



Republic of Serbia
ANTI-CORRUPTION AGENCY

**REPORT ON THE ANALYSIS OF TEXTBOOK APPROVAL AND
SELECTION PROCEDURES IN SCHOOLS**

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1. INTRODUCTION

Within one of its legal competences, which comprise analyzing legislation in order to determine which parts of it are open to risks of corruption, the Anti-Corruption Agency¹ analyzed the school textbook approval and selection procedures. These procedures are regulated by the Law on Textbooks and Other Teaching Materials²; therefore, the ACA analyzed the provisions of the law and bylaws regulating the procedures.

Aside from its aim of indicating risks of corruption contained in the legislation regulating the textbook approval and selection procedures, this report also gives recommendations for eliminating risk and improving the procedures in question.

1 Hereinafter: the ACA

2 Law on Textbooks and Other Teaching Materials (*Official Gazette of RS*, no. 72/09).

With the purpose of a more comprehensive understanding of these procedures, and of providing wide-ranging recommendations for their improvement, the ACA conducted interviews with relevant institutions and authorities involved in the approval procedure. Meetings were held with the representatives of the Ministry of Education, Science and Technological Development, National Education Council (Nacionalni prosvetni savet, NPS), Institute for Education and Upbringing Advancement (Zavod za unapredjivanje obrazovanja i vaspitanja, ZUOV), public enterprise Institute for Textbooks (Zavod za udzbenike), “Klett” publishing house, and “Vladislav Ribnikar” primary school. Apart from the information sources already mentioned, we also used the documentation related to the “Free Textbooks” project, provided by the Ministry of Education, Science and Technological Development³.

3 Along with official letter no. 650-02-00375/2012-15 of November 14, 2012, the Ministry of Education, Science and Technological Development also submitted the Government Decision on the approval of the project “Free textbook sets for fourth grade and workbooks for first, second and third grade of primary school” for the 2012/2013 school year (05 number: 610-3111/2012-1 of May 7, 2012); and the project “Free textbook sets for fourth grade and workbooks for first, second and third grade of primary school” (for the 2012/2013 school year).

2. SUMMARY

In the course of analyzing the textbook approval and selection procedure, the ACA reached the following key findings that pose a risk of corruption:

- The Law on Textbooks and Other Teaching Materials does not regulate the procedure of assigning an expert assessment of the quality of textbook content at the Institute for Education and Upbringing Advancement (ZUOV).

- The Rules on Education and the Work of the Working Group in Charge of Providing Expert Assessments of Textbook Quality, adopted on June 26, 2012 by the Steering Committee of the Institute for Education and Upbringing Advancement (ZUOV), contain a set of provisions granting the Institute's Director broad powers over the procedure of assigning expert assessments.

- The identity of the persons hired by ZUOV to conduct expert assessments of textbook quality is unknown to the interested public, thus making it impossible to learn whether they may have a conflict of interest.

- The provisions of the Law on Textbooks and Other Teaching Materials enable the institutions involved in this process to exceed the deadlines set by law without facing any consequences.

- Publishers have no knowledge of what is taking place as regards their request in any given phase of the textbook approval procedure.

- The provisions of the Law on Textbooks and Other Teaching Materials enable the National Education Council – the institution proposing textbook approval to the minister – to not take action in case of a negative assessment of a textbook by the Institute for Education and Upbringing Advancement, then to wait for the 60-day deadline to expire, and subsequently have the minister decide on the request; alternatively, if a request for expert opinion is submitted, to act on the request.

- The Law does not stipulate a deadline for the submission of requests for expert opinion.

- The entire procedure of selecting textbooks whose purchase is to be funded from the state budget, within the “Free Textbooks” project, is being carried out in a manner which is not based on law.

- The Law on Textbooks and Other Teaching Materials does not set any criteria for the selection of school textbooks.

3. LEGAL AND INSTITUTIONAL FRAMEWORK

The textbook approval and selection procedure is regulated by the Law on Textbooks and Other Teaching Materials. This law regulates the preparation, approval, publishing and selection of textbooks and textbook sets for primary and secondary schools, as well as the monitoring and evaluation during their use in educational activities.

A series of bylaws were passed with the aim of implementing the law: the Rules on Authorization for Publishing Textbooks (License), Rules on Low-Circulation Textbooks, Rules on the Content and Maintenance of the Register of Publishers who Have Obtained a License to Publish Textbooks and Other Teaching Materials, Rules on the Content and Maintenance of the Register of Approved Textbooks, Rules on Textbook Quality Standards with Implementation Manual, Rules on the Textbook Plan⁴.

4 Rules on Authorization for Publishing Textbooks (License) (*Official Gazette of RS*, no. 6/10), Rules on Low-Circulation Textbooks (*Official Gazette of RS*, no. 30/10), Rules on the Content and Maintenance of the Register of Publishers who Have Obtained a License to Publish Textbooks and Other Teaching Materials (*Official Gazette of RS*, no. 21/10), Rules on the Content and Maintenance of the Register of Approved Textbooks (*Official Gazette of RS*, no. 21/10), Rules on Textbook Quality Standards with Implementation Manual (*Official Gazette of RS*, no. 1/10), Rules on the Textbook Plan (*Official Gazette of RS*, no. 1/10).

The Law on the Foundations of the Education System⁵ is a systemic law covering the area of education. This law defines the powers of institutions involved in the textbook approval procedure.

Several institutions are involved in the approval procedure. The National Education Council (NPS) passes the textbook plan and proposes textbooks and teaching materials for approval. The Council for Vocational and Adult Education makes recommendations on textbook and teaching material approval for the corresponding subjects. The Institute for Education and Upbringing Advancement (ZUOV) carries out activities related to the preparation of legislation within the competences of the Ministry, the National Education Center, and the Institute for Education and Upbringing Advancement (ZUOV); in the Center for Textbook and Program Development, it develops textbook and teaching materials quality standards, and provides expert assessments of the quality of primary and secondary education textbooks.

5 Law on the Foundations of the Education System (*Official Gazette of RS*, no. 72/09 and 52/11).

4. TEXTBOOK APPROVAL AND SELECTION PROCEDURES

4.1 Authorization for Publishing Textbooks – License

According to data from the Ministry of Education, Science and Technological Development website, on November 30, 2012, the Republic of Serbia had 73 publishers authorized to publish textbooks, i.e. in the possession of a license.⁶ Of these, one is the publicly owned Institute for Textbooks, and the rest are private publishers.

Provisions of articles 6 and 7 determine the conditions for issuing and withdrawing licenses. This procedure is regulated in more detail in the Rules on Authorization for Publishing Textbooks. The license is issued by the ministry in charge of educational affairs.

Provisions of article 7 define the reasons for license withdrawal. Among such reasons is a final judgment determining that the publisher had plagiarized textbook content, succeeded in getting a textbook approved and selected through bribery, or published a textbook without the approval of its author. A publisher who has had his or her license withdrawn may submit a request for a new license one year after the withdrawal of the license.

Currently there is no oversight of publishers' activities. It is impossible to know the quantity of textbooks printed by a publisher, and whether it was done in accordance with the catalogue. Publishers are not required to report the location of their warehouses, and there are indications that some publishers use schools and apartments for such purposes. No publishing house can be subjected to oversight under such conditions.⁷

6 Data available at: <http://www.mpn.gov.rs/prosveta/page.php?page=169>

7 According to Miloljub Albijanic, director and chief editor of the Institute for Textbooks, on a meeting held on October 10, 2012, with the representatives of the ACA.

4.2 Submitting a Request for Textbook Approval and Expert Assessment of Textbook Quality

The following is a short outline of the textbook approval procedure:

The publisher submits a request for textbook approval to the Ministry. After that, the Ministry forwards the textbook to the ZUOV, which gives an expert assessment of textbook quality, in line with established standards. ZUOV then delivers the textbook, along with its expert assessment, to the NPS, which gives a recommendation to approve or decline it. The final decision on whether a textbook is approved or not is made by the Minister.

Provisions of article 15 regulate the submission of the request for textbook approval. The publisher is to submit the request to the Minister by October 1 of the school year prior to that in which the textbook ought to be approved. The Ministry delivers the textbook to ZUOV within 30 days after receiving the request.

According to established standards, ZUOV assigns an expert assessment of the textbook quality. The assessment, along with the textbook, is sent by ZUOV to NPS, or to the Council for Vocational and Adult Education.

The law does not regulate the procedure of assigning an expert assessment by ZUOV. The provisions of the law are unclear regarding the person in the ZUOV responsible for assigning the assessment, in line with established standards.

The ZUOV Steering Committee passed the Rules on Education and the Work of the Working Group in Charge of Providing Expert Assessments of Textbook Quality,⁸ which regulate in more detail the working group training method, as well as the procedure of assigning textbook assessments.

The Rules weren't passed until June 26, 2012, meaning that the textbook expert assessment procedure was not regulated before this point.

Textbooks are assessed by a three-member working group, formed by a decision made by the ZUOV Director. According to the rules, one textbook is assessed by one working group. In exceptional cases, the ZUOV Director may form two or more working groups with the same task for one textbook. Each working group works independently and simultaneously; upon completion, it gives a recommended expert assessment. This formulation of the provision poses a great risk of corruption. Practically, it means that the ZUOV Director decides which recommendation gets accepted as the official ZUOV expert assessment, without any defined criteria for the making of such decision.

These Rules contain another exception. Namely, the ZUOV Director may form a new working group with the same assignment, provided that the working version of the document made by the previous working group was not accepted for objective reasons. These "objective reasons" for not accepting an expert assessment are not defined, and thus a conclusion may be drawn that this depends on the arbitrary judgment of the Institute Director.

According to the Rules, the proposal for working group members is made in writing, and must be made collectively by the employees and the manager. In exceptional cases, the ZUOV Director may form a working group for a particular textbook, without the proposal made by the employees and the manager, provided there are reasonable grounds for doing so. This is a similar situation, where the ZUOV Director has the power to make decisions on an issue based on "reasonable grounds", outside standard procedures. The Rules do not specify what constitutes reasonable grounds, which means that the ZUOV Director gets to decide when it is justified to form a working group without a proposal, and who the members of such a working group would be.

The law stipulates that the ZUOV is required to act upon requests within 30 days after their receipt, and to inform the Ministry on the outcome of the analysis. In case the ZUOV fails to act within the time frame set by the law, the Ministry may set an additional 15-day deadline. Should the ZUOV fail to submit an expert assessment within this additional time frame as well, the Ministry shall submit a textbook copy to the competent council without delay, in order to prepare an expert assessment and define the recommendation for textbook approval. If the competent council does not submit a recommendation or if it does not submit it within 60 days after receiving an expert assessment from the ZUOV, the Minister shall decide on the publisher's request without the recommendation by the competent council.

8 Available at:
http://www.zuov.gov.rs/novisajt2012/ozavodu_dokumenta_zavoda.html

This type of legal provisions enables the institutions participating in the procedure to exceed deadlines set by law without any consequences. Furthermore, the publishers have no feedback as regards their request during various phases of the textbook quality assessment procedure, because the institutions are under no obligation to inform the publishers. All of the above poses a potential risk of corruption.

From the point of view of corruption risk, a particular problem arising from this type of procedure regulation is the issue of conflict of interest. This subject will be developed in more detail in section 4.5 of this report.

The provisions of the law define the content of the expert assessment of textbook quality. It has happened in practice that the expert assessments – especially when it comes to positive opinions – did not include appropriate clarifications. This is a problem because the NPS should propose textbook approval to the Minister based on the expert assessment. In case of a negative assessment, the documents were provided with a clarification, which was not the case with positive assessments. It was only after several interventions from the Ministry that the ZUOV started giving more thorough explanations of their assessments.⁹ Relevant regulations do not contain precise instructions as to the outline and contents of the expert assessments.

4.3 Expert opinion

If the ZUOV gives a negative assessment of a textbook, the publisher has the right to request an expert opinion from the NPS.

The expert opinion procedure is regulated by the provisions under Article 18 of the Law. A publisher may request an expert opinion of the textbook copy from the NPS if they think the Institute did not provide the expert assessment in conformity with the prescribed standards. The NPS has a 60-day deadline to decide on the publisher's request, and to inform them on it. If the request is judged to be reasonable, the NPS, i.e. the expert commission formed by it, forms an expert opinion of the textbook copy within 60 days after receiving a regular request. If the request is not reasonable, the NPS has the obligation to notify the publisher on the matter within 30 days after receiving an orderly request. The expenses of the expert opinion of the textbook are covered by the publisher.

⁹ According to the statements of the representative of the Ministry of Science and Education, at a meeting held on July 23, 2012 with the representatives of the ACA.

The National Educational Council passed the Rules on Textbook Expert Opinion Procedure¹⁰, which regulate this procedure for texts which failed to get a positive assessment from the ZUOV. After a formal check, the NPS assigns two experts to perform an expert review of the copy. The Rules define what is to be considered a conflict of interests. The selected expert signs a statement declaring that he or she does not have a conflict of interest, aside from meeting other conditions. Based on the experts' opinion, the NPS makes the final decision on whether a textbook is approved at a session. The decision is then submitted to the Ministry.

In line with the legal provisions, the NPS has the competence to act in the first instance by giving a recommendation for textbook approval, in the case the ZUOV gives a positive expert assessment, but also in the second instance, on request from the publisher for an expert opinion on the textbook.

The provisions of the law and the NPS Rules do not set a deadline for the submission of the request for an expert opinion.

10 Available at: <http://www.nps.gov.rs/ekspertiza/pravilnik-o-postupku-ekspertize/#more-2444>

In practice, the NPS does not act in the first instance in cases where the ZUOV gives a negative assessment of the textbook copy; instead, they wait 60 days to pass after the negative assessment was given, and if the publisher then does not submit a request for an expert opinion, the NPS does not act, and the Minister decides on the request based on the negative assessment from the ZUOV.¹¹ In view of the legal provisions and practice, the issue must be raised of NPS acting in the first and second instance.

The Rules on Textbook Expert Opinion Procedure of the NPS determine that the expert may not be an author or reviewer of a textbook for the same subject and same grade; that he may not be in a business relationship with one of the publishers; that he may not be employed at the Ministry of Education and Science or at the ZUOV, a member of the NPS, nor a member of the ZUOV committee which had reviewed the textbook. The selected expert signs a statement declaring that he meets the said conditions.

The Law on Textbooks and Other Teaching Materials does not regulate the issue of conflict of interest in the expert opinion procedure. The entire procedure of issuing an expert opinion, manner of selecting the experts, their work, and the issue of conflict of interest needs to be regulated by law.

4.4 Recommendation for Textbook approval

The National Education Council proposes the approval of textbooks to the Minister within 30 days after receiving a positive assessment of quality. The Council for Vocational and Adult Education proposes approval of vocational textbooks or teaching materials to the Minister within the same 30-day deadline. Based on the recommendation of the competent council, the Minister shall make a decision within 15 days. In case the Minister estimates that based on the recommendation of the competent council a decision cannot be made to approve a textbook, he may request the competent council to provide an addendum or additional clarification of its recommendation. If the competent council fails to provide an addendum or clarification within 30 days after receiving the request, the Minister shall make a decision. The role of the National Education Council is basically confirming the positive expert assessment of the Institute, and based on the assessment, defining the recommendation for textbook approval. Moreover, the Minister gets the opportunity to “estimate” whether a decision may be made based on the Council’s recommendation.

It must be asked what the Minister’s decision is based on in this case, when the Institute already gave a positive expert assessment of textbook quality and the Council

11 According to the statements of Desanka Radunovic, PhD, President of the NPS at a meeting held on October 11, 2012, with ACA representatives.

consequently proposed the textbook's approval. Legal provisions do not specify in what way the Minister estimates whether he can make the decision based on the Council's opinion, as well as what the criteria used to reach the decision are in this case. A legal provision formulated in this manner affords great discretionary powers to the Minister, which poses a potential corruption threat.

4.5 Conflict of interests

A provision of Article 19 of the Law regulates the issue of conflicts of interest. A person participating in the textbook expert assessment procedure shall sign a declaration, before beginning to work, certifying that he or she is not the author of the textbook, nor an associated party of the author or publisher in possession of a license. The law defines what constitutes an associated party. It is determined that 'associated party' refers to a spouse or domestic partner, lineal consanguineous relatives, collateral consanguineous relatives up to the second degree of kinship, adoptive parent or adopted child. In addition, any other legal or natural person may be reasonably considered as being connected by interest with the author or publisher of the textbook based on other reasons and circumstances, including shareholding, employment at the publishing house, and other forms of compensated cooperation. Moreover, the textbook may not be assessed by authors of textbooks for the same grade, authors employed at the Ministry or the Institute, nor members of a competent board. Textbooks approved by parties with a conflict of interest shall be withdrawn from use.

The expert assessment of textbook quality at ZUOV is given by a working group formed by the ZUOV Director. The identity of the persons giving expert assessments is unknown to the interested public, and may only be revealed if the interested parties request such information in conformity with the Law on Free Access to Information of Public Importance.¹² In practice, there were cases where individuals giving expert textbook assessments were connected by interest with the textbook's author or publisher.¹³ As the identity of these persons is unknown, no one is able to act upon the knowledge that said persons have a conflict of interest. This problem might be solved if the identity of the persons in charge of expert assessments of textbooks were disclosed to the public, if they were made more accountable, and if there were sanctions for negligence in the carrying out of duties.

4.6 Textbook selection

The procedure of selecting textbooks which are to be used in schools is regulated by the provisions of Article 36 of the Law. Following a justified recommendation from expert councils, i.e. class teachers in charge of specific school subjects, the teachers' council shall make a decision on the selection of textbooks and teaching materials to be used in the school starting from the following school year. The decision on the selection of textbooks is made on the basis of the Catalogue.

The Law does not set criteria based on which schools would choose their governing principle in the selection of textbooks.

In practice, expert councils, or boards of class teachers, propose the textbooks to be used in schools to the teachers' councils. The recommendations of expert councils or boards of class teachers do not include clarifications. Teachers' councils make the final decision. The decision, along with the textbook list, is put on the school notice board, and is mandatory for everyone involved in the teaching process.

12 Available at: www.propisi.com/zakon-o-slobodnom-pristupu-informacijama-od-javnog-znacaja.html

13 According to the statements made by Gordana Knezevic Orlic, director of IK "Klet", at a meeting held on September 27, 2012, and Miloljub Albijanic, director and editor-in-chief of the Public Enterprise "Institute for Textbooks", at a meeting held on October 10, 2012.

During the textbook selection procedure, which is prior to the decision of the teachers' council, when a teacher is presented with a choice between two or three textbooks of similar quality, one of the key factors in coming to a decision is the offer made to the school by publishing houses, e.g. interactive boards, CDs, and other appropriate donations.¹⁴ The ACA's view is that this type of activity on the part of the publishers may result in corruption in the institution.

The selection of textbooks funded from the state budget will be discussed in more detail in the following chapter.

14 According to the statements made by Snezana Knezevic, principal of the primary school Vladislav Ribnikar, at a meeting held on October 17, 2012 with an ACA representative.

5. FREE TEXTBOOKS

The Law does not regulate the funding of textbooks from the republic budget; therefore the ACA was not able to analyze the legal provisions dealing with this issue. We gathered information on the project “Free textbooks for first, second and third grade of primary school” from published conversations with institutions, from the media, and from documentation related to the project “Free textbooks” submitted to us by the Ministry of Education, Science and Technological Development.

The project “Free textbooks for first, second and third grade of primary school” has been implemented since the school year 2009/2010. It has been supported by the Autonomous Province of Vojvodina and local self-governments. The basis for initiating this project is the constitutional provision which determines that primary education is mandatory and free for all.

With the aim of implementing this project, the Ministry of Education, Science and Technological Development announces an invitation to tender for the public procurement of textbooks in a restrictive procedure. In the first phase of the restrictive procedure an invitation to bid is announced. Subsequently, a commission assesses the entries, and makes a decision on approving qualifications. In the second phase of the restrictive procedure, the procurement of textbooks is carried out in line with article 36 of the Law on Textbooks and Other Teaching Materials, and not based on the Law on Public Procurement.

Therefore, the Ministry’s Public Procurement Commission does not conduct the selection of textbooks; rather, it procures the textbooks already selected by teachers’ councils in schools. Selecting textbooks and determining their quantity both precede the public procurement procedure and the Public Procurement Commission takes no part in the process.¹⁵

The Commission formed by the Ministry chooses sets of textbooks and forms the List of Textbook Sets for Compulsory Subjects. Teachers’ councils in schools choose the textbooks to be used in schools from this list. The rule followed in making the choice is that one textbook is selected by a single teachers’ board, and is meant to be used in schools for the following three years.

15 According to a statement of the Ministry of Education, Science and Technological Development from the memo no.: 07-00-69/2012-05, dated October 11, 2012, submitted at the request of the ACA.

This practice, introduced by the Ministry, breaches the provisions of the Law which regulate school textbook selection, as well as the period for which the textbooks are selected.

In the beginning of 2012, the Ministry issued a call to all publishers to separate their workbooks from textbooks, before their registration at the competition. Separated in this way, the textbooks did not go through the approval procedure again, but only a check by the Ministry of whether the separated textbooks correspond to the approved textbooks. This breaches the regulations of the law which regulate the textbook approval procedure, that is to say, it foregoes the implementation of the Law as regards separated textbooks, based on the Ministry's decision.

The manner of implementing the "Free textbooks" project should be thoroughly regulated by law. The rules for textbook approval, as well as for the selection of textbooks, should be equal, regardless of whether they concern the approval of textbooks funded by the republic/local budget, or textbooks paid for by parents. Keeping in mind the positive effects this project has had so far, we consider that the fact that the entire procedure is being conducted outside the law may pose a risk of corruption.

In the end of 2011, the Anti-Corruption Agency received a complaint from the publishing company "Korak po korak", which pointed to irregularities made in the procedure of public procurement of goods – textbooks for the first, second and third grades of primary school for the 2011/2012 school year. The procedure was carried out within the implementation of the project "Free textbooks for the pupils of first, second and third grade of primary school for the 2011/2012 school year". According to the complaint allegations, a certain publishing house sent a letter to schools informing them that they had prepared sets of textbooks for the free textbooks project, and that these were to be bought at a tender; they also delivered a catalogue, made specifically for the free textbooks project. Among other things, this catalogue notes that every teacher ordering 20 or more textbooks per class will receive a gift. As proof of these allegations, a photocopy of the offer sent to a primary school was enclosed with the complaint. According to the allegations from the complaint, this publishing house had the largest share of the total amount of public procurement expenditure. This indicates that the selection of textbooks was carried out contrary to Article 36 of the Law.

6. RECOMMENDATIONS

Based on the analysis of the textbook expert assessment procedure, textbook selection and approval procedure in schools, and the legal provisions regulating it, the Anti-Corruption Agency gives the following recommendations in order to reduce the risk of corruption in the mentioned procedures:

To the Ministry of Education, Science and Technological Development and to the National Assembly

- Regulate the funding of textbooks from the state budget by law
- Regulate by law the textbook expert assessment procedure, which is carried out at the Institute for Education and Upbringing Advancement (ZUOV)
- Thoroughly regulate the content of the act on the expert assessment of textbook quality, accompanied by a mandatory clarification and information on the persons who participated in the procedure.
- Limit the discretionary powers of heads of institutions that participate in the textbook approval procedure, and of the minister
- Examine the competences of the National Educational Council to decide in the first and second instance
- Simplify the procedures of textbook expert assessment and approval
- Provisions on the conflict of interest should refer to all persons involved in any way in the procedures of expert assessment, expert opinions and approval of textbooks; establish a procedure and an authority that will be in charge of overseeing the implementation of these provisions
- The expert opinion procedure, manner of selecting experts and their work, the issue of conflict of interest, as well as the deadline for submitting the request for expert opinion, should be regulated by law
- Establish sanctions for exceeding the deadlines set by law
- Institute a ban on publishers giving donations/gifts in the form of money, rights, or anything else, to schools, principals, or other responsible parties, teachers, parents or

any other members of the professional staff; establish a sanction for publishers who violate the ban, consisting of a monetary fine and license removal

- Introduce control over publishers' activities

To the Ministry of Education, Science and Technological Development and schools

- Establish the obligation to provide an in-depth explanation for teachers' councils and boards of class teachers that choose the textbooks which are to be used in schools

- Introduce textbook evaluation in schools, which would be carried out by the teachers who have chosen the textbooks, as well as by students that are using them.