



Republic of Serbia  
ANTI-CORRUPTION  
AGENCY

**Report on the implementation of Articles 5, 6 and 7  
of the UN Convention against Corruption within the statutory powers  
of the Serbian Anti-Corruption Agency (ACA)**

**- prepared in the view of the fifth intersessional meeting of the Working Group on Prevention  
that is to be held in Vienna from 8 to 10 September 2014 -**

**Belgrade, April 2014**

## **Mandates of anti-corruption body or bodies in respect of prevention (art.6)**

### Background information

In accordance with the UN Convention, the Anti-Corruption Agency was established (*Official Gazette of RS*, No. 97/2008, 53/2010, 66/11-CC and 67/13-CC) as an autonomous and independent state authority with numerous preventive, control and oversight competencies.

The Law on the Anti-Corruption Agency entered into force on 4 November 2008 thus enabling the establishment of a new institution of the Republic of Serbia to fight corruption. The Anti-Corruption Agency (ACA) was found in accordance with international standards, especially Article 6 of the UN Convention against Corruption and specific recommendations from the GRECO.

ACA became operational as of January 2010 and has preventive and operational competences in several areas – resolving conflict of interest of public officials in Serbia, controlling the asset declarations of public officials, controlling the funding of political parties, supervising the implementation of the National Anti-Corruption Strategy and corresponding Action Plan, dealing with complaints and whistle-blower charges, fulfilling international obligations, monitoring the implementation of integrity plans, achieving cooperation with all governmental and non-governmental organisations and coordinating international anti-corruption efforts of relevant state institutions in Serbia. In addition, ACA institutes proceedings and pronounces measures in case of violation of the Law, monitors and coordinates the operation of state authorities in the fight against corruption, maintains the register of officials, register of officials' property and income, provides professional assistance in the anti-corruption area, cooperates with other state authorities in drafting the anti-corruption legislation, introduces and implements anti-corruption training programmes, conducts surveys, monitors and analyses statistics and other data about corruption.

For conducting activities within its competences, ACA is accountable to the National Assembly, to which it is required to file annual work report that shall include a report on the implementation of the National Anti-Corruption Strategy and related Action plan. Both reports includes detail analysis of the key shortcomings within the areas falling under ACA competencies. Moreover, both reports includes conclusions and specific recommendations to the competent state authorities. According to the NA Rules of Procedure, within 30 days upon submission of the report, relevant NA committees have to discuss ACA report and to formulate conclusions/ recommendations that are to be considered/adopted at the first NA session. Having in mind the oversight/scrutiny function of the NA, after considering ACA report, recommendations for improvement of the state of corruption have to be sent to all relevant state institutions.

For additional information please see [http://www.acas.rs/sr\\_cir/component/content/article/229.html](http://www.acas.rs/sr_cir/component/content/article/229.html)

The bodies of the Agency are the Board (consisting of nine members) and the Director. The Board is appointing and dismissing the Director of ACA, deciding on appeals against Director's decisions imposing the measures in accordance with this law, adopting the annual work report of ACA, supervising the work and property of the Director, proposing the budget for ACA, adopting rules of procedure for its work and performing other tasks stipulated by the law. Term of office of a Board member is four years, and same person may be a member only twice.

The Director is representing ACA, managing the work, organising and ensuring legal and efficient performance of ACA, making decisions on violations of the law and imposing measures, preparing an annual report of ACA's work, preparing draft budget, adopting general and individual acts, deciding on

rights, duties and responsibilities of the employees, carrying out decisions of the Board and performing other duties specified by the law. Director's term of office is five years, and same person may be a director only twice.

ACA has professional services managed by the Director, notably the Sector for Prevention, Sector for Operational Affairs, Sector for Complaints and Branch Offices, Sector for General Affairs, Department for Resolving Conflict of Interests, Department for Control of Financing Political Subjects, International Cooperation Department and Public Relations Department.

Resources for work are allocated from the budget of the Republic of Serbia, as well as other sources. However, in order to implement activities envisaged in the Law on Anti-Corruption Agency, ACA still mostly relies on the donors' support.

In addition, very important role of the Agency is to coordinate the state bodies in the fight against corruption. In 2013 ACA intensified/targeted efforts re this important task by initiating regular meetings (at the highest level) of public authority organs, having significant role in prevention and suppression of corruption. Seven meetings were held so far. The purpose of these meetings is to discuss on the ongoing disputable but also future anti-corruption issues, since efficient fight against corruption require sector approach supported with joint actions. The representatives/heads of Commissioner for Information of Public Importance, Ombudsman, State Audit Institution, Republic Commission for the Protection of Rights in Public Procurement Procedures, Republic Broadcasting Agency, National Assembly, National Bank of Serbia, First Deputy Prime Minister's Cabinet Office, Ministry of Health, Ministry of Justice and Public Administration, Ministry of Interior, Public Prosecutor's Office, High Misdemeanor Court, Administration for the Prevention of Money Laundering, Public Procurement Office, Tax Administration, Business Registers Agency and Security Information Agency attended the respective meeting.

### Corruption Prevention Mechanisms implemented by the ACA

#### 1. Monitoring of the National Anti-Corruption Strategy and related Action plan

ACA is responsible for monitoring of the National Anti-Corruption Strategy (NACS) and related Action Plan (AP). From its establishment in 2010, ACA has prepared three reports on the implementation of the old NACS and AP and one on the implementation of the new NACS and AP. Once the new NACS for the period 2013-2018 and the Action plan<sup>1</sup> had entered into force, the ACA drafted Guidelines for reporting on the implementation and monitoring the implementation of the NACS and Action plan, entailing detailed instructions for responsible entities in terms of creating reports, indicators as well as propose of the reporting form. It was expected that the Guidelines will facilitate and unify the reporting process, thus simplifying the process of monitoring the implementation of the Strategy. The Guidelines were sent to all responsible entities in the Action plan and displayed at ACA's website. At the end of March 2014, **ACA created Report on the implementation of the Strategy and Action plan for 2013, encompassing also Report on implementation of the activities for the first four months of the implementation of the NACS and AP<sup>2</sup>. The pertinent report was submitted to the National Assembly on March 31, 2014, as an**

<sup>1</sup> Both documents entered into force on September 6, 2013.

<sup>2</sup> The Report pertains to the implementation of the NACS and Action plan as of September 6 until December 31, 2013.

**annex to the Annual Report on the work of the ACA. In the first reporting period the ACA assessed fulfilment in terms of 47 activities. Half of them, i.e. 24 were fulfilled in conformity with the indicator, 10 activities were not fulfilled in conformity with the indicator and the ACA couldn't assess the fulfilment of 13 activities for various reasons, mainly due to lack of information. According to data of the ACA, out of 24 fulfilled activities, 20 (more than 4/5) were fulfilled in accordance with the method and deadline envisaged in the Action plan and 4 were implemented in due time, but not in accordance with the method envisaged in the Action plan.**

## 2. Corruption risk assessment in legislation

In the framework of corruption risk analysis of draft legislation and especially in order to strengthen regulatory integrity and eliminate potential corruption risks, in late 2012 ACA has developed the Methodology for corruption risk assessment in legislation. The methodology represents an internal act of the Agency, and in view of the existing legal framework, opinions and recommendations for elimination of corruption risk, which are prepared by the Agency, as the result of an analysis of regulations, are not binding for the proposers of laws and other regulations. According to the applicable regulations, proposers of laws and other regulations are not obliged to submit the drafts and bills of laws to the Agency for an opinion, so that the Agency shall only analyse those drafts of laws and other regulations submitted for public debate. Up to now, the Agency has prepared 23 opinions of drafts of laws, 2 reports on analysis of corruption risk in the existing legal framework governing the field of health care and accreditation procedure and selection of textbooks at schools and 1 initiative for harmonisation of the Regulation on Fees for Use of Cadastre and Survey Data and rendering of services by the geodetic Institute of the Republic of Serbia with the provisions of the Law on State Survey and Cadastre. The opinions about drafts of laws are submitted by the Agency to the proposer of the law concerned (to the competent ministry), the Government and the National Assembly and are published at ACA web-site. Since the competent state bodies have no obligation to take into account any opinion and recommendations of the Agency, the effects of risk analysis on the drafts of regulations prepared by the Agency are very modest.

For this reason, the Strategy and the Action Plan prescribe a series of new measures and activities that should improve and strengthen the effects of this mechanism for assessment of corruption risk. The new NACS and AP prescribe that the Law on ACA is to be changed in the near future together with the both Rules of the procedures of the Government and the National Assembly introducing this important AC tool in the legislative drafting system. It is planned that ACA is to develop methodology for analysis of corruption risk in regulations and the proposers of regulations will be obliged to use methodology even on the occasion of drawing up normative acts so that the elements that might generate, in real life, corruptive incitements or behaviours are eliminated. Any bill of law must contain in its statement-of-reasons an analysis of corruption risk as evidence that the proposer had applied methodology on the occasion of drawing up the text of law. The Government will be obliged to submit all bills of laws and regulations to ACA for an opinion. Within 10 days ACA will submit to the Government an opinion about the analysis of corruption risk in the bill of law, including recommendations for their elimination. The Government will be obliged to submit to the National Assembly, together with the bill of law, the ACA opinion of on analysis of corruption risk in the text of bill of law. According to the AP, after the adoption and publication of methodology, the Agency shall organise and carry out the training on the application of methodology for the proposers of laws, as well as for those that propose and adopt regulations at the level of local self-government and territorial autonomy.

### 3. Integrity Plan

An integrity plan is one of anti-corruption mechanisms, namely of preventive mechanisms for the implementation of risk assessment for the occurrence and development of corruption. An integrity plan is a mechanism to strengthen institution integrity, i.e. the document which is created as the result of self-assessment of exposure of an institution to risks for occurrence and development of corruption and other irregularities, and which contains measures for prevention, reduction and elimination of identified risks. By drawing up an integrity plan the institution shall assess possible threats, problems, chain of events that may lead to corruption before corruption takes place. An internal check-up of the institution functioning is performed, regulations are assessed in order to see whether they are such to prevent or enable corruption, as well as quality of human resources and practice (organisation), method of decision-making, what the extent of discretion powers is in key fields of the institution functioning (public procurements, finances, human resources, information...), which is the first step towards the improvement of the institution integrity. The Law on the Anti-Corruption Agency prescribes an obligation for the state bodies, organisations, bodies of territorial autonomy and local self-government, public agencies and public companies to adopt their own integrity plans. The Agency adopted and published the Guidelines for the preparation and implementation of integrity plans (*Official Gazette of RS*, no. 80/10).

In the process of preparation and implementation of integrity plans the Agency has consulting and control roles. The consulting role of the Agency is reflected in the preparation of the Guidelines for the preparation and implementation of integrity plans, which defines the structure of plans, method of preparation in stages, performance of certain tasks, deadlines for preparation, method of preparation monitoring and implementation method, as well as the training of persons appointed to prepare integrity plans at the institutions. In the course of 2012 approximately 3,950 representatives of the state institutions were trained on integrity plans (notion, significance and method of preparation).

According to the records of the Agency, the total number of the institutions that are obliged to prepare their integrity plans amounts to 4,483. In order to provide quality preparation and implementation of integrity plans by such a large number of obligors, the Agency developed 69 models of integrity plans (in the form of web application) suitable for various types of institutions. In the preparation of a draft (model) of integrity plans working groups took part, which consisted of the representatives of various state institutions (109 members in total), classified to 14 systems (political system, judiciary system, police system, system of public administration and local self-government, defence system, system of finances, system of economy and agriculture, system of social policy, health care system, system of education and science, system of culture and sports, system of environment and infrastructure, system of data protection, human resources and public interest and system of public companies). The contents of the draft of integrity plans have been made through 2 processes 1) based on the collection of data, proposals and suggestions submitted to the Agency by the members of working groups, formed with the aim to prepare the draft and 2) analysis of data obtained from researches for verification and supplement of the contents of the draft of integrity plans.

The result of the above mentioned processes is 69 prepared drafts of integrity plans in total, which are classified to systems. For example, for system of health care 4 drafts of integrity plans were prepared and for those types of institutions that belong to the systems concerned in respect of their competences: the Ministry of Health, health centres, clinical centres/hospitals, the Health Insurance Fund of the Republic of Serbia.

A draft of integrity plan contains identified risk fields/processes, and within each process individual and concrete risks were defined, which may endanger efficiency and quality of implementation of the process concerned, as well as the measures for prevention/reduction of recognised risks. Based on such a model, each institution shall carry out self-assessment of the mentioned risks that may happen with it or that have already been happening and what measures are to be undertaken in order to prevent them.

The structure of integrity plan: Common areas (Management of Institution, Management of Finance, Management of Public Procurements, Management of Documentation, Management of Human Resources, Security); Area of ethics and personal integrity (Conflict of Interest, Taking Presents, Effective Response in Respect of Corruption Claims on Ethically and Professionally Inadmissible Acts, Protection of Employees Reporting Corruption, Ethically and Professionally Inadmissible Acts); Specific areas/competences (they refer to concrete competences of institutions, e.g. Local self-government system - area/competence: construction-urban planning projects).

The control role of the Agency implies monitoring and supervision of preparation and implementation of integrity plan, whether an integrity plan has been made, quality and objectivity of the prepared integrity plan and level of application of measures for improvement of integrity. The Agency will assess whether an institution prepared its integrity plan in quality and objective manner in two ways – visiting the institution concerned, namely directly controlling a certain number of institutions that had prepared integrity plans and based on comparative analysis of the results of the researches by the beneficiary of services on the institution functioning.

The procedure of drawing up an integrity plan at the institutions shall have 3 stages, as follows: 1) preparation stage, 2) stage of assessment and evaluation of the existing conditions and 3) plan of measures to improve integrity. It is important to stress that the process of preparation of integrity plan is implemented systematically and the time prescribed for its preparation is 13 months, as well as that the all employees are included in the stage of assessment and evaluation of the existing conditions. It was done with the aim to make the most detailed and objective review of the conditions at the institutions and to propose adequate measures to give expected results. The deadline for drawing up integrity plan expired on 31 March 2013. Within this first cycle, integrity plans were prepared by 2,121 institutions, namely by about 50 % of them.

The integrity plan is prepared every third year. The preparation and implementation of integrity plans in cycles makes it possible to monitor the progress of institutions in strengthening their integrity and anti-corruption capacities, respectively. Also, in this way the Agency will be able to monitor the pattern of phenomena, causes, occurrence and change of risks defined in integrity plan, in the public sector of the Republic of Serbia, and to give recommendations for system prevention of corruption and other irregularities.

Based on an analysis of prepared integrity plans, we get comprehensive and price picture of the conditions of institutional integrity at the state level. In view of the fact that the institutions are classified to 14 systems and that they had prepared their integrity plans based on a model in web application, by means of statistical and content analysis of data base, it is easy to establish what risks had been identified, which of them are most frequent in which system and in which field of functioning of the institution they are present – whether they are in finances, management, human resources or some other field. It is in this way that it is the best to observe system difficulties opening space for corruption and render adequate recommendations for their solution.

The role of the ACA within the process of adopting and implementing the integrity plan, as a mechanism for corruption prevention as well as strengthening integrity of public sector, is twofold – consultative and controlling one. Thanks to the support of the ACA, out of 4483 public authority bodies, 2121 developed their integrity plans and submitted it to the ACA. The control function of the ACA in terms of integrity plans pertains to the assessment of the objectivity of integrity plans. The ACA has previously drafted methodology based on which the objectivity is assessed through visiting institutions. After discussion with the employees and managers, as well as analysis of the legal framework and citizens' complaints, ACA drafts reports on conducted control, entailing findings and recommendations in terms of amending the existing integrity plans so as to eliminate or mitigate corruption risks. From September 2013 till April 2014, ACA visited 28 different public authority bodies, and 20 more institutions throughout Serbia are to be visited in order to pursue control of the objectivity of adopted integrity plans on the basis of representative sample.

#### 4. Researching integrity of public authority bodies from the perspective of service users

ACA conducted researches based on empirical determination of service users' experiences in the systems of healthcare, local self-government and judiciary. The basic hypothesis in drafting research was that stronger institutional integrity of public authority bodies and their employees stands for a higher level of services delivered to citizens, i.e. enables them to deliver services to the citizens in a sensible and rational manner, to fulfil their purpose in terms of meeting the needs and interests of citizens for which they had been established and basically exist. Researches, having been conducted in three systems and according to the number and type of subjects involved as well as social activities they pursue and the impact of these activities on the society, can be deemed to be representative example of the whole public sector functioning, indicate that the environment wherein the public authorities operate is prone to occurrence and development of corrupt practice. The ACA publicly presented the findings of these researches and invited the competent institutions to take the results of analysis as well as recommendations within the reports, drafted after researches into account, when defining anti-corruption public policies.

### **Public sector legislative and administrative measures, including measures to enhance transparency in the funding of candidatures for elected public office and the funding of political parties (arts. 5 and 7)**

#### The Law on Financing of Political Activities

The sources and method of financing, the records and control of financing of political activities of political parties, coalitions and citizens' groups, i.e. political entities, is regulated by the provisions of the Law on the Financing of Political Activities, adopted in June 2011 (*Official Gazette of RS*, no. 43/11, hereinafter: "the Law").

The provisions of the Law have attempted to introduce important rules into the legal framework, which should ensure transparent and unimpeded fund-raising for the regular operation and election campaigns of political parties, as well as the rules that provide for the method and control over the spending of these funds.

In addition to political parties, the Law regulates the activities of other political entities - coalitions and groups of citizens. All political entities have been given an equal opportunity to raise funds to finance their activities, on the one hand, while, on the other hand, they have been made equal in terms of

obligations imposed by the Law.

As for funds from public sources for covering the costs of the election campaign, the earmarked budgetary funds in the amount of 20% are allocated in equal amounts to submitters of proclaimed electoral lists who gave a statement when submitting the electoral list that they would use the public funds to cover the costs of the election campaign. In the case of elections held under the majority voting system, the earmarked budgetary funds amounting to 50% are allocated in equal amounts to nominators of candidates who gave a statement when submitting the nomination that they would use the public funds. Political entities that do not win a minimum percentage of valid votes cast shall be required to return the amount of funds received. Thus the electoral process is raised to a more serious level. Public funds secured in the budget for financing the regular operation are allocated to political entities that have won seats in representative bodies, therefore in proportion to the achieved results.

Apart from cash, the state authorities can provide political entities with goods and services, whose provision is governed by special regulations, and these goods or services must be provided under equal conditions so as to be equally available to all political entities. When laying down the requirements for the provision of goods and services, the provision of the Law on the Anti-Corruption Agency that explicitly prohibits officials from using public resources to promote a political party, should be borne in mind.

As regards the funds collected from private sources to cover the costs of regular activities and electoral campaigns, their amount is not limited and is not dependent on the amount of public funds, but rather depends on the support and the trust that each political entity enjoys with the voters. The Law poses restrictions on contribution donors, relating to the amount of individual donations. Thus, a natural person may give a total of 20 average salaries to all political entities at the annual level, while the annual limit for legal persons is 200 average monthly salaries. Although these are not small amounts, especially in a situation where the legal or natural person opts to pay the maximum legally permissible amount to only one political entity, it can still not be claimed that by paying that amount a natural or legal person can achieve absolute influence on a particular political party.

The Law allows political entities to take credits and loans for financing their regular activities and election campaigns, but in case the credits and loans were given under the conditions deviating from market conditions, they shall be treated as a contribution, given that the conditions under which the funds were obtained were more favourable than those available to other beneficiaries of such funds.

In order to ensure greater transparency of cash flow, the Law firstly prescribes that any cash contribution to a political entity, as well as the membership fee exceeding the total amount of RSD 1,000.00 per annum, must be paid from the account of the contribution donor, or the membership fee payer. Furthermore, the political entity is required to record each contribution received, and to publish the donations whose annualised value exceeds one average monthly salary, on its website. Finally, public accessibility of data on revenues and expenditures of political entities is also ensured through the publication of annual financial statements on the website of political entities and the publication of reports on the costs of the election campaign on the Agency's website.

A specific provision of the Law prescribes a prohibition on financing, stating, *inter alia*, that financing of political entities by foreign and anonymous donors, public institutions, companies and entrepreneurs engaged in services of general interest or having due, and unsettled, public revenue obligations, institutions and companies with public capital share, trade unions, associations, churches, organisers of games of chance, exporters and importers, and endowments and foundations, shall be prohibited.



International political associations are allowed to give contributions to political entities, but the contributions cannot be made in cash. This means that political entities are allowed to actively participate in the work of international political associations and that these associations may assist them in the form of trainings, seminars or providing expertise.

Revenues from commercial activities are explicitly forbidden, given that political entities are established to pursue political goals, not to generate revenue. Thus, political parties are not allowed to acquire shares or stocks in a legal entity because companies are founded for the purpose of performing profit-making economic activity.

### Control of financing of political activities of political entities

Control of financing of political activities of political entities is carried out by an independent state authority - the Anti-Corruption Agency. The Agency controls annual financial statements of political entities, as well as the reports on contributions and assets that political entities submit having obtained the opinion of the authorised auditor, by 15 April of the current year for the previous year, and the reports on the costs of the election campaign that the political entities are to submit within 30 days from the date of announcement of final election results. When conducting the control procedure, the Agency has the right of direct and unimpeded access to bookkeeping records and documentation of political entities and endowments or foundations established by political parties, and to financial statements of political entities, as well as the right to engage relevant experts and institutions in the control procedure. Political entities are required to submit, at the request of the Agency, all documents and information within a period that may not exceed 15 days, provided that during the election campaign this period may not exceed 3 days. Furthermore, state authorities, banks, and legal and natural persons financing political entities are also required to submit all requested information to the Agency. It should be noted here that the obligation to submit these data is not subjected to the prohibitions and restrictions established by other regulations.

A special form of the Agency's activities during the election campaign, namely in the period between the date of scheduling of the elections and the announcement of the final election results, is organisation and conduct of independent monitoring of election campaigns, which consists of direct observation and recording of activities of political entities during election campaigns in the entire territory of the Republic of Serbia.

The funds for performing the election campaign costs control activities, when the Agency occasionally has an increased workload, are allocated from the budget of the Republic of Serbia. The amount of these funds is not lower than 1% in the case of elections for the President of the Republic of Serbia and Members of Parliament, 0.5% in the case of elections for deputies and councillors in the city hall, and 0.25% in the case of elections for councillors in municipal assemblies. The baseline for the calculation is the total amount of funds allocated from the national budget for the parliamentary elections campaign. Provision of special funds for the control of election campaigns protects the status of the Agency as an independent state authority that performs control of election campaigns without the influence of the will of the ruling political majority.

After carrying out the control of the political entity's financial statements, the Agency may submit a request to the State Audit Institution to conduct an audit of those statements.

Specific provisions of the Law prescribe a system of appropriate measures and sanctions, the application of which should achieve the purpose of punishment.

A caution is a measure that is imposed only if the shortcomings identified in the control procedure can be remedied. It implies that, if the political entity fails to remedy the identified shortcomings, a request for the institution of misdemeanor proceedings shall be filed against it. The administrative measure of suspension of transfer of funds from public sources after the initiation of misdemeanor or criminal proceedings on suspicion of violation of the Law may also be imposed against the political entity. This measure is aimed at impacting the efficiency of the proceedings until the adoption of the final decision and preventing delays in the proceedings caused by the defendants' actions. This measure is imposed by the authority responsible for the transfer of funds, at the request of the Agency.

Finally, the measure of loss of entitlement to public funds for the calendar year following the year in which the political entity was convicted by a final decision for a misdemeanour or a crime is imposed by the Agency. The amount of funds to which entitlement is lost depends on the severity of the offence committed and the degree of accountability, and can range between 10% and 100% of the funds.

As regards other penal provisions, the Law prescribes a criminal offense and the accountability of whoever gives and/or provides for and on behalf of the political entity, funds for financing of the political entity contrary to the provisions of the Law with intent to conceal the source of financing and the amount of collected funds, as well as the aggravated form of the criminal offence if the funds received exceed the amount of RSD 1.5 million. Likewise, the person who commits violence or threatens to commit violence against the contribution donor shall be punished for a criminal offence. As regards misdemeanour accountability, the Law prescribes the accountability of a political party, the responsible person of a political party, the responsible person of another political entity, and the responsibility of fund donors, which implies the accountability of legal persons, responsible persons of the legal person, entrepreneurs and natural persons.

And last but not least, initiation of misdemeanour proceedings for misdemeanours prescribed by the Law is subject to a limitation period of five years from the date when the offence was committed, thus reducing the likelihood that it would not be possible to prosecute the offence due to the expiration of the limitation period.

The Agency took the first step towards ensuring financial transparency in politics by organising the monitoring process in 2012, whereby it monitored the activities of political entities during election campaigns for presidential elections, parliamentary elections, elections for deputies to the assembly of the Autonomous Province of Vojvodina and councillors, and through the control of costs of political activities during election campaigns. After carrying out the control, the Agency presented to the public the First Report on Control of Political Entities' 2012 Election Campaign Costs.

After receiving the report on the costs of the election campaign and the annual financial statement of a political entity, the Agency shall perform their verification, post them on its website and commence their control. Should the control process reveal shortcomings that can be remedied, the Agency shall pronounce a caution measure against the political entity, calling it to remedy the shortcomings within a specified time period, under threat of filing a request for the institution of misdemeanour proceedings otherwise.

Content control of the reports is performed by comparing the data provided in the reports of political entities with the data collected during the election campaign monitoring (in terms of control of reports on the election campaign costs), and with the data obtained from state authorities, banks and legal and natural persons that finance the political entities or that have provided a certain service in their name

and on their behalf.

Based on the data obtained from the state authorities in charge of financial affairs, the Agency learns about the budget funds earmarked and paid to political entities, funds returned to the budget, the election deposit, and the data on dues paid on the grounds of public revenues of contribution donors.

Electoral commissions submit the data on proclaimed electoral lists, as well as the data on the submitters of electoral lists and the candidate nominators.

By examining the turnover in the accounts of political entities, cash transactions are monitored, and by examining the data of the Pension and Disability Insurance Fund of the Republic of Serbia and the Ministry of Labour and Social Policy, conclusions are drawn on the amount of salaries and other types of income and financial support from natural persons, donors of political entities.

The Ministry of Interior submits to the Agency the data on the location, date and time of holding the notified rallies of political entities, as well as the personal information on authorised persons.

In the control procedure, the data of the Republic Geodetic Institute, the Business Registers Agency, the Ministry of Justice and Public Administration and the Republic Broadcasting Agency are also used.

An important control segment is based on the data submitted by providers of services to political entities, such as the data of renters of outdoor advertising space, transport companies and the media. In case of a need for certain clarification, the Agency shall also address the political entity, requesting that it deliver certain documents and information. At the same time, the Law authorises the Agency to have direct and unimpeded access to bookkeeping records and documentation of the political entity and the endowment or foundation established by a political party. Upon completing the control procedure, the Agency shall file a criminal complaint or the request for institution of misdemeanour proceedings before the competent authority in case the established facts indicate a violation of the Law.

After the process of reviewing the financial reports of political entities after the elections (held in 2012 at all levels) in May 2013 ACA organized international conference where presented its first Report on oversight of political entities- 2012 election campaign costs. In December 2013, ACA presented the findings of the Report on oversight of the annual reports of political entities. Both reports are published and presented at the ACA website.

#### Epilogue of the Control of financing of political entities

ACA has controlled annual reports of political entities for 2012 and reports on electoral campaign funding for 2013. In total they cover data from 240 political entities, 91 parties and 149 citizens groups out of which 63 political parties and 13 citizens groups submitted the reports.

ACA started misdemeanour proceedings in 18 cases against political parties regarding the reports on annual funding.

The activity of ACA in the area of political entity funding and electoral campaign funding for 2012-2013 consisted of 390 requests to initiate of misdemeanour proceedings as follows:

- 344 requests concerning elections campaign in 2012;
- 10 requests concerning local elections in 2013;
- 13 requests concerning failure to submit Annual Financial Statements for 2011;
- 18 requests concerning failure to submit Annual Financial Statements for 2012;
- 4 requests for failure to submit opinions by certified auditor;
- 1 request for misuse of funds.

In case of conviction for a criminal offense or if a political party or responsible person of a political entity is fined for misdemeanor specified in the Law on Financing political activities, the political entity shall lose the right to funds from public sources allocated for financing of regular work of the political entity for the coming calendar year in the amount set forth pursuant to this Law. In that regard, the ACA issued two decisions pertaining to the loss of funds from public sources.

Misdemeanor court rendered 28 judgments, out of which 25 pertaining to fine, in the range of 10,000-80,000 RSD for responsible person and 100,000-500,000 RSD for political subject and 3 of them pertaining to admonition.

Discounts and in-kind donations are still a problematic area in terms of reporting and law enforcement. ACA and the NGOs try to collect as much information as possible on these issues, but it is difficult to keep track of a practice that has been used for many years by politicians who take advantage of their public office to promote their electoral agenda.

#### Practical constraints based on the ACA experience

The prerequisite for substantial control of reports, i. e. efficient monitoring of cash flow in politics is the existence of a comprehensive legislative framework that complies with international standards, efficient cooperation of competent institutions as well as appropriate staff and IT infrastructure.

The current Law on the Financing of Political Activities was adopted in June 2011 and all pertinent GRECO recommendations were implemented in a satisfactory manner. At the beginning of October 2011, the Agency adopted the pertinent by-law, i. e. Rules on Donations and Assets Record, on Annual Financial Statement and on the Report on Election Campaign Costs of Political Entities (regulating the form, content and manner of keeping donations and assets records, as well as the form, content and manner of submitting of annual financial reports as well as reports on election campaign costs), meaning that legal solutions could be checked for the first time from that moment and shortcomings entailed in the existing law could only be identified through practice. The Agency made a significant effort so as to improve, uniform and facilitate the reporting process for political subjects through on-line reporting, supported by donors, but technical deficiencies of the web application for submitting reports could also be identified only within the process of practical implementation.

In March 2013 the Agency submitted initiative for amending the Law on Agency to the competent ministry, Government and National Assembly and, inter alia, proposed introduction of new criminal offense "failure to report or false report of election campaign costs", sanctioning a responsible person in a political entity due to failure to report or submitting a false report. Apart from that, in its reports – the first Report on electoral campaign costs and Report on political subjects' regular operation, having been publicly presented in May and December 2013, respectively, the Agency indicated deficiencies of the current law. The Agency also participates in working group for drafting legislation amending the Law on the Financing of Political Activities and has submitted a note to the Ministry of Finance, as a body proposing a piece of legislation, indicating necessary amendments with the aim of ensuring more efficient control of financing political subjects and precisising the current law.

Significant constraint pertains to the fact that not only that the Agency is not directly electronically networked with competent institutions, being obliged to submit relevant information to the Agency but the respective communication is written, which further slows down the whole process. Criminal liability is prescribed by the Law for illegal giving, i. e. collecting of funds for financing a political

entity, with the intention of hiding the sources of financing or amounts of the collected funds.

However, since the Anti-Corruption Agency has been entrusted by the Law with the oversight, but not investigative authorities, willingness of other competent state authorities to cooperate is needed in order to collect evidence necessary for conducting criminal proceedings. Substantial control of reports means primarily that they are submitted in due form.

#### Asset declaration reports (of public officials)

Declarations of assets of public officials are public, with the exception of identification information which is not publicly available. In the Register of Officials kept by the Agency is registered approximately 36600 public officials, out of which 25199 are active.

ACA keeps two registers and allows access to citizens to most of the information contained in them: Register of Officials and Register of Asset and Income. In addition to the respective Registers, the ACA also uses the information from the following records (also being kept by the ACA): a list of legal entities in which an official owns over 20% of shares of interests as well as a catalogue of gifts.

ACA adopts annual control plan at the beginning of the year for particular categories of officials but may also perform extraordinary checks when it becomes aware that a particular official has not reported corrected his/her property. ACA has signed agreements that allow for direct access to the respective databases with the Business Registers Agency, Republic Geodetic Authority and Central Securities Depository and Clearing House. Other institutions are contacted on a case-by-case basis through individual requests: Ministry of Interior and the Tax Administration. While it is important that ACA performs as many checks as possible using the existing capacities, it is clear that it would benefit from a good informational system that would allow it to access other databases and to automatically analyze information from the statements.

ACA has competence to not only check that the statements were submitted, but also their accuracy, including by cross-checking data with the tax administration. What is not yet covered by the law is the possibility to confiscate unjustified wealth – wealth increases that cannot be explained through the income obtained during a given period of time while in public office. Sanctions are confined to monetary fines and remain modest.

In 2013 ACA filed 9 criminal charges due to reasonable suspicion that a public official did not report property to the ACA or gave false information about the property, with an intention of concealing facts about the property (Article 72).

The ACA also filed 20 reports (detailed case analysis with fact findings) on other identified irregularities or due to reasonable suspicion that other offense (money laundering, trading in influence, bribery, tax evasion etc), specified by the Criminal Code or other regulation. The reports were submitted to the Republic Public Prosecutor's Office, Tax Administration, Anti-Money Laundering Administration, Ministry of Interior (Criminal Police Directorate and Financial Intelligence Unit) and to the Budget inspectorate.

In 2013 it made 142 requests for starting misdemeanor proceedings pertaining to failure to report assets and income within the prescribed time limit. Misdemeanor court rendered 20 judgments, out of which 15 sanctioning decisions (imposing fine between 10,000 and 50,000 RSD); 4 decisions suspending the procedure and 1 decision on termination of procedure.

### Technical assistance

Technical assistance is needed in terms of the IT networking/software with other state institutions that would allow cross-cut data obtaining but also thorough analysis. Such software would contribute to the efficient control of asset declarations of public officials, detection of conflict of interests and party funding control.