Venice Commission standards and criteria and best EU practices; the re-submission of the judicial re-election and re-election review criteria and standards to the Venice Commission and EC experts for consideration with the aim of improving the procedure, application of standards and criteria and the transparency of the procedure; and, the review of the general election decisions by the elected members of the HJC and SPC by the application of the improved standards and criteria. With the aim of improving coordination, the designation of the competent institutions and defining the timeframe, the Ministry of Justice, the HJC and the SPC have designed the HJC and SPC Action Plans, which clearly specify and elaborate the course and dynamics of the process to be undertaken to eliminate the deficiencies of the judicial reform. The planned steps will be supervised both by the competent authorities and EC and CoE representatives, while the Ministry of Justice is charged with co-

42. *Joint First and Second Evaluation Rounds – Addendum to the Compliance Report on the Republic of Serbia*, RC-I/II (2008) 1E Addendum, GRECO, Strasbourg, 11 June 2010, pp. 9 and 10.

ordinating the activities and timely reporting on the fulfilment of the planned obligations.⁴³

The work of the courts was reorganised by the adoption of a set of judiciary laws, but, there were no available data on whether the new network resulted in speedier court proceedings and relieved the judges and prosecutors of the unnecessary administrative duties (**Recommendation 36**). In its Serbia 2010 Progress Report, the European Commission states that the large backlog of pending cases remains a matter of concern, in particular as the recent reforms impacted negatively on the overall efficiency of the judicial system. The reduction of the number of judges and prosecutors was not based on a proper needs assessment. Under the new court system, courts which were closed continue to function as court units, in which civil cases are heard. This means that judges and judicial staff have to travel between courts and court units requiring significant resources and creating security concerns. A uniform system for organising the work of the court seats and the new court units has not been established. Case registration and the IT system connecting all courts and court units and allowing access to files are not fully operational.⁴⁴

The following Strategy recommendations regarding the judicial system and police have been fulfilled:

- The Law on the Criminal Liability of Legal Persons has been enacted (**Recommendation 23**).
- Departments prosecuting corruption and corruption-related economic crimes have been established within the Republican Public Prosecution Office (RPPO). These departments prosecute grave crimes of corruption in accordance with the Law on Organisation and Jurisdiction of State Bodies in Suppressing Organised Crime, Corruption and Other Particularly Grave Crimes and pursuant to the RPPO work plan and programme (**Recommendation 26**).
- The disciplinary liability of judges and prosecutors has been regulated by law; the law governs disciplinary offences and sanctions, the authorities charged with conducting disciplinary proceedings (HJC and SPC) and the disciplinary proceedings (**Recommendation 27**).
- The judiciary laws lay down the preventive measures and oversight mechanisms for preventing conflicts of interest of judges

43. *Answers to the European Commission's Questionnaire*, Chapter 23, Judiciary and Fundamental Rights, Judicial Reform, Reply to Question No. 35, Government of the Republic of Serbia, Belgrade, pp. 128–129, available at <http://www.seio.gov.rs/code/navigate.asp?Id=20>

44. *Serbia 2010 Progress Report*, Brussels SEC(2010) 1330, European Commission, Brussels, November 2010, p.8, available at http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf

and prosecutors. The definition of a public official in the Law on the Anticorruption Agency includes judicial officials, whereby they, too, are subject to the legal obligations and forms of oversight (**Recommendation 28**).

- Partisan political activity of judges and prosecutors has been prohibited, an oversight system has been established and the HJC and SPC are charged with conducting disciplinary proceedings and sanctioning disciplinary offences (**Recommendation 29**).
- The specialist advanced training of judges and prosecutors is regulated by the Law on the Judicial Academy and other laws and the initial and continual training of judges has been introduced (**Recommendation 34**), while continual professional training of public prosecutors has been incorporated in the RPPO's work programme (**Recommendation 43**).
- Pursuant to the Law on the Public Prosecution Offices, a public prosecutor shall be appointed from among public prosecutors and deputy public prosecutors, i.e. among candidates fulfilling the requirements, to a six-year term of office and may be reappointed. In the event a prosecutor's tenure is terminated at his/her own request or in the event s/he is not reappointed, s/he must be appointed deputy public prosecutor with permanent tenure, with the exception of deputy public prosecutors appointed for the first time (**Recommendation 36**).
- The Law on the Public Prosecution Offices and the Law on the State Prosecutorial Council stipulate the appraisal of the performance of public prosecutors and deputy public prosecutors; a Rulebook on the Criteria and Standards for Evaluating the Competence, Qualifications and Worthiness of the Candidates for Public Prosecutorial Office was adopted pursuant to the two laws (**Recommendation 37**).
- The establishment of the Mediation Centre in 2006 has provided additional opportunities for out of court settlement of disputes. According to the Centre, 81% of the 2,468 mediation proceedings conducted in the 2006–2009 period were successful⁴⁵ (**Recommendation 39**).
- The Court Rules of Procedure adopted in 2009 oblige courts to publish information on proceedings in which a final decision has been rendered in instances provided for by the law or specific regulations and in instances of particular public interest. (**Recommendation 40**).
- The Law on the Public Prosecution Offices introduces mandatory ex post facto checks of prosecutorial decisions not to initiate or to discontinue prosecution of corruption-related crimes

45. *Mediation in Serbia 2006–2009, Results of Mediation*, Mediation Centre, Belgrade, 2009 available in Serbian at <http://www.medijacija.rs/img/rezultati2009.pdf>

or dilatoriness in criminal proceedings. Decisions to dismiss criminal reports or abandon prosecution after investigation or at the main hearing are taken by more than one prosecutor, and must involve the public prosecutor, his/her first deputy or head of department. A department to monitor and implement the recommendation has been established and instructions on the obligation to notify of submitted criminal reports that may involve corruption and a list of crimes to be monitored have been composed (Recommendation 44).

- According to the RPPO report, elimination of political influence on pre-investigation proceedings has been made possible by the ex post facto checks of prosecutorial decisions. Notwithstanding its efforts, the Agency, however, was unable to obtain data whether a system to review reports of such pressures has been introduced. On the other hand, the multidisciplinary work of the public prosecution offices and other institutions has been established with the aim of implementing the Law on the Seizure of Proceeds of Crime (Recommendation 45).
- Amendments to the Criminal Procedure Code established a legal framework for improving the efficiency of investigations; the powers of the public prosecutor in the pre-investigation proceedings have been expanded by provisions on the criminal prosecution of organised crime, corruption and other extremely grave criminal offences. The law provides for the application of special techniques with the aim of uncovering corruption-related crimes; undercover investigators may be used if there is suspicion that a corruption-related crime is being committed by an organised crime group (Recommendation 47). The efficiency of criminal proceedings has also been boosted by the amendments to the CPC related to the failure to appear at the main hearing and delays in rendering judgments (Recommendation 51).
- Witness protection is governed by the Law on the Programme of Protection of Participants in Criminal Proceedings, but the protection of persons reporting corruption, although regulated by a number of laws, has not been fully ensured (Recommendation 48).
- The Law on the Seizure of Proceeds from Crime regulates the seizure of proceeds from corruption, management of such proceeds and lays the burden of proof on the defendant (Recommendations 52 and 53). The Seized Property Management Directorate has been established as a separate organisation charged with managing such property and staff training is continuous (Recommendation 54).
- The legal grounds for limiting activities by persons found irrevocably guilty of corruption-related crimes have been established (Recommendation 56).

- A series of by-laws in accordance with the Law on Police have been enacted and efforts are continuously invested in complementing the police staff working on jobs aimed at combating corruption in accordance with the staff organisational structure enactment (**Recommendations 60 and 61**).
- Organisation of seminars pursuant to the Advanced Professional Training Programme provides for advanced specialised training of police staff charged with fighting corruption (**Recommendation 62**).
- A legal framework has been established to eliminate political criteria in the recruitment of police staff in favour of merit-based recruitment. Partisan political activity of police staff has been prohibited (**Recommendations 64 and 65**).
- Internal and external oversight of police work is provided by the Internal Audit Sector and the procedure is in place for reviewing complaints against police officers by citizens who believe that their rights or liberties were violated by unlawful or improper police conduct (**Recommendation 66**).

It needs to be noted that the following tasks in the Strategy regarding the judicial system and police have not been fulfilled:

- Under the Law on the Anticorruption Agency, an official convicted of the crime of entering false data about his/her assets in his/her financial statement to conceal the value of his/her assets or failing to submit a financial statement shall also be sanctioned by an additional measure – prohibition from performing a public office over a specific period of time. However, the general restriction of the right to be elected applied to all corruption-related crimes still has not been introduced, therefore there are no legal obstacles to the appointment of a person found guilty of abuse of post or bribery to a number of principal public offices⁴⁶ (**Recommendation 21**).
- Although the law provides for a procedure for monitoring complaints about the work of judges and prosecutors, it does not envisage the keeping of specific records on monitoring corruption-related complaints (**Recommendation 32**).
- An Ethical Code has been adopted for judges, but not for prosecutors. The Court of Honour has not been established either (**Recommendation 33**).
- Regulations regarding the Republican Public Prosecution Office have not been analysed (**Recommendation 57**).

⁴⁶ *Analysis of the Enforcement of the Action Plan for the Implementation of the National Anticorruption Strategy*, Transparency Serbia, Belgrade, 2010.

- The Law on Attorneys comprising provisions on the professional code of conduct of attorneys is in the adoption procedure (**Recommendation 58**).
- Independent specialised institutions, providing court expertise in criminal proceedings, have not been established (**Recommendation 59**).

The Agency was unable to obtain any information on whether the adequacy of remuneration of judges and prosecutors (**Recommendation 30**) and of police staff (**Recommendation 63**) has been analysed, whether the performance of the police, prosecutors and judges is periodically appraised and whether reports with all the elements required by the Action Plan are produced (**Recommendation 35**).

In addition to recommending that activities be undertaken to ensure the fulfilment of the outstanding Strategy tasks and the consistent implementation of new obligations and regulations improving the anti-corruption legislation, the Anticorruption Agency is of the view that the following would be advisable in the field of the judicial system and police:

- Continue with efforts to ensure the elimination of the shortcomings in the judicial reform process and complete the process in accordance with international standards and in consultation with the expert public.
- Take the necessary measures to improve the efficiency of the judiciary, introduce wherever and to the greatest extent possible the use of information technology to relieve the judicial authorities of the unnecessary administrative duties and continue working on strengthening the alternative dispute resolution procedures.
- Introduce multi-disciplinary work in all major investigations of corruption-related crimes and an efficient system for reviewing reports of pressures.
- Ensure greater police efficiency in accordance with international standards; precisely define the internal audit procedures and other anti-corruption norms.

3.3 SYSTEM OF STATE ADMINISTRATION, TERRITORIAL AUTONOMY, LOCAL SELF-GOVERNMENT AND PUBLIC SERVICES

The **system of state administration, territorial autonomy, local self-government and public services** is the third large system the Strategy focuses on. Improving regulations and taking other measures to eliminate any opportunity for arbitrariness in deci-

sion-making, specifying the scope of rights, improving the transparency of the procedures and introducing a clear and effective principle of the personal accountability of the administrative and public service staff for lawful, efficient and quality performance are instrumental for fighting corruption within this system. This section of the Strategy comprises 23 recommendations.

According to TNS Medium Gallup's public opinion survey on corruption conducted in March 2010, 59% of the respondents perceive municipal staff as corrupt. They do, however, have some understanding for such corruption – 42% believe that bribery is the only way in which the staff can make ends meet given how low their salaries are. On the other hand, 76% of the respondents think that stricter penalties would be the most efficient way to punish corruption in this sector. Over half of them (55%) think that bribery is sometimes the only way to cut through the excessive red tape, while 62% think that bribery helps sidestep unfair regulations. Inadequate oversight of the public services is perceived by 49% of the respondents as the factor hindering the suppression of corruption the most. Around half of the citizens (52%) think that greater state oversight of the public administration would prove extremely efficient in preventing corruption; 37% think that this goal would be achieved best by enhancing the transparency of administrative decision-making, while 25% think that this goal would best be achieved by increasing the salaries of the public sector staff.⁴⁷

The Anticorruption Agency concluded that out of the 23 recommendations in this section of the Strategy:

- 2 recommendations have been entirely fulfilled
- 18 recommendations have been partly fulfilled
- 2 recommendations have not been fulfilled
- No data were available with respect to the fulfilment of one recommendation

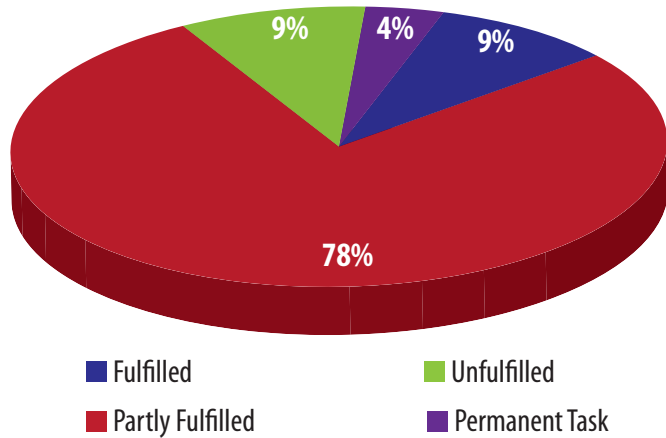
Twenty-three recommendations were concretised through 68 activities in the Action Plan. Of them:

- 4 activities have been fully implemented
- 40 activities have been partly implemented
- 10 activities have not been implemented
- 6 activities defined as permanent tasks have been continuously implemented

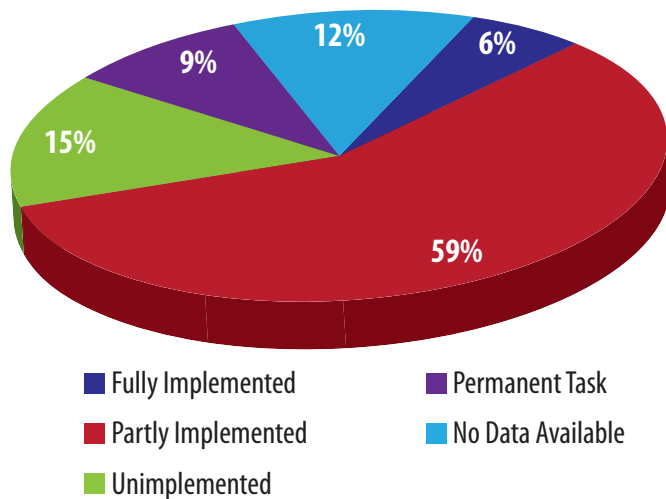
⁴⁷ *Serbia Corruption Benchmarking Survey – 2nd Round*, TNS Medium Gallup, Belgrade, March 2010, available in Serbian at <http://www.undp.org.rs/index.cfm?event=public.publicationsDetails&revid=D48A72BE-0E94-3A47-1F191045F961C13C>

- No data on the implementation of eight activities were available

State Administration, Territorial Autonomy, Local Self-Government and Public Services System
Fulfillment of Strategy Recommendations



State Administration, Territorial Autonomy, Local Self-Government and Public Services System
Implementation of Action Plan Activities



Over three-fourths (78%) of the recommendations in this section of the Strategy have been partly fulfilled, while only one-tenth of them (9%) have been entirely fulfilled. The status of the activities in the Action Plan is similar: two-thirds have been partly and only 6% fully implemented.

General Overview

The State Administration Reform Strategy and accompanying Action Plan for the 2004–2008 Period have been implemented. The implementation of the 2009–2012 Strategy and Action Plan is under way (**Recommendation 69**).

According to the European Commission Serbia 2010 Progress Report, some progress was made in public administration reform. The law on administrative disputes, which regulates judicial scrutiny of administrative acts and the work of the Administrative Court, was adopted in December 2009. As part of an arrangement with the International Monetary Fund (IMF) to reduce the fiscal deficit, a law was adopted on reducing the number of employees in the administration by 10%. Changes to the law on civil servants from December 2009 introduced quarterly appraisal of the work of civil servants instead of an annual appraisal. The Law on Ratification of the Agreement Establishing the Regional School of Public Administration was adopted in June 2010. However, the legislative framework remains incomplete. The law on administrative procedures has not been adopted yet. The Law on Administrative Disputes is not fully in line with European standards. Further efforts are needed to introduce a merit-based career system and effective human resources management. Overall, the capacity of the public administration is good but reform in this area is advancing at a slow and uneven pace.⁴⁸

The state administration reform includes measures geared at improving the performance of local self-government administrations, which have become more accessible to the beneficiaries. Local self-governments are becoming active participants and designing their own development plans, but are on the other hand facing difficulties, primarily due to the lack of qualified staff and their own property, which is why they are forced to seek the approval of the Republic of Serbia Property Directorate for any use of property in their territory for commercial purposes. This situation considerably hinders the efficient work of local self-governments in this area.⁴⁹

The Administrative Court began work on 1 January 2010 pursuant to the Law on the Organisation of Courts. According to the Administrative Court Report on its work in the first half of 2010, the Administrative Court in this period received a total of 7,795 cases, which, together with the 18,088 cases on all matters it was reviewing at the beginning of the year, amounted to 25,883 cases. In the reporting period, the Court completed 5,295 cases, i.e. 67.93% of the incoming cases. The analysis of the work of the Administrative Court in the report ends with the conclusion that it needs to improve its performance, primarily in view of the fact that the Administrative Court is staffed with a sufficient number

48. *Serbia 2010 Progress Report*, Brussels SEC(2010) 1330, European Commission, Brussels, November 2010, p. 8, available at http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf

49. *Research on the Implementation of the Strategy and Action Plan for the Implementation of the National Anticorruption Strategy*, Social Research Bureau, Belgrade, January 2011.

of judges and experienced judges, who had formerly worked in the Supreme Court of Serbia Administrative Department.⁵⁰

As of 2005, a number of legal provisions were adopted or amended governing the work of the Government, state administration, public agencies, territorial autonomy, local self-government and its funding, civil servants and their salaries, the State Audit Institution, Protector of Citizens, Anticorruption Agency, e-government and trade, free access to information of public importance and personal data protection, classified information, public registers, political parties, a single voter register, associations, community policing, public services, the general administrative procedure and administrative disputes (**Recommendation 71**).

Pursuant to the Law on Free Access to Information of Public Importance, every state authority shall ensure that its staff is trained in fulfilling its obligations under the Law, while the Commissioner is obliged to take all the necessary measures to ensure that such training is conducted (**Recommendation 72**). The Commissioner and his office have conducted a series of activities with respect to the implementation of training on free access to information in the preceding period. At the Commissioner's suggestion, the Ministry of State Administration and Local Self-Government incorporated free access to information in the civil service exam curriculum which staff of the state administration and other public authorities has to take. At the initiative of the Commissioner, the Government Human Resources Management Service incorporated free access to information in its annual general professional advanced training programmes for state administration and Government service staff.

As far as the consistent oversight of the application of the Law on Free Access to Information is concerned (**Recommendation 72**), it needs to be highlighted that the full implementation of the Law on Free Access to Information was also hindered by the lack of full misdemeanour liability for violations of the right to free access to information or failure to fulfil other obligations arising from the law. According to the data obtained from the Commissioner, the Ministry of Culture, which was in charge of monitoring the implementation of the Law on Free Access to Information until 2009, acted only on around 10% of cases forwarded by the Commissioner's office. The amendments to the Law adopted in December 2009 transferred the oversight to the Ministry of State Administration and Local Self-Government – the Administrative Inspection – and introduced the misde-

50. *Report on the Performance of the Administrative Court in the 1 January – 30 June 2010 Period*, High Judicial Council, Belgrade, 2010 available in Serbian at <http://www.vss.sud.rs/doc/izvestaji/UPRAVNI%20SUD.pdf>

meanour liability of the head of the authority rather than the access to information officers. The Administrative Inspection in 2010 filed around 130 requests for misdemeanour proceedings against government authorities for violating the Law on Free Access to Information.⁵¹

The recommendation on improving cooperation in combating corruption of the administrative authorities and public services (**Recommendation 73**) has been fulfilled in the part in which the Agency established cooperation with the Strategy and Action Plan implementing entities. Eighty three of them designated contact persons for cooperation and exchange of information. The Government in December 2008 established a Commission for coordination and improvement of cooperation between the judicial and police authorities on issues of public interest, particularly the fight against corruption, organised crime, terrorism, drug and human trafficking, confiscation of proceeds, money laundering and other related issues.

The implementation of the State Administration Reform Strategy and the accompanying Action Plan comprises efforts aimed at ensuring the consistent application of principles governing the work of the state administration – depoliticisation, professionalisation, rationalisation, modernisation and open Government – and the revision of the staff organisational structure in all state administration authorities in keeping with these principles (**Recommendation 75**).

The Law on Civil Servants establishes specific mechanisms ensuring the impartial, objective and non-political staff recruitment and promotion (**Recommendation 76**). The Agency, however, was unable to obtain any data on the consistent application of the prescribed criteria. The publication of staff appointments and of senior positions advertised internally and job requirements are not regulated by law yet.

As regards the adoption of integrity plans by administration authorities and public services (**Recommendation 80**), it needs to be underlined that the Agency adopted the Integrity Plan Design and Implementation Guidelines in October 2010. At the time this report was completed, the Agency was organising seminars and meetings with the authorities that are to adopt integrity plans to inform them of the concept, goal and essence of adopting integrity plans and the relevant legal framework. The Agency will monitor the implementation of the integrity plans, the adoption of which is expected in 2012.

51. *Answers to the European Commission's Questionnaire*, Chapter 23, Judiciary and Fundamental Rights, National Legislative Framework, Reply to Question 56, Government of the Republic of Serbia, Belgrade, 2010, p. 179, available in Serbian at http://www.seio.gov.rs/upload/documents/upitnik/odgovori_na-upitnik_ek.zip

The Code of Conduct of Civil Servants establishing integrity and conduct standards has been adopted. Under the Code, unless specified otherwise, a violation of the Code shall constitute a minor breach of duty and such violations need not be published. A Court of Honour, to be charged with reviewing complaints and conducting disciplinary proceedings under the Code, has not been established yet (**Recommendation 81**).

A number of laws govern the prohibition of conflict of interest, engagement in political and public activities, receipt of gifts and protection of official information.

The Law on the Anticorruption Agency poses a two-year restriction on former senior officials' employment in or business cooperation with a legal person, entrepreneur or international organisation engaged in activities related to the office s/he held without the Agency's consent. The Agency shall decide on the former official's request for consent within 15 days. This prohibition does not apply to a former senior official elected to office at direct elections. There is no general regime prohibiting or limiting transfer of public sector staff to the private sector, but such restrictions may be imposed by employment contracts (e.g. where public company staff are at issue) or by by-laws (**Recommendation 83**).

One of the goals of the Strategy of Regulatory Reform in the Republic of Serbia in the 2008–2011 Period comprises expediting and simplifying administrative procedures and the introduction of the one stop shop system. Most state authorities have posted on their websites information on permits and licences and the documents required to obtain them (**Recommendation 86**).

The Classified Information Law adopted in 2009 lays down the information classification criteria and the procedures for the safekeeping of classified information (**Recommendation 87**). Several provisions in the Law have, however, caused concern among experts, particularly the ones temporarily restricting the Commissioner's and Protector of Citizens' right of access to specific classified documents.⁵²

According to the data available to the Agency, three ministries – the Ministry of Internal Affairs, the Ministry of Youth and Sports and the Ministry of Health – have completed their sectoral action plans to date. The Law on the Anticorruption Agency imposes the adoption of sectoral action plans as a legal obligation (**Recommendation 90**).

The advanced professional training of civil servants in the state administration, Government and the administrative districts is conducted in accordance with the annual general advanced

⁵². *Analysis of the Enforcement of the Action Plan for the Implementation of the National Anticorruption Strategy*, Transparency Serbia, Belgrade, 2010.

professional training programme adopted by the Government. The programme is designed and the training is organised by its Human Resources Management Service. The programme, however, does not comprise advanced professional training of civil servants not working in the above agencies wherefore all other state authorities, organisations and public services are under the obligation to organise advanced training of their staff (**Recommendation 91**).

It needs to be noted that the following Strategy tasks in the system of the state administration, territorial autonomy, local self-government and public services have not been fulfilled:

- The review of the existence of discretionary powers of the administration and public service staff is conducted partially rather than systemically (**Recommendation 74**).
- The establishment of the interoperability of the IT systems of the Tax Administration, Public Payments Administration, Customs Administration, the Republic Pension and Disability Insurance Fund, and the Ministry of Internal Affairs as part of a single information system of state authorities (**Recommendation 88**) – the data available to the Agency lead to the conclusion that the competent services can exchange the information they have among each other but that this cannot be qualified as the existence of a single information system.
- The introduction of the principle of rotation of civil servants and public services staff on jobs susceptible to corruption (**Recommendation 89**) – regulations establishing the principle of rotation of civil servants have not been introduced since the Strategy and Action Plan were adopted. The current situation needs to be analysed because, in many cases, only internal regulations, rather than laws, need to be amended to introduce such rotation. Some state authorities apply staff rotation to the extent permitted by their general enactments but do not have rotation plans.
- Not all state authorities have established mechanisms for reporting unlawful and unethical work of civil and public servants (**Recommendation 84**). Those that have have opened complaints hotlines and allow the public to submit complaints in writing but have not introduced the prescribed irregularity report forms.

The Anticorruption Agency was unable to obtain any data on the basis of which it would be able to assess whether the following Strategy and Action Plan tasks have been fulfilled:

- Provision of adequate remuneration and working conditions for administration and public service staff (**Recommendation 77**).

- Establishment of an efficient oversight and accountability system for administration and public service staff (**Recommendation 78**) – although the Law on Civil Servants introduced a staff oversight and accountability system, the Agency was unable to obtain data on the efficiency of such oversight, on the existence of plans of regular and ad hoc checks, or on the consistent sanctioning of employees violating their work duties.
- Protection of administration and public service employees who refuse to carry out the illegal orders of their superiors (**Recommendation 79**) – although the Law on Civil Servants comprises provisions regarding the execution and non-execution of illegal orders of superiors, the Agency was unable to obtain any data on whether administrative and public service authorities have a contact point to which complaints may be submitted, whether the employees have been notified of the right to refuse to carry out illegal orders and whether the authorities have introduced reporting and complaint forms and procedures.
- Consistent oversight of the enforcement of administrative tax payment regulations, development of annual oversight plans and consistent enforcement of sanctions against those violating the regulations (**Recommendation 85**).

The Anticorruption Agency is of the view that the following would be advisable in the system of state administration, territorial autonomy, local self-government and public services:

- Complete the legislative framework by the adoption of a new law on administrative procedure and the full alignment of the Law on Administrative Disputes with the European standards⁵³ and continue efforts on reforming the state administration at an even pace.
- Ensure the development of sectoral anti-corruption action plans pursuant to the National Assembly Decision on the Adoption of the Strategy and the Law on the Anticorruption Agency.
- Introduce the principle of rotation of administration and public service staff on jobs susceptible to corruption and establish mechanisms for reporting unlawful and unethical work of state and public service staff.
- Invest further efforts to introduce a merit-based promotion system, effective management of human resources and raise the state administration's capacities in specific sectors and relevant coordination.

53. *Serbia 2010 Progress Report*, Brussels SEC(2010) 1330, European Commission, Brussels, November 2010, p.8, available at http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf

- Regulate by law the procedure of publishing staff appointments and senior positions advertised internally and job requirements.
- Establish a Court of Honour which would be charged with reviewing complaints and conducting disciplinary proceedings pursuant to the Code of Conduct of Civil Servants.
- Ensure the improved performance of the Administrative Court.
- Ensure the consistent monitoring of the enforcement of the Law on Free Access to Information of Public Importance.
- Enable improved cooperation between the state authorities and the Anticorruption Agency.

3.4 PUBLIC FINANCE SYSTEM

The fourth field the Strategy focuses on is the **public finance system with the** 32 recommendations devoted to it. The Strategy's authors were of the view that public finance planning, collection, management, transparency and monitoring are exposed to major risks of corruption and that reforms in the areas of the customs, tax and budget systems are extremely important.

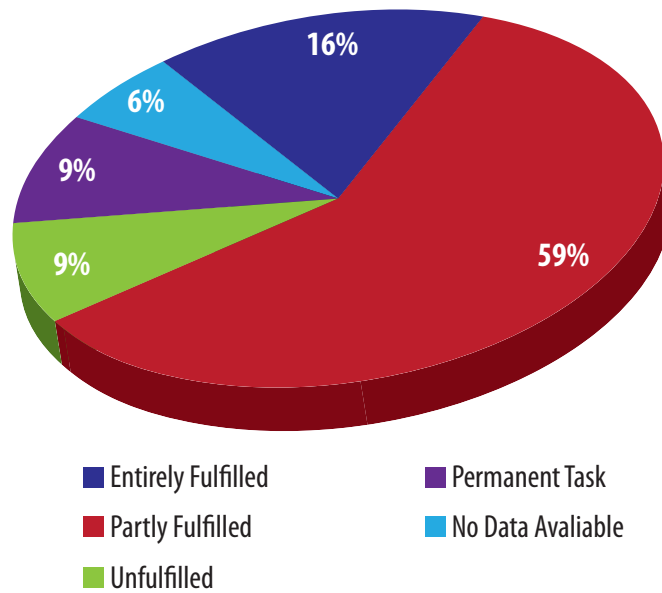
The Anticorruption Agency concluded that out of the 32 recommendations in the Strategy:

- 5 recommendations have been entirely fulfilled
- 19 recommendations have been partly fulfilled
- 3 recommendations have not been fulfilled
- 3 recommendations defined as permanent tasks have been continuously fulfilled
- No data were available on the fulfilment of two recommendations

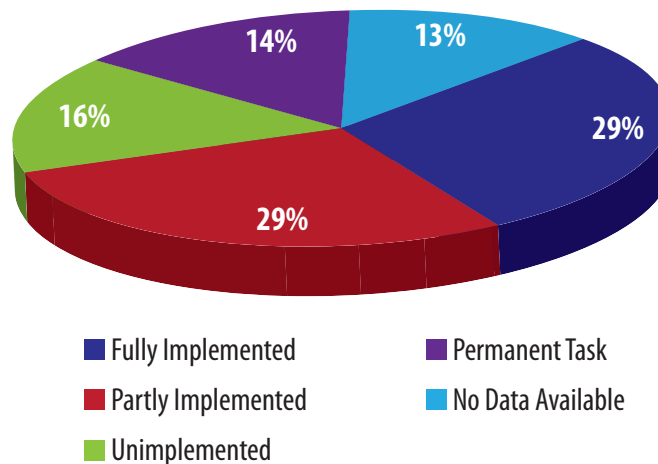
The 32 recommendations were concretised through 70 activities in the Action Plan, of which:

- 20 activities have been fully implemented
- 20 activities have been partly implemented
- 11 activities have not been implemented
- 10 activities defined as permanent tasks have been continuously implemented
- No data were available on the implementation of 9 activities

**Public Finance System
Fulfillment of Strategy Recommendation**



**Public Finance System
Implementation of the Action Plan Activities**



Like in all of the above fields the Strategy focuses on, the largest share of the recommendations regarding the public finance system has been partly fulfilled (60%). The greatest number of activities in the Action Plan has been fully or partly implemented (28% and 29% respectively).

General Overview

The integrated nature of any budgeting system – from policy and planning, through expressing these policies and plans into expenditure allocations to deliver them and then controlling and recording expenditure and producing accounts to be independently audited and scrutinised – means that the weakness in one element detracts from stronger aspects

of other elements in the same way a chain is as strong as its weakest link.⁵⁴

According to the November 2010 Public Expenditure and Financial Accountability (PEFA) Assessment and Public Financial Management Performance Report, the relationship between the expenditure outturn and budget that had been established was reasonable with expenditure outturn below that budgeted in the 2007–2009 period. Mandatory Social Security Organisations' arrears in 2009 became the dominant contributor and these have shown an increasing trend from 2007. The expenditure of these organisations is responsive to economic conditions such as social benefits, the demand for which increases as economic conditions worsen and are difficult to plan and forecast. The Law on the Budget System defines procedures for the adoption of the budget and for its changes in the course of the year. The NARS has 1.5 months to review the budget, but in effect had only less than 30 days to complete this task in the recent years. Clear rules exist concerning changes to the budget by the executive. There are strict guidelines with respect to the amount and nature of changes and they are observed, but do allow for considerable administrative reallocations.

The PEFA Assessment points to weaknesses in policy and planning and consequently in budget formulation, which is focused presently on aggregate expenditures rather than distribution reflecting the beneficiaries' policies and plans. Strengthening control by improving accounting systems, internal and external auditing is important but unless expenditure is fully focused on service delivery, its effectiveness and efficiency are limited. The pilot project introducing programme budgeting in five ministries has not been as effective as had been expected and requires not only greater involvement of the Ministry of Finance in ensuring that the budget is reflective of policy and plans but also the Prime Minister's Office and Cabinet in ensuring that there are integrated policies and plans to convert to expenditures through the budget. Such a demanding reform can only be implemented over a number of years, but the foundations have been set by the budget law, the defined budget calendar, medium term expenditure assessment and the set ceilings.

The tax administration in Serbia is generally assessed as an authority adopting and implementing the features of a modern tax administration relying on self-assessment and auditing and using computers and appropriate software as effective instruments for collecting revenue used to fund public expenditure.

54. *Public Expenditure and Financial Accountability Assessment, Public Financial Management Performance Report*, Ministry of Finance of the Republic of Serbia, Belgrade, November 2010 available at <http://www.mfin.gov.rs/UserFiles/File/dokumenti/PEFA%20Serbia%202010%20ENG.pdf>

Public Internal Financial Control (PIFC) in the public sector is in place with the goal of moving to a modern system aligning the control and audit of public resources with best international practices. Sixty-nine annual reports on financial management and control were produced for 2009. These reports show that 23 beneficiaries of public funds appointed financial management and control managers. There are also 32 Internal Audit units staffed with 129 auditors. Internal auditing is conducted in line with international internal auditing standards and regulations governing internal audit in the Republic of Serbia and covers some 76% of total expenditure.

The auditing procedures are laid down in the Law on the State Audit Institution, which does not define a deadline for the review of the SAI reports by the legislature. In 2008, the Finance Committee did not review the final statement in conjunction with the auditor's report in the manner prescribed by the Law. The Assembly reviewed the report irrespective of the modality of control within six months from the date of its submission. Although the legislative authorities did not fully exercise their powers in terms of scrutiny, perhaps because it was the first audit report that it submitted, the SAI itself acted on the findings in its 2008 Report and in February 2010 filed misdemeanour reports against 19 responsible persons (including 11 ministers) for violating the 2008 Law on the Budget System, the public procurement regulations and the 2008 Budget Law.

Reforms in the field of public finance management are extremely significant and call for strong leadership and coordination by the central government and significant involvement of staff in all ministries (which will require new skills and training) and their commitment to implementing the reforms.

Solid progress in the quality of PFM systems and processes has been achieved between 2007 and 2010, as measured by the PEFA methodology. The biggest improvement in overall scoring was recorded in the quality and timeliness of in-year budget reports and annual financial statements. Furthermore, the establishment of the SAI and financial management control has raised scores in those areas but further improvements are necessary.⁵⁵

The survey of the transparency and quality of budget information in 2010 conducted by the Washington-based International Budget Partnership and its partner organisations showed that Serbia scored 54% of the maximum 100% on the Open Budget Index, ranking it among average states providing some information about the budget. The absence of more complete information makes it challenging for citizens to be fully aware of the issues related to the budget and hold the government account-

⁵⁵. *Ibid.*

able for its management of the public's money.⁵⁶ Serbia, however, ranked better in 2010 than in 2008 (when it scored 45%).⁵⁷

The following Strategy recommendations regarding the public finance system have been fulfilled:

- The Rulebook on the Consolidated Treasury Account Sub-Accounts Plan and the Order on the List of Direct and Indirect Budget Beneficiaries, i.e. the budgets of the local authorities, beneficiaries of funds of mandatory social insurance organisations and other beneficiaries of public funds included in the consolidated Treasury account system were adopted in 2010. The Order is enacted on an annual basis. The Treasury Directorate conducts the automatic control of the use of funds by the budget beneficiaries from the aspect of liquidity. The existing information system for the payment operations of budget beneficiaries has been in use since 1 January 2003 (**Recommendation 93**).
- The integration of accounting and budget classifications and charts of accounts has been achieved by the adoption of the Rulebook on the Standard Classification Framework and Chart of Accounts for the Budget System, pursuant to the Law on the Budget System and the Law on the Government (**Recommendation 94**).
- Pursuant to the Public Debt Law, the Ministry of Finance manages public debt and prepares the public debt management strategy. The Public Debt Directorate has been established within the Ministry and the central planning of borrowing and the technical and financial scrutiny of the spending plans have been regulated. The Ministry of Finance regulates the form and content of the scrutiny reports and keeps public debt records (**Recommendation 96**).
- The Law on the Budget System regulates the Treasury system and the provisional Treasury system has been transformed into a permanent Treasury system for budget beneficiaries (**Recommendation 97**). Furthermore, a modern IT system has been introduced in the Treasury for the republican budget beneficiaries (**Recommendation 98**). The regulations on the Treasury's operations have been partly improved by the adoption of the Law on the Budget System and the Decree on the Application of International Public Sector Accounting Standards (**Recommendation 100**).

56. *Serbia Ranks 36th in Open Budget Survey*, B92, Belgrade, 19 October 2010 available in Serbian at http://www.b92.net/biz/vesti/srbija.php?yyyy=2010&mm=10&dd=19&nav_id=466287

57. *Open Budget Survey, Country Info – Serbia*, International Budget Partnership, Washington D.C., 2010 available at <http://www.internationalbudget.org/countryData/?fa=countrydata&ct=Serbia>

- Greater transparency in budget spending is reflected in the submission of reports and data which are published once a month on the Ministry of Finance website and in the Public Finance Bulletin ([Recommendation 99](#)).
- After numerous problems (delays in nominating and in the subsequent election of the State Audit Institution (SAI) Council members by the National Assembly, lack of office space, inability to recruit enough staff), the SAI began operating pursuant to the Law on the State Audit Institution. The SAI still has difficulties in finding adequate office space, obtaining the necessary equipment and in providing training for its staff ([Recommendation 101](#)).
- The Law on the National Assembly introduced the oversight of budget outturn by the National Assembly. The National Assembly Rules of Procedure lay down the procedure for supervising the work of the SAI ([Recommendation 102](#)).
- The legal obligation to introduce internal financial control and the financial management and control system has been imposed on all budget beneficiaries and mandatory social insurance organisations. Oversight of the financial management and control system and measures for maintaining the system have been introduced, but the process of establishing internal auditing is slow ([Recommendation 105](#)).
- All budget planning and execution data fall within information which is in principle accessible under the Law on Free Access to Information of Public Importance. The Law on the Budget System lays down the obligation of ensuring access to specific budget planning and execution documents. However, just a few documents, such as the draft laws on the budget and final statements are published in practice ([Recommendation 107](#)).
- The Law on the Financing of Local Self-Governments transfers local tax management to the local level. Local tax administrations/directorates have been established in the municipalities and cities ([Recommendation 110](#)).
- The project of automating the tax procedure by introducing an IT system with a single database will be completed by mid-2011. The Tax Administration is being modernised and is to transform from a functional to a client organisation as envisaged by the Tax Administration strategy until 2014 ([Recommendations 114 and 115](#)).
- The customs methodology is continuously improved. The 2010 Law on Customs provides a better legal framework for the work of customs offices ([Recommendation 117](#)). The Customs' IT system supports all the main customs procedures (transit and other customs-approved treatment of goods) in the Republic of Serbia and various other functions required for the work of the customs administration. The Serbian Customs Adminis-

tration applies bilateral agreements on mutual assistance on customs matters, which constitute legal grounds for exchange of information with foreign customs administrations (Recommendations 118 and 119).

The Law on Public Procurement and the relevant by-laws have been enacted and projects geared at improving and reforming the public procurement procedures are under way. They aim at enhancing the transparency of public procurement procedures and the general knowledge of the procedures and have introduced the position of public procurement officers (a full-time employee trained in and certified for public procurement). The Public Procurement Directorate has been established to provide advice and assistance to clients and bidders. The Law regulates the status of the Commission for the Protection of Rights, the members and chairperson of which are nominated by the Government and elected by the National Assembly (Recommendations 120, 121, 122 and 123).

According to the above-mentioned PEFA Assessment and Public Finance Management Report, the Law on Public Procurement governs public procurement in accordance with international standards and practices, sets clear rules on the implementation of public procurement procedures and specifies in which cases negotiated procedures are allowed. The share of procurement throughby resort to open competition in 2009 exceeded 75% for the first time. The Report, however, notes that the efficiency of procurement planning has not significantly improved due to the lack of capacity in the Public Procurement Directorate (although its officers have been trained to a higher standard) and budget beneficiaries. The procurement complaint submission and review procedure is designed poorly and does not ensure the prompt review of complaints.⁵⁸

The general conclusion of the monitoring of the public procurement system Transparency Serbia conducted in the April – June 2010 period is that the public procurement system proved to be moderately successful with respect to the enforcement of the main provisions of the Law on Public Procurement. There is a lack of will to do more than the Law strictly stipulates and to achieve more fully the principles it promotes with the view to boosting transparency, budget planning and justifying the need for public procurement. Among factors additionally hindering the realisation of principles and goals of public procurement, the report lists the excessively strict regulations on participation in public procurement procedures, lack of professional staff among the clients, low trust in the integrity system and poor functioning of the over-

58. *Ibid.*

sight mechanisms. It also notes the insufficient use of legal possibilities to make greater savings of budget funds. With respect to public procurement planning, the monitoring results show that the clients have procurement plans but that they never cover a period exceeding one year, that the percentage of planned competition procedures stands at 82% but that it falls due to emergency procurement and unsuccessful competition procedures, and that centralised procurement accounts for 3.2% of the total value of procurement. As far as the very procurement procedure is concerned, the monitoring results show that the percentage of savings vis-à-vis planned costs stands at 12%, that the clients demand financial guarantees for 72% of the procurements, that the average number of offers per tender stands at 3.3 and that the number of offers fulfilling the set requirements submitted per tender is 2.7, that 18% clients use Internet presentations, that over 75% of the clients impose tender documentation fees which are higher than those laid down in the law and that the percentage of procurements by the lowest price criterion stands at 32%. In the field of execution, the monitoring results indicate that 28% of the clients are occasionally late with the payments, that at least 12% of the bidders are late with executing the procurement contracts, that the clients do not withdraw the security deposits, and that the motions for the protection of rights were submitted with respect to 7% of the public procurement procedures.⁵⁹

It needs to be highlighted that the following Strategy tasks in the field of public finance system have not been fulfilled:

- The Law on the Budget System lays down the principle of comprehensiveness of the budget. It, however, defines extra-budgetary funds and lays down how they function, wherefore they have not been eliminated as the Strategy recommends (**Recommendation 92**).
- The mechanism for assessing the expediency of the budget beneficiaries' needs during budget planning has not been established. The Budget Preparation Instructions lay down the criteria for assessing the needs for the required funds which the budget beneficiaries are to satisfy during planning, while the State Audit Institution is to supervise their abidance by the criteria (**Recommendation 95**).
- Although budgetary inspection and auditing is now laid down in the law and the regular training of staff is conducted, the material prerequisites for the efficient performance of these duties

⁵⁹ *Monitoring Results for the 2nd Quarter of 2010, 1 April – 30 June*, Transparency Serbia, Belgrade, 2010 available at <http://www.undp.org.rs/index.cfm?event=public.newsDetails&revid=E59896FE-BC8F-D76B-7175772DAB910502>

have not been provided and, consequently, the staff numbers have not been increasing (Recommendations 103 and 106).

- An analysis of the forms of taxes in order to establish which of them should be abolished or cut has not been conducted (Recommendation 111).
- A working group charged with analysing the work of the Tax Administration internal audit process and preparing amendments to improve the existing audit system has been established. The analysis has been completed but the amendments aimed at consolidating the internal audit unit have not been proposed. The Ministry of Finance has not established a professional unit to control the work of the Tax Administration (Recommendation 113).
- The customs units have not conducted a strategic corruption risk assessment or designed staff rotation plans; they are in need of training and clear division of tasks (Recommendation 116).

The Anticorruption Agency has been unable to obtain data on:

- Whether an assessment of staff requirements has been conducted and a recruitment schedule designed, given that the Ministry of Finance lacks the relevant data from its local offices (Recommendation 104). The Law on the Budget System lays down the obligation to establish budgetary inspection and audit at the local level. The consistent enforcement of the Law is planned for the 2012–2014 period, during which training in financial management and control and internal auditing will be organised at the local level.
- Which tax regulations have been aligned with the EU regulations, whether a harmonisation plan has been developed and a mechanism for monitoring the realisation of this activity put in place (Recommendation 108).
- Which taxes should be charged and on what grounds, how many criminal reports the Tax Administration filed over tax evasion and the amounts of uncollected tax. The amendments to the Personal Income Tax and Corporate Profit Laws were adopted with the aim of improving tax collection efficiency, but it was impossible to assess whether the recommendation on improving tax collection efficiency has been fulfilled due to the lack of data (Recommendation 112).

The Anticorruption Agency is of the view that the following would be advisable in the public finance system:

- Ensure the consistent enforcement of the Public Procurement Law and its principles and improve the public procurement complaint submission and review procedures.

- Establish a mechanism to assess the expediency of the budget beneficiaries' needs during budget planning.
- Ensure the consistent enforcement of the Budget Law with respect to the publication of the draft budgets and final statements.
- Provide the State Audit Institution with adequate working conditions.
- Continue activities to further improve the work of the Treasury Directorate.
- Advance the system of establishing internal auditors.
- Draft amendments to improve and consolidate the Tax Administration's internal audit process and establish a professional unit within the Ministry of Finance to control the work of the Tax Administration.
- Conduct a strategic corruption risk assessment and design a customs staff rotation plan.

3.5 ECONOMIC SYSTEM

The economic system is the fifth field the Strategy regulates through 17 recommendations. Serbia's economy is facing difficulties due to the longstanding crisis, uneven results of reform, further exacerbated by the global economic crisis.

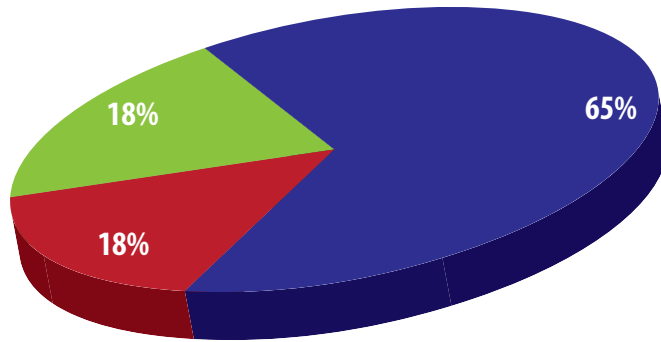
The Anticorruption Agency concluded that out of the 17 recommendations:

- 11 recommendations have been partly fulfilled
- 3 recommendations have not been fulfilled
- 3 recommendations defined as permanent tasks have been continuously fulfilled.

The 17 recommendations were concretised through 50 activities in the Action Plan, of which:

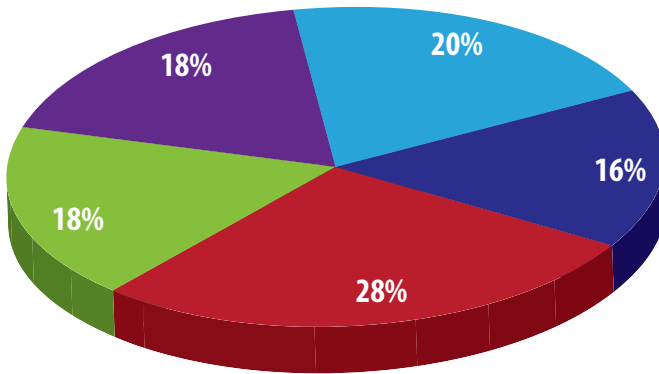
- 8 activities have been fully implemented
- 14 activities have been partly implemented
- 9 activities have not been implemented
- 9 activities defined as permanent tasks have been continuously implemented
- No data were available on the implementation of 10 activities

**Economic System
Fulfillment of Strategy Recommendations**



■ Fulfilled ■ Partly Fulfilled ■ Unfulfilled

**Economic System
Implementation of the Action Plan Activities**



■ Fulfilled ■ Permanent Task
 ■ Partly Fulfilled ■ No Data Available
 ■ Unfulfilled

In this field, too, most of the recommendations were partly fulfilled (65%), but not one recommendation was fulfilled entirely. Partly implemented activities again account for most of the activities listed in the Action Plan – 28%, while the ratio of them and the fully implemented (16%) and unimplemented (18%) activities is somewhat more even.

General Overview⁶⁰

According to the White Book of the Foreign Investors Council (FIC) in Serbia, the investment and business climate in 2009 was heavily influenced by the global economic and financial crisis. Though Serbia performed better than most countries in the region, with a lesser decline in gross domestic product, the fact that it fell by around 3.1 percent could not but have negative ef-

60. See Strategy Prerequisites above for the European Commission's assessment of economic criteria in the Serbia 2010 Progress Report.

fects on other segments of the economy, primarily the rise in unemployment and fall in standard of living (the average income remained unchanged in 2009, while pensions fell by almost four percent). Exports grew faster than imports, thus slightly reducing the enormous trade deficit that characterises the Serbian economy. The dinar has fallen considerably in value against the euro and the dollar. The FIC assesses that sustainable economic development of Serbia in the forthcoming period will continue to depend greatly on foreign resources inflow. In this respect, it is necessary to speed up the process of harmonisation of Serbia's legislation with the EU regulations, in order to upgrade legal security for business operation and investments. Some of the FIC's recommendations point to the need to regulate property rights, especially in relation to building land and facilities construction, to create conditions for market competition in a regulated market by providing equal rights for all competitors and proper regulation of monopolies and to achieve higher efficiency of local self-managed community in building of regional infrastructure, which is important for attracting investors.

Serbia's position in the international market has deteriorated, as corroborated by the latest Global Competitiveness Report, according to which Serbia has slipped from 93rd to 96th place in competitive ranking. What is particularly worrying for foreign investors is the fact that the low ranking is greatly owed to the following parameters: property rights (122nd place), burden of Government regulation (131st place), efficiency of the judicial system in settling disputes (132nd place), effectiveness of the anti-monopoly policy (137th place), cooperation in labour-employment relations (135th place), etc.⁶¹

According to the data and estimates of the Statistical Office of the Republic of Serbia, the GDP grew by 1.5% in 2010, while industrial output rose by 3.8% year-on-year in January 2011. The average gross wage was 47,382.00 RSD and the average net wage stood at 34,009.00 RSD in January 2011. According to the October 2010 Labour Force Survey, the overall unemployment rate stood at 19.2% and the overall employment rate at 37.7%.⁶²

Approximately 700,000 people in Serbia receive some form of social assistance. In many parts of Serbia, where the economy faces difficulties, life is essentially based on the money received from the state coffers.⁶³ The Serbian Business Registers Agency

61. *White Book 2010 – Proposals for improvement of the business environment in Serbia*, pp. 13 and 14, Foreign Investors Council, Belgrade, available at <http://www.fic.org.rs/admin/download/files/cms/attach?id=192>

62. *Current Indicators*, Statistical Office of the Republic of Serbia, Belgrade, available in Serbian at <http://webzrzs.stat.gov.rs/WebSite/Default.aspx>

63. *Report on the Two Years of Work of the Government*, Prime Minister of the Republic of Serbia, Belgrade, July 2010 available in Serbian at <http://www.srbija.gov.rs/vesti/vest.php?id=67319>

data show that most companies operating from January to 23 November 2010 were concentrated in two districts – the City of Belgrade and the South Ba District. Of the 111,119 companies, as many as 47,970 (43%) were doing business in the territory of the City of Belgrade, while 13,027 (18%) were active in the South Ba District.⁶⁴

According to TNS Medium Gallup's public opinion survey on corruption of March 2010, citizens mostly describe the financial situation as bad (38%) or bearable (37%). Vulnerable groups (unemployed, citizens with lower education levels, respondents with six or more household members and national minorities) face the greatest financial hardship. The problems worrying the citizens of Serbia the most are unemployment (35%) and poverty (21%). As regards their views of the business sector, 56% of the respondents think that small and medium-sized businesses are afflicted by corruption the most, while 77% think that large businesses benefit from corruption.⁶⁵

The state plays a dual role in the economic system. On the one hand, it directly participates in the market via state or socially owned companies, while, on the other, its participation in and influence on the economy is reflected in the interventions of the state authorities in the market through the provision of direct or indirect state assistance and the tax and customs policies. Changes in both areas have occurred since 2006. The privatisation of a large number of companies led to a decrease in the state's role in the economy; however, an opposite trend appeared at the same time, notably in 2008 and 2009, the indirect etatisation of privatised companies with accrued arrears through the conversion of their debts into the ownership shares of public or state companies. The other forms of state influence on the market were also marked by opposing trends. Some moves led to eliminating obstacles to free trade (e.g. accession to CEFTA) and the unilateral implementation of the Stabilisation and Accession Agreement with the EU. On the other hand, numerous subsidies are directly paid out of budget and the impression is that the volume of budget subsidies is adjusted merely to the amount of available funds in the budget and that there are no plans to cut them that would be guided by some other motives.⁶⁶

64. *APR in Figures – Half of Companies Concentrated in Two Districts*, Business Registers Agency, Belgrade, 23 November 2010, available in Serbian at <http://www.apr.gov.rs/ОдносиСјавношћу/Вести/Архива2010.aspx>

65. *Serbia Corruption Benchmarking Survey, 2nd Round*, TNS Medium Gallup, Belgrade, March 2010 available at <http://www.undp.org.rs/index.cfm?event=public.publicationsDetails&revid=D48A72BE-0E94-3A47-1F191045F961C13C>

66. *Analysis of the Enforcement of the Action Plan for the Implementation of the National Anticorruption Strategy*, Transparency Serbia, Belgrade, 2010.

The establishment of the Register of Companies and the introduction of the company registration system abolished the state's discretionary privilege to issue operating licences to companies and thus reduced the opportunities for corruption in this area. The rationalisation of the state's administrative functions was achieved by establishing of all registers in one place and in the form of electronic databases. The introduction of the five-day administrative "silence means consent" rule in Serbia's legislation has further contributed to the efficiency of the administration. The system fully rules out any arbitration with respect to the adoption of individual enactments notwithstanding the type of statutory register, and only the fulfilment of the formal requirements of the submitted documentation is reviewed. Furthermore, the principle of self-sustainability of public functions has been established by charging fees for the services of the Business Registers Agency, wherefore the Agency is not a beneficiary of the Republic of Serbia budget.

The establishment of the Export Insurance and Financing Agency in 2005 to encourage and advance exports and develop foreign economic relations helped limit the role of the state in Serbia's economic life, i.e. reduced its role to the creation of an environment conducive to efficient business operations. The Foreign Investments and Export Promotion Agency provides information on various business opportunities and advantages of investing in Serbia's economy and assists foreign companies investing in Serbia (**Recommendation 124**).

The comparison of legislation on entrepreneurship conducted for 2011 by the International Finance Corporation of the World Bank Group ranked Serbia 89th among 183 countries with respect to ease of doing business. Its poorest score was recorded in Dealing with Construction Permits (176th), which requires 20 procedures, 279 days and costs 1,821.4% of per capita income. Serbia was also poorly ranked in the Paying Taxes category (138th), with 66 payments per year, 279 hours spent on paying taxes and the total tax rate (% of profit) standing at 34.⁶⁷

The Government of the Republic of Serbia adopted the Strategy of Regulatory Reform for the 2008–2011 Period on 8 October 2008 (**Recommendation 125**). The Strategy comprises a number of measures aimed at achieving a number of goals, above all a 25% cut in administrative costs of doing business by 2011 and the simplification of administrative procedures geared at significantly improving Serbia's international rating with respect to the quality of the business environment. The measures mostly

67. *Doing Business 2011 – Making a Difference for Entrepreneurs*, International Finance Corporation, World Bank Group, Washington D.C., November 2010, p. 191 available at <http://www.doingbusiness.org/reports/doing-business/doing-business-2011>

pertain to advancing the existing system of analysing the effects of the regulations and the invalidation or amendment of the inefficient regulations – the Comprehensive Regulations Reform (CRR). The Government on 9 October 2008 passed the decision establishing the CRR Implementation Unit, which went on to inventorise the general regulations at the republican level, i.e. regulations regarding third parties – the economy and citizens. Of the 5,540 inventorised regulations, 2,024 were found to be directly or indirectly impacting on the economy. The CRR Implementation Unit collected initiatives to amend the regulations and procedures from the citizens, companies and other interested stakeholders until the end of 2009 and reviewed around 700 initiatives in all. In accordance with the submitted initiatives, the Unit formulated a total of 340 recommendations to amend the inefficient regulations and submitted them to the regulatory bodies for consideration.

Two hundred sixteen recommendations were submitted to the Government after their harmonisation with the regulatory bodies. The Government adopted the Conclusion on the Adoption of the Strategy Implementation Programme in which it ordered the competent regulatory bodies to implement the recommendations by amending the subsidiary legislation by 1 February and by submitting draft amendments to laws to the Government by 31 March 2010.

Most recommendations (112 in all) deal with the regulations within the remit of the Ministry of Economy and Regional Development. These recommendations have either already been implemented or were being implemented at the time this Report was completed. Most of them regard amendments to the Law on Companies and the working group drafting the amendments to this law has been conducting a detailed analysis of the effects of the amendments and the estimates of the savings they will bring.

According to the CRR Implementation Unit Report of November 2010, 69 of the recommendations upheld by the Government had already been implemented, 146 were being implemented, while no activities had been undertaken with respect to 93 recommendations except for the Unit's attempts to harmonise them with the competent regulatory bodies.

Apart from the recommendations on amending regulations, the Unit also recommended the invalidation of a total of 196 superfluous regulations (15 decrees, 11 decisions and 170 other by-laws). Fifteen decrees and 11 decisions were declared null and void by a Government Decree and Decision. The Government also adopted a Conclusion charging the regulatory bodies with abolishing the other 170 regulations within their purview. By early November 2010, 166 recommendations were fulfilled in this manner.

The problems the CRR Implementation Unit faced in the process mostly regarded non-abidance by deadlines, the quality of the submitted initiatives, the regulatory bodies' dilemmas about the acceptability of specific recommendations, issues regarding the procedure for adopting the recommendations by amending the relevant regulations and the introduction of new fees and administrative procedures by the adoption of new regulations alongside the implementation of the CRR, which may reverse the results of the CRR.⁶⁸

As regards improving the transparency and oversight of privatisation (**Recommendations 126, 127 and 128**), the Privatisation Agency published on its website the Guide to the Tender Procedure comprising the chief elements of the precisely prescribed tender procedure and particularly insisting on the publicity and access to information by all interested parties throughout the tender procedure. The contracts of sale of capital are published on the Privatisation Agency website and are accessible to interested parties. Pursuant to the Privatisation Law, the Agency forwards the contracts of sale of capital to the workers and minority shareholders in the privatised companies for their perusal and at their request. Apart from regularly controlling whether the contract obligations are fulfilled on time, the Agency also conducts extraordinary i.e. reactive oversight when trade unions, workers or minority shareholders report contract non-compliance. Pursuant to the Law on Accounting and Auditing, the Ministry of Economy and Regional Development as a second-instance authority oversees the lawfulness of the privatisation processes, reviews complaints regarding the lawfulness of privatisation processes and supervises the work of the Privatisation Agency. Under the law, the State Audit Institution may also perform specific checks in this field. However, given the unsatisfactory working conditions in which the SAI operates, it is still unrealistic to expect of it to assume upon itself the oversight of the privatisation processes.

The Conflict of Interest Resolution Department of the Anticorruption Agency has received requests from some Privatisation Agency workers asking for consent to perform public office in companies undergoing privatisation or restructuring.

In its Serbia 2010 Progress Report, the European Commission says that privatisation processes continue to be areas of serious concern, as independent supervision is not yet ensured. Priva-

⁶⁸. Report by the Comprehensive Regulation Reform Implementation Unit on the Implementation of the Comprehensive Regulation Reform as of 8 November 2010, Vicepresident of the Government of the Republic of Serbia, November 2010 available in Serbian at <http://www.srp.gov.rs/srp/doc/Najnovijilzvestaj.pdf>

tisation of the socially owned companies continued but at a slower pace while the number of privatisations annulled – due to non-compliance with the contracted obligations – rose to almost one quarter of the firms initially scheduled for privatisation.⁶⁹

The complaints filed with the Anticorruption Agency include allegations of irregularities in the privatisation processes and, in some cases, of privatisation in contravention of the law.

A new Law on the Protection of Competition was enacted in 2009 (Recommendation 129). It improves the organisational and procedural frameworks for applying competition rules and preventing competition violations, strengthens the role of the Competition Protection Commission and lays down a single procedure for reviewing and sanctioning competition violations. The Competition Protection Commission is charged with establishing whether the requirements have been fulfilled for approving concentration and the enactments or actions of market participants aiming at or resulting in the considerable prevention, restriction or distortion of competition. In its decisions establishing violations of competition, the Commission may order measures aimed at eliminating the violation i.e. preventing its occurrence or a similar violation by ordering or prohibiting specific behaviour (behavioural measures).

In the 2006 – 2009 period, the Commission had a huge workload of concentration control cases, but it endeavoured to focus on other areas within its remit as well – to identify abuses of the dominant position and prohibited (cartel) agreements and issue opinions on the draft regulations that may impact on competition. The Commission also started conducting sectoral analyses, a contemporary trend in the practice of the European competition protection authorities.

In the first years of its existence, the Commission faced diverse challenges due to which its efforts to strengthen competition in the Serbian market failed to yield effect. These challenges included:

- The market participants' non-compliance with the Commission decisions.
- Lack of legal powers under the prior Law allowing the Commission to impose penalties for the competition violations it established and non-compliance with its orders.
- The courts' unwillingness to apply the Law on the Protection of Competition – the Serbia 2010 Progress Report also notes

69. *Serbia 2010 Progress Report*, Brussels SEC(2010) 1330, European Commission, Brussels, November 2010, pp. 12 and 23 available at http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf

that the capacity of the judiciary to deal with substantive issues of competition remains weak and that significant efforts are needed in this respect.

- Absence of support for the work of the Commission by the other state authorities – the Serbia 2010 Progress Report states that the regulations on competition protection has been undermined by the adoption of some conflicting horizontal legislation.
- Inactivity of the National Assembly with respect to monitoring the work of the Commission.⁷⁰

The Law on the Budget System obliges budget beneficiaries to establish internal audit systems (Recommendation 130). The Law on Accounting and Auditing stipulates mandatory auditing of regular annual financial statements of large and medium sized legal persons and small legal persons issuing or selling their securities in the organised securities market. New legal persons need not have their financial statements audited during the first year of operations, unless otherwise stipulated by another regulation (Recommendation 131). The Law also stipulates that financial statements shall be audited by persons who acquired a professional title in accordance with this Law, i.e. by authorised auditors licensed to audit financial statements, audit company employees and by members of the Chamber of Authorised Auditors (Recommendation 132).

The Chamber of Authorised Auditors, established under the Law on Accounting and Auditing, began working on 15 November 2006. The Law entrusts the Chamber with broad powers, from the application of and harmonisation with international accounting and auditing regulations, to testing and licensing financial statement auditors. The Chamber shall adopt the curriculum, train the candidates, organise testing and issue certificates to the successful candidates, and lay down the rules on the continual professional advanced training in accordance with international professional training requirements and the Law. The Law also established the National Accounting Commission, tasked with monitoring the implementation of international regulations and standards and consequently proposing to the national authorities the adoption of appropriate legal solutions. The National Strategy and Action Plan for Improving Corporate Financial Reporting, which are to lay down longer-term guidelines for the continual training and education of accountants and auditors, were being drafted at the time this Report was

⁷⁰. *Analysis of the Implementation of Anti-Monopoly Regulations from 2006 to 2010 and Problems in the Work of the Commission for Protection of Competition*, Anticorruption Council of the Government of the Republic of Serbia, Belgrade, December 2010 available in Serbian at <http://www.antikorupcija-savet.gov.rs/eng/view.jsp?articleId=709>

completed. The Chamber of Commerce of Serbia (PKS) and other entities have been continuously implementing education programmes on various topical issues, including accounting and business book-keeping (**Recommendation 133**).

The PKS in 2005 adopted the Code of Business Ethics and the Corporative Management Code modelled after the International Chamber of Commerce (ICC) code of good business practices, thereby laying the foundations for the adoption of the members' business codes of ethics. The two Codes are published on PKS' website. Over 130 companies were identified as having codes of business ethics during the two-year implementation of a corporate responsibility project (**Recommendation 136**). The work programme of the Anticorruption Commission within the ICC national committee ICC Serbia envisages holding round tables and seminars promoting the ICC code and publication of material on corruption. These gatherings aim at informing the national business and expert communities of global anti-corruption standards and regulations applicable in international business. The Commission forwards the relevant material to the Government, ministries and other competent institutions in Serbia with the aim of providing professional assistance in combating corruption. ICC Serbia designed the promotional material on anti-corruption and translated the code, distributed it to the expert public and published it on the PKS portal in the section devoted to international cooperation. Representatives of ICC Serbia periodically take part in the work of the ICC Anticorruption Commission (**Recommendation 138**).

The PKS promotes good management practices, advocates the incorporation of anti-corruption clauses in contracts and the adoption of integrity agreements between business partners during public procurement. The Anticorruption Agency adopted the Integrity Plan Design and Implementation Guidelines. It organised the first training for a representative working group of the economy and agriculture system on the preparation of an integrity plan for the system, which all institutions within the system will use as a model when designing their own integrity plans. Public companies are treated as a separate system, and training in integrity plan preparation for this representative working group is to be conducted in early March 2011 (**Recommendations 134 and 140**).

A number of provisions in the Law on Public Agencies regulate gifts as a mode of agency funding (**Recommendation 139**). Under the Law, agencies may be funded from fees paid by users of their services, gifts (donations), sponsorships, the state budget and other funds and income earned in accordance with the law. To launch its operations, a public agency may use gifts or sponsorships a domestic or foreign natural or legal person donates it

for its establishment. Gifts, sponsorships and other funds given the founder or the public agency shall constitute the income of the public agency, be kept in a separate subaccount and used for the development of the public agency.

With respect to the tasks formulated by the Strategy and Action Plan, it needs to be noted that the 1989 Law on Private Entrepreneurs is still in effect (**Recommendation 125**), that the mechanisms for workers who want to report corruption in their companies and the mechanisms for their protection have not been established within these entities (**Recommendation 137**) and that no data were available on the enforcement of the ban on tax deductions for illegal payments (**Recommendation 135**).

The Anticorruption Agency is of the view that the following would be advisable in the field of the economic system:

- Establish adequate and independent supervision of privatisation processes.
- Establish mechanisms by which workers can report corruption within their undertakings and mechanisms for their protection within the undertakings.
- Regulate the legal status of private entrepreneurs by the adoption of a new law.
- Carefully plan the volume and structure of budget subsidies to economic entities, to ensure that their approval is justified by market and economic reasons and satisfies the criteria of expediency and public interest.

3.6 MEDIA

Media are the next system the Strategy regulates through 13 recommendations. According to the Strategy's authors, media corruption renders objective informing meaningless and prevents public scrutiny of social activities. Prevention of media corruption is also extremely important in terms of raising public anti-corruption awareness.

Furthermore, media reports of corruption cases are sometimes the only way to initiate their prosecution in the absence of judicial efficiency. This is why the professionalism, independence and impartiality of the media are crucial to this form of fighting corruption.

The Anticorruption Agency concluded that out of the 13 recommendations in the Strategy:

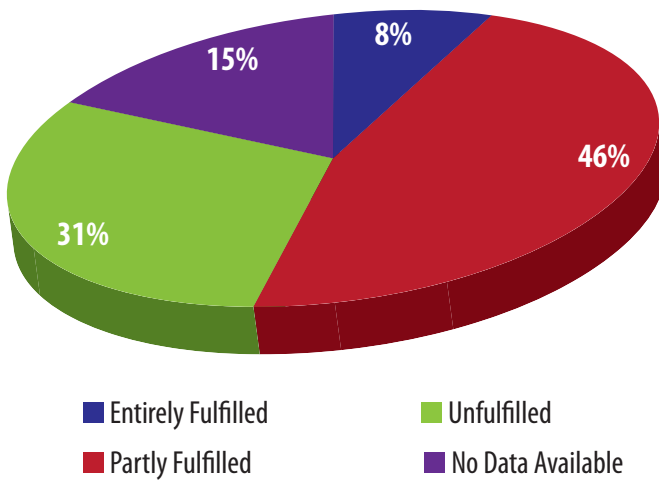
- 1 recommendation has been entirely fulfilled
- 6 recommendations have been partly fulfilled

- 4 recommendations have not been fulfilled
- No data were available on the fulfilment of two recommendations

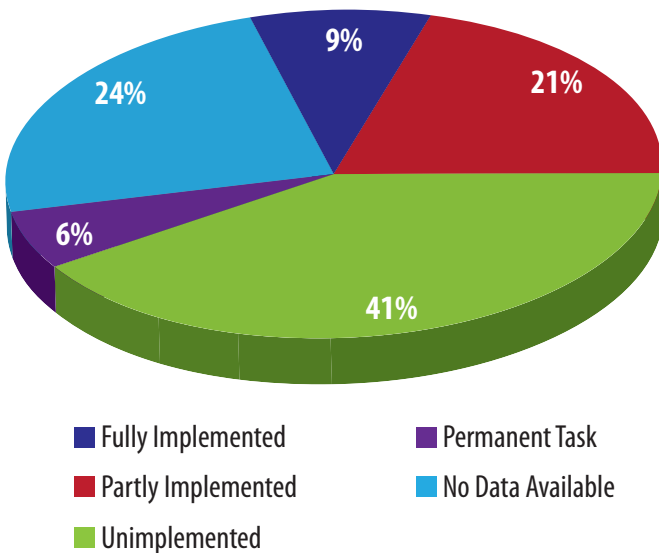
The 13 recommendations were concretised through 34 activities in the Action Plan, of which:

- 3 activities have been fully implemented
- 7 activities have been partly implemented
- 14 activities have not been implemented
- 2 activities defined as permanent tasks have been continuously implemented
- No data were available on the implementation of eight activities

Media
Fulfillment of Strategy Recommendations



Media
Implementation of the Action Plan Activities



The number of unimplemented recommendations and activities is greater in the media field than in the other fields (31% and 41% respectively). This system also reflects the general trend –

the partial fulfilment of most of the recommendations (46%). The fact that the Agency was unable to obtain data on measures taken with respect to 15% of the recommendations and 23% of the activities gives rise to concern.

General Overview

The media in Serbia have been at the heart of political disputes for the last two decades, while the last ten years they have been subject to a complicated transition. They have never, however, been the topic of such an exhaustive public debate as today.⁷¹

According to the Monitoring Report of the Association of Independent Electronic Media (ANEM) expert team, the July-November 2010 period did not bring any major changes in the media sector. In ANEM's opinion, the government continued to tackle violations of freedom of expression, albeit inadequately and focusing on the consequences rather than on the causes. Since its actions are not dissuasive in any way, the threats against and pressures on journalists have continued; the number of physical assaults on journalists has soared, as has the number of reporters placed under police protection. The perpetrators are being sentenced to minimum or below-minimum sentences by the courts, which results in further media self-censorship. The media are also discouraged by lack of a uniform practice of the courts in identical or similar cases, as well as by the increase in violations of the freedom of expression by holders of public office, who are arbitrarily setting boundaries to public information, often in line with their personal interests, particularly in the interior of Serbia. The Law on Public Information remains a source of pressure on the media and the media cannot find security in the other media laws either: these are either obsolete or differently interpreted and selectively implemented. The media market is still not operating at a satisfactory level. The self-sustainability of many private media, unable to compete in the absence of a level playing field, is threatened. At the same time, the fundamental media freedoms of the outlets that have not been privatised yet are jeopardised; such media are subjected to pressures and influence of their founders – the local self-governments. Furthermore, the decreasing interest of investors in media privatisation has additionally exacerbated the status of the media outlets which not even the local authorities want to keep as their property.⁷²

An expert Media Study Report on the media situation in Serbia was drafted in early 2010 with the assistance of the Euro-

71. *Legal Monitoring of the Serbian Media Scene*, Association of Independent Electronic Media (ANEM), December 2010, p. 15 available at <http://www.anem.org.rs/en/aktivnostiAnema/monitoring/story/11548/THE+FOURTH+ANEM+MONITORING+PUBLICATION+.html>

72. *Ibid*, pp 3 and 4.

pean Commission. Apart from a study of the national media, the Study comprises an overview of the European framework and a comparative analysis of the media situation in three selected states. The Study recommendations and the SWOT analysis in particular were unconvincing, failing to offer any indicators of justifiability and feasibility. The authors of the Study obviously had difficulties in obtaining information about the funding, economic power and potentials of both the media and the media market. Consequently, they failed to provide the much needed economic analysis that is never the topic in domestic debates on the media. On the other hand, the Study proved to be a valuable collection of various insights and it has also established the connection between media-related issues and the advertising industry, content manufacturing, electronic networks, IP rights, digitalisation and the use of media.⁷³

ANEM also stated that the controversies surrounding the drafting of the Serbian Media Development Strategy and the draft version of the Advertising Law rendered it impossible to consider that their drafting was undergoing an expert consultative process, although media representatives were initially involved in the working group writing the Advertising Law.⁷⁴

One of the problems in the field of media arises from the excessive number of outlets given the size of the Serbian market, which has affected their economic sustainability and resulted in a form of “advertising capture of the media” and a situation in which advertisers are able to influence editorial policy. Local media are in an even more precarious situation in that respect, given that the economic problems have significantly undercut their advertising incomes and they are greatly dependent on their founders – local self-governments, which opens the door for influence of the local politicians on the content they publish.⁷⁵

According to the Ministry of Culture report, the process of amending the laws mentioned in this section of the Strategy and Action Plan will begin as soon as the Serbian Media Development Strategy for the 2011–2016 Period is adopted, in the latter half of 2011.

Regulations distinguishing between the advertising activity and information function of media outlets have not been adopted (**Recommendation 141**). There is no legal framework preventing the influence of advertisers and donors on media autonomy (**Recommendation 143**). Nor have regulations ensur-

73. *Ibid*, pp. 11 – 15.

74. *Ibid*, pp. 3, 5–7 and 11–15.

75. *Research on the Implementation of the Strategy and Action Plan*, Social Research Bureau, Belgrade, January 2011.

ing the independence of the media and improving the status of journalists within the outlets been amended (**Recommendation 144**).

Regulations on the transparency of media ownership and preventing unlawful media concentration, which were in force at the time this Strategy was adopted, are still in effect and have not undergone any significant changes in that respect (**Recommendation 142**). The obligation to make public some of the data and the prohibition of unlawful media concentration are regulated by the provisions of the Broadcasting Law. These provisions, however, pertain only to electronic media and are not sufficient to fully regulate the media system. The provisions that should be included in a law which is the subject of this recommendation (specific regulations on the register) were included in the amendments to the Broadcasting Law adopted in 2009. Headway made in the field of ownership transparency was achieved by posting information on the founders of companies in the Internet database of the Business Registers Agency (which includes all commercial entities, including founders of media outlets). However, given the nature of media activities, publishing only general company data does not provide public insight in the potential influence on media policies arising from the ownership share in the outlet founder or the share of income an outlet acquires from specific persons.⁷⁶ The Law on Electronic Communications was adopted in 2010. The hitherto Republican Telecommunications Agency continued operating as the Republican Electronic Communications Agency under the new Law. Under the Law, the Agency shall be operationally and financially independent from the state authorities, organisations and persons performing electronic communication activities (**Recommendation 145**).

The Independent Journalists Association of Serbia (NUNS) and the Association of Journalists of Serbia (UNS) in 2006 adopted the Code of Journalists of Serbia (**Recommendation 146**). Under the Code, a journalist shall oppose any pressure to freely do his/her job and any form of censorship and shall perform only tasks assigned by his/her editors. Acceptance of bribery for publishing, concealing or preventing the collection or publication of information is incompatible with journalism. A journalist may not delay the publication of important information unless such delay is necessary to verify its accuracy. The publisher's economic and political interests may not affect the editorial policy in a way that would result in incorrect, partial, incomplete or untimely informing of the public. No one shall force a journalist

⁷⁶ *Analysis of the Enforcement of the Action Plan for the Implementation of the National Anticorruption Strategy*, Transparency Serbia, Belgrade, 2010.

to express opinions in contravention of his/her conscience. Furthermore, anyone who believes a journalist violated a provision of the Code may file a complaint with the Court of Honour or the Media Council. However, the mechanisms that should ensure the application of the Code cannot be deemed effective given the small number of procedures conducted over violations of its provisions.⁷⁷

The NUNS and UNS Statutes regulate the procedure before their Courts of Honour. The two associations publish information on their work on their websites (**Recommendation 147**).

The 2009 amendments to the Law on Public Information significantly raised the fines and changed the nature of the penalties for specific violations of the law committed via the media. The amendments, however, provoked a lot of controversy among the expert public. The Protector of Citizens filed an initiative for the review of the constitutionality of most of the new provisions and the Constitutional Court of Serbia rendered a decision finding that some of the provisions in the 2009 amendments were not compatible with the Constitution and international conventions. It declared unconstitutional the provision allowing only domestic legal persons to found a media outlet and the provisions on the types and amounts of fines for economic and misdemeanour offences. The Court also declared unconstitutional the provisions on the obligation of the prosecutors i.e. the courts to launch specific proceedings i.e. to impose specific fines, provisions linking the registration of outlets in the media register to the prohibition to publish a newspaper, provisions defining as economic offences violations of the presumption of innocence and violations of the provisions on the protection of minors. The Constitutional Court also found that some of the disputed provisions were not compliant with ratified international treaties and the case law of international human rights mechanisms. As of 1 January 2006, only a fine may be imposed against a person found guilty of the crimes of insult, libel or slander, while the crime of disclosing another's personal and family circumstances may still warrant imprisonment. Liability for public statements is governed also by the Broadcasting Law (**Recommendation 148**).

Prohibition of discrimination against media by the state authorities (**Recommendation 149**) is regulated by the Law on Public Information and the Law on Free Access to Information of Public Importance. There has been no indication in practice of whether the norms have been enforced and the offenders penalised.⁷⁸

77. Ibid.

78. Ibid

The Code of Journalists of Serbia does not explicitly prohibit partisan political activity of journalists and comprises only provisions on impartial reporting which treat this issue partially or indirectly (**Recommendation 150**). It, for instance, states that the economic or political interests of the publisher may not affect the editorial policy in a way that would result in inaccurate, partial, incomplete or untimely informing of the public.

Press associations in Serbia organised numerous training sessions for their members, including training in investigative journalism and the fight against corruption (**Recommendation 151**). The Anticorruption Agency has designed a media training programme, which comprises topics on forms of corruption, improper influence on the work of journalists and investigative reporting. The Agency will implement the program in 2011.

The Law on Free Access to Information of Public Importance provides a mechanism for the legal protection of journalists in case of groundless denial of access to information of public importance (**Recommendation 152**). No specific statistics are kept of sanctions imposed on responsible persons in the authorities which groundlessly deny access to such information (to a journalist or another person), but the number of initiated misdemeanour proceedings and imposed penalties is much smaller than the number of offences committed by ignoring requests to access information. It should also be borne in mind that not every denial of access to information is penalised, only when the authority fails to issue a reasoned decision rejecting the request within the statutory deadline.⁷⁹ The supervision of the enforcement of the Law was conducted by the Ministry of Culture until 2009, when it was delegated to the Ministry of State Administration and Local Self-Government.

The recommendation on penalising media influence peddling (**Recommendation 153**) is indirectly regulated by the Criminal Code, which incriminates the abuse of monopoly status, by the Law on Public Information, which prohibits monopolies in the field of public information, and by the Broadcasting Law provisions on unlawful media concentration.

The Anticorruption Agency is of the view that the following would be advisable in the media field:

- Adopt regulations distinguishing between the advertising activity and information function within a media outlet and regulations on the transparency of media ownership and preventing unlawful media concentration.

⁷⁹. *Ibid.*

- Ensure the appropriate involvement of media representatives in the work on the Media Development Strategy for the 2011–2016 Period, the Advertising Law and all other enactments of relevance to the work of media outlets.
- Eliminate dilemmas regarding the disputed provisions of the Law on Public Information.
- Improve the effectiveness of the mechanism for the enforcement of the Code of Journalists of Serbia.

3.7 PARTICIPATION OF THE CIVIL SOCIETY AND THE PUBLIC IN COMBATING CORRUPTION

The last system the Strategy focuses on through 15 recommendations is related to the **participation of the civil society and the public in combating corruption**. Public support to other Strategy and Action Plan implementing entities in undertaking anti-corruption measures is extremely important for the achievement of results, particularly for the creation of an environment intolerant of corruption. Non-governmental organisations are also an important factor in building the capacities for public scrutiny of the actions of the authorities, while guilds and professional associates are often capable of identifying problems regarding typical forms of corruption faster and better than the state authorities, and are in a position to raise the level of ethics of their members and penalise unacceptable behaviour.

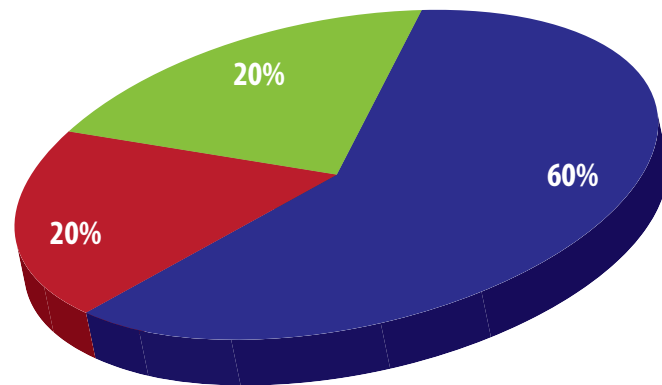
The Anticorruption Agency concluded that out of the 15 recommendations in the Strategy:

- 9 recommendations have been partly fulfilled
- 3 recommendations have not been fulfilled
- 3 recommendations defined as permanent tasks have been continuously fulfilled

The 15 recommendations were concretised through 62 activities in the Action Plan, of which:

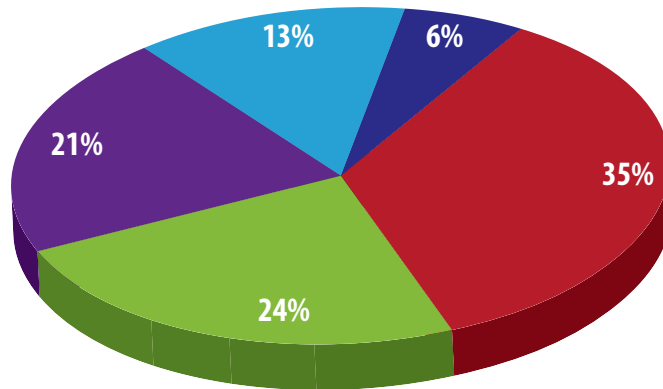
- 4 activities have been fully implemented
- 22 activities have been partly implemented
- 15 activities have not been implemented
- 13 activities defined as permanent tasks have been continuously implemented
- No data were available on the implementation of eight activities

**Citizens and Civil Society
Fulfillment of Strategy Recommendation**



■ Partly Fulfilled ■ Unfulfilled ■ Permanent Task

**Citizens and Civil Society
Implementation of the Action Plan Activities**



■ Fully Implemented ■ Permanent Task
 ■ Partly Implemented ■ No Data Available
 ■ Unimplemented

This system, too, reflects the trend present in the other systems – most of the Strategy recommendations (60%) have been partly implemented. Not one recommendation has been fulfilled in its entirety, but 20% of the recommendations defined as permanent tasks have been continuously fulfilled. The situation with respect to activities is similar: most activities have been partly implemented (36%), only 6% have been fully implemented, while 20% defined as permanent tasks have been continuously implemented.

General Overview

Civil society is an untapped resource in fighting corruption. Its greater involvement is hindered by the lack of funds supporting

this type of projects because most civil society organisations operate on a project basis.⁸⁰

According to the Serbia 2010 Progress Report, civil society organisations continued to be active in the social, economic and political life of Serbia and remain important in promoting democratic values. The Office for Cooperation with Civil Society was established by the government in April 2010. However, the Office is still not operational and cooperation between state authorities and civil society is still uneven. Legislation implementing the law on citizens' associations to prevent possible abuses regarding financing from the state budget has not been adopted yet.⁸¹

The Centre for the Development of the Non-Profit Sector's analysis of expenditure under "budget subsidies for non-governmental organisations" (budget line 481) established that, apart from non-governmental organisations, money under this line has also been used to fund sports and youth organisations, religious communities and political parties. The reports by the beneficiaries of the funds have not been made public, wherefore Serbia's tax-payers have no information about the specific activities, goods or services their money has been spent on. Precise insight on how much the Serbian Government allocated to each of the four groups is impossible because they are always presented together – merely as line 481 – in the draft budget. This is why it is possible to obtain data on the allocation of funds to a specific group only at the end of the budget year, in the information on the execution of the budget, when it is already too late for a broad and reasoned debate on the budget funds planned for subsidising non-governmental organisations.⁸²

No continuous anti-corruption awareness campaigns have been conducted at the state level since the adoption of the Strategy and Action Plan (**Recommendation 154**). However, several state authorities staged campaigns on the new mechanisms to scrutinise the work of civil servants and public institutions. The Information of Public Importance and Personal Data Protection Commissioner devoted particular attention to communicating to the public how they could access information of public importance; non-governmental organisations occasionally ran campaigns to promote anti-corruption regulations, a number

80. *Research on the Implementation of the Strategy and Action Plan*, Social Research Bureau, Belgrade, January 2011.

81. *Serbia 2010 Progress Report*, Brussels SEC(2010) 1330, European Commission, Brussels, November 2010, p. 13 available at http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf

82. *Analysis of the Execution of Budget Subsidies for Non-Governmental Organisations*, Centre for the Development of the Non-Profit Sector, December 2010 available at <http://www.crmps.org.rs/2010/analiza-izvršenja-budžetskih-dotacija-za-nevladineorganizacije>

of non-governmental organisations staged anti-corruption campaigns at the local level; the NGO Social Research Bureau launched the initiatives for the adoption of local anti-corruption action plans in four cities in Serbia; the BETA news agency Portal Argus, which publishes news and texts on corruption and the fight against corruption in Serbia and the region, has also proven effective. The Anticorruption Agency in 2010 organised the competition “I Don’t Want to Pull Strings” in all primary and secondary schools in Serbia, and a brief media campaign, designed a video spot broadcast on the public service broadcaster Radio Television of Serbia (RTS) on the occasion of International Anticorruption Day; several texts on the Agency’s powers have been published.

The Anticorruption Agency Training Department plans to hold an initial meeting with the Ministry of Education to consider ways to fulfil the recommendation on incorporating anti-corruption education in the curricula ([Recommendation 155](#)). This initiative will launch the procedure of identifying experts who will analyse the possibilities of including this topic in the school and college curricula. The design of new and amendment of the current curricula and the relevant training of trainers will thus be enabled.

The public has been informed of the undertaken anti-corruption measures and their effects ([Recommendation 156](#)) via statements on the activities of investigation authorities, information on the identification of persons suspected of corruption-related crimes and information on the enforcement of anti-corruption laws, press releases, public panel discussions and similar events. The Anticorruption Agency has been informing the public, officials, media and all interested parties of its powers and activities at news conferences, by giving statements to the media and issuing press releases, via the Agency website, by holding round tables and organising or participating in events related to the Agency’s powers. In the first half of 2010, the Agency’s primary communication with the public involved the holding of round tables across Serbia to inform the officials of their rights and obligations under the Law on the Anticorruption Agency. It in parallel held news conferences and issued press releases informing the public at large of its results. The high media interest in the work of the Agency was corroborated by its involvement in developing additional communication mechanisms, particularly with the media. With the institutional support of the OSCE Mission to Serbia, the Agency held a meeting with the editors of the leading (national) media at which journalists from 11 outlets were designated to follow the work of the Agency. The comprehensive campaign staged to mark 9 December – International Anticorruption Day – generated significant public

response. During its first year of work, the Agency had neither the capacity nor the resources to conduct a survey by its own parameters, but it used the results of the three rounds of the Medium Gallup Serbia Corruption Benchmarking Survey. According to the survey, the Agency's visibility as an institution working on prevention of corruption rose from the initial 40% during the first round of the survey, to 60% in the third round. Such an increase in visibility can be ascribed to the Agency's meetings, round tables with the public and the media, press briefings and all other activities in 2010.

The Information of Public Importance and Personal Data Protection Commissioner devoted particular attention to raising public awareness of how to exercise the right of free access to information of public importance (**Recommendation 157**). The Commissioner held numerous seminars, panel discussions and training sessions also to increase the authorities' awareness of the importance of the realisation of this right as a fundamental criterion of democracy in a society. The seminars were organised in cooperation with the representatives of other state authorities, media and the civil sector. The Commissioner has been marking the International Right to Know Day every 28 September and organising press conferences on the occasion, at which he has been awarding prizes to those authorities, which had contributed the most to the enforcement of the Law over the previous year. The Commissioner's Office has also been disseminating educational and promotional material and organising other activities aimed at reaffirming this right. The NGOs' monitoring of the enforcement of the Law has shown that the campaign has had positive effects and an evident increase in the public and media will and readiness to exercise the right of free access to information. Positive changes among the authorities have also been registered but they still have not reached the level necessary in a democratic society. The Commissioner cooperates well with the media, which have played an extremely significant role in reaffirming this right.

Effective legal protection in case of groundless denial of access to information (**Recommendation 158**) is provided by the provision allowing for the submission of complaints to the Commissioner, while the oversight role, initially entrusted to the Ministry of Culture, was transferred to the Administrative Inspectorate of the Ministry of State Administration and Local Self-Government in December 2009. The Commissioner's Office has designed and published on its website the Catalogue of Public Authorities the Law on Free Access to Information of Public Importance applies to. The Catalogue comprises a list of 11,000 public authorities and the Office used diverse sources of information as it was compiling it, given that only a small number of authori-

ties responded to the repeated request by the Commissioner and submitted the required data. Although not constitutive in character, the Catalogue is nevertheless useful both to citizens and all other potential users of the right of access to information, as well as the authorities themselves and the ministry overseeing the enforcement of the Law. The data in the Catalogue are regularly updated.

The right to complain and the obligations of the state authorities to respond to the complaints within the legal deadline are regulated by the internal regulations of the authorities and organisations, wherefore it cannot be considered that a system guaranteeing minimum standards for acting on complaints has been established (**Recommendation 159**).

The Anticorruption Agency in 2010 intensively cooperated with citizens' associations by organising meetings across Serbia at which it informed their representatives of the position and role of civil society organisations in the Strategy and Action Plan system and the work and powers of the Agency. Specific non-governmental organisations were involved in the process of reporting on the fulfilment of the Strategy and Action Plan and in the drafting of the Law on the Financing of Political Activities (**Recommendation 160**).

Some state authorities practice informing of or inviting representatives of specific citizens' and professional associations to partake in the process of adoption of important anti-corruption regulations or decisions. This practice has not, however, been formalised and depends on the readiness of an individual state authority to cooperate, its awareness of the importance of involving associations in the process, and the associations' initiative (**Recommendation 161**).

The Law on Associations was adopted in 2008 (**Recommendation 162**). Its authors took into account comparative experiences and international standards. The Ministry of State Administration and Local Self-Government also consulted the representatives of interested associations about the text of the Law. On the other hand, tax regulations relevant to the work of associations have not been amended to facilitate the work of the associations. The amendments to the Law on Property Taxes passed in 2007 introduced novel provisions which the Ministry of Finance has interpreted as an obligation by associations to pay taxes on the donations they receive. This significantly hinders the work of associations, given that the donors are not willing to fund the state budget through their donations for the implementation of specific programmes conducted by citizens' associations or recognise the taxes as an expenditure item in the project financial reports. Citizens' associations are therefore forced to secure funds to pay these obligations from other resources. Further-

more, the law does not envisage any tax relief on funds raised through donations. Namely, if the opinion of the Ministry of Finance is accepted – that donations to associations are gifts in terms of tax legislation – then donations are treated as any other gifts to any other natural or legal person. Finally, when implementing activities funded by donors, the associations pay all other taxes like any other legal person (e.g. VAT, income tax).

The Law on Associations regulates funding of associations implementing programmes of public interest; these programmes include, inter alia, anti-corruption activities. The law, however, does not provide for tax relief. The Law on Associations does not lay down the criteria for the allocation of such funds, but it does envisage allocation of budget subsidies via public calls for applications. Various practices are applied with respect to the publication of such calls. Some budget beneficiaries allocate funds to pre-defined beneficiaries listed in the Budget Law, some issue public calls, others, yet, allocate pre-determined amounts to beneficiaries during the budget year without issuing public calls, by reviewing the applications submitted to them by the associations. The Law on Associations lays down the rule that funds from the budget may be allocated pursuant to a public call for applications, which should result in perceiving all other ways of allocating subsidies from the budget as unlawful and punishable under the Law on the Budget System (given that the Law on Associations does not include a penalty for the violation of this provision). It, however, needs to be noted that public and state-owned companies are under no obligation to allocate subsidies via public calls for applications (**Recommendation 163**).

Under the Law on Associations, budget subsidies to associations shall be subject to oversight, i.e. associations granted subsidies from the budget are under the obligation to submit reports on their work to the entity that granted the funds at least once a year, make the reports publicly available and use the allocated funds to implement the approved programmes. These obligations apply also to organisations granted tax or customs relief during the year (**Recommendation 164**).

The obligation of associations granted budget subsidies to submit and publish annual reports on their work cannot be perceived as sufficient from the viewpoint of the transparency of subsidy spending (because an association may also have other sources of income, other than budget subsidies) or from the viewpoint of ex post facto control, which should focus precisely on how the budget funds are spent. Furthermore, the Law on the State Audit Institution allows, albeit does not stipulate, the SAI's audits of the use of budget funds allocated to associations. Whether the SAI will conduct such audits depends on whether this task is included in the SAI's annual work plan and how many

submissions are filed with the SAI which it can act on. The SAI has not conducted such audits to date. At the time the Strategy was adopted, the control of budget subsidy spending was differently treated by the budget beneficiaries allocating such subsidies. Some of them required reports on the implemented projects and spent funds, linking the transfer of the budget funds to the submission of the reports, while others did not require any reports of the kind (**Recommendation 165**).

The Law on Associations sets the rules on the work and organisation of citizens' associations. Some of its provisions are relevant for ensuring ethical conduct within the associations. Ethical issues are, however, left to the internal regulations of the associations, which are not under an obligation to adopt any rules on ethics (**Recommendation 166**).

The recommendation and Action Plan activities regarding the timely notification of associations of the opportunities to apply for budget funds have been implemented only sporadically since the Strategy and Action Plan were adopted. The state authorities allocating subsidies to non-governmental organisations have employed diverse practices. For instance, the results of the "Budget Line 481" project focusing on the 2007 budget demonstrate that the ministries granted funds from this budget line predominantly to pre-designated beneficiaries and only rarely published public calls for applications. The results of the calls were published on the websites of the ministries which had issued them. Dissemination of information on the public calls was not a mandatory element, but the interested non-governmental organisations were notified of it. They have also been able to inform themselves about the advertised public calls via mailing lists and Internet presentations of specific non-governmental organisations (e.g. CRNPS). The texts of the published calls usually included the basic information on the criteria that would be used in the selection process (**Recommendation 167**).

The Government endorsed the Draft Law on Sports in January 2011 (**Recommendation 168**).

The Anticorruption Agency is of the view that the following would be advisable with respect to the participation of the public and civil society in combating corruption:

- Adequately formalise the practice by which the state authorities will invite representatives of citizens' and professional associations to participate in the process of adopting important anti-corruption regulations.
- Amend tax regulations to facilitate the work of citizens' associations.

- Introduce a uniform practice regarding the publication of public calls to associations to apply for funding and regarding the control of how the allocated funds were spent.
- Ensure a more transparent execution of “budget subsidies to non-governmental organisations”.
- Systemically regulate the right of citizens to submit complaints about the work of state authorities and the state authorities’ obligations to respond to them within the statutory deadlines.

BIBLIOGRAPHY

1. *2010 Global Corruption Barometer*, Transparency International, Berlin, December 2010 available at http://www.transparency.org/content/download/57371/917572/version/2/file/Barometer_2010_web
2. *Action Plan for the Implementation of the National Anticorruption Strategy*, Official Gazette of the Republic of Serbia No. 109/05, Belgrade, 2005, available in Serbian at http://www.transparentnost.org.rs/index.php?option=com_content&view=article&id=84&Itemid=31&lang=sr
3. *Analysis of the Enforcement of the Action Plan for the Implementation of the National Anticorruption Strategy*, Transparency Serbia, Belgrade, 2010.
4. *Analysis of the Execution of Budget Subsidies for Non-Governmental Organisations*, Centre for the Development of the Non-Profit Sector, December 2010, available at <http://www.crnps.org.rs/2010/anali-za-izvršenja-budžetskih-„dotacija-za-nevladineorganizacije“>
5. *Analysis of the Implementation of Anti-Monopoly Regulations from 2006 to 2010 and Problems in the Work of the Commission for Protection of Competition*, Anticorruption Council of the Government of the Republic of Serbia, Belgrade, December 2010, available in Serbian at <http://www.antikorupcija-savet.gov.rs/eng/view.jsp?articleId=709>
6. *Analysis of the Obligations of the National Assembly Arising from the National Anticorruption Strategy and Proposals for Further Action*, Transparency Serbia, Belgrade, 2006, available in Serbian at http://www.transparentnost.org.rs/images/stories/materijali/dokumenta/Inicijative/Analiza_obaveza_NS_iz_Nacionalne_strategije_za_borbu_protiv_korupcije.doc
7. *Answers to the European Commission's Questionnaire*, Chapter 23, Judiciary and Fundamental Rights, National Legislative Framework, Reply to Question 56, Government of the Republic of Serbia, Belgrade, 2010, available in Serbian at http://www.seio.gov.rs/upload/documents/upitnik/odgovori_na-upitnik_ek.zip
8. *Answers to the Reporting Questionnaire on the Implementation of the Strategy and Action Plan*, Commissioner for Information of Public Importance and Personal Data Protection Commissioner, Belgrade, October 2010.
9. *Answers to the Reporting Questionnaire on the Implementation of the Strategy and Action Plan*, Ministry of Justice of the Republic of Serbia, Belgrade, January 2011.
10. *APR in Figures – Half of Companies Concentrated in Two Districts*, Business Registers Agency, Belgrade, 23 November 2010,

available in Serbian at <http://www.apr.gov.rs/Односисјавношћу/Вести/Архива2010.aspx>

11. *Corruption Perception Index 2010*, Transparency International, Berlin, 2010, available at http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results
12. *Current Indicators*, Statistical Office of the Republic of Serbia, Belgrade, available in Serbian at <http://webzrzs.stat.gov.rs/WebSite/Default.aspx>
13. *Decision on Determining the Nacional Anticorruption Strategy*, Official Gazette of the Republic of Serbia No.109/05, Belgrade, 2005 available in Serbian at http://www.acas.rs/images/stories/Nacionalna_strategija.pdf
14. *Decision on Establishing the Commission for the Implementation of the National Anticorruption Strategy and the Recommendations of the Group of States against Corruption (GRECO)*, Official Gazette the Republic of Serbia, No. 63/06, Belgrade, 2006 available in Serbian at: http://www.g17pluspo.wwwyu.com/SAVET_KORUPCIJA.doc
15. Derick W. Brinkerhoff, *Identifying and Assessing Political Will for Anticorruption Efforts*, Public Administration and Development, 20, 239 – 252 (2000), available at www.usaid.gov/our_work/democracy_and_governance/publications/ipc/wp-13-ms.pdf
16. *Doing Business 2011 - Making a Difference for Entrepreneurs*, International Finance Corporation, World Bank Group, Washington D.C., November 2010, available at <http://www.doingbusiness.org/reports/doing-business/doing-business-2011>
17. *Joint First and Second Evaluation Rounds - Addendum to the Compliance Report on the Republic of Serbia*, RC-I/II (2008) 1E Addendum, GRECO, Strasbourg, 11 June 2010, available at [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC1&2\(2008\)1_Add_Serbia_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC1&2(2008)1_Add_Serbia_EN.pdf)
18. *Mediation in Serbia 2006–2009 – Results of Mediation*, Mediation Centre, Belgrade, 2009, available in Serbian at <http://www.medijacija.rs/img/rezultati2009.pdf>
19. *Law on Amendments to the Law on the Anticorruption Agency*, Official Gazette the Republic of Serbia, No. 53/10, Belgrade, July 2010, available at <http://www.parlament.rs/upload/archive/files/cir/doc/zakoni/2010/1857-10.zip>
20. *Law on the Anticorruption Agency*, Official Gazette of the Republic of Serbia No. 97/08, Belgrade, October 2008, available in Serbian at <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>
21. *Legal Monitoring of the Serbian Media Scene*, Association of Independent Electronic Media (ANEM), December 2010 available

at [http://www.anem.org.rs/en/aktivnostiAnema/monitoring/
story/11548/THE+FOURTH+ANEM+MONITORING+PUBLICATI
ON+.html](http://www.anem.org.rs/en/aktivnostiAnema/monitoring/story/11548/THE+FOURTH+ANEM+MONITORING+PUBLICATI
ON+.html)

22. *Monitoring Results for the 2nd Quarter of 2010, 1 April – 30 June*, Transparency Serbia, Belgrade, 2010, available at [http://www.undp.org.rs/index.cfm?event=public.
newsDetails&revid=E59896FE-BC8F-D76B-7175772DAB910502](http://www.undp.org.rs/index.cfm?event=public.newsDetails&revid=E59896FE-BC8F-D76B-7175772DAB910502)
23. *Open Budget Survey, Country Info – Serbia*, International Budget Partnership, available at [http://www.internationalbudget.org/co
untryData/?fa=countrydata&ct=Serbia](http://www.internationalbudget.org/countryData/?fa=countrydata&ct=Serbia)
24. *Public Expenditure and Financial Accountability Assessment*, Public Financial Management Performance Report, Ministry of Finance of the Republic of Serbia, Belgrade, November 2010, available at [http://www.mfin.gov.rs/UserFiles/File/dokumenti/PEFA%20
Serbia%202010%20ENG.pdf](http://www.mfin.gov.rs/UserFiles/File/dokumenti/PEFA%20Serbia%202010%20ENG.pdf)
25. *Report by the Comprehensive Regulation Reform Implementation Unit on the Implementation of the Comprehensive Regulation Reform as of 8 November 2010*, Vicepresident of the Government of the Republic of Serbia, November 2010, available in Serbian at <http://www.srp.gov.rs/srp/doc/Najnovijilzvestaj.pdf>
26. *Report on the Performance of the Administrative Court in the 1 January – 30 June 2010 Period*, High Judicial Council, Belgrade, 2010, available in Serbian at [http://www.vss.sud.rs/doc/izvestaji/
UPRAVNI%20SUD.pdf](http://www.vss.sud.rs/doc/izvestaji/UPRAVNI%20SUD.pdf)
27. *Report on the Two Years of Work of the Government*, Prime Minister of the Republic of Serbia, Belgrade, July 2010 available in Serbian at <http://www.srbija.gov.rs/vesti/vest.php?id=67319>
28. *Research on the Implementation of the Strategy and Action Plan for the Implementation of the National Anticorruption Strategy*, Social Research Bureau, Belgrade, January 2011.
29. Sahr J. Kpundeh, *Political Will in Fighting Corruption & Integrity Improvement Initiatives in Developing Countries*, VI Chapter, New York, 2000, available at [http://mirror.undp.org/magnet/Docs/efa/
corruption/Chapter06.pdf](http://mirror.undp.org/magnet/Docs/efa/corruption/Chapter06.pdf)
30. *Savet će tražiti zaštitu od vlade Srbije*, dnevni list "Danas", 7 November 2007, available in Serbian at [http://www.
danas.rs/danasrs/hronika/savet_ce_traziti_zastitu_vlade_
srbije.3.html?news_id=126949](http://www.danas.rs/danasrs/hronika/savet_ce_traziti_zastitu_vlade_srbije.3.html?news_id=126949)
31. *Serbia Corruption Benchmarking Survey – 2nd Round*, TNS Medium Gallup, Belgrade, March 2010, available in Serbian at [http://www.
undp.org.rs/index.cfm?event=public.publicationsDetails&revid=
D48A72BE-0E94-3A47-1F191045F961C13C](http://www.undp.org.rs/index.cfm?event=public.publicationsDetails&revid=D48A72BE-0E94-3A47-1F191045F961C13C)

32. *Serbia Ranks 36th in Open Budget Survey*, B92, Belgrade, 19 October 2010, available in Serbian at http://www.b92.net/biz/vesti/srbija.php?yyyy=2010&mm=10&dd=19&nav_id=466287
33. *Tabulation of Report on the Implementation of the National Anticorruption Strategy and the Action Plan for the Implementation of the National Anticorruption Strategy*, Anticorruption Agency, Belgrade, 2010, available in Serbian at http://www.acas.rs/images/stories/Aneks1_TabelarniPrikaz.pdf
34. *White Book 2010 – Proposals for improvement of the business environment in Serbia*, Foreign Investors Council, Belgrade, available at <http://www.fic.org.rs/admin/download/files/cms/attach?id=192>



CIP – Katalogizacija u publikaciji
Narodna biblioteka Srbije, Beograd
XXX.X:XXX.XX

-

Annual Report of the Anticorruption Agency for 2010 is published by Anticorruption Agency. Print of this publication is funded by United Nation Development program in Serbia.

The views expressed in this publication are the Anticorruption Agency's and do not necessarily represent those of the United Nations, including UNDP, or its Member States.