

Annual Report
of the Anticorruption
Agency for 2010

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ANNUAL REPORT



OF THE ANTICORRUPTION
AGENCY



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_TabelarniPriraz.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



PREFACE

Opening Word of the Board President Čedomir Čupić, Ph.D.

The establishment of the Anticorruption Agency as an independent state body resulted from the development of democratic order, in which oversight, scrutiny, preventive and regulatory bodies have an important role. Democratic order is strengthened and protected by quality criticism, oversight and scrutiny of government. The establishment of such a body is also a state obligation pertaining from the United Nations Convention against Corruption, adopted on September 29th 2003, and signed by the Federal Republic of Yugoslavia, i.e. by its successor, the Republic of Serbia.

One year of the Anticorruption Agency's work is too short a period for achieving significant results, but it is enough to assess the quality of the first steps in against corruption, this great evil and vicious phenomenon for every society.

Since the Law was put into force, the Agency started implementing it in line with the stipulated deadlines. The first month, January, was marked by the obligation of officials to report their property. This task was done with optimal results, i.e. 95% of officials reported their property in that month. The delay occurred when the second obligation was supposed to be fulfilled, for which the deadline was March 31st 2010, related to conflict of interest in governing structures. Then, it turned out that the political will of certain officials (politicians) faded away, even though they expressed this will when the Law on the Anticorruption Agency was adopted, on October 23rd 2008, which was an exceptional and remarkable step in establishing democratic scrutiny. Less than two years later, it turned out that the important political actors were not actually ready for tangible implementation of the Law. They managed to impose and have amendments to the Law enacted seven months after it was adopted. A non-constitutional amendment stopped the implementation of the Law and allowed many officials to interpret the Law the way it suited them, and not the way it was stipulated

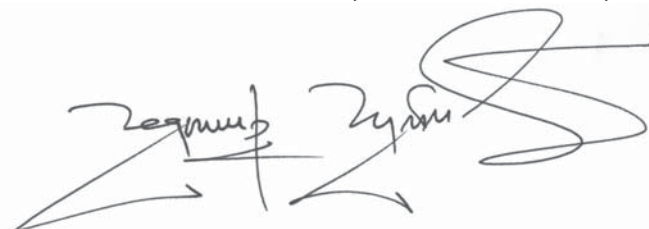
by the Constitution of Serbia. Behind this selfishness of certain officials are personal and group interests that jeopardize public interest, leading also to possible suspicion of great underlying risk of possible corruptive actions or hidden corruption.

Another problem that the Agency faced are the citizens' assumptions that are mostly related to privatization in the past twenty years, and partly to the functioning of public and state enterprises and services. The expectations citizens concerning the deterrence of corruption were great, and still are, while the Agency's capacities related to this difficult problem are low, because the fight against corruption, by and large, depends on accountable functioning of other state bodies.

Verbal, declarative and overly general commitment especially expressed by those who are in responsible positions in the state, waters down and smothers the fight against corruption. The citizens and the public want active and concrete action and behavior in the fight against corruption. Political corruption establishing "corruptive behavior patterns" and "corruptive lifestyle" in political parties, ranks highest in citizens' perceptions. It is used to trade in influence, to establish and maintain monopolies and cartels – it devastates the economy, the political institutions, and the system of values. The citizens also pinpoint the areas in which they face corruption most often: judiciary, healthcare, public administration and education. These facts are alarming and a warning to the government, state bodies and independent state bodies, especially the Anticorruption Agency.

In the previous year, the Board and the Agency have accomplished good and substantial collaboration with international organizations: the United Nations Development Programme, the Organization for Security and Cooperation in Europe, the Council of Europe and the Delegation of the European Union in Serbia. Collaboration was also established with the embassies of developed countries. Quality collaboration exists also with other independent state bodies: the Ombudsman, the Commissioner for Information of Public Importance, and the Auditor. The Serbian Ministry of Justice provided significant assistance, both logistical and administrative, especially in resolving technical problems and issues with premises.

By means of this first Report that the Board and the Agency submit to the National Assembly of the Republic of Serbia, we present to the public and to our founder all the results, but also all the problems that we have faced in the first year of implementation of the Law. The criticism that we shall get from the Assembly and the public shall be of guiding and binding nature for us. In a well arranged democratic order, no one can be spared from criticism, scrutiny and accountability, or be above the Law.



Opening Word of the Director Zorana Marković

The Agency's establishment and start up is doubtlessly an important step in strengthening the rule of law in Serbia. This was a practical expression of the conviction that corruption is not eliminated solely by repressive measures that remove the consequences, but also by adequate preventive action with regard to its causes and sources. With the establishment of the Anticorruption Agency, conditions were created for a long-term removal of the causes for the incidence of corruption through institutional action on a broader scale.

A special challenge for the managers and the employees of the Agency was the fact that the Agency has started its mission in the times of rather difficult economic conditions, and low level of citizens' trust in state institutions. The public skepticism, stating that this was just another one in a series of institutions with an aim to create an illusion that the problem was being resolved, was further strengthened by the fact that the Law gave the Agency only an oversight function, without investigative and operations' authorities, the latter being, for the majority of the public, the only visible manner to eliminate corruption.

For us, who represent the Agency and who are a part of it, such a social milieu is an additional challenge and obligation, because with our work we pave the road to a practice that did not exist until now in an institutional and systemic sense.

The role of the Agency in strengthening the integrity of officials and institutions, in supporting and overseeing the adoption of integrity plans, in implementing the National Anticorruption Strategy, and above all, in coordinating of all state bodies in the anticorruption activities they undertake, is a competence without precedent, giving real foundation for long-term successful resolution of the problem of corruption.

This is why it is a pleasure, on behalf of the Agency, to present the results of the first year of our work. Our objective is to,

through detailed analysis, pinpoint the problematic areas and forms of corruption, and to recommend to the relevant institutions ways to overcome them. We are pleased that the Agency, already in its first year of work, has managed to systematically shape and spot the trends and phenomena in certain areas, and to propose through this document to the National Assembly recommendations that, in our assessment, may substantially contribute to a more successful fight against corruption in the domain of public administration, as well as in other segments of society. We are certain to face a difficult attempt at changing habits, practices, regulations, and procedures, and without the joint work of all state institutions, we cannot expect great results for the set objectives.

In relation to this, collaboration with the state authorities at all levels, but also with international and non-governmental organizations, and especially partner institutions, remains as one of the priorities in the next period. At the same time, participation and presence in numerous events, conferences, seminars, and training programs, in Serbia and abroad, allow the Agency to improve its capacities and achieve efficient and effective results. We are aware that without such activities there can be no success in the fight against corruption, and we are determined to continue the work we started, to expand the collaboration and to persist in our efforts to remain professional and committed to the ultimate goal – strengthening the integrity of the public sector.

The results of our work, that I have the honor to present, are achieved thanks to the extraordinary enthusiasm and engagement of all the employees in the Agency, who have, in the circumstances of continuous staffing changes and insufficient and inadequate material, financial and spatial conditions, demonstrated a high level of professional ethics, knowledge, experience and efficiency. Without their contribution, such a dynamic first year of the Agency's work full of results, would not have been possible.

With hope that the data from the Annual Report on the Agency's work in 2010 will be informative and useful to all who are engaged in raising the anticorruption culture and awareness in Serbia, we present them to the public for its judgment.



PART I

1. ROLE, VISION AND MISSION

1.1 Role	17
1.2 Vision	17
1.3 Mission	17

2. MANAGEMENT AND WORK OF THE AGENCY

2.1 Board	18
2.1.1 Objectives	18
2.1.2 Key Results	19
2.1.3 About the Board	19
2.1.3.1 Background	20
2.1.3.2 Composition and Organization	20
2.1.3.3 Challenges	22
2.1.3.4 What has been done	23

2.2 Director	25
--------------	----

2.3 Standing Service	30
----------------------	----

2.4 Organizational Chart of the Agency	30
--	----

3. BRIEFLY ABOUT THE AGENCY IN 2010

3.1 What we do	31
----------------	----

3.2 Objectives	32
----------------	----

3.3 Key Results	33
-----------------	----

3.4 Challenges	34
----------------	----

3.5 Recommendations	38
---------------------	----

3.6 Financial Overview	39
------------------------	----

3.6.1 Data on Revenues and Expenditures	39
---	----

3.6.2 Public Procurement	41
--------------------------	----

PART II

4. DEPARTMENT FOR PREVENTION

4.1 Objectives	47
----------------	----

4.2 Key Results	47
-----------------	----

4.3 About the Department for Prevention	48
---	----

4.3.1 History	48
---------------	----

4.3.2 Organisation and Competence	48
-----------------------------------	----

4.3.2.1 Division for Resolving Conflicts of Interest	49
--	----

4.3.2.2 Section for Strategy Implementation and Regulations	49
---	----

4.3.2.3 Section for Training Programmes	50
---	----

4.3.2.4 Section for Integrity Plans	50
-------------------------------------	----

4.3.2.5 Group for Research, Media and Civil Society Relations	51
---	----

4.3.3 Structure	51
-----------------	----

4.3.4 Challenges	52
------------------	----

4.3.5 What the Department for Prevention does	59
---	----

4.3.5.1 What the Division for Resolving Conflicts of Interest does	59
--	----

4.3.5.2 What the Section for Strategy and Regulations does	68
--	----

4.3.5.3 What the Section for Training Programmes does	71
---	----

4.3.5.4 What the Section for Integrity Plans does	71
---	----

4.3.5.5 What the Group for Research, Media and Civil Society Relations does	75
---	----

4.3.6	Results	75
4.3.7	Recommendations	79
5.	DEPARTMENT FOR ANALYTICAL AND OPERATIONAL ACTIVITIES	81
5.1	Objectives	81
5.2	Key Results	81
5.3	About the Department for Analytical and Operational Activities	81
5.3.1	History	81
5.3.2	Organization and Competence	82
5.3.2.1	Division for Registers	82
5.3.2.2	Section for Complaints	82
5.3.3	Structure	82
5.3.4	Challenges	83
5.3.5	What the Department for Analytical and Operational Activities does	84
5.3.5.1	What the Division for Registers does	84
5.3.5.2	What the Section for Complaints does	85
5.3.6	Results	86
5.3.7	Recommendations	87
6.	DEPARTMENT FOR OVERSIGHT	88
6.1	Objectives	88
6.2	Key Results	88
6.3	About the Department for Oversight	88
6.3.1	History	88
6.3.2	Organization and Competence	89
6.3.2.1	Division for Oversight of Officials' Property	89
6.3.2.2	Division for Oversight of Financing of Political Entities	90
6.3.3	Structure	90
6.3.4	Challenges	90
6.3.5	What the Department for Oversight does	92
6.3.5.1	What the Division for Oversight of Officials'	92
6.3.5.2	What Division for Oversight of Financing of Political Entities does	92
6.3.6	Results	94
6.3.7	Recommendations	95
7.	DEPARTMENT FOR GENERAL AFFAIRS	96
7.1	Objectives	96
7.2	Key Results	96
7.3	About the Department for General Affairs	96
7.3.1	History	96
7.3.2	Organisation and Competence	97
7.3.2.1	Group for Human Resources	97
7.3.2.2	Group for Finances and Operations	97
7.3.2.3	Group for Information Technologies	97
7.3.2.4	Administration Office	97
7.3.3	Structure	98
7.3.4	Challenges	98
7.3.5	What the Department for General Affairs does	99
7.3.5.1	What the Group for Human Resources does	99
7.3.5.2	What the Group for Finances and Operations does	100
7.3.5.3	What the Group for Information Technologies does	100
7.3.5.4	What the Administration Office does	100
7.3.6	Results	100

7.3.7 Recommendations	101
8. OFFICE FOR INTERNATIONAL COOPERATION	102
8.1 Key Results	102
8.2 Objectives	102
8.3 About the Office for International Cooperation	102
8.3.1 History	102
8.3.2 Organisation and Competence	102
8.3.3 Structure	102
8.3.4 Challenges	103
8.3.5 What the Office for International Cooperation does	103
8.3.6 Results	104
8.3.7 Recommendations	105
9. PUBLIC RELATIONS OFFICE	106
9.1 Objectives	106
9.2 Key Results	106
9.3 About the Public Relations Office	106
9.3.1 History	106
9.3.2 Organisation and Competencies	106
9.3.3 Structure	107
9.3.4 Challenges	107
9.3.5 What the Public Relations Office does	107
9.3.6 Results	110
9.3.7 Recommendations	110
10. ANEX 2010 REPORT OF THE DEPARTMENT FOR CONFLICT OF INTEREST RESOLUTION	111
10.1 Introduction	111
10.2 Results of the Work of the Department in 2010	112
10.2.1 Summary	112
10.2.2 Requests to issue approval to acting officials and notifications of acting officials after the adoption of the Law on Amendments of the Law on the Anticorruption Agency	114
10.2.3 Request for approval to perform another public function	116
10.2.4 Request for approval to perform other work or activity along with the public function	117
10.2.5 Requests for approval of employment and requests for approval of establishing business Collaboration after the Cessation of Public Function Performance	119
10.2.6 Notifications of Officials about Suspicions of Conflict of Interest	120
10.2.7 Initiating procedures and deciding on violations of the Law	121
10.2.8 Giving opinion on implementation of the Law	124
10.2.8.1 Complaints	125
10.2.8.2 About Public Officials	126
10.3 Challenges	128
10.4 Conclusion and Recommendation	129

PART I

ROLE, VISION AND MISSION

MANAGEMENT AND WORK OF THE AGENCY

BRIEFLY ABOUT THE AGENCY IN 2010



1. ROLE, VISION AND MISSION

1.1 ROLE

The Anticorruption Agency is an autonomous and independent state body. It is accountable to the National Assembly for its work, and thus, to the citizens of Serbia.

The National Anticorruption Strategy had foreseen the establishment of the Agency. Bearing in mind the complexity of corruption, which is a phenomenon that penetrates all state and social systems, as well as the number, scope and contents of competences related to the implementation of the Strategy, it was not justified to entrust this competence to any existing entity, but it was necessary to establish a body which would deal exclusively with these affairs. The Agency was established by the Law on the Anticorruption Agency, which was adopted in October 2008, with full implementation as of January 2010.

The Report, which formally marks the end of the first year of implementing the Law and the work of the Agency, i.e. the period from January 1st to December 31st 2010, was drafted and submitted to the National Assembly through the Committee for Judiciary and Public Administration, in line with Article 26 of the Law.

1.2 VISION

To secure environment for citizens unburdened by the injustice of systemic corruption.

1.3 MISSION

Creating conditions for building the personal integrity of officials and the integrity of the public administration.

2. MANAGEMENT AND WORK OF THE AGENCY

The Agency's bodies are the Board and the Director.

2.1 BOARD

2.1.1 Objectives

The Board is guided by the principles defined under seven points, in its efforts at fighting corruption:

1. The Board shall act in accordance with the Law, and it shall insist on consistent implementation of the Law by all entities whose work it is authorized to regulate and control.
2. The Board shall encourage and support awareness and consciousnesses of all who are in public positions, so that they do not deal only with their own rights, personal and individual interests, but to rationally and in a disciplined manner respect their duties and obligations. This will raise their level of accountability and their overall integrity.
3. The Board shall especially pay heed to the public and the media, which provide great support. The public shall be informed, often and on a regular basis, about the plans and ongoing affairs of the Board and the Agency. We shall organize press conferences and give statements on everything that the public has the right to know, and what is of public interest in relation to the fight against corruption. While doing this, however, we shall try to speak only about those things for which we have enough reasoning and evidence. We shall avoid sensationalism and suspicions without reasoning and arguments.
4. The Board and the Agency shall establish permanent coordination with the state bodies, organizations and institutions which are obliged to fight corruption. We shall inform the public about this coordination – both about successful and unsuccessful affairs, pointing to those who fulfill responsibly

their obligations, i.e. act in accordance with the law, and warning against those who hinder and obstruct the fight against corruption.

5. The Board shall collaborate with independent state bodies, such as the Commissioner for Information of Public Importance and Personal Data Protection, the Protector of Citizens, the State Audit Institution, but also with the Anticorruption Council which is a Government body, as well as with independent state oversight, scrutiny and regulatory bodies.
6. Together with the Agency, the Board shall use legal means to initiate amendments with the aim of improving legislation, in order to track through law as many phenomena and problems related to corruption as possible. Experts and institutions will be engaged for conducting research on various forms of corruptive actions.
7. The Board and the Agency shall cooperate with the international organizations such as the United Nations Development Program (UNDP), the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe, the Delegation of the European Union in Serbia, Transparency International, anticorruption bodies from all over the world, especially from the neighboring countries, as well as with foreign and domestic NGOs.

2.1.2 Key Results

The Board has achieved the following key results in 2010:

1. Out of 81 complaints received from officials on the Director's decisions, the Board acted upon 77, while for 4 complaints the procedure is still ongoing.
2. The proposal of the Agency's financial plan for 2011 was adopted.
3. The proposal for assessment of constitutionality of Article 29 of the Law was submitted to the Constitutional Court.
4. A Board member participated in the working group for development of the draft Law on Financing of Political Activities.

2.1.3 About the Board

In line with the prescribed competences, the Board set the criteria and implemented the selection procedure for the Director and Deputy Director, and, adopted its Rules of Procedure. In the meantime, the legal provision pertaining to the selection of the Deputy Director was amended, establishing that the Director selects the Deputy Director, choosing between three candidates proposed by the Board.

Alongside the competence to appoint and dismiss the Director, and to make decisions on the increase of the Director's salary, the Board oversees the work and the assets of the Director,

and decides upon the complaints on the Director's decisions which pass measures in line with the Law.

Concerning the implementation of the Law, the Board gives legal opinions and passes decisions on legal issues. The Board performs its oversight function by considering the report on the Agency's work between the sessions, as well as the proposals of general acts which are passed by the Director.

The adoption of the proposed budget for the work of the Agency also falls within the Board's competences, while the Board can, upon the Director's proposal, establish advisory or working bodies of the Agency.

Apart from the competences that it has as an oversight body, the Board and the Agency Director, collaborate in implementing all activities pertaining to the Agency's competences.

2.1.3.1 Background

The Board started working on April 15th 2009, when it was officially established by holding its first session. At the session held on April 30th 2009, the Board adopted its Rules of Procedure, and on July 19th 2009, after a public recruitment procedure, it appointed the Director and the Deputy Director of the Agency.

2.1.3.2 Composition and Organization

The Law stipulates that the Board has nine members who are appointed for a period of four years, and they can be reappointed for a maximum of two terms. The mandate of Board members lasts for four years, and the same person may be appointed as member twice. The conditions for appointment are that the person meets the general conditions for working in the state administration, has a university degree and at least nine years of working experience, and that he/she was not convicted for a criminal act which would make him/her inappropriate to perform the function of Board member. In addition, a Board member may not be a member of a political party, i.e. a political entity, and he/she is subject to all obligations and prohibitions related to officials, apart from prohibition to perform other work or activity alongside performing a public one that requires full working hours or continuous work.

The Board members are appointed by the National Assembly, based on proposals by the authorized proposers: Administrative Committee of the National Assembly; President of the Republic; Government; Supreme Cassation Court; State Audit Institution; Protector of Citizens and Commissioner for Information of Public Importance, by means of joint agreement; Socioeconomic Council; Bar Association of Serbia; associations of journalists in the Republic of Serbia, by means of joint agreement.

On March 18th 2009, the National Assembly appointed the Board members, while Ms Radmila Vasić, Ph.D., was appointed on May 29th 2009.

The President and the Deputy President of the Board are appointed by the Board members, for a period of one year. The Board President shall represent and advocate for the Board before the state authorities and other domestic and international bodies and organizations; he/she shall deal with the operations of the Board and execution of its tasks and decisions; prepare and schedule the Board's sessions; propose the agenda for sessions and chair the sessions; sign the Board's decisions and acts; and perform other tasks as stipulated by the Law, the Rules of Procedure, decisions and other enactments of the Board. The Deputy President shall substitute the President in case that he/she is absent or unable to perform his/her duties, and perform other tasks for which the President shall authorize him/her.

Professor Čedomir Čupić, Ph.D., was appointed to the position of Board President on April 30th 2009, and reappointed on May 5th 2010. Professor Tanja Mičević, Ph.D., was appointed as Deputy President in the same period. After she resigned on November 26th 2010, Mr. Zlatko Minić was appointed as Deputy President at the session held on January 19th 2011. The Board currently functions with seven members, given that professor Evica Petrović, Ph.D., resigned on October 1st 2010 when she was appointed to the position of the Dean of the Faculty of Economy in Niš.



Members of the Board:

1. Mr. Čedomir Čupić, Ph.D., professor of the Faculty of Political Science and the Faculty of Economy of Belgrade University, President of the Agency's Board
2. Mr. Zlatko Minić, journalist, Deputy President of the Agency's Board
3. Ms. Mileva Gajinov, retired judge of the Supreme Court of Serbia
4. Ms. Radmila Vasić, Ph.D., professor of the Faculty of Law of Belgrade University
5. Mr. Slobodan Beljanski, Ph.D., lawyer
6. Mr. Branko Lubarda, Ph.D., professor of the Faculty of Law of Belgrade University
7. Mr. Zoran Stojiljković, Ph.D., associate professor of the Faculty of Political Science of Belgrade University

Professional, administrative and technical tasks necessary for the work of the Board are carried out by the Office of the Board, which is headed by a Secretary. The Secretary is appointed from the pool of employees in the Agency, upon the proposal of the Board President. The Secretary prepares the Board's sessions, coordinates the work of Board members, assists the Board President in performing the tasks that are within his/her competences, prepares draft decisions in collaboration with advisors, deals with drafting, delivery and publication of written copies of decisions, and performs other tasks in line with the Law, general Agency's acts and orders of the Board and the Board President.

Alongside the appointed Board Secretary, there shall be two lawyers working in the Office of the Board, with the title of senior advisers.

2.1.3.3 Challenges

During the year, the Board worked without full membership, because new members were not appointed or proposed to replace the missing ones.

The Constitutional Court's decision on suspending the enforcement of individual acts and actions undertaken on the basis of the previously valid provision of Article 82 of the Law, which was the provision that the Agency applied in procedures concerning officials, has put into question the further work on cases and appeals submitted to the Board. In relation to this, the Agency issued a communication that the work on these cases would be resumed, and that the enforcement of decisions would be continued after the final decision of the Constitutional Court.

The procedure for adoption of draft amendments to the Law on the Anticorruption Agency was such that these were sent to the parliamentary procedure without having consulted the Agency.

However, due to the engagement of the Director and the Board President, after a meeting in the Ministry of Justice, the draft amendments were withdrawn from parliamentary procedure, providing the Board with the opportunity to give its remarks and suggestions concerning the proposal. The Law still contains ambiguities and contradictions, which need to be removed.

An amendment that was not previously submitted to the Agency was adopted, which introduced an exception to the provisions of Article 82 of the Law, concerning “acting” officials, stating that an official may continue to perform a public function, and simultaneously with that another public function to which he/she was directly elected by the citizens, as well as a public function that he/she is obliged to perform according to the Law and other regulations. The Agency submitted to the Constitutional Court a Proposal for assessment of constitutionality and legality of the article that amended Article 82 of the Law, because it deems that it is against the Constitution of Serbia and the United Nations Convention Against Corruption. The Board has asked the Constitutional Court twice to prioritize the resolution of this case, but since September 8th, when the proposal was submitted, to the day of submission of this Report, the decision has not been made.

2.1.3.4 What has been done

The Board held 21 sessions. The Board sessions are public, except in the part related to decisions on complaints against the Director’s decisions, issuing measures pursuant to the Law.

The Board received 81 complaints by officials, against the Director’s decisions in 2010. Acting upon complaints, the Board made five decisions to reject the complaints as ungrounded, three decisions to reject the complaints for lack of timeliness, one decision to return the case to the body of first instance for additional proceedings, 68 decisions to return the case to the body of first instance for a new decision due to amendments to the Law that had occurred in the meantime, while four cases are still ongoing.

In addition to deciding upon complaints of officials, the Board decided to adopt nine legal opinions at its sessions, as well as several decisions and conclusions related to legal issues pertaining to the implementation of the Law. Between the sessions, the Board members studied the cases, collected necessary data, worked on drafting decisions together with the advisers, and in the cases of complex legal issues, studied the regulations underlying the said legal issues, in order to take an opinion.

The Board considered and adopted the draft budget for the work of the Agency in 2011, with projections for 2012 and 2013, as well as several decisions and reports related to the Agency’s work, such as the Report on Documentation Transferred from the Republic Committee for Conflict of Interest Resolution, Fi-

nancial Report for 2009, Decision on Amendments to the Rules on the Internal Structure and Job Systematization in the Agency's Professional Service, and various other reports and decisions related to the work of the Agency.

The Board President and members have also considered at its sessions the proposed amendments to the Law on the Anticorruption Agency, and after a detailed analysis, the Board issued a series of suggestions related to certain provisions of the Law, and forwarded the proposal with inserted amendments to the working group for further procedure.

As a member of the working group, Mr. Zoran Stojiljković, Ph.D., participated in drafting of the draft Law on Financing of Political Parties.

In addition to this, the Board President and members participated in several educational seminars for officials which were held all over Serbia, as well as in round tables and meetings with representatives of state bodies, NGOs and the media, regarding the fight against corruption.

In January, there were five educational seminars in Ivanjica, Kragujevac, Zaječar, Aranđelovac, and Sremska Mitrovica, where the Board President Professor Čedomir Čupić, Ph.D., and Board member Ms Mileva Gajinov participated together with the Agency Director. In March, there were round tables on the topics of conflict of interest and implementation of the Law, in Zaječar, Niš, Kraljevo, Kragujevac, Novi Sad, Zrenjanin, and Belgrade, and in May and December educational seminars took place for media representatives, in Belgrade and Novi Sad, attended by the Board Director and other Board members (professor Radmila Vasić, Ph. D., in Kraljevo and Kragujevac, Ms Mileva Gajinov and Mr. Slobodan Beljanski, Ph.D., in Novi Sad and Zrenjanin, professor Branko Lubarda in Niš, and Mr. Zlatko Minić in Zaječar and Novi Pazar).

The Board went on a study visit to the Commission for Corruption Prevention of the Republic of Slovenia, in Ljubljana, in order to improve collaboration with this body. The President and certain members have held several meetings with domestic and foreign officials and representatives of international organizations, on the implementation of the Law and the Agency's working conditions. Among the rest, meetings were held with the President of the Republic, the Speaker of the Parliament, the Chair of the Administrative Committee of the National Assembly, the President of the Constitutional Court, the Prime Minister, the Deputy Prime Minister and Minister of Interior, the Minister of Justice, the Commissioner for Access to Information of Public Importance and Personal Data Protection, the Protector of Citizens, the President of the State Audit Institution Council, the president of GRECO, the Head of the OSCE Mission, and others.

Regular press conferences were held during the year, and press statements issues on relevant topics concerning the work of the Board. The Board President and certain members gave statements and interviews to the media on a regular basis, and they were also guests in radio and TV shows.

The results that the Board achieved will be particularly visible in the upcoming period.

2.2 DIRECTOR

The position and role of the Agency Director are stipulated by the Law both from an individual and institutional point of view. From the individual's perspective, the Agency Director represents the Agency, manages the professional service and is held accountable for his/her work by the Agency Board, i.e. the Director is responsible for timely and lawful performance of affairs that fall within the Agency's competences. The Director is selected on the basis of a public recruitment procedure, announced by the Agency Board, for a 5 year mandate, with the possibility to be reelected twice to this function. The Law stipulates the requirements concerning education and work experience that a candidate for the position of Director must meet.

In an institutional sense, the Director is a body of the Agency, which means that the decision that the Director makes are administrative acts of first instance against which it is possible to file a complaint, i.e. in those cases when the Director's decision is final, it is possible to initiate judicial review of individual administrative acts.

The Agency Director was selected on the basis of a recruitment procedure advertised by the Agency Board in May 2009, and she was officially appointed by a decision in July 2009. Bearing in mind that the summer period, when she was appointed, overlapped with the working calendar of the National Assembly, the procedure for drafting the Act on Job Systematization of the Agency's Professional Service and other internal acts, especially the Budget Proposal, was urgent, in spite of the 90 days deadline stipulated by the Law on the Anticorruption Agency.

The Act on Job Systematization of the Agency's Professional Service was approved by the Committee for Judiciary and Public Administration of the National Assembly on July 29th 2009. By submitting the draft Budget on August 31st 2009, in line with the Law on the Budget, and by having it approved in December 2009, the conditions for the beginning of the Agency's work and the implementation of the Law were met.

The Act on Job Systematization of the Agency's Professional Service established the structure and number of employees in the Agency, bearing in mind its specific competences stipulated by the Law. All the tasks are divided into two groups – preven-

tive and operative, so in line with this notion, the Agency was formed with two sectors (for prevention and operations), and four services (for general affairs, international cooperation, public relations and the Board Office). Heads of sectors and services are appointed civil servants with the title of Assistant Director. All sectors and services are divided into internal organizational units, managed by division heads.

This institutional structure has allowed the necessary division of tasks and grouping of tasks into similar domains, with the primary objective to assure a horizontal connection of these groups, i.e. their joint work and exchange of necessary information, while simultaneously assuring vertical connections and flow of information which are eventually referred to the Director's Office. A specificity in the design of the Agency's internal structure was the fact that certain tasks pertaining to receiving and processing of the officials' personal data and data on their assets, which, therefore, are not public, must be organized in such a way that the employees' access to this data is specifically regulated and limited, thus assuring the necessary physical and technical protection of data and files.

The Act on Job Systematization of the Agency's Professional Service was put into force on January 1st 2010, and in that moment, the Agency had a total of 13 employees, transferred from the Republic Committee for Conflict of Interest Resolution, and two employees hired on the basis of a service contract. The transferred employees were deployed to different job positions in the Agency, in line with their educational level, expertise and interests. Apart from the Board Secretary, the Agency did not have any Assistant Director. The Agency increased the number of employees to 25 in April 2010, when the first public recruitment procedure was finished and when four Assistant Directors were appointed. From mid-August 2010, the number of employees was increased to 36, and by the end of the year the Agency had 45 full-time employees, four part-time employees, and four employees on the temporary service agreement. Two employees have left the Agency: the Deputy Director and a clerk in the Registry Division, as they were transferred to other jobs.

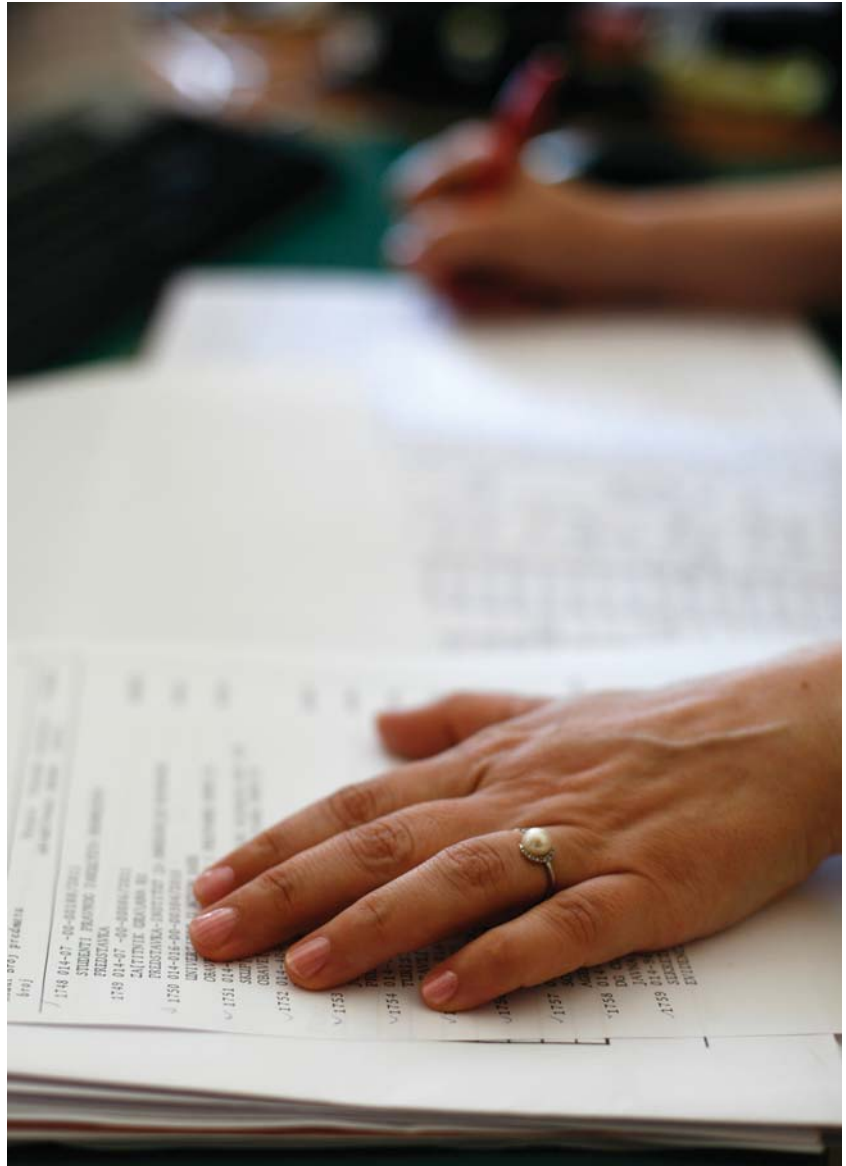
Already after first six months of implementing the Act, the scope of work, on one hand, and the continuous employment of staff, on the other, have shown that there were certain shortcomings, mostly conditioned by the fact that the Law on the Anticorruption Agency stipulates that the Law on Civil Servants should be applied to the Agency's employees. At first, it was difficult to adapt the strict criteria of this Law to the specific requirements of tasks falling under the Agency's competences, and then the practice has additionally shown all the bad sides of such a legal solution. During several job advertisements in 2010, certain vacancies were not filled, in spite of the fact that candidates did apply and that they were interviewed.



At the same time, the lack of employees, which demanded additional efforts from every member of the staff, especially bearing in mind the number of reports on assets received (in January) and requests for approval of performing another function or doing other work (in March), imposed on the Director and her associates to seek new and better solutions concerning the Agency's internal structure, which would absorb the given shortcomings to the largest possible extent.

The new Act on Job Systematization, adopted in July 2010¹, partially changed the internal structure and the number of employees. According to this document, the Agency has 4 departments – Department for Prevention, Department for Analytic and Op-

¹ The Judiciary and Administration Committee of the National Assembly approved the adoption of the New Act on Job Systematization in the Agency's Professional Service on July 30th 2010.



erational Activities, Department for Oversight and Department for General Affairs, while the three services stayed the same. The number of employees was increased, especially in the Department for Analytic and Operational Activities, by introducing new posts for employees who examine the technical validity of the submitted reports on assets, notifications on assuming functions, and data on transfer of managerial rights, which significantly slowed down the work on establishing registries and overburdened the Agency's modest resources. On the other hand, the new Department for Oversight was established with two internal units, which are the Division for Oversight of Officials' Property and the Division for Oversight of Financing of Political Parties.

The new Act on Job Systematization increased the number of employees to 97, with the intention to achieve the full staff number 18 months after the beginning of implementation. The Act started being partially applied on September 1st 2010, and it is fully in force since January 1st 2011.

While resolving organizational issues, the Director has also started resolving the issue of the Agency's working premises. In spite of the support and understanding from the representatives of state authorities, primarily the Ministry of Justice of the Republic of Serbia and the Government of the Republic of Serbia, the issue of premises remained the greatest challenge for the Agency, and it remained a problem which, if left unresolved, makes the further unhindered work of this institution impossible.

Namely, the temporary solution according to which the Agency works in the Palace of Serbia building (7 offices "inherited" from the Republic Committee for Conflict of Interest Resolution on the 1st floor, and 9 offices assigned by the Ministry of Justice on the 1st and the 4th floors) is not enough to accommodate and provide the necessary work conditions to the staff, when the number of employees keeps growing. The available space is used by 49 employees, 7 interns, the Director and the Board members, and the lack of adequate space for meetings, seminars, receiving clients and teamwork is a rather serious problem for the work of an institution such as the Agency.

In order to permanently resolve this issue, an agreement was made, according to which the Ministry of Justice gave the Agency two floors in a building which is being refurbished for the purposes of accommodation of misdemeanor courts. The building refurbishing, even though it started in 2009 with the plan to finish the works by the end of 2011, will not be finalized even until the end of 2012, due to problems discovered during the reconstruction, which led to urgent seeking of an alternative permanent solution for premises. If such a solution for premises is not found within the next couple of months, the Agency operations will slow down, and that will jeopardize the Agency's overall performance from which the citizens have great and justified expectations.

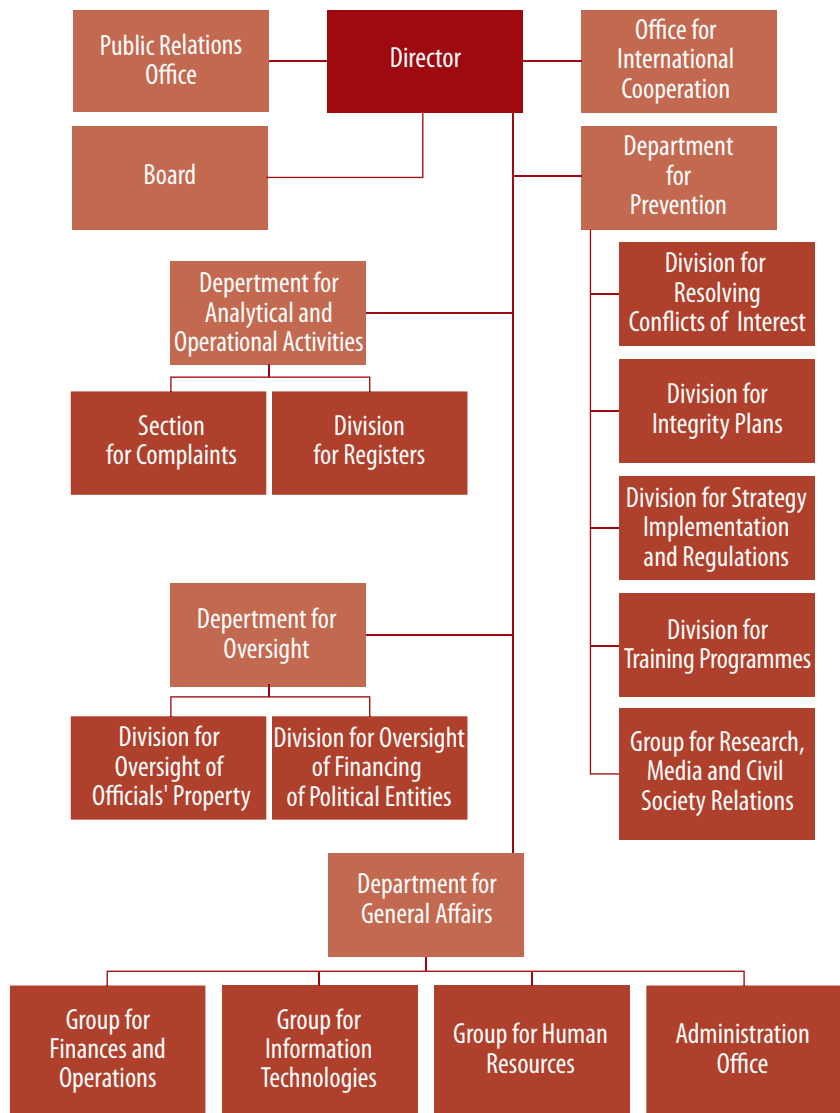
Apart from organizational and technical issues and human resources, which are important for the institution's work, a particular challenge in creation of every new institution is forming an adequate, positive working environment and team work. The arrival of new employees, assuming of new tasks, new environment, etc., are circumstances that seriously influence the process and the results, which was especially evident in the Agency, given that it organized three cycles of recruitments in the past year. This is why the Agency pays a great heed both to activities aimed at strengthening collaboration, team work, work solidarity, and to activities related to continuous training, additional education and professional improvement of employees. This approach quickly gave positive results, in spite of all the above listed challenges that all the employees had to face. This approach also allowed the employees not only to show their knowledge, expertise and quality, but also to resolve issues related to their rights, obligations and responsibilities in a satisfying manner.

2.3 STANDING SERVICE

The Standing Service, managed by the Director, carries out professional and other tasks that are necessary for the unhindered functioning of the Agency and fulfilling its authority. It has the following units:

- Department for Prevention
- Department for Analytical and Operational Activities
- Department for Oversight
- Department for General Affairs
- Board Office
- Director's Office
- Office for International Cooperation
- Public Relations Office

2.4 ORGANIZATIONAL CHART OF THE AGENCY



3. BRIEFLY ABOUT THE AGENCY IN 2010

3.1 WHAT WE DO

The Agency's competences are established by Article 5 of the Law on the Anticorruption Agency. In line with this, the Agency performs the following tasks:

- It oversees the implementation of the National Anticorruption Strategy, the Action Plan for Implementation of the National Anticorruption Strategy, and sector action plans.
- It institutes proceedings and decides on actions for violations of the Law on the Anticorruption Agency.
- It rules on conflict of interest.
- It implements activities in line with provisions of the law that regulates the financing of political parties, i.e. political entities.
- It issues opinions and directives for enforcing the Law on the Anticorruption Agency.
- It launches initiatives for amending regulations in the anticorruption field.
- It gives opinions related to the implementation of the National Strategy, the Action Plan, and the sector action plans.
- It monitors and coordinates the work of state authorities in the fight against corruption.
- It keeps a registry of officials.
- It keeps a registry of the property and income of officials.
- It extends expert support in the field of the fight against corruption.
- It collaborates with other state authorities in drafting anticorruption related regulations.
- It issues guidelines for development of integrity plans in public and private sector.
- It collaborates with academic organizations and Coos in implementing activities related to corruption prevention.
- It introduces and implements trainings on corruption, in line with this Law.

- It keeps special records, in line with the Law on the Anticorruption Agency.
- It acts upon submissions of physical and legal entities.
- It acts upon reports from civil servants, i.e. employees in the authorities of the Republic of Serbia, autonomous province, local self-government units and authorities of public enterprises, institutions and other organizations founded by the Republic of Serbia, autonomous province, or a local self-government unit, i.e. bodies of business entities founded by the Republic of Serbia, autonomous province, or a local self-government unit, and employees in state bodies and organizations.
- It organizes research, monitors and analyzes statistical and other data on the state of corruption.
- It monitors international collaboration in the anticorruption sphere, in collaboration with competent state authorities;
- It performs other tasks as set forth by the Law.

3.2 OBJECTIVES

The Agency defined the following strategic objectives that it intends to achieve:

- All authorities, in line with the Law on the Anticorruption Agency, should adopt integrity plans and submit reports on their implementation.
- Ensured implementation of recommendations from the National Anticorruption Strategy.
- Internal capacities of the Anticorruption Agency are built to the extent that allows its full operation.
- Strategy's stakeholders are informed about the most important issues related to integrity and prevention of corruption;
- Relevant stakeholders in Serbia have accepted the values on integrity and prevention of corruption and actively promote them in their communities.
- The number of conflict of interest cases in public authorities, that the Law on Anticorruption Agency refers to, is reduced to the minimum.
- Established functional registries and records.
- Established and implemented an efficient system of protection of applicants of the reports.
- Established an efficient system of review of officials' reports and financial reports of political entities.
- By 2013, fully built staff capacities of the Agency.
- By the end of 2012, established a continuous training system for employees in the sphere of general knowledge and skills.
- By the end of 2012, adequate premises for accommodation and work are secured.

- By the end of 2011, secured stable funding for the Agency in 2012, with adequate projections for 2013 and 2014.
- By 2012, full computerization of the Agency's work.
- Established collaboration with the relevant international organizations in the anticorruption sphere.
- Increased public awareness about the role of the Anticorruption Agency.

3.3 KEY RESULTS

- 92.4% of a total number of initiated conflict of interest cases resolved.
- Guidelines for development and implementation of integrity plans developed.
- First Report on implementation of the National Anticorruption Strategy and Action Plan drafted.
- Representatives of 41 state, 17 provincial and 94 local self-government authorities informed about the issues related to prevention of corruption, strengthening of integrity, development and implementation of integrity plans, the National Anticorruption Strategy and the Action Plan, and the competences of the Anticorruption Agency.
- Representatives of 51 associations informed about the role of CSOs in the system of the National Anticorruption Strategy and the Action Plan.
- Established procedure of categorizing the received submissions /reports according to the areas in which the citizens report corruption most often, and selection of submissions / reports which have elements required for the Agency's action, except those that do not meet the criteria for action stipulated by the Law.
- Achieved collaboration with the majority of state institutions which were mentioned in citizens' submissions/reports, in order to verify the claims from submissions/reports.
- Produced draft version of a new law on financing of political parties.
- 192 reports reviewed and verified from the total of 300 reports submitted by the highest ranked state officials, whose income and property were subject to verification, according to the Agency's plan.
- 4 misdemeanor charges pressed against officials in relation to their responsibility to notify the Agency about the transfer of managerial rights in legal entities.
- Financial and technical conditions are established, as well as staff is available for the Agency's operation.
- Established lasting institutional collaboration with GRECO.

- Original texts by journalists and researchers were based on the media initiative in 75% of the cases, and not on the Agency's communication.
- 11 media companies with national coverage designated journalists who shall continuously follow the Agency's work.
- By celebrating the international day dedicated to the fight against corruption, the Agency attracted significant public attention.

3.4 CHALLENGES

One of the problems was the implementation of the incomplete transitory and final provisions of the Law on Anticorruption Agency, which was only partially resolved with the Law's amendment. These provisions do not fully regulate the Agency's actions toward the acting officials who were performing their public functions on the day when the Law was put into force – January 1st 2010. Nevertheless, the Law introduced a set of obligations that were directly related to public officials, e.g. the obligation to ask for approval of simultaneous performing a public function and another job or activity, or transfer of managerial rights that were expanded to a wider range of officials in comparison to the previous Law that regulated this field, obligation to report participation in public tenders, obligation to report suspicions in conflict of interest, etc.



The procedure for issuing approval according to Article 28 of the Law was not regulated precisely enough, which was corrected by the Law on Amendments of the Law on the Anticorruption in Anticorruption Agency adopted in July 2010.

According to the Article 82 of the above mentioned Law on Amendments, the officials who perform several functions on the day when the law is put into force are obliged to submit a notification to the Agency, listing all the functions they perform. If the Agency determines that carrying out multiple functions jeopardizes the unbiased performance of a public function, it shall issue a decision that sets a deadline for the official to cease performing incompatible functions. However, the exception to this provision are those officials who simultaneously perform one public function and another function, to which they were elected directly by the citizens. This means that even when simultaneous performance of these two functions jeopardizes the unbiased performance of a public function, i.e. when it is a case of conflict of interest, the Agency is not authorized to act and demand that the officials stop performing incompatible functions. Since the Constitution and some other laws contain provisions that explicitly prohibit cumulating of public functions, the provisions of the Law on Anticorruption Agency which would establish such incompatibility and order the officials to stop performing the incompatible functions, cannot be applied to these officials. This is why the Agency filed a case with the Constitutional Court, asking to establish that this provision of the Law on Anticorruption Agency does not correspond to the Constitution. The Constitutional Court still has not issued its decision on this case, even though the proposal was submitted in early September 2010.

On the other hand, certain Laws contain provisions about the conflict of interest pertaining to public officials that do not correspond to the Anticorruption Law. Among them are the Law on the National Bank of Serbia, Law on Health Protection, Anti-discrimination Law and Law on Advocacy.

During the development of the Report on implementation of the National Anticorruption Strategy and the Action Plan, the Agency faced the problem of inadequate response of delegated bodies, but also the problems related to the contents of the Strategy and the Action Plan.

By the end of February 2011, only 72 bodies – out of approximately 11,000² – that were delegated to implement certain activities according to the Action Plan submitted their completed Report Questionnaires to the Agency. First, it demonstrates an

2. According to the Catalogue produced by the Service of the Commissioner for Information of Public Importance and Protection of Private Data, there are around 11,000 responsible bodies.

extremely low level of compliance with the Action Plan. Second, the Action Plan does not precisely establish a total number of responsible bodies. Thus, for some activities the Action Plan lists as implementers all the state bodies, all the local self-government bodies, all the budgetary beneficiaries, or all the authorities in the sense of the Law on Free Access to Information of Public Importance.

The delegated authorities participated in the reporting process only upon the Agency's initiative, however, according to the Law on the Anticorruption Agency these bodies are responsible for reporting on the implementation of the Strategy and the Action Plan on their own initiative.

Among the weak points of the Strategy is the fact that it does not cover education and healthcare that are the two very important areas in the fight against corruption.

On the other hand, it seems that the Action plan has not fully used the potentials suggested in the Strategy. It casts doubt on whether the activities outlined in the Action Plan are the most effective way to implement the Strategy's recommendations. Thus, the main problem of the Action Plan is its vague definitions of objective indicators and the delegated bodies.

Regarding the Agency's competence concerning the integrity plans, it was noted that a large number of institutions ignored the legal obligation to appoint a person who would be responsible for development and implementation of the integrity plan. Furthermore, of 5,000 bodies that are obliged to adopt an integrity plan, only 36 had sent their notifications on their responsible persons, which is a matter of concern.

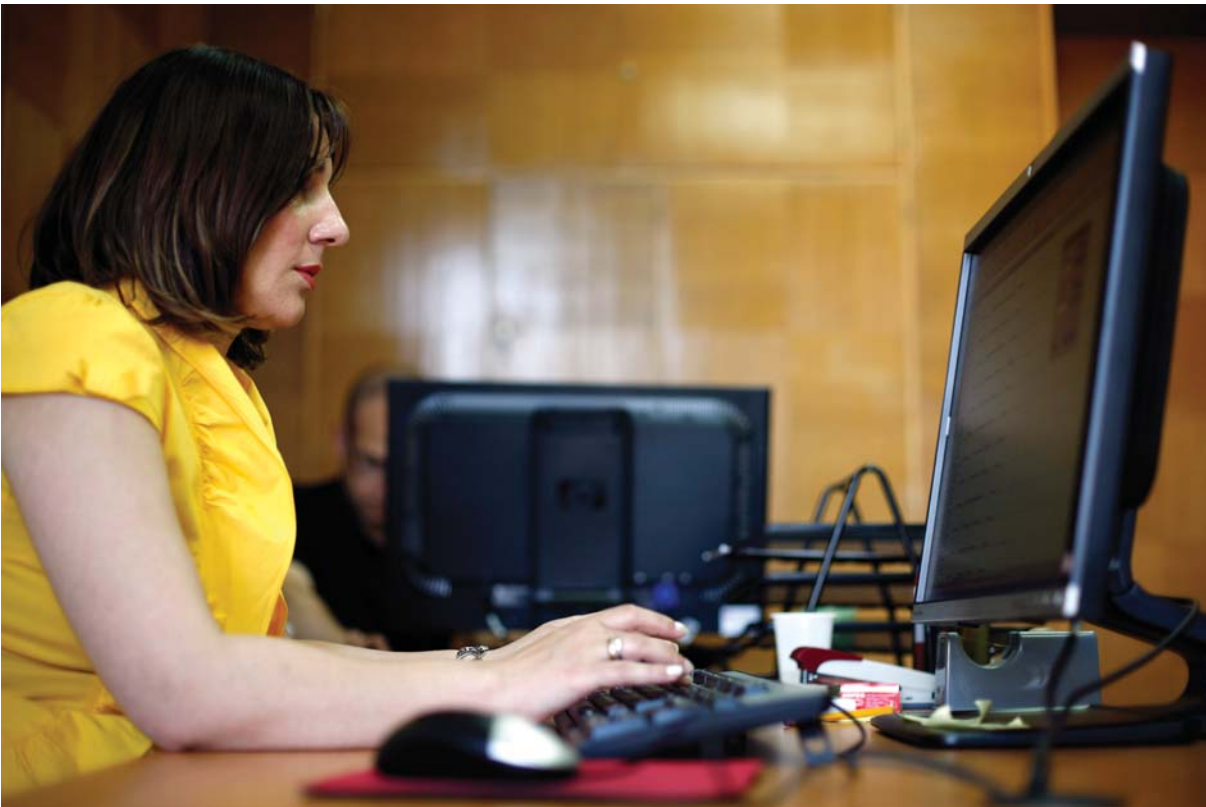
A significant challenge in establishing registries, as stipulated by the Law, was a huge inflow of documents and a lack of personnel in the Agency to efficiently process this vast amount of information. In addition, the property reports were submitted in printed form, or sometimes even handwritten, which slowed down their input into the temporary electronic system. The public registries were also not completed because the procedure of acquiring equipment for electronic processing of these data entails a complex public procurement process and implementation of EU Commission's IPA projects. However, thanks to the excellent preparations made before the Agency started to operate, a temporary electronic system of data processing for Property Registry was developed, and it is still functioning.

In the field of oversight of officials' property, the greatest challenge was the fact that there were technical shortcomings and irregularities noted in the submitted officials' reports, which weren't corrected even after the Agency's repeated requests to those officials to complete their reports.

The challenges that the Agency faced in the sphere of funding of political entities may be divided into two groups: challenges related to poor solutions incorporated in the current Law on Financing of Political Activities, and challenges related to the resistance of the political parties themselves.

Among other things, the Law on Financing of Political Activities contains no deadline for submitting the annual financial report, so it was impossible to hold the political parties accountable for non-timely reports.

A certain number of political parties have expressed “silent” resistance with regard to annual financial reports for 2009 by not submitting the opinion of a certified auditor along with the final account, even though this was their responsibility. This can be explained by the fact that the largest number of political parties are categorized as small legal entities so, as such, they do not have the obligation to conduct audit in line with the Law on



Accounting and Audit, while ignoring their obligation stipulated by the Law on Financing of Political Parties.

One of the key challenges that the Agency is facing is the lack of working premises. The Agency has only 20 offices to accommodate 62 staff members and 7 Board members. Moreover, the existing infrastructure in the building is not designed for such a number of people. On the other hand, the lack of working space makes it impossible for the Agency to hire the rest of the staff

it needs, according to the Job Systematization, for carrying out all duties effectively.

After a series of meetings with the representatives of public authorities, institutions and other legal entities, initiated by the Agency to find a solution to the problem, and finalizing the prolonged refurbishment of the building allocated for permanent premises of the Agency, the relevant state institutions have not undertaken any concrete actions apart from voicing their general support.

A particular challenge is to attract qualified staff with the appropriate knowledge and skills that are relevant to the Agency's specific scope of work. Also, the legal and financial conditions limit the opportunities for employees' advancement, their further professional development and reward according to merits to a great extent.

3.5 RECOMMENDATIONS

Based on the first year experience, the following recommendations were formulated:

- To align the various provisions that regulate the issue of conflict of interest among public officials with the Law on the Anticorruption Agency.
- To adopt and implement the Law on Financing of Political Activities in order to review the Annual Financial Report for 2010.
- To implement the Law on Financing of Political Activities (upon its adoption); to establish a review system of regular and ad hoc financial reports of political entities; to collaborate with the state authorities in this field and to establish a network of external associates of the Agency to monitor the financing of political entities.
- To hold officials who manage the state authorities dealing with rights and duties of citizens, accountable in order to promote their efficient and lawful decision making.
- To demand from state authorities to regularly inform the Agency on assuming and termination of public functions.
- All bearers of public duties should delegate a person who shall be in charge of affairs related to collaboration with the Anticorruption Agency (and other independent bodies whose competence is directly or indirectly related to prevention of corruption and strengthening of integrity of institutions with public competences); when it comes to the Agency, these affairs would be related to the realization of the Action Plan for Implementation of the National Anticorruption Strategy, development and implementation of integrity plans and organization of training for employees.

- All bearers of public duties should have obligatory trainings of all employees (on executive positions and on appointed jobs) about ethics, prevention of corruption, strengthening of integrity, and accountability of employees and institutions.
- To establish and implement a mechanism of transparent and accountable allocation of budgetary funds to CSOs, and to regulate the issue of ownership in the media in a transparent manner.
- To undertake measures to ensure that the state authorities dealing with rights and obligations of citizens make these decisions within the deadlines stipulated by the Law.
- To establish IT links and quicker exchange of information between the Agency and the collaborating authorities, while observing the rules of dealing with the confidential information.
- To create conditions for development and improvement of institutional methods of review and verification of data contained in the reports on officials' property.
- To align the provision of the Law on the Anticorruption Agency which regulates the status of employees with the Law on Civil Servants that is necessary to attract and keep qualified personnel with skills relevant for the Agency's specific scope of work.
- To acquire adequate working premises with the appropriate infrastructure necessary for the Agency's efficient operation.

3.6 FINANCIAL OVERVIEW³

3.6.1 Data on Revenues and Expenditures

The Law on Budget of the Republic of Serbia for 2010 provided funds for the operation of the Agency in the total amount of RSD 160,000,001 from the source of revenues 01 – revenues from the budget. By the end of 2010, funds were utilised in the total amount of RSD 93,921,000.00 which makes 58.7% of utilisation of the total amount of planned funds.

3. A comprehensive report on the utilisation of Agency's budget for 2010 is available in Serbian as Annex 3 at http://www.acas.rs/images/stories/Aneks_3_-_Izvetaj_o_izvrenju_budeta_u_2010_-_Sa_naslovnom.pdf

Position title in the budget	Revenue (in RSD)	Expenditure (in RSD)	Unutilised (in RSD)
Salaries for employees	45,969	37,069	8,900
Social contributions on salaries	8,266	6,624	1,642
Compensations in goods, and gifts for employees' children	600	201	399
Social benefits for employees	2,497	671	1,826
Commuting fee	2,100	1,096	1,004
Awards for employees and other special expenses	1	0	1
Fixed costs – phone, utilities, insurance for employees, vehicle insurance	11,151	1,901	9,250
Travel costs in the country and abroad	3,702	3,113	589
Service agreements – compensations for Board members, translation agreements, temporary service agreements, announcement of information ads, entertainment	26,534	17,004	9,530
Regular repairs and maintenance	589	9	580
Materials – office supplies, technical literature	2,543	990	1,553
Taxes, compulsory fees and penalties	38	15	23
Fines and penalties according to the decision of courts	1	0	1
Machinery and equipment	35,043	25,229	9,814
Intangible assets	20,967	0	20,967
TOTAL:	160,001	93,922	66,079

**Overview of utilised funds for the 01/01/2010 – 31/12/2010 period
(amounts expressed in thousands)**

The main reasons for such utilisation of planned and approved budgetary funds are as follows:

1. The delay in the reconstruction of the facility on Zeleni venac Street No. 16, organised by the Ministry of Justice, which was planned to be completed in October 2010. The facility was planned to be a future location of the Agency, which allocated funds from the budget in the amount of RSD 10,000,000 for furnishing new premises with office furniture.
2. The issue with facility capacities, i.e. the lack of office space somewhat hampered, i.e. slowed down the planned schedule of employment in the Agency, which resulted in lower spending of funds in comparison to the planned positions for salaries, compensations in goods and fixed costs (phone costs, insurance of employees, etc.) and materials.
3. The Agency allocated RSD 21,000,000 to the budget for 2010 for the development of application software. Last year, donor funds were provided for this purpose, which will in 2011

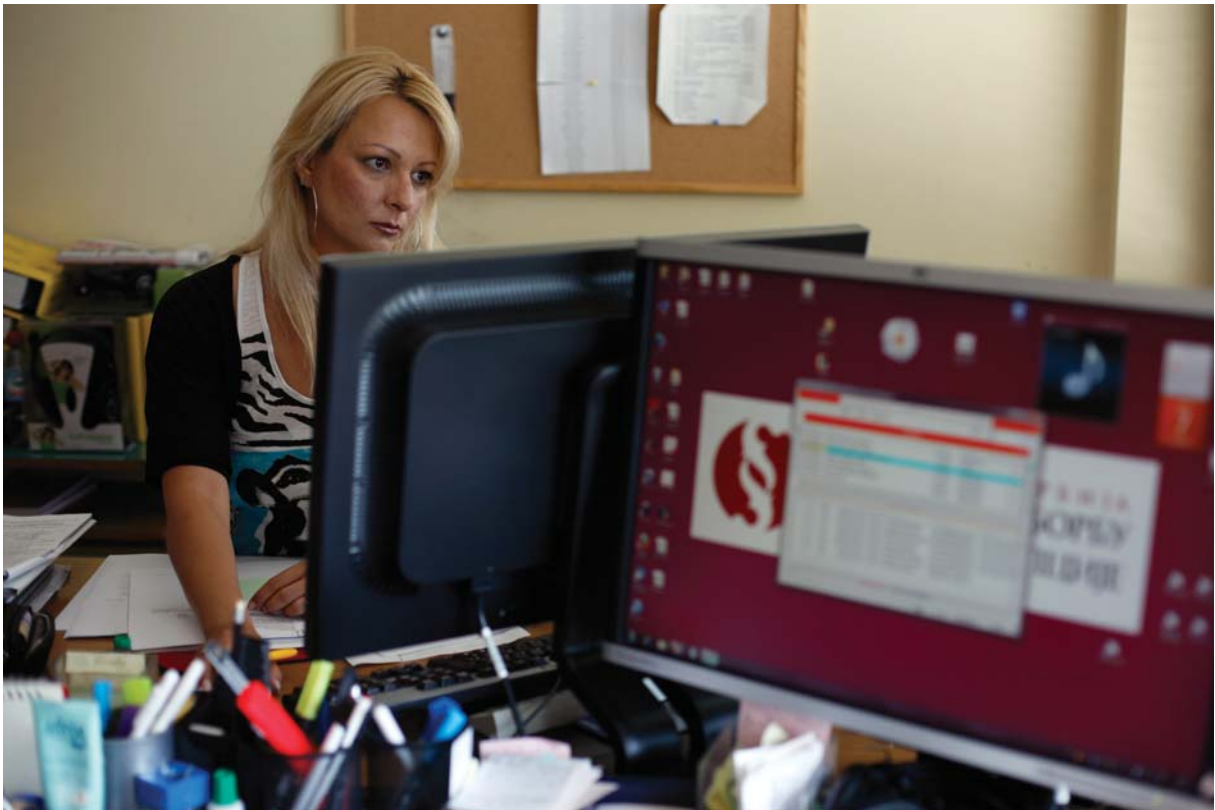
be utilised for the "Support to the Anticorruption Agency in the Fight Against Corruption" project financed by the Kingdom of Norway, the source of financing being 05-foreign revenues. With this activity, the Agency made real savings in the budget of the Republic of Serbia in the amount of about RSD 21,000,000.

3.6.2 Public Procurement

According to the Public Procurement Plan for 2010, the Agency initiated procedures for the total of three public procurements, two of which have been executed, while the execution of the third public procurement is expected to take place in 2011.



1. The first public procurement: a negotiation procedure without announcement of a public invitation, in accordance with Article 24 paragraph 1 point 4 of the Law on Public Procurement for the public procurement No. 1/2010 – Procurement of computer and communication equipment for the requirements of the Anticorruption Agency. The estimated value of the public procurement is RSD 15,860,000.00, exclusive of VAT. Funds for such public procurement for 2010, in the estimated amount of RSD 15,860,000.00, exclusive of VAT, were provided by the Law on Budget of the Republic of Serbia for 2010. The bid of the bidder "VLATACOM" d.o.o., Dunavska 7, Zemun, was selected as the most favourable one. The purchase included 6



servers and a total of 65 computers of modern configuration and all the supporting equipment (printers, copy machines, toners), which fully meet standards and requirements resulting from the particularities of work under the competence of the Agency.

2. The second public procurement: the procedure of public procurement of goods of a low value, in accordance with Article 26 paragraph 1 of the Law on Public Procurement for the public procurement No. 2/2010 – Procurement of a company vehicle for the requirements of the Anticorruption Agency. The estimated value of the public procurement is RSD 2,118,000.00, exclusive of VAT. Funds for such public procurement were provided by the Law on Budget of the Republic of Serbia for 2010. The bid of the Bidder "LADY F" with the registered seat in Belgrade, Nehruova Street No. 150, was selected as the most favourable one. A vehicle brand "NISSAN QASHQAI + 2" was purchased.
3. The third public procurement: an open procedure in accordance with Article 21 paragraph 1 of the Law on Public Procurement for the public procurement No. 3/2010 – "Provision of application software development service for the requirements of the Anticorruption Agency". The procedure was initiated on 13 October 2010 and is still underway. The estimated value of the public procurement is RSD 21,000,000.00, exclusive of VAT. The public procurement procedure continued in

2011 and funds have been provided through the "Support to the Anticorruption Agency in the Fight Against the Corruption" project financed by the Kingdom of Norway, the source of financing 05-foreign revenues.

In 2010, a small quantity of fixed assets was purchased in the amounts not exceeding amounts which require initiation of public procurement procedures.

The purchase included 3 laptops, 1 projector and a screen, 7 memory sticks and 1 external hard drive. The equipment was purchased due to the urgency of activities, and due to the lack of computer equipment, prior to the initiation of the procedure No. 1/2010 – Procurement of computer and communication equipment for the requirements of the Anticorruption Agency.

In terms of office furniture, the Agency purchased 1 cabinet desk, 1 cabinet, 4 office desks together with drawers and one TV set brand "SAMSUNG".

The total purchase value of all fixed assets purchased in 2010 amounts to RSD 25,228,000.00.

PART II

DEPARTMENT FOR PREVENTION

DEPARTMENT FOR ANALYTICAL AND OPERATIONAL ACTIVITIES

DEPARTMENT FOR OVERSIGHT

DEPARTMENT FOR GENERAL AFFAIRS

OFFICE FOR INTERNATIONAL COOPERATION

PUBLIC RELATIONS OFFICE



4. DEPARTMENT FOR PREVENTION

4.1 OBJECTIVES

The Department for Prevention sets the following strategic objectives to be achieved under its authority:

1. All authorities should adopt integrity plans and submit reports on their implementation, in accordance with the Law on the Anticorruption Agency.
2. Ensure full implementation of recommendations from the Action Plan and National Strategy for the Fight Against Corruption.
3. Internal capacities of the Anticorruption Agency should be built in the amount which allows its full operation.
4. Strategy stakeholders should be informed on the most important issues related to integrity and corruption prevention.
5. Relevant players in Serbia acquired knowledge on integrity and corruption prevention and actively promote these values in their communities.
6. The number of cases of conflict of interests among public authorities which the Law on the Anticorruption Agency refers to should be reduced to a minimum.

4.2 KEY RESULTS

In 2010, the Department for Prevention the following key results:

1. The Department created guidelines for the development and implementation of integrity plans.
2. Completion of the first report on the application of the Action Plan and National Strategy for the Fight Against Corruption.⁴

⁴ *Report on the Implementation of the National Anticorruption Strategy and the Action Plan for the Implementation of the National Anticorruption Strategy* is the second volume of this publication. As Annex 1 it is available at http://www.acas.rs/images/stories/Annex_Report_I_for_2010.pdf

3. Representatives of 41 state and 17 provincial authorities, and 94 authorities of local self-government units were informed about issues related to corruption prevention, strengthening of integrity, development and implementation of integrity plans, National Strategy for the Fight Against Corruption and Action Plan as well as about the competencies of the Anticorruption Agency.
4. Representatives of 50 associations were informed about the position and role of civil society organisations in the system of the National Strategy for the Fight Against Corruption and Action Plan.
5. Out of the total number of initiated proceedings, 92.4% of cases of conflict of interest were resolved in 2010.

4.3 ABOUT THE DEPARTMENT FOR PREVENTION

4.3.1 History

The Department for Prevention operates within the Agency since its establishment. The first organisational unit which started to operate within the Department for Prevention was the Division for Resolving Conflicts of Interest with two lawyers assigned to the Division, following their preferences, from the Board for Resolving Conflicts of Interest, the authority which ceased to exist after the Law on the Anticorruption Agency⁵ came into force. Considering that the Agency was obliged to take over uncompleted case files from the Board for Resolving Conflicts of Interest, and considering that interested citizens and legal entities required from the Agency interpretation of provisions of the new Law, the Division for Resolving Conflicts of Interest started to operate by performing all its competencies from the day the Law on the Anticorruption Agency came into force.

Other organisational units within the Department were formed successively and started to operate, therefore, the Department for Prevention initiated all programmes within its competence by the summer of 2010.

4.3.2 Organisation and Competence

In addition to the Division for Resolving Conflicts of Interest, the Department for Prevention also contains three sections and one group which perform various activities within the competence of the Agency. All the activities are primarily directed towards

5. *Law on the Anticorruption Agency*, Official Gazette the Republic of Serbia, No. 97/08, Belgrade, October 2008 available in Serbian at <http://www.parlament.rs/upload/archive/files/cir/doc/zakoni/2008/2060-08.zip> 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>

the strengthening of institutional integrity and elimination of causes leading to systematic corruption, although the strengthening of individual integrity and raising anticorruption awareness among the citizens also fall within the scope of activities of the Department for Prevention.

4.3.2.1 Division for Resolving Conflicts of Interest

The Division for Resolving Conflicts of Interest eliminates causes of corruption through procedures for resolving conflicts of interest, decumulation of functions and decision making related to other violations of the Law on the Anticorruption Agency. If a violation of the Law is established after conducting the required proceedings, appropriate actions will be taken. The purpose of these actions is to eliminate such violations, if possible. In this manner, causes which provoked or can provoke corruption are eliminated.

This Division can, on the basis of requests of public officials, determine that they may simultaneously perform two public functions, i.e. in addition to performing a public function, that they can also undertake another job or activity. In such a case, it is assessed whether the two public functions, or a public function and another job or activity are (in)compatible from the point of view of competencies and conflict of interest.

By developing practice through the application of the Law on the Anticorruption Agency in the stated area, the Division gives recommendations to the Agency in what scope and manner should the applicable Law be amended or modified in order to increase effectiveness of its provisions.

4.3.2.2 Section for Strategy Implementation and Regulations

Activities of the Section for Strategy Implementation and Regulations have an objective to eliminate key causes of corruption through cooperation with state authorities and through their coordination. State authorities are, together with other entities, holders of activities prescribed by the Action Plan, whom recommendations from the National Strategy for the Fight Against Corruption refer to.⁶ The Section performs oversight over the implementation of the Strategy, Action Plan and sector action plans through analysis and provision of opinions on their implementation. Findings and recommendations related to the implementation of these two documents constitute a significant part of the annual report which the Agency submits to the National Assembly.

In accordance with the Law on the Anticorruption Agency, all state authorities and organisations are obliged to submit required infor-

6. *Decision on Determining the National Anticorruption Strategy*, Official Gazette of the Republic of Serbia, No. 109/2005 available in Serbian at http://www.acas.rs/images/stories/Nacionalna_strategija.pdf



mation and documents, at the request of the Agency, on the basis of which the Section monitors, analyzes and provides guidelines for the application of and possible amendments to the Action Plan.

The Section is also obliged to monitor and analyse regulations in terms of their compliance and consistency from the anticorruption point of view.

4.3.2.3 Section for Training Programmes

The Section for Training Programmes is authorised and obliged to provide services to state authorities and organizations, authorities of territorial autonomy and local self-government, public services and other legal entities, related to the preparation of anticorruption training programmes, strengthening of integrity and other subject matters relevant for this area.

The Section also provides assistance in organizing anticorruption trainings for the media, corporate sector and educational institutions. Apart from providing assistance in the process of preparation and implementation of anticorruption training programmes, the Section, on its own initiative, organizes appropriate educational programmes for the aforementioned groups, as well as regular trainings for the employees in the Agency.

4.3.2.4 Section for Integrity Plans

The Section for Integrity Plans creates guidelines⁷ for the development of integrity plans for those entities which are by the Law

⁷ *Guidelines for the Development and Implementation of the Integrity Plan*, Official Gazette of the Republic of Serbia, No. 80/10, Belgrade, 2010 available in Serbian at http://www.acas.rs/images/stories/Smernice_konana_verzija.pdf

on the Anticorruption Agency obliged to develop and implement such plans. In addition to the development of guidelines, the Section also monitors their adoption and enforcement, in cooperation with the Section for Training Programmes, and ensures trainings for persons responsible for the integrity plan.

At the initiative or requests of other legal entities, which according to the Law are not obliged to adopt integrity plans, but wish to do this for their own reasons and interests, the Section conducts integrity assessment and gives recommendations for integrity improvement.

Integrity plans are adopted by state authorities, provincial authorities and local self-government, public services and public companies in accordance with the guidelines created by the Agency.

4.3.2.5 Group for Research, Media and Civil Society Relations

Core activities of the Group are focused on the cooperation with scientific institutions, non-governmental organizations, expert associations, and the media, in order to include this sector of the society in the performance of activities prescribed by the National Strategy and Action Plan, which should result in elimination of the causes of corruption. These entities represent important social stakeholders, who should give their own contribution to the fight against corruption.

The Group also organizes various researches on the status of corruption, independently or in cooperation with other institutions, collects statistical data and analyzes them for the use of the Agency.

The Group also has an obligation to organize media campaigns in order to raise awareness of the citizens about the harmful effects of corruption on the society and state, which at the same time contributes to the development of the general level of anticorruption culture of the citizens of Serbia.

4.3.3 Structure

The Department for Prevention engages 13 civil service employees, and is managed by the Assistant Director. The Division for Resolving Conflicts of Interest, in addition to the Head of Division, also engages three senior and one independent advisor. The Section for Strategy Development and Regulations, in addition to the Head of the Section, also engages one independent advisor and one advisor. The Section for Training Programmes and Section for Integrity Plans in addition to heads of the units also engage one independent advisor, whereas the Group for Research, Media and Civil Society Relations, engages only one Head of the Group. On the other hand, the Rulebook on Internal Organization and Systematisation of Work Positions prescribes that the Department should engage 27 employees for civil ser-

vice positions, i.e. up to 9 employees in the Division for Resolving Conflicts of Interest, 5 in the Section for Strategy Implementation and Regulations, 5 in the Section for Integrity Plans, 5 in the Section for Training Programmes and 3 in the Group for Research, Media and Civil Society Relations.

4.3.4 Challenges

a) In terms of **prevention of conflicts of interest** of public officials, challenges have predominantly referred to an imprecise legal framework and mutual discrepancy among regulations.

The main issue referred to the application of incomplete transitional and final provisions of the Law on the Anticorruption Agency, which was only partially resolved with its update. The stated provisions do not entirely regulate actions of the Agency in terms of officials who were performing public functions on the day the Law entered into force (1 January 2010), considering that the Law introduced a series of obligations which directly referred to public officials (e.g. an obligation to seek approval for simultaneous performance of a public function and another job or activity, transfer of management rights extended to a wider number of officials in comparison to the previous law which regulated this area, an obligation to report participation in public tenders, an obligation to report on suspicion of existence of a conflict of interest, etc.)

The procedure for giving approval according to Article 28 of the Law was not sufficiently regulated, which was eliminated with the adoption of the Law on Amendments to the Law on the Anticorruption Agency in July 2010.⁸

According to the aforementioned Law on Amendments, in Article 82, officials who on the day of commencement of enforcement of the Law perform senior functions, shall be obliged to submit to the Agency a notification about functions they perform. If the Agency, on that occasion, determines that performance of several functions jeopardises impartial performance of a public function, it can adopt a decision which determines a deadline for an official to terminate performance of incompatible functions. However, this provision does not apply to those officials who perform one public function and another one for which they were elected directly by the citizens. This means that, in case simultaneous performance of the two functions jeopardises impartial performance of a public function, i.e. when this represents a conflict of interest, the Agency has no option to set a deadline for those officials to terminate performance of incompatible functions. Considering that the Constitution, like other

8. *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>



laws, contains provisions which explicitly prohibit cumulating of certain functions, these officials are exempted from the provisions of the Law on the Anticorruption Agency which determine incompatibility and order termination of performance of such incompatible functions. For this reason, the Agency initiated proceedings before the Constitutional Court in which it required from the Court to adopt a decision which would determine that such a provision of the Law on the Anticorruption Agency was not in compliance with the Constitution. The Constitutional Court has still not adopted a decision on this subject matter although the proposal was submitted at the beginning of September 2010.

On the other hand, specific laws contain provisions on conflict of interest of public officials which are not in compliance with the provisions of the Law on the Anticorruption Agency. Some of them are the Law on the National Bank of Serbia,⁹ Law on Health Protection,¹⁰ Law on Prohibition of Discrimination¹¹ and Attorney-At-Law Act.¹²

9. *Law on the National Bank of Serbia*, Official Gazette of the Republic of Serbia, Nos. 72/03, 55/04, 85/05 and 44/10, Belgrade, 2010 available in Serbian at http://www.nbs.rs/export/sites/default/internet/latinica/20/zakoni/zakon_NBS_juli_2010.pdf

10. *Law on Health Protection*, Official Gazette of the Republic of Serbia, Nos. 107/05, 72/09, 88/10 and 99/10, Belgrade, 2010 available in Serbian at http://www.zdravlje.gov.rs/tmpmz-admin/downloads/zakoni_zdravstvena_zastita.pdf

11. *Law on Prohibition of Discrimination*, Official Gazette of the Republic of Serbia, No. 22/09, Belgrade, 2009 available in Serbian at <http://www.ravnopravnost.gov.rs/files/zakon-o-zabrani-diskriminacije.pdf>

12. *Attorney-At-Law Act*, Official Gazette of the FR Y, Nos. 24/98, 26/98, 69/00, 11/02 and 72/02 Belgrade, 2002 available in Serbian at www.bgcentar.org.rs/images/stories/Datoteke/zakon_o_advokaturi.pdf

b) During the development of a report on **implementation of the National Strategy for the Fight Against Corruption and Action Plan**, the Agency faced two different types of challenges important to be emphasized in order to understand the reporting process, as well as possible restrictions in the analysis and conclusions about the implementation of recommendations from the Strategy and activities from the Action Plan. The challenges were, in principle, divided into the challenges referring to the process of reporting on the implementation of responsibilities for the Strategy and Action Plan and challenges referring to the contents and quality of the Strategy and Action Plan.

The process of reporting: By the end of February 2011, 72 entities, in which the Action Plan controls implementation of specific activities, submitted to the Agency a populated Questionnaire about reporting, which is certainly a small number in comparison to the total, but uncertain, number of entities, considering that the Action Plan requires some activities to be conducted by all state authorities, all authorities of local self-government, all budget users or all government authorities in terms of the Law on Free Access to Information of Public Importance (who number about 11,000 entities, according to the Catalogue created by the Commissioner for Information of Public Importance and Personal Data Protection).

Responsibility holders participated in the reporting process only at the call and initiative of the Agency, i.e. none of the entities reported on their own initiative on the implementation of the Strategy and Action Plan, being a responsibility arising from the provisions of the Law on the Anticorruption Agency.

It seems that reporting on the implementation of the Strategy and Action Plan is seen as one more responsibility carried out by the employees in the institutions which are the holders of responsibilities, who already have too many daily activities to carry out. For this reason their ability to fulfil the reporting responsibility is questioned in terms of whether they can perform it properly and in good quality.

The process of analyzing replies to questionnaires submitted by the holders of responsibilities was hampered by their unequal quality, brief answers, and absence of relevant data bases, analyses and meaningful conclusions and recommendations. Namely, most of the replies were descriptive, and presented rates were not supported by valid data and sources. For this reason, the reporting was reduced to self-evaluation.

The Strategy and Action Plan: One of the drawbacks of the Strategy is the fact that it does not include education and health, which are important systems from the anticorruption point of view.

On the other hand, it seems that the Action Plan has not fully used the potentials implied in the Strategy, and that it gives rise to suspicion about whether the activities contained therein

properly reflect recommendations stated in the Strategy. The main features of the Action Plan, which represented the largest challenges in the process of drafting reports, were the following:

- **Loosely or imprecisely formulated activities in the Action Plan**, which caused ambiguities in terms of evaluation whether an activity was conducted or not. For example, it is very difficult to evaluate, without pre-determined precise measures, whether consistent application of regulations was conducted in a specific area, or whether regulations were improved, particularly in a situation when even the holder of a responsibility did not provide information about activities as formulated in the Action Plan. In such cases, the Agency did not initiate a procedure of evaluation of whether an activity had been conducted or not, considering that it does not possess sufficient resources to conduct such analysis in all the systems covered by the Strategy.
- **Loosely and imprecisely formulated or qualitatively determined indicators of objectives**, which makes them useless for measuring performance, i.e. level of implementation of an activity. Some indicators of objectives of the Action Plan are formulated in the following manner: adjustment of domestic legal system to international standards, transparency of activities of state authorities, general corruption prevention, prevention of causes of corruption, increased stability of the operation of the public administration system, reduced impact of politics on professional decisions, reduced risk of corruption, prevention of conflicts of interest, permanent organization of an area, engagement of citizens in the fight against corruption, development of anticorruption culture with the young, etc.
- **Loosely defined entities for the implementation of measures**, therefore, it is unclear how to establish a system of control and accountability for unperformed activity if all state authorities or all budget users are listed as entities for the implementation of measures.
- The challenge which is not so closely related to the document, but results from the fact that the document has been implemented for the last four years and that during that time **some entities that implemented activities changed their competence** e.g. the Republic Secretariat for Legislation or specific ministries, or that some entities no longer exist like the Ministry of Agriculture or the Ministry of Capital Investments.
- Finally, the impression is that the Action Plan **was not created through a sufficiently wide participative process** in which all potential holders of responsibilities would be invited to provide their opinion about the best methods of implementation of recommendations from the Strategy, about the importance and feasibility of specific activities, about possible problems in implementation and necessary resources. On the other hand, participation of



future holders of responsibilities in the development of the Action Plan would ensure ownership of the document, a more direct relation with it and greater commitment to the fulfilment of responsibilities, which would probably ensure a more satisfying level of performance of tasks referred to in the Strategy and Action Plan.

c) The anticorruption training of various target groups, for which educational events were organized, imposed various challenges to the Department for Training Programmes.

The challenge in work with public officials was the issue related to the method for motivating this target group to attend round tables organized by the Agency. The symptomatic phenomenon of poor response of officials occurred even in cases when the topics concerned responsibilities of the holders of public offices prescribed by the Law on the Anticorruption Agency. The reason for the poor response of the officials is probably caused by the fact that the Law on the Agency did not increase the number of persons considered to be officials in comparison to the positions covered in previous regulations, therefore, for example, directors of public companies, facilities or institutions, particularly on the local level, do not see themselves as a target group to which obligations from the applicable law apply.

In addition to the poor response, officials attending meetings often showed a significant level of scepticism to the ability of the Agency to effectively control whether officials fulfilled their obligations or not, and such an attitude by some of them resulted in the conclusion that the provisions of the Law on the Anticorruption Agency need not be necessarily complied with, since there is no one who would effectively monitor their implementation.

Although the practice showed that a small number of media in general is familiar with the mandate of the Agency, and with the

competencies of the Agency in the fight against corruption, an attempt of the Agency to provide training or instructions for electronic and print media from Belgrade had poor response. In order to overcome the situation, the Agency also organized a meeting with editors-in-chief whose role would have been to identify journalists who would attend the training in the Agency, and then continue to monitor its work. However, this kind of approach also failed to give the expected results, and the work of the Agency continued to be followed by various journalists from the same editorial offices, who were not informed about the mandate and competencies of the Agency. In view of the above stated, the challenge in work with the media, which will continue in 2011, is to create a method to motivate the media to overcome the concept of reporting based on sensational news and news tailored to the needs of daily policy which entirely puts aside education of the citizens on anticorruption issues. In view of this, the challenge will also be strengthening and wider dissemination of one of the basic messages to the media that they are partners with the Agency whose social role, among others, implies their more active involvement in raising public awareness about the importance of corruption prevention and strengthening of personal and institutional integrity.

The issue of personal integrity and personal responsibility also represents one of the largest challenges. Many representatives of target groups treat the issue of personal integrity and responsibility as a subject matter that should not be discussed about, or "opened". However, this subject matter is exactly one of the central items which the Agency will particularly insist upon in creating trainings, because the issue of personal integrity and responsibility is equally important as is the subject matter related to institutional integrity and public responsibility.

d) Regarding the competence of the Agency in the **integrity plans**, it was noticed that a significant number of institutions ignore their legal responsibility to determine a person who will be responsible for the development and implementation of the integrity plan. Considering that the Agency estimated that there are over 5,000 entities in Serbia which are obliged, according to the Law on the Anticorruption Agency, to adopt integrity plans, the fact that the Agency by the end of 2010 received a notification from 36 entities about persons designated for the development of the integrity plan, is a concern.

In view of the fact that the Section for Integrity Plans communicated with a large number of entities at all levels through trainings, meetings and consultations, it was noticed that the development and adoption of integrity plans are seen as just another obligation of already too busy employees to whom these activities are assigned in addition to the scope of activities they perform as part of their job description.

A separate problem represents an ignoring attitude of specific institutions and their managers towards the invitations of the Agency to determine and send their representatives to attend meetings and trainings organized by the Agency.

Moreover, the persons determined to participate in activities of working groups were not interested at all to be actively involved in the work, or the pre-determined persons could not participate in all stages of the development of draft plan of integrity (e.g. persons engaged on a part-time basis through a temporary service agreement, or persons whose mandate soon expired).

e) Challenges which the Agency faces through the **cooperation with civil society organizations** (associations and the media) point to the complexity of the situation in which representatives of the two systems operate. Generally speaking, associations and the media are poorly informed about the contents of the National Strategy for the Fight Against Corruption, Action Plan and Law on the Anticorruption Agency.

At the same time, they are also not familiar with the competence and organization of the Anticorruption Agency, and they mix it with the Anticorruption Council of the Government of the Republic of Serbia, and they mostly expect that the Agency disposes of a sufficiently strong and effective repressive apparatus, and that it is able to sanction various types of cases of corruptive practice in a relatively short period of time.

Associations avoid implementing corruption prevention projects, since they are, particularly in smaller communities, focused on local self-government budgets. Most representatives of associations said that in a situation in which local self-government units are involved in (or organize) corruptive activities, implementation of corruption prevention/mitigation projects at local level represents a direct threat to the existence of the associations, because in the next allocation of budgetary funds such an organization will not receive necessary funds for the implementation of other projects, which will jeopardise its operation.

Representatives of the media pointed to the need to prohibit public authorities (particularly public companies) by law from advertising in the media, because advertising is viewed as a means for placing pressure on the media (not) to publish something, which affects not only their editorial policy, but also their existence, particularly in smaller communities. The challenge in the media is also non-transparent ownership, since the equity capital is an essential element in maintaining the editorial policy, and it has a significant impact on the integrity of the media. A special challenge represents the issue of establishing a mechanism of protection of journalists who dare to report on and/or publish cases of corruptive practices.

4.3.5 What the Department for Prevention does

4.3.5.1 What the Division for Resolving Conflicts of Interest does

Approval of performance of another public function

An official who performs a public function may at the same time perform another public function if he/she obtains approval from the Agency (Article 28 paragraph 2 of the Law on the Anticorruption Agency). An exception to this are officials elected for a public office directly by the citizens, who at the same time may perform other public functions for which they were also elected directly by the citizens, without an approval of the Agency, provided that the simultaneous performance of these public functions is not explicitly prohibited by the Constitution of the Republic of Serbia.¹³

Example 1: Cases requiring an approval from the Agency for the performance of another public function

The Anticorruption Agency refused the request of the member of the City Assembly for approval of simultaneous performance of the public function of a member of the Municipal Council of the City Assembly, because simultaneous performance of the two functions is incompatible.

The City Statute prescribes the competencies of the city authorities, as well as of the City Assembly. In making a decision to reject the request for approval, the Agency took into consideration oversight powers of the City Assembly over the Municipal Council, and concluded that the simultaneous performance of such functions jeopardises impartial performance of the public function of the member of the City Assembly, considering that the member of the City Assembly would in this manner find himself/herself in a situation where he/she would be involved in the oversight over the work of the Municipal Council of the City Assembly in which he/she was elected.

On the other hand, the Municipal Council gives to the City Assembly initiatives for making decisions related to the City's competencies. Therefore, with the simultaneous performance of public functions of an member of the City Assembly and a member of the Municipal Council, the official could find himself/herself in a position where he/she as an member of the City Assembly would decide on an initiative of the Municipal Council of the City Assembly in which he/she should be elected.

13. *Constitution of the Republic of Serbia*, Official Gazette of the Republic of Serbia, No. 98/06, Blegade, 2006 available at <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>

Example 2: Cases not requiring an approval from the Agency for the performance of another public function

In a specific case, a public official – the Dean of the “state” faculty (a university level education institution founded by the Republic of Serbia) assumed public office of a member of an independent Republic authority without obtaining an approval from the Agency for performance of another public function.

In the proceedings on determining violation of Article 28 of the Law, which the Agency initiated ex officio, the public official stated that he did not submit a request for approval because he deemed that this was the responsibility of the authority which appointed him to the public office.

The legally prescribed obligation of a public official to request an approval for assuming another public function is personal, and if the official does not submit a request for approval from the Anticorruption Agency, he/she will violate the provisions of Article 28 of the Law. In case of violation of the provision of Article 28 of the Law, which regulates obligations of an official when assuming another public function, the public official, by virtue of Law, shall cease to perform the public function which he/she assumed contrary to the procedure prescribed by the Law.

In a specific case, after completion of proceedings, the Agency determined violation of Article 28 of the Law and decided on termination of the public function by law. On the basis of the decision of the Agency, the Government of the Republic of Serbia, as the appointing authority, adopted a decision on dismissal of the public official.

Procedure for giving an approval for performance of another public function

An official who is appointed, elected or nominated to another public function shall be obliged to submit a request to the Agency within three days from the day of election, appointment or nomination for another public function, for approval of performance of another public function. If the official has no intention to simultaneously perform a “new” public function and the “previous” function he/she had performed by that time, but intends to resign from the previous function, he/she shall not be obliged to submit a request to the Agency for approval of performance of another public function, because he/she will de facto, after he/she resigns from the previous function, continue to perform only the “new” public function.

Together with the request for approval, the official shall be obliged to submit to the Agency a positive opinion of the au-

thority which elected him/her for the previous public function, and that the authority approved the official to perform the “new” public function together with the previous function. The official who was elected to perform the previous public function directly by the citizens, shall obtain the positive opinion from the competent working body of an authority in which he/she has performed the previous public function.

When the official submits a complete and valid request for approval from the Agency, the Agency shall be obliged to adopt a decision on the request within 15 days from the receipt of the request. The Agency shall not give its approval for simultaneous performance of the “new” and previous public function, if it determines that the simultaneous performance of these functions is incompatible from the point of view of interests. For example, if the official performs a public function within the authority competent for oversight over the work of other authorities, and the official submits a request to perform a public function in that other authority, this would result in the fact that the official would de iure and de facto conduct oversight over himself/herself. Additionally, there are laws which explicitly prohibit the public official from performing another public function in addition to the existing function. For example, the Law on the National Bank of Serbia explicitly prohibits a person to carry out a function of a governor and another public function. In such a case, the Agency shall not give its approval for the performance of another function.

If the Agency does not adopt a decision on the request of the official within 15 days from the day of submission of a valid and complete request, it shall be considered that the official obtained approval for the performance of the “new” public function, except in the case there is another regulation explicitly prohibiting the official from performing another public function in addition to the function he/she already performs (see example from the previous paragraph).

If the official assumes another public function without an approval from the Agency, the later function shall cease to exist de iure. The decision on termination of the new function shall be adopted by the authority which elected, nominated or appointed the official to the “new” public function. The decision shall be adopted by the authority on the basis of the decision of the Agency determining that the official was appointed to the “new” public function contrary to the provisions of the Law.

Giving approval for the performance of another job or activity

An official who performs a full-time public function, or continuous operation, may perform another operation or activity, in addition to the public function, only upon approval of the Agency (Article

30 paragraph 4 of the Law on the Anticorruption Agency). The exception to this make those officials who in addition to performing a public function also conduct scientific and research work, or are engaged in educational, cultural and artistic, humanitarian or sports activities. They do not require an approval from the Agency for performing these activities. However, if the Agency determines that the performance of scientific and research work, or educational, cultural and artistic, or sports activities jeopardises impartial performance or reputation of a public function, i.e. that this represents a conflict of interest, the Agency shall set a deadline by which the official shall be obliged to terminate the performance of this job or activity.

Example 3:

A public official performing the function of a mayor of a municipality submitted a request for approval for performing the job of a physician. Pursuant to Article 30 of the Law on the Agency, there is a ban which prohibits an official from performing another operation or activity during performance of a public function which requires full-time work, or continuous operation, and the Law on Local Self-Government¹⁴ prescribes that the mayor of a municipality shall have full-time employment in the municipality.

The Agency refused the request of the official and obliged him to notify the Agency within 30 days from the receipt of the decision that he ceased with performance of physician activities by submitting a request for suspension of employment during performance of the public function. After adoption of the decision, the public official submitted evidence on the suspension of employment during performance of the public function.

Procedure for giving an approval for performance of another operation or activity

An official who intends to perform another operation or activity in addition to the performance of a public function which requires full-time work, or continuous operation, shall be obliged to submit a request for approval from the Agency. Together with the request, the official shall be obliged to enclose a positive opinion of the authority which elected, appointed or nominated him/her for the public function, that the authority approves the official to perform a specific job or activity in addition to the public function. Moreover, an appointed civil servant shall, in addition to this, also have to enclose an approval of his direct supervisor in the authority in which he/she performs the public function.

When the official submits a valid and complete request to the Agency for approval, the Agency shall be obliged to decide on

the request within 15 days from the day of receipt of the request. The Agency shall not approve the performance of another operation or activity if it determines that it may jeopardise impartial performance or reputation of the public function, i.e. that this represents a conflict of interest.

Also, the Agency shall not approve the performance of another job or activity if a regulation explicitly prohibits the official from performing another job or activity in addition to the public function. In case the Agency does not adopt a decision within 15 days from the day of submission of the request, it shall be deemed that the Agency approved the performance of another job or activity.

Giving approval for employment or business cooperation after termination of performance of a public function

Two years after termination of performance of a public function, an official who stopped performing the public function may be employed by or initiate a business cooperation with a legal entity, entrepreneur or international organization performing an activity related to the function he/she performed, only if the official has obtained an approval from the Agency for this (Article 38 paragraph 1 of the Law on the Anticorruption Agency). The exception to this are officials who were appointed to the public function directly by the citizens, who do not require an approval from the Agency for employment or business cooperation.

Procedure for giving approval for establishment of labour relations or business cooperation after termination of performance of a public function

A former official who, within two years after termination of performance of a public function, intends to establish a labour relationship or business cooperation with a legal entity, entrepreneur or international organization which conducts an activity related to the function which the official performed, shall be obliged to submit a request for approval to the Agency.

The Agency shall not give its approval if it determines that there is a regulation which explicitly prohibits the former official from establishing a labour relationship or business cooperation with a legal entity which conducts an activity related to the function he/she performed, and also in other cases if it determines that the information, personal relations, influence, and information which the former official has, could be abused in case he/she establishes a labour relation or business cooperation with the legal entity, entrepreneur or international organization which conduct an activity related to the function which the official performed.

The Agency shall be obliged to adopt a decision at the request of the former official within 15 days from the day it received the

request. Otherwise, it shall be deemed that the Agency gave its approval for the establishment of a labour relationship or business cooperation.

Providing opinion on the application of the Law¹⁴

The Agency shall provide a written reply in a reasonable period of time to all interested parties or legal entities which submit a request to the Agency for providing an opinion on the interpretation or application of the Law on the Anticorruption Agency. Interested citizens only need to submit to the Agency a written request which contains a clearly formulated question.

Initiation of proceedings and decision making in case of violation of the Law

The Division for Resolving Conflicts of Interest shall, ex officio or on the basis of reports submitted by legal entities and natural persons, if it determines that allegations from a report have grounds, initiate proceedings and create a draft decision on the violation of the Law on the Anticorruption Agency related to the conflict of interest of public officials, and create draft decisions prescribed by the Law which introduce actions to be taken against the officials.

Example 4: Initiation of ex officio proceedings

Against a member, who is at the same time a member of the Management Board of an institution, a report was filed on suspicion that he violated provisions of the Law on the Agency in a way that while he was still performing the function of a member of the Management Board, he was also involved in the process of approving modifications and amendments to the Rulebook on Systematisation of Work Positions in the institution, which was used for the systematisation of a new position according to skills and qualifications of the official, which he used to establish a labour relationship after he resigned as a member of the Management Board.

The Agency enforced an action of public announcement of a decision on the violation of the Law because he acted contrary to the provision of Article 27 of the Law on the Agency, since while performing a public function as a member of the Management Board of the institution, he established a labour relationship with that institution.

14. *Opinions of the Agency on the application of the Law* are available in Serbian at http://www.acas.rs/sr_cir/praksa-agencije/odluke-odbora.html

The statement of reasons of the decision prescribes that by participating in the modifications of the Rulebook on Systematisation of Work Positions in the institution, which was used for the systematisation of a new work position, and by establishing a labour relationship with regards to the stated work position in that institution during his performance of the public function, he subordinated a public interest to a private one and used the public function in that institution to obtain benefits for himself, which raised doubt among citizens about his conscientious and responsible performance of the public function.

At the same time, the Agency determined that the former official also violated the provision of the Law on the Agency which obliged him as a former official to seek approval from the Agency for establishing a labour relationship in a legal entity which operates in the field in which the official performed the public function.

Example 5: Initiation of proceedings after submission of a report

Against an official, who is a member of the Council of a local self-government unit, a report was submitted stating that he was the owner of a petrol station from which all users of the budget of the local self-government unit supply themselves with fuel.

For the purpose of obtaining information on conflict of interest, the Agency invited all users of the budget of the local self-government unit to provide data on whether there was a transfer of funds to the company owned by the official, i.e. whether there was business cooperation between the local self-government unit and the company. All budget users confirmed and stated that there were public procurement procedures which involved participation of the stated company and that contracts were concluded.

The company did not act in accordance with Article 36 of the Law on the Agency and it did not report all activities in public procurement procedures, nor did it submit final decisions, therefore, the Agency initiated proceedings against the legal entity and against the official – member of the Council of a local self-government unit. The proceedings are underway.

Procedure for violation of the Law

If there is reasonable doubt that a public official violated the Law on the Anticorruption Agency in the field of a conflict of interest, the Agency shall initiate ex officio proceedings to determine the violation.

A legal and physical entity may submit to the Agency a written report against a public official, which points to the fact that the official violated the Law. If the Agency determines that the report refers to the violation of the Law in terms of a conflict of interest, the reports shall be submitted to the Division for Resolving Conflicts of Interest.

When the Division determines that the submitted report is founded, the official shall receive a notification stating that proceedings were initiated against him/her for possible violations of the provisions of the Law which regulate conflicts of interest and he/she shall have a reasonable period of time to make a statement about the relevant allegations from the report. It is always good and recommendable to enclose as much evidence as possible to the report which may be relevant for making a decision on the basis of the report. However, the Agency shall be obliged to collect evidence by itself, and at this stage of the proceedings, the Agency may require from the official, a person related to the official (spouse, or extramarital partner of the official, blood relative of the first line, or a collateral relative up to the second degree of kinship, adoptive parent or adopted child of the official, as well as any other legal or physical entity who on other grounds or in other circumstances could be reasonably regarded as interest-related to the official), as well as from a person whose report served as a basis for the initiation of proceedings, to submit required information and data necessary to make a decision about whether the public official violated the Law or not. The official always has to have an option during the proceedings to make a statement about all the relevant allegations and evidence at disposal to the Agency. The proceedings conducted before the Agency, and against the official, are closed to the public.

After completion of the proceedings, if it is determined that the official violated the Law on the Agency, the Director of the Agency shall make a decision which will determine violation of the Law and a measure prescribed by the Law on the Agency.

The official may be imposed with a warning and public announcement of a recommendation for his/her dismissal. The official selected directly by the citizens, former official and person related to the official may be imposed with a warning and public announcement of a decision on the violation of the Law on the Agency. As a rule, the official is first given a warning which, among others, sets a period in which he/she is ordered to elimi-



nate the situation which creates a conflict of interest for him/her. If the official does not act according to the order of the Agency and within the defined period, the Director of the Agency shall decide on an action of public announcement of the recommendation for dismissal or public announcement of the decision on the violation of the Law. If there is an action of public announcement of the recommendation for dismissal against the official, the Agency shall submit an initiative for dismissal of the official to the authority which elected, appointed or nominated him/her for the public function. The authority shall be obliged to notify the Agency within 60 days about the measures taken in terms of the action of public announcement of the recommendation for dismissal, i.e. initiative for dismissal of the official submitted by the Agency.

Furthermore, when the Agency determines that the official violated the Law on the Agency, it shall notify the compe-

tent authority which should, on the basis of the notification, initiate disciplinary, misdemeanour or criminal proceedings against the official, and the competent authority shall be responsible to inform the Agency within 90 days about activities conducted against the official. The Agency shall inform the appellant of the report against the official on whether proceedings were initiated against the official for the violation of the provisions of the Law or not, and, on the outcomes of the proceedings.

Protection of appellants and other persons in the process of resolving a conflict of interest

All persons whose reports served as a basis for the initiation of proceedings against a public official due to the violation of the Law on the Anticorruption Agency, as well as persons who gave a statement in proceedings conducted against an official due to the violation of the provisions of the Law shall not bear any consequences for that. The Agency shall be obliged to protect the anonymity of these persons and to provide them with necessary protection. The procedure of providing assistance to these persons shall be regulated by a special regulation adopted by the Director of the Agency.

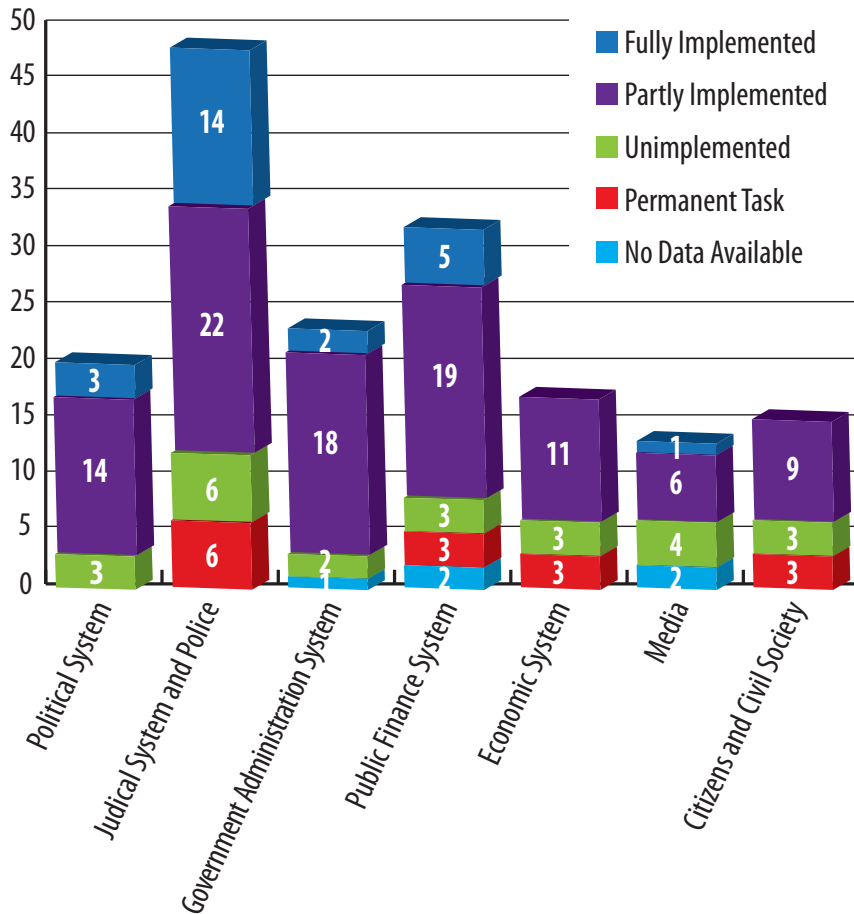
4.3.5.2 What the Section for Strategy and Regulations does

The Agency is, above all, obliged to oversee the implementation of the National Strategy for the Fight Against Corruption, Action Plan for the implementation of the strategy and sector plans. Entities obliged to implement the Strategy (which are by the Action Plan determined to conduct specific activities) shall be obliged to submit to the Agency quarterly reports on the implementation of the document. The Agency shall be obliged to create an annual report on the implementation of the stated document, which is an integral part of this Report, and submit it to the National Assembly. The Agency shall be competent, according to the Law, to submit an initiative for the modification of the Action Plan, give proposals for the implementation of measures from the Action Plan, and provide an opinion on the implementation of the Strategy and Action Plan. For purpose of implementation of the Strategy, the Agency can introduce initiatives for modifications of regulations.

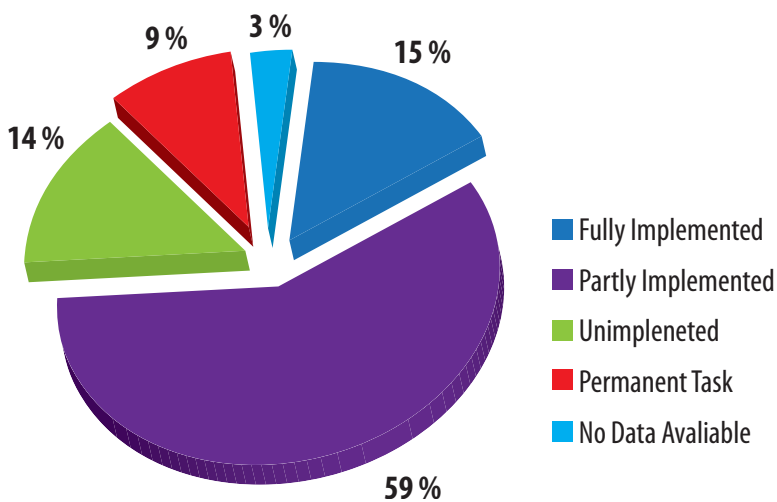
The Agency provides professional and counselling assistance to the interested state authorities through the work of the Section for Strategy and Regulation in the field of performance of activities prescribed by the Action Plan which was adopted for the implementation of the National Strategy for the Fight Against Corruption.

The Section for Strategy Implementation and Regulations of the Anticorruption Agency made the following conclusions in assessing the fulfilment of recommendations from the National Strategy, presented in the graphs below:

Implementation of Recommendations from the Strategy per Systems



General Implementation of Recommendations from the Strategy



Only 15% of recommendations from the Strategy were fully implemented. One tenth (9%) has mostly been implemented continually, considering that the Action Plan marked its supporting activities as permanent tasks. The largest number of recommendations from the Strategy was partially implemented (59%), which is in accordance with a general trend in all systems (in each individual system, the largest number of recommendations was partially implemented).

A smaller number of recommendations from the strategic document were not implemented at all (14%), and the Agency did not manage to obtain data on the implementation of 3% of recommendations. Based on these percentages, it can be concluded that the largest number of recommendations from the Strategy, even after five years of being in force, are still being implemented, i.e. that it is necessary to continue to take responsible actions for 4/5 of tasks prescribed by unimplemented, partially implemented and implemented recommendations and recommendations which are, by the nature of their activities, considered to be a permanent task. However, even though all of these conclusions clearly support a general conclusion about the implementation of the Strategy, it is important to note that they result from numerical indicators which assign equal values to all the recommendations, and which do not necessarily correspond to the importance of each individual recommendation for the achievement of objectives of the Strategy.

The Agency also provides counselling assistance through the work of the Section in terms of the analysis of regulations related to corruption prevention, development of special anti-corruption regulations and documents. All interested state authorities may address the Agency with a request for provision of assistance in the analysis of current regulations which they apply (either internally or externally) and to point through the analysis to possible drawbacks of the regulation which allow corruption. Furthermore, interested parties may address the Agency with a request for assistance in creating internal and external documents about corruption prevention, strengthening of integrity, transparency, accountability, reducing discretion powers, etc.



4.3.5.3 What the Section for Training Programmes does

The Section for Training Programmes provides services to state authorities and organizations, territorial autonomy and local self-government, public services and other legal entities related to the development of anticorruption training programmes, strengthening of integrity and other issues relevant for this area.

Besides providing assistance in the process of development and implementation of anticorruption training programmes, the Agency organizes trainings for the stated target groups. The Agency also provides assistance to the private sector and media in anticorruption trainings.

4.3.5.4 What the Section for Integrity Plans does

Creating guidelines for development of integrity plans

The Section for Integrity Plans creates draft guidelines for the development of integrity plans which are adopted by the Director of the Agency. The guidelines for the development and implementation of integrity plans represent a by-law which regulates the procedure for adoption of integrity plans. They include provisions which define the structure of integrity plans, list and explain stages in plan development, and set deadlines for the creation of draft integrity plans and integrity plans which should be adopted by all entities obliged to implement them, according to the Law on the Anticorruption Agency.

Creating draft integrity plans with representatives of working groups

State authorities and organizations, provincial authorities and local self-government, public services and public companies shall be obliged to adopt integrity plans in compliance with the guidelines adopted and published by the Agency (Article 59 of the Law on the Anticorruption Agency). The Agency shall, together with the representatives of the same institutions, divided according to the systems of the National Strategy for the Fight Against Corruption, form working groups. These working groups shall have a task to create draft integrity plans (Article 24 of the Guidelines for the Development of Integrity Plans). On the basis of the adopted drafts, all relevant entities obliged to implement them shall create their own integrity plans. The Guidelines prescribe that draft integrity plans shall be completed by the end of 2011 and published on the Agency's web site.



Procedure for developing draft integrity plans

A representative of the Agency's Section for Integrity Plans participates in the working groups for the development of draft integrity plans. The first meeting of the working group consists of two-day training for the development of integrity plans organized and implemented by the Agency. During the two-day training, the working group starts working on the development of an integrity plan. After the two-day training, the working group meets at least two more times to create the draft integrity plan. The idea of participation of representatives of the Agency in the work of working groups is to help the representatives of working groups to fully master the application of the methodology for the development of the plan created by the Agency. Between meetings of working groups, the representative of the Section for Integrity Plans communicates with other members of the working group and assists in the development of the draft integrity plan, bearing in mind that every representative of the working group, between meetings, is assigned with specific responsibilities related to the development of the draft integrity plan. The working group shall meet when individual tasks, which support every stage of development, have been completed, and unified in a uniform draft plan of the working group.

After completion of the draft integrity plan, the Agency shall organize training for persons responsible for the development of integrity plans in the institutions of the authority responsible for adopting integrity plans. The Agency shall organize the training through seminars, education workshops, instructions, publishing manuals, but also through every day advising and consulting related to the development and adoption of integrity plans. This means that all interested persons shall be able to communicate daily with the representatives of the Section for Integrity Plans who will assist them in the development of plans with advice and professional consulting.

What are integrity plans?

Integrity plans are a preventive anticorruption measure.

An integrity plan is a document resulting from an act of self-control of an institution made for the purpose of maintaining and improving its integrity, transparency and professional ethics of employees. Integrity of an institution implies individual honesty, professionalism, ethics, institutional integrity and compliance, as well as compliance with moral values in order to reduce risks from employing public authority contrary to the purpose for which it was granted, which improves the quality of operation of an institution, and raises public confidence.

In order to achieve this objective, it is necessary to identify processes in the main areas of operation of an institution, what are the largest risks of occurrence and development of corruption, ethically and professionally unacceptable actions and other irregularities, and then to define and take actions for their prevention, mitigation and elimination, such as: raising awareness of employees about harmful effects of corruption, strengthening of ethics and encouragement of ethical conduct, transparency of work, limitation of discretionary powers, existence of rules of procedures and compliance with them, existence of sanctions for the violation of rules of procedures and their fast and consistent implementation, internal and external monitoring, and periodical monitoring of achieved results.

The main elements of the integrity plans are:

- Information on the person responsible for the development and application of the integrity plan;
- Description of the process of work, decision-making and determining activities susceptible to corruption, i.e. determining activities prone to the risk of corruption;
- Assessment of operations or activities, i.e. other functions which an official may not simultaneously perform while carrying out of a public function, and oversight methods;
- Preventive measures for reducing corruption.

The Guidelines for the development of integrity plans prescribe that all entities, which are responsible to have plans, shall be obliged to create them within 13 months from the adoption of the draft integrity plan for the system they belong to.

Assistance to other legal entities in developing an integrity plan

Other legal entities which, by the Law, are not obliged to adopt integrity plans, may require assistance from the Agency in assessing integrity, at the expense of a legal entity, and making recommendations for improvement. The Agency shall submit a pricelist for this type of services.

Monitoring development and implementation of the integrity plan

The Agency shall monitor implementation of the integrity plan in those institutions which are by the Law obliged to create integrity plans. The Agency may do this by requesting a specific institution to submit to the Agency a report on the implementation of the integrity plan. In addition, the Agency may—through an indirect observation of the institutions—determine whether

the integrity plan was created in compliance with the relevant regulations, meets the requirements for the quality and objectiveness while being implemented, as well as whether it has had an effect on the strengthening of integrity of the institution. The Agency shall create a separate control report.

Assessment of integrity of the state

On the basis of created integrity plans, the Agency shall conduct assessment of system integrity of the Republic of Serbia.

4.3.5.5 What the Group for Research, Media and Civil Society Relations does

Through the work of the Group for Research, Media and Civil Society Relations, the Agency shall cooperate with research institutions, media and representatives of the civil society while implementing the activities outlined in both the National Strategy for the Fight Against Corruption and Action Plan. Furthermore, the Group shall provide professional assistance in the development of different types of documents in the field of prevention of corruption and strengthening of integrity, in the preparation and implementation of various anticorruption training programmes for the stated target groups, as well as in the organization of media campaigns whose objective is to raise awareness of the citizens about anticorruption issues.

4.3.6 Results

The Department for Prevention achieved the following results in 2010:

Conflict of Interest¹⁵

- Reviewed 1022 notifications submitted by officials, who performed several public functions on the day the Law on the Anticorruption Agency came into force the Law; reviewed functions they perform.
- Processed 44 requests for approval of performance of another function which officials intended to perform after the Law came into force.
- Processed 794 requests for approval and notifications about performance of another operation or activity, in addition to performance of the public function.
- Completed first instance proceedings against 45 officials, on the basis of reports of legal or physical entities.
- Completed first instance proceedings against 16 officials; initiated ex officio.

¹⁵ Report of the Department for Conflict of Interest Resolution is enclosed in this volume. As Annex 2 document is available at http://www.acas.rs/images/stories/Annex_Report_II_for_2010.pdf

- Issued 228 opinions on the interpretation and implementation of the Law.
- Issued 20 decisions against public officials prescribing them to cease performance of their functions; 11 warnings, 3 public announcements of the violation of the Law, 3 announcements of the recommendation for dismissal, 82 decisions determining incompatibility of functions and setting a deadline for termination of performance of the incompatible functions (pursuant to the provision of Article 82 of the amended Law), 12 decisions determining incompatibility of performance of a public function and another operation and activity, and setting a deadline for termination of performance of another operation or activity (pursuant to the provision of Article 31 of the amended Law).
- Approved performance of another function in 20 cases; approved performance of another operation or activity in 20 cases;
- Denied approval of performance of another function in 9 cases; denied approval of performance of another operation or activity in 16 cases.
- Confirmed the compatibility of the functions in 854 cases, according to Article 82 of the amended Law; allowed officials to perform another operation or activity in addition to the public function without an official approval in 737 cases, according to Article 31 of the amended Law.
- Denied approval of performance of another function or another operation or activity in 13 cases.¹⁶
- Adopted 14 conclusions about termination of proceedings.
- Drafted legal opinions which were adopted by the Agency's Board.
- Initiated the assessment of the constitutionality of the last paragraph of the provision of Article 82 of the Law on Amendments to the Law on the Anticorruption Agency, which was submitted to the Constitutional Court in September 2010.

National Strategy and Regulations

- Created the first report on the implementation of the National Strategy for the Fight Against Corruption and Action Plan.
- Drafted a Memorandum of Understanding between the Agency and the Government on cooperation in fulfilment of responsibilities under the National Strategy for the Fight Against Corruption and Action Plan for the implementation of the National Strategy.

16. Before adoption of the Amendments to the Law on the Anticorruption Agency, the Agency denied 516 requests for approval from the officials. The Agency treated the submitted requests as notifications in accordance with the provision of Article 82 of the amended Law and after the amendments came into force, the officials were prohibited from performing their functions.



- Developed a questionnaire about reporting on the implementation of recommendations outlined in the National Strategy and Action Plan.
- Created a registry of the state authorities responsible for reporting to the Agency on the implementation of the National Strategy for the Fight Against Corruption and Action Plan.
- Established a registry of designated individuals to report on the implementation of the National Strategy and Action Plan.
- Organized and held 16 coordination meetings with representatives of state authorities, administration authorities, provincial authorities and authorities of local self-government related to the implementation of recommendations outlined in the National Strategy for the Fight Against Corruption and Action Plan.
- Drafted the Guidelines on Gifts, including the form for recording gifts and notification on the reception of a gift.

Training

- Educated public officials from 10 municipalities and towns in Serbia about responsibilities of reporting on the property, gifts, as well as issues concerning a conflict of interests in the course of 19 seminars.
- Over 600 pupils from primary and secondary schools participated in the competition “Let’s avoid pulling connections and acquaintances” organized and implemented by the Sec-

tion for Training Programmes, in cooperation with the PR Office of the Agency, Ministry of Education, Ministry of Youth and Sport.

- Organized and implemented 20 trainings on prevention of corruption, strengthening of integrity, and communication for employees of the Agency.
- Organized and implemented a training programme for the journalists from the six national media companies.
- Proposed a list of lecturers for the Personnel Management Office (PMO) on anticorruption issues within the anticorruption training programme for the PMO in 2011.
- Trained the representatives of working groups for the development of integrity plans on general concepts of prevention of corruption and strengthening of integrity.

Integrity Plans

- Created and published Guidelines for the development and implementation of integrity plans.
- Created a registry of state authorities responsible for developing the integrity plan.
- Created a registry of persons appointed for developing and implementing the integrity plan.
- Developed a draft integrity plan for the Agency.
- Developed a detailed training plan for the representatives of working groups who will participate in the development of the corresponding integrity plans.
- Informed journalists from six Belgrade media companies about concepts of the integrity plan and competencies of the Agency in terms of monitoring the development and implementation of integrity plans.

Research, Media and Civil Society Relations

- Organized and held 10 meetings for civil society organizations in 10 towns in Serbia related to the National Strategy and Action Plan.
- Created internal databases that include contact information for 1,643 associations and 217 media companies in Serbia.

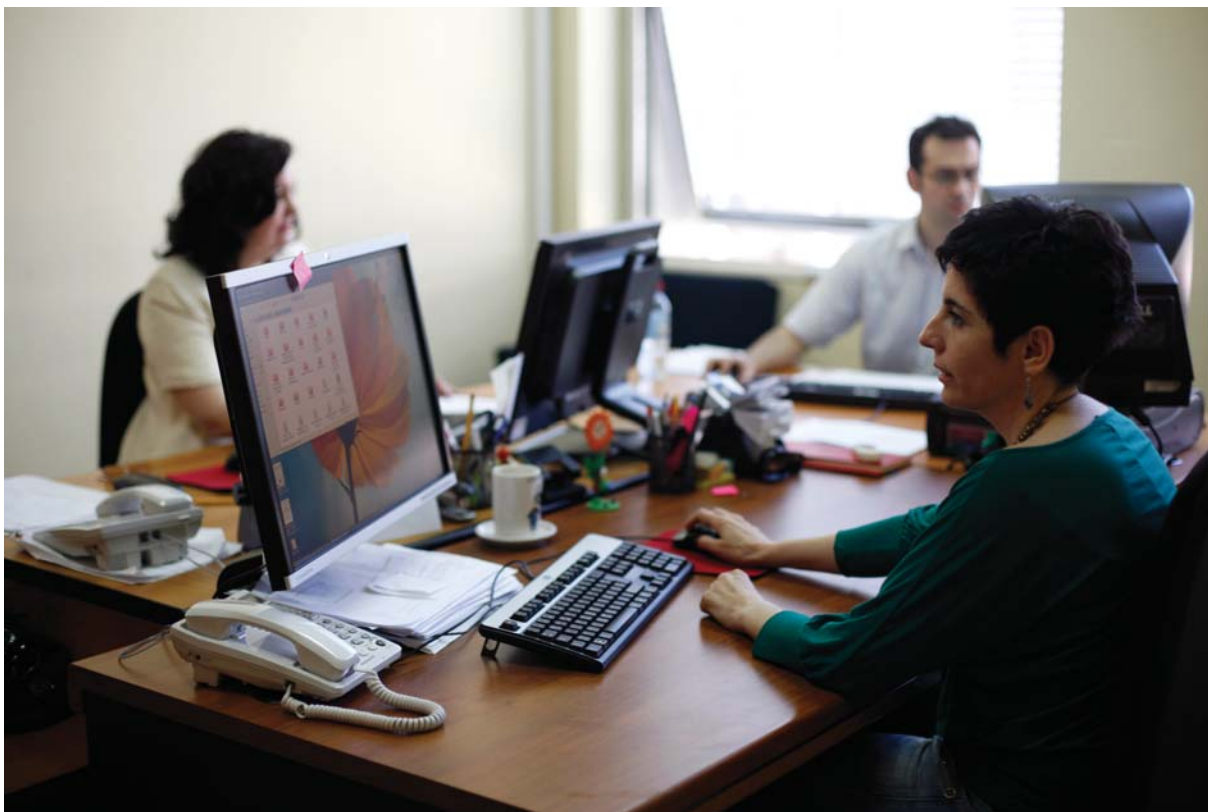
A total of 24 representatives of 20 state authorities, 24 representatives of 21 administration authorities, 2 representatives of 17 provincial authorities, 128 representatives of 93 authorities of local self-government and districts, 23 representatives of Belgrade municipalities and the city of Belgrade, as well as representatives of 51 associations of citizens and 10 media companies attended seminars and round tables on the concept of corruption, implementation and application of integrity plans,

implementation of the National Strategy and Action Plan and the role of the civil society in the National Strategy.

4.3.7 Recommendations

Based on the first year experience of the Department for Prevention, the following recommendations have been made:

- The laws and regulations that contain the provisions on conflict of interest of public officials should be consistent with the Law on the Anticorruption Agency.
- All holders of public authorisations should nominate a person who will be responsible for cooperation with the Anticorruption Agency (and other independent bodies whose competence directly or indirectly refers to prevention of corruption and strengthening of integrity of institutions with public authorisations); the cooperation would be related to the implementation of the Action Plan of the National Strategy for the Fight Against Corruption, creation and application of integrity plans and organization of trainings for employees.
- All carriers of public authorisation should have mandatory trainings for all employees, including civil service officers and senior management personnel) related to ethics, prevention of corruption, strengthening of integrity and public responsibility of employees and institutions.



- When determining persons who will be responsible for the development and implementation of the integrity plan, competent authorities should give preference to those who will be involved in all stages of integrity plan development. That is, these should be the individuals who are fully employed in a particular authority or institution, have sufficient work experience in a particular authority or institution, as well as are well familiar with all processes which take place within the authority or institution, and who have earned trust of employees in the authority or institution where they come from.
- Establishment and implementation of the mechanism of transparent and responsible allocation of budgetary funds to civil society organizations and regulation of the issue of media ownership in a transparent manner.

5. DEPARTMENT FOR ANALYTICAL AND OPERATIONAL ACTIVITIES

5.1 OBJECTIVES

The Department for Analytical and Operational Activities set the following strategic objectives to be achieved in its operation:

1. Establishment of functional files and records.
2. Establishment and implementation of an efficient system of protection of appellants of complaints and reports.

5.2 KEY RESULTS

The Department for Analytical and Operational Activities achieved the following key results in 2010:

1. Established the procedure for classification of received complaints/reports according to the areas in which the citizens most often report on cases of corruptive activities, and separated complaints/reports that require actions from the Agency from those that do not meet legally prescribed criteria for taking actions.
2. Established cooperation with the majority of the state institutions mentioned in complaints/reports of the citizens in order to examining allegations against them.

5.3 ABOUT THE DEPARTMENT FOR ANALYTICAL AND OPERATIONAL ACTIVITIES

5.3.1 History

The Department for Analytical and Operational Activities has existed since the establishment of the Agency and first it operated as a Department for Operational Activities. When the Guidelines for Internal Organization and Systematisation of Work Positions

limited its scope of activities in July 2010 by excluding activities related to the control of property, i.e. property reports of public officials and financial reports of political parties, the organizational unit continued to operate as the Department for Analytical and Operational Activities.

5.3.2 Organization and Competence

The Department for Analytical and Operational Activities consists of two internal units: the Division for Registers and Section for Complaints. The Department conducts various activities including monitoring, recording and publishing data about public officials, their property and revenues, as well as actions resulted from complaints and reports of the citizens.

5.3.2.1 Division for Registers

The Division for Registers receives notifications about acceptance and termination of the duties by public officials, receives reports about property and revenues, oversees reports and whether they are duly submitted and formally correct. The Division is also responsible for creating officials' registers, registers about their property and property of their affiliates, as well as it keeps records for more than 20% of shares or stocks of legal entities owned by an official. The Division also keeps a Catalogue of gifts. Information about the property of officials – which is public according to the regulations – and information that had been approved by the officials and affiliates for publishing is uploaded to the Agency's website that is regularly updated. In addition, the Division also receives notifications about the transfer of managing rights which officials have in companies, and information about parties whom these rights are transferred to. The Division also conducts proceedings related to the implementation of the Law in terms of transfer of managing rights to the companies in which officials have over 3% of share.

5.3.2.2 Section for Complaints

The Section for Complaints receives complaints, i.e. reports of physical and legal entities, provides protection to civil servants from the potential threats related to their reports, protects their anonymity and acts on the basis of submitted complaints.

5.3.3 Structure

The Department for Analytical and Operational Activities is managed by the Assistant Director, however this position has been vacant from 1 March 2011 due to the resignation of the former Assistant Director.

By the end of 2010, the Department has a total of 8 employees, 6 of whom worked in the Division for Registers and 2 in the Section for Complaints. Although the Guidelines for Internal Organization and Systematisation of Work Positions prescribes that the Department should have 15 employees at civil service positions, 10 of whom should work in the Division for Registers and 5 in the Section for Complaints.

5.3.4 Challenges

A significant challenge in the establishment of legally prescribed registers was a large inflow of documents, and, at the same time, insufficient number of people who could efficiently process



such large quantities of material. Another challenge lies in the fact that property reports are submitted in hard copies, even in hand writing, which slows down their entry into a temporary electronic system. In addition, public registers are incomplete because the procedure of obtaining equipment for electronic processing of these data implies a complex public procurement and implementation of IPA projects of the European Commission. However, due to appropriate preparations prior to the commencement of operation of the Agency, the data processing temporary electronic system for the Property Register was created and it still operates properly.

In addition to the challenges caused by the lack of personnel, there are some other challenges as well. Thus, the fact that the

Department has to deal with confidential information regarding officials' personal and property history, pursuant to the Law on the Agency, which have to also follow the regulations on protection of personal data, requires that the Agency to establish precise and strict rules of access to the data for a limited number of employees, that remains unchanged throughout the year.

Furthermore, a large percentage of technically incomplete property reports, notifications about taking up an office and data about a transfer of managing rights considerably slowed down the work related to creating registers as well as put pressure on limited resources of the Agency. In order to expedite the process of entering these data into registers, the Agency has introduced work positions for 2 officers who test technical operability of submitted property reports. It became possible after the Guidelines for Systematisation of Work Positions were amended in September 2010.

5.3.5 What the Department for Analytical and Operational Activities does

5.3.5.1 What the Division for Registers does

The main function of the Division for Registers is to establish operation of legally prescribed registers. In order to register officials, the Division receives and classifies various documents (reception of forms: "Notification about taking up an office/termination of performance of an office"), modifies disorderly filled forms, creates registers for state authorities which have a legal obligation to submit data about officials, develops a preliminary design for the electronic management of officials' registers, and creates temporary electronic records of public data from registers and their publication at the web site of the Agency.

In 2010, the Agency received over 8,900 forms which were classified in over 3,500 subject matters created on the basis of data about institutions which had submitted reports on their officials. A large issue in the processing of documents was a significant number of incorrectly or disorderly populated forms. Over 50% had deficiencies which had to be corrected (administrative correction of data).

The Division for Registers conducts organizational and technical activities in order to install an independent and electronic system for the processing of data and system for physical and technical protection of registers about officials' property.

Over 40% forms (i.e. about 6,000) received in 2010 had to be corrected or amended, which required additional efforts of employees in the Agency.

The Division maintains a Catalogue of gifts granted to officials, records transfers of managing rights, and records processes of privatisation and public procurements of legal entities in which an official has over 20% of shares or stocks.

The deadline for the submission of data on gifts for the previous calendar year expires in March 2011, therefore, the Catalogue of gifts shall be published on 1 July 2011, in accordance with the legally prescribed obligation of the Agency.

5.3.5.2 What the Section for Complaints does

The Section for Complaints receives and acts on the basis of complaints and reports of physical and legal entities and takes specific actions against the authorities of public government referred to in complaints/reports. According to the Law, the Agency, should not act on the basis of anonymous complaints.

In 2010, the Section for Complaints had in the process the total of 277 complaints. The Republic authorities were mentioned in over 80% of the received complaints, however this does not imply that the authorities have been primary corruptive elements. Nevertheless, inefficiency of Republic authorities in resolving individual cases often makes appellants suspicious of the authorities themselves.

A significant number of complaints lead to a conclusion that the citizens were not content with a reaction of the public prosecutor's office, particularly in cases when subject matters were not resolved, i.e. when the outcome of the operation of the public prosecutor's office was unclear.

In 2010 the Agency received a relatively large number of complaints referring to inspection authorities. The most contentious issue was related to the operation of an oversight mechanism of inspection services that incurred suspicions of corruption. This oversight mechanism should ensure a better quality of work of inspection authorities on site as, according to the complaints, it is currently inadequate.

17. *Law on Privatisation*, Official Gazette of the RS, Nos. 38/01, 18/03, 45/05, 123/07, 30/10, Belgrade 2010 available in Serbian at http://www.aod.rs/levimieni/pravni_okvir/3.html

Omissions were detected in all cases in which activities of inspection supervision were assigned to the authorities of local self-government, and even in the subsequent supervision they have been largely unresolved. Forty one complaints, or 11.17%, are related to inspection authorities with 29 of them (i.e. 70.73%) related to construction inspection. If these data are supplemented by the data about complaints referring to state authorities responsible for urbanism and issuance of construction licences, then the data show that there is the total of 65 complaints, or 17.7%, related to urbanism and construction. This issue, in addition to privatisation, is the most common object of complaints that led to the Agency's actions in 2010.

The privatisation is mentioned in the largest number of cases of received complaints. There were 78 complaints (or 21.2%) which state different forms of a corruptive practice in the privatisation process. In the later course of activities, there was suspicion about corruption in other areas as well. Complaints point to omissions in work of the Privatisation Agency, but also to the work of other state authorities, first of all, the Ministry of Economy and Regional Development, since it is the Ministry which oversees the Privatisation Agency. Regardless of the particularities of each privatisation process, corruptive behaviour in this area has its roots in the system. The Law on Privatisation and supporting by-laws, their inconsistent implementation and lack of an appropriate oversight resulted in objections of the citizens to all stages of the privatisation process.

5.3.6 Results

In 2010, the Department for Analytical and Operational Activities achieved the following results:

Registers

- Created the register of officials' property.¹⁸
- Created the register of officials.
- Created the system for maintaining and utilisation of data in the form of a collection of documents.
- Developed a preliminary design of an electronic system for maintaining registers and records.

¹⁸ The Agency created a temporary system for electronic data processing until the final development of a uniform system for the register of officials and register of property. Those Registers are available in Serbian at http://www.acas.rs/sr_cir/aktuelnosti/199.html

- In the process of an administrative correction of deficiencies in source documents, over 1,500 subject matters were processed.
- Collected and systematized basic data about 6,500 state authorities for the requirements of further development of registers about officials.
- Initiated the process of creating registers about companies in which officials have over 20% of shares, recorded public procurement procedures of such legal entities, and recorded a transfer of managing rights.

Complaints and Reports

- Established the procedure for classification of received complaints/reports according to the areas in which the citizens most often report on cases of corruptive activities, and separated complaints/reports containing elements that require actions from the Agency from those that do not meet legally prescribed criteria for taking actions.
- Established cooperation with the majority of state institutions mentioned in complaints/reports of the citizens for examining allegations against them.

5.3.7 Recommendations

Based on the first year experience of the Department for Analytical and Operational Activities, the following recommendations were made:

- To take action ensuring that state authorities addressing citizens' rights and obligations rights and responsibilities act within the legally defined deadlines.
- To demand responsibility from officials managing these state authorities in order to ensure effective and legal behaviour in addressing citizens' requests.
- To insist on the responsibility of state authorities to regularly notify the Agency on both acceptance and termination of the office.

6. DEPARTMENT FOR OVERSIGHT

6.1 OBJECTIVES

The Department for Oversight set the following strategic objective to be achieved in its operation:

- To establish an efficient oversight system of reports on assets of officials and financial reports of political entities.

6.2 KEY RESULTS

In 2010, the Department for Oversight achieved the following key results:

1. Drafted the new Law on Financing of Political Activities.
2. Out of 300 reports submitted by the highest state officials whose revenues and property were the subject of verification according to the annual plan of operation of the Agency, 192 reports were reviewed in terms of regularity.
3. The total of 4 misdemeanour reports against officials were submitted in relation to the notification of the Agency and a transfer of managing rights to legal entities.

6.3 ABOUT THE DEPARTMENT FOR OVERSIGHT

6.3.1 History

The Department for Oversight is the youngest core organizational unit in the Agency established with the adoption of the Guidelines for Internal Organization and Systematisation of Work Positions in the Professional Services of the Anticorruption Agency on September 1, 2010. The Department was created by separating property control activities, i.e. property reports of public officials and financial reports

of political parties from the previous Department for Operating Activities.

6.3.2 Organization and Competence

The Department for Oversight consists of two organizational units: the Division for Oversight of Officials' Property and Division for Oversight of Financing of Political Entities. Activities conducted within the Department for Oversight imply the review of asset reports of officials and determining potential reasons of discrepancy between reporting data and an actual situation, and review of financing of regular operations and election campaigns of political entities.

6.3.2.1 Division for Oversight of Officials' Property

This Division proposes an annual plan for review of data, review of officials' assets reports and determining reasons of discrepancies between the data reported and the actual situation (i.e. determining reasons for discrepancy between the increased value of officials' property and their legal and reported revenues), and informs about this the authority in which the official performs a public function as well as other relevant authorities.

In case of suspicion that an official conceals the actual value of his/her property, the Agency may request that the official to submit data on property and revenues of other related entities.

The Division for Property Oversight monitors emergency reporting on officials' property, which refers to relevant changes, i.e. to the property with a value exceeding the amount of the annual average salary without taxes and duties in the Republic of Serbia, as well as emergency reporting on the property of officials who ceased to perform a public function, who submit reports on relevant changes in comparison to the data from the previously submitted regular report, in the following two years after termination of their public function.

In the oversight process, the Division also considers allegations and information obtained from complaints of legal and physical entities.

In addition, the Division oversees the transfer of managing rights to another physical or legal entity that is not its affiliate, but who has managing rights on behalf of the official until his/her termination of office, as well as in other cases envisaged by the Law. The entity whom the official transferred managing rights becomes an affiliate.

In cases when the Agency determines that an official acts contrary to the legal regulations on transferring managing rights, it shall submit a misdemeanour report to the competent Misdemeanour Court.

6.3.2.2 Division for Oversight of Financing of Political Entities

The oversight of financing of regular work and election campaigns of political entities creates a basis for the operation of the Division for Oversight of Financing of Political Entities. The Division receives, registers and reviews annual financial reports of political entities, reports on contributions and property of political entities, in addition to the opinion of an authorized auditor.

The Division also examines reports on expenses of election campaigns of political entities, which are public and published on the official web site of the Agency.

The Division cooperates with state authorities, banks and other financial organizations, companies and other entities in the process of obtaining data relevant for the oversight of financial reports of political entities, in addition to information obtained from complaints of legal and physical entities.

When the oversight process determines non-compliance with the provisions of the Law and by-laws, misdemeanour, criminal and other proceedings are initiated in order to establish responsibilities of political entities and other responsible parties.

6.3.3 Structure

The Department for Oversight is managed by the Acting Assistant Director, and by the end of 2010 it contained a total of 8 employees. However, the Guidelines for Internal Organisation and Systematisation of Work Positions states that the Department should employ 18 employees at civil service positions, 8 of whom should work in the Division for Oversight of Officials' Property, and 10 in the Division for Oversight of Financing of Political Entities.

6.3.4 Challenges

a) In the area of **oversight of officials' property**, the main challenge lies in the fact that submitted reports of public officials identified technical deficiencies and irregularities, which were sometimes corrected in manifold repeated requests of the Agency addressed to the official to fill out the report. Such a situation required additional engagement of limited resources of the Agency (due to the confidential nature of these reports, only four employees are constantly working with them), all with a purpose to create appropriate registers.

In addition, possibilities of engagement of additional resources of the Agency are limited with the nature of work and the fact that the Agency operates in inadequate and temporary premises.

b) The challenges which the Agency faced in the area of **financing of political entities** may be divided in two groups: challenges referring to poor solutions incorporated in the applicable Law on Financing Political Parties and challenges referring to the resistance of political parties themselves.¹⁹

Poor solutions of the Law on Financing of Political Activities

The Law identifies the subject of oversight – namely, financial operations of registered a political party that includes appellants of announced election lists and proposers of candidates for the President of the Republic, President of the municipality and Mayor. Some submitters of announced election lists at extraordinary local elections in 2010 were also groups of citizens which obtained funds for financing election campaigns from local budgets. Despite the legal responsibility, the groups of citizens did not submit reports on raised and spent funds for financing election campaigns, and the Agency did not have mechanisms to sanction these irregularities since legally violated responsibility of non-submission of a report is determined only for political parties and responsible persons appointed by political parties.

The Law on Financing of Political Activities does not contain a deadline for the submission of annual financial reports that makes it impossible to establish the responsibility of political parties for untimely submission of reports.

Resistance of political parties

A certain number of political parties, in terms of annual financial reports for 2009, expressed "silent" resistance by not enclosing an opinion of an authorised auditor to the annual statement of accounts, although this was identifies as a legal responsibility. Such behaviour was justified by the fact that the largest number of political parties was classified as small legal entities and, as such, they did not have a responsibility to conduct an audit, according to the Law on Accounting and Audit²⁰, and as a result they avoided the responsibility outlined by the Law on Financing Political Parties.

19. *Law on Financing Political Parties*, Official Gazette of the Republic of Serbia, Nos. 72/03, 75/03, 97/08 and 60/09 Belgrade, 2009 available in Serbian at http://www.bgcentar.org.rs/images/stories/Datoteke/zakon_o_finasiranju_politickih_stranaka.pdf

20. *Law on Accounting and Audit*, Official Gazette of the Republic of Serbia, Nos. 46/06 and 111/09, Belgrade, 2009 available in Serbian at <http://www.mfin.gov.rs/pages/article.php?id=7127>

6.3.5 What the Department for Oversight does

6.3.5.1 What the Division for Oversight of Officials' Property does

The Division for Oversight of Officials' Property oversees, i.e. reviews timely submissions of reports, and accuracy and completeness of data referred to in reports about officials' property and revenues. In accordance with the Law on the Anticorruption Agency, analysis of property maps and oversight is conducted by the Division together with competent state authorities, organisations and other legal entities, depending on the nature of data in a specific case, yet in accordance with the Action Plan for the implementation of the National Strategy for the Fight Against Corruption.

The Division for Oversight of Officials' Property also monitors the transfer of managing rights. When the Division uncovers that officials' actions contradict the Law, the Agency shall initiate misdemeanour proceedings. An action which violates the Law implies that an official either has not transferred managing rights in legal entities in which he/she has over 3% of the capital structure, or has not submitted data to the Agency about the party which managing rights were transferred to, i.e. he/she does not submit evidence confirming conducted transfers.

6.3.5.2 What Division for Oversight of Financing of Political Entities does

The Division for Oversight of Financing of Political Entities oversees financial operations of registered political parties, and financing of election campaigns, groups of citizens and coalitions as submitters of announced election lists and proposers of candidates, in accordance with the Law on Financing of Political Activities and the Guidelines on the Contents of Records and Reports of Political Parties.²¹

Oversight is conducted through the examination of annual financial reports and reports about raised and spent funds for an election campaign. As part of annual financial reports, the Division reviews annual statement of accounts, reports on contributions exceeding RSD 6,000 and reports on the property of a political party.

Considering that the Law on Financing of Political Activities does not contain a deadline for the submission of annual financial reports, about 30 political parties submitted financial reports to the Agency for 2009. Political parties submitted reports

21. *Guidelines on the Contents of Records and Reports of Political Parties*, Official Gazette of the Republic of Serbia, No 17/10, Belgrade, 2010 available in Serbian at http://www.acas.rs/images/stories/Pravilnik_o_sadrzini_evidencija_i_izvestaja_politickih_stranaka.doc

in 2010, therefore, the oversight procedure continued in 2011.

Of 20 political parties which had representatives in the National Assembly of the Republic of Serbia and which on these grounds obtained the right to funds from the Budget of the Republic of Serbia for financing regular operations in 2009, only 19 political parties submitted annual financial reports for 2009. Of 20 parliamentary political parties, 12 have representatives in the Assembly of the AP of Vojvodina that provided them with the funds from the provincial budget for financing regular operations.

Total number of submitted annual financial reports for 2009	30
Number of annual financial reports for 2009 submitted by political parties which have representatives in the National Assembly and the Assembly of the AP of Vojvodina and which were financed from the Budget of the Republic of Serbia and Budget of the AP of Vojvodina in 2009	19
Number of political parties which have representatives in the National Assembly and in the Assembly of the AP of Vojvodina and which were financed from the Budget of the Republic of Serbia and Budget of the AP of Vojvodina in 2009	21

Overview of financial reports submitted for 2009

Annual financial reports for 2009 were not submitted by the Sandžak Democratic Party, which in 2009 obtained funds from the Budget of the Republic of Serbia, and the Democratic Party of the Hungarians from Vojvodina, which in 2009 obtained funds from the Budget of the AP of Vojvodina.

The Agency requested amendments of financial reports from 29 parties, 15 of which were financed from the Republic, i.e. Provincial Budget, in 2009; 6 of those 15 submitted required amendments.

The Agency required that the two parties which did not submit annual financial reports for 2009 meet their legal responsibility and submit their reports.

In cases when political entities do not submit their reports about raised and spent funds for financing election campaigns, the Division for Oversight of Financing of Political Entities submits misdemeanour reports.

In February 2010, the decision of the Government of the Republic of Serbia created a Working Group for the development of the Law on Financing of Political Activities. The President of the Working Group was the Director of the Agency, Ms. Zorana Marković, and Mr. Zoran Stojiljković, a member of the Agency Board, was a member of the Working Group.



The Agency coordinated the work and provided professional and technical assistance to the Working Group. However, the main contribution of the Agency in creating the Law was that the representatives of the Agency ensured transparency and an efficient oversight of financing political players, and simultaneously implemented the corresponding GRECO recommendations.

Following suggestions of political parties, the Working Group succeeded in finding compromise without posing a threat to the consistency of the proposed wording. In December 2010, the Working Group completed its work on the draft version of the Law on Financing of Political Activities.

Proposed solutions received support from the expert community, including the Venetian Commission and European Commission that accepted the proposed solutions as a good mechanism for the oversight of financing in politics.

6.3.6 Results

In 2010, the Department for Oversight achieved the following results:

Oversight of officials' property

- Reviewed 192 reports on officials' property and revenues.
- Submitted 4 misdemeanour reports against officials who had not forwarded or submitted to the Agency data about the party to whom managing rights were transferred, i.e. evidence which confirm the transfer.
- Established cooperation with the Ministry of Interior, Republic Geodetic Authority, Agency for Business Registers, Directorate for Money Laundering Prevention, Tax Administration, banks and other financial organisations.

Oversight of financing of political entities

- Conducted oversight of financing of 5 election campaigns held in 2010.
- Submitted 6 misdemeanour reports on non-submission of reports on raised and spent funds for financing election campaigns.
- Established cooperation with the Ministry of Finance, Provincial Secretariat for Finance, Finance departments of local self-government units, banks and other financial organisations.

6.3.7 Recommendations

Based on the first year experience of the Department for Oversight, the following recommendations were made:

- To establish a faster exchange of information between the Agency and authorities it cooperates with, yet in compliance with the principle of confidentiality that applies to some documents at hand.
- To expedite adoption and implementation of the Law on Financing of Political Activities that provides oversight of the annual financial report for 2010.
- To implement the Law on Financing of Political Activities (after adoption), establish a system of oversight of regular and ad hoc financial reports of political entities, cooperate with state authorities in this field and establish a network of external associates of the Agency to oversee financing of political entities;
- To create conditions for the development and improvement of institutionalised methods for oversight and review of the data stated in a report on officials' property.

7. DEPARTMENT FOR GENERAL AFFAIRS

7.1 OBJECTIVES

The Department for General Affairs set the following strategic objectives to be achieved in its operation:

1. By 2013 it should have fully built staff capacities of the Agency.
2. By the end of 2012 it should establish a continuous system of training of employees in the areas related to general knowledge and skills.
3. By the end of 2012 it should ensure adequate premises/office space.
4. By the end of 2011 it should ensure stable financing of the Agency for 2012, with corresponding projections for 2013 and 2014.
5. By 2012 it should ensure total computerisation of the Agency.

7.2 KEY RESULTS

In 2010, the Department for General Affairs achieved the following key result:

It provided personnel, material and financial, as well as technical conditions necessary for the operation of the Agency.

7.3 ABOUT THE DEPARTMENT FOR GENERAL AFFAIRS

7.3.1 History

The Department for General Affairs began to operate simultaneously with the establishment of the Agency on 1 January 2010. Until September 2010, general affairs were conducted by the Office for General Affairs, but after the amendments to the Guidelines on Internal Organisation and Systematisation of Work Positions came into force, the existing Office for General Affairs became the Department for General Affairs.

7.3.2 Organisation and competence

The Department for General Affairs is divided into three groups and an administrative office which is responsible for the daily operation of the Agency. These activities primarily include activities related to providing support to employees, but also material and financial, accounting, administrative and information-related activities.

7.3.2.1 Group for Human Resources

The Group for Human Resources prepares proposals for general acts significant for daily internal operation of the Agency, creates contracts which the Agency signs with other legal and physical entities and individual acts related to labour relations. In addition, this Group prepares a personnel plan, keeps statistics and conducts relevant analysis of work positions. The Group also provides professional assistance in the process of evaluation of employees assesses the need for professional development and keeps relevant records.

7.3.2.2 Group for Finances and Operations

Core activities of the Group for Finances and Operations include finance managing and ensuring efficiency in the implementation of financial rights and obligations of the Agency. The Group also creates proposals for the budget, general and specific acts related to finances and operations, keep relevant records, prepare financial reports and annual statement of accounts, keep accounting books, and conducts public procurements and analysis of the operation of the Agency.

7.3.2.3 Group for Information Technologies

The Group for Information Technologies develops the information system necessary for smooth operation of the Agency and maintains the computer and communication network. The Group also provides, maintains and improves Agency's website, creates appropriate software and ensures access to the Internet and Intranet.

7.3.2.4 Administration Office

The Administration Office was established as an independent organisational unit which practically means that it exclusively serves the needs of the Agency.

The Administration Office receives documents in hard copy or in electronic form; receives reviews, registers and distributes acts and files; receives clients and provides notice on the advancement of files, and performs a series of other activities ensuring efficient and accurate operations of the Agency.



7.3.3 Structure

The Department for General Affairs is managed by the Assistant Director, and employs the total of 11 employees. The Group for Human Resources, in addition to the manager of the Group, also has an associate and a clerk. The Group for Finances and Operations, in addition to the manager of the Group also has two associates, whereas the Group for Information Technologies has only one associate. The Administration Office employs two clerks. On the other hand, the Guidelines on Internal Organisation and Systematisation of Work Positions states that the Department should engage 19 employees at civil service positions, 4 in the Group for Human Resources, 5 in the Group for Finances and Operations, 4 in the Group for Information Technologies and 6 in the Administration Office.

7.3.4 Challenges

a) One of the key challenges for the Agency – which is largely the responsibility of the Department for General Affairs – is **the lack of office space**. The problem is exacerbated by the fact that the Agency's 62 employees and 7 members of the Board are placed in 20 offices at the disposal of the Agency. Three or four people work in each office (except in the Cabinet of the Director and Board Office) and even these capacities cannot be supported by the existing infrastructure. In addition, the lack of appropriate office space prevents the Agency from using the potential of all employees, which is crucial for the Agency's success.

Despite a series of meetings with the representatives of state authorities, institutions and other legal entities, initiated by the Agency in order to find a solution to the problem of the lack of office space, relevant state institutions have not taken any specific action, except for voicing general support. Moreover, the completion of reconstruction of the facility for permanent stay of the Agency has been prolonged.

b) A specific challenge was to **attract qualified staff** with knowledge and skills that matches the specific scope of work of the Agency. The reason is that both the legal and financial conditions do not allow for the promotion of employees and do not provide them with the professional development and remuneration opportunities based on achieved results.

7.3.5 What the Department for General Affairs does

7.3.5.1 What the Group for Human Resources does

The Group issues public announcements for hiring new staff in order to build capacities of the Agency for efficient and effective operations.

Structure of employees as of 31/01/2010			Structure of employees as of 31/12/2010		
Part-time employees	Full-time employees	Temporary service agreement	Part-time employees	Full-time employees	Temporary service agreement
3	19	3	5	45	4

Overview of employees in the Agency in 2010

The Group also initiates and coordinates the procedure of evaluation of employees in the Agency, in accordance with the provisions of the Law on Civil Servants.²² Moreover, this organisational unit, in cooperation and coordination with the Section for Training Programmes in the Department for Prevention, organises professional development of employees in the Agency, monitors and informs employees about the availability of professional development programmes organised by other institutions in the country and abroad, which could be important for the upgrading and promotion of relevant knowledge and skills of the employees in the Agency, and analyses requirements of employees related to professional development.

The Group for Human Resources makes efforts to timely and effectively conduct all personnel processes such as registration

22. *Law on Civil Servants*, Nos. 79/05, 81/05, 83/05, 64/07, 67/07, 116/08, 104/09, Belgrade, 2009 available in Serbian at [http://www.srbija.gov.rs/extfile/sr/36155/zakon_o_drzavnim_sluzbenicima_\(nezvanicno_preciscen_tekst\)_cyr.zip](http://www.srbija.gov.rs/extfile/sr/36155/zakon_o_drzavnim_sluzbenicima_(nezvanicno_preciscen_tekst)_cyr.zip)

of employees, issuing relevant decisions, recording attendance at work, etc.

7.3.5.2 What the Group for Finances and Operations does

The Group for Finances and Operations establishes a procedure for spending budgetary funds in accordance with the Treasury method of operation, ensures legal and purposeful utilisation of approved budgetary funds, plans and implements public procurements necessary for the smooth operation of the Agency, provides technical conditions and procedures for utilisation of funds of approved projects of international donors, creates financial plans for the Agency, and establishes procedures for efficient recording of fixed assets.

7.3.5.3 What the Group for Information Technologies does

The Group for Information Technologies conducts activities related to development, implementation, provision and maintenance of information systems, software and equipment which ensure independence and security of the operation of the Agency. The Group also provides relevant trainings for employees, in order to ensure proper use of equipment and software and work in the given ICT environment.

7.3.5.4 What the Administration Office does

The Administration Office provides effective, efficient and safe management of the Agency's daily operation.

7.3.6 Results

In 2010, the Department for General Affairs achieved the following results:

Personnel

- Conducted three rounds of public announcements for filling in vacancies.
- Initiated the first cycle of evaluation of employees.
- All employees attended over 50% of required trainings organised by the Group for Human Resources in a way that the limited funds were used efficiently.
- Achieved timely performance of all personnel processes with no official complaints from the employees, even though the Group is not fully staffed.

Finance and Operations

- Established procedures for budget expenditure in accordance with the Treasury way of operation.
- Utilized budgetary funds in the amount of 58.7% of the total planned and approved funds by the Law on Budget of RS for 2010.

- Conducted 2/3 of planned public procurements for 2010.
- Provided technical conditions and procedures for the utilisation of funds from the “Support of the Anticorruption Agency in the Fight Against Corruption” project financed by the Government of the Kingdom of Norway.
- Developed the financial plan of the Agency for 2010 and ensured funds in the budget for 2011 in the amount and in accordance with the structure that had been proposed by the Agency.
- Established a procedure for efficient recording of fixed assets.

Information Technologies

- Established the information system independent from the uniform system of the authorities of state administration, which is entirely managed by the employees of the Agency.
- Provided hardware equipment which in its operational and security standards fully matches the requirements of the Agency.
- Created terms of reference which requirements shall serve as a basis for creating application software for the requirements of the Agency.
- Conducted training of employees related to the operation in the programming language “LINUX”, used as a standard programming language in the Agency.

Assets Management

- Established a physically independent Administration Office which is exclusively used for the purposes of the Agency and registered over 6000 files in 2010.

7.3.7 Recommendations

Based on the first year experience of the Department for General Affairs, the following recommendations were made:

- To provide adequate office space with adequate infrastructure necessary for effective operation of the Agency.
- To amend the provision of the Law on the Agency which regulates the status of employees based on the Law on Civil Servants so that it allows to attract and keep qualified personnel with the knowledge and skills important for the specific scope of work of the Agency.

8. OFFICE FOR INTERNATIONAL COOPERATION

8.1 KEY RESULTS

Continuous cooperation was established with the Group of States for the Fight Against Corruption (GRECO).

8.2 OBJECTIVES

Improved international cooperation.

8.3 ABOUT THE OFFICE FOR INTERNATIONAL COOPERATION

8.3.1 History

The Office for International Cooperation officially started to operate shortly after the adoption of the Law on the Anticorruption Agency, in the first half of 2010.

8.3.2 Organisation and Competence

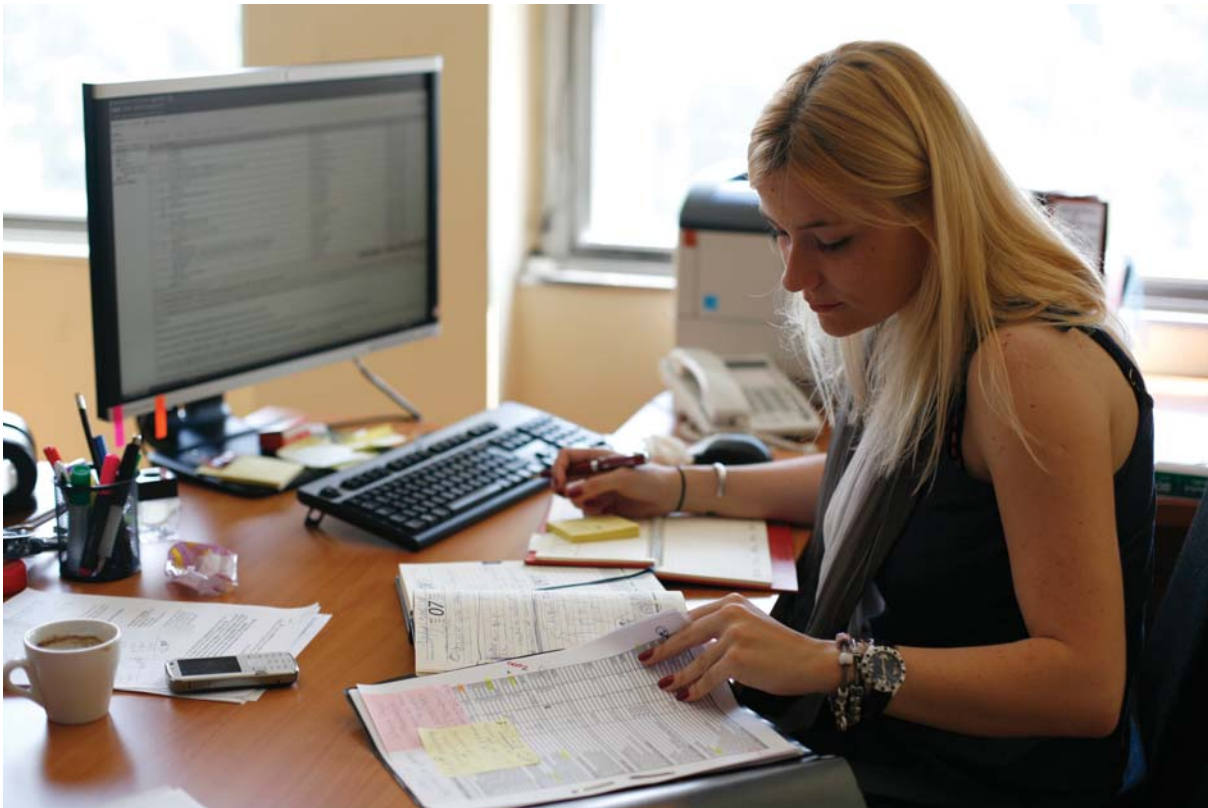
The Office for International Cooperation is organised as a separate organisational unit outside the Department.

Through the Office for International Cooperation, the Agency cooperates and communicates with the Group of States for the Fight Against Corruption (GRECO) and other international organisations, coordinates international cooperation in the fight against corruption with competent state authorities and receives notifications of state authorities about their activities in the area of international cooperation in the fight against corruption.

The Office also prepares reminders and materials for discussions with foreign delegations and officials.

8.3.3 Structure

The Office for International Cooperation is managed by the Head of the Office. Since November 2010, the Office has employed



one person as an advisor, although the Guidelines on Internal Organisation and Systematisation of Work Positions states that the Office should have 3 employees at civil service positions.

8.3.4 Challenges

The primary challenge for the Office for International Cooperation in practice is related to the fact that state institutions have not considered it necessary to notify the Agency about their activities in the area of international cooperation in the fight against corruption, although they are obliged to do so by the Law on the Anticorruption Agency.

In terms of cooperation with donors and implementation of projects financed with foreign funds, a mismatch was noticed between the possibilities of donors to support the Agency and actual requirements of the Agency, i.e. donor support was limited by their mandates.

Akin to other organisational units in the Agency, the Office for International Cooperation faces the challenge of attracting candidates with appropriate knowledge and skills required for working in the Office.

8.3.5 What the Office for International Cooperation does

The Law on the Anticorruption Agency assigns the Agency to monitor and coordinate international cooperation in the fight against corruption in collaboration with the competent state

authorities. On the other hand, all state authorities are legally required to notify the Agency on their own activities related to the international cooperation in the fight against corruption.

Attending the domestic and international conferences, seminars, round tables and meetings that are related to anti-corruption activities, is an important and inherent part of work of the Office for International Cooperation. It monitors and analyses harmonisation of national legislation with the most important international instruments in this area.

The Office cooperates with the specific authorities within the particular ministries or other institutions abroad that are responsible for anti-corruption activities. Such cooperation includes exchange of the documents, legal analyses, and responses to the relevant questionnaires – all for the purpose of establishing and improving practice.

The Office for International Cooperation is responsible for regular communication with the representatives of the Group of States for the Fight Against Corruption, for forwarding necessary documents and their translation, and also for providing accommodation and organizing meetings for visiting evaluation teams. The Office for International Cooperation assists in drafting the reports and responses to the questionnaire, that member countries of GRECO are obliged to provide.

The Office for International Cooperation also coordinates activities related to the implementation of the UN Convention against Corruption, as well as meeting the obligations of the Government of the Republic of Serbia due to its accession to the European Union (filling out the Questionnaire of the European Commission).

The Office is also responsible for coordinating activities with other organisational units in the Agency that work with the international and foreign donors, and for communicating with and reporting to donors about the implementation of projects.

8.3.6 Results

In 2010, the Office for International Cooperation achieved the following results:

- The Office established regular cooperation with the Ministry of Justice, EU Integration Office, Ministry of Foreign Affairs, National Assembly, Judicial Academy, Commissioner for Information of Public Importance and Personal Data Protection and Republic Public Prosecutor's Office.
- The Office established regular cooperation with the Delegation of the European Union in the Republic of Serbia, UN Office for Drugs and Crime (UNODC), UN Development Programme (UNDP), Council of Europe, Organisation for Security and Cooperation in Europe (OSCE).

- The Office organised a visit and work of two GRECO expert teams during the Third evaluation circle (corruption incrimination and financing political parties).
- The Office participated in the development of the first report on the application of the UN Convention against Corruption in the Republic of Serbia.
- The Office provided answers to 22 questions from the questionnaire of the European Commission required to meet obligations of the Republic of Serbia for membership in the European Union.
- The Office developed a project to financially support the Agency approved by the Kingdom of Norway.
- The Office organised 2 lectures on “International Legal Framework in the Fight Against Corruption” for the representatives of the relevant state institutions in cooperation with the Personnel Management Office.

8.3.7 Recommendations

Based on the first year experience of the Office for International Cooperation, the following recommendation was made:

- Informing the Agency, i.e. Office for International Cooperation, about any activities in the area of international cooperation in the fight against corruption.



9. PUBLIC RELATIONS OFFICE

9.1 OBJECTIVES

The Public Relations Office set the following strategic objective to be achieved in its operation:

1. Develop public awareness about the role of the Agency in the fight against corruption.

9.2 KEY RESULTS

1. Published articles of journalists and researchers in 75% of cases were based on an initiative of the media, and not on statements of the Agency.
2. 11 national broadcasting media companies appointed journalists who would continually monitor the work of the Agency.
3. The Agency became known among the public through the celebration of the International Day of the Fight Against Corruption.

9.3 ABOUT THE PUBLIC RELATIONS OFFICE

9.3.1 History

The media announcement of the Anticorruption Agency as a new institution started immediately after the selection of the Director and Deputy Director of the Agency. The election of the Director marked the beginning of work of the Public Relations Office, even though not in its formal sense. The day the Law on the Anticorruption Agency came into force was the day of formal establishment of the Public Relations Office – 1st January 2010.

9.3.2 Organisation and Competencies

The Public Relations Office was organised as a separate organisational unit outside the Department.

Core activities of the Office include development and application of rules of protocol, issuing press releases and organisation of media interviews and press conferences, creating newsletters about work, maintaining the Agency's web site, press clippings, offering consultations related to the organisation of public events with the participation of the representatives of the Agency, daily communication with the citizens and organizing visits of citizens.

9.3.3 Structure

Although the Law prescribes that the Public Relations Office should employ 3 employees (a head, a senior advisor and an advisor), by the end of 2010 the Office had only one employee – a senior advisor, who simultaneously worked as a PR advisor of the Agency

9.3.4 Challenges

The key issue for the Public Relations Office is ambiguous and inconsistent reporting on the work of the Agency, i.e. absence of qualified journalists who would monitor the work of the Agency, as well as insufficiently informed public on issues related to division of competencies assigned to the Agency, on one hand, and the Council for the Fight Against Corruption, on the other.

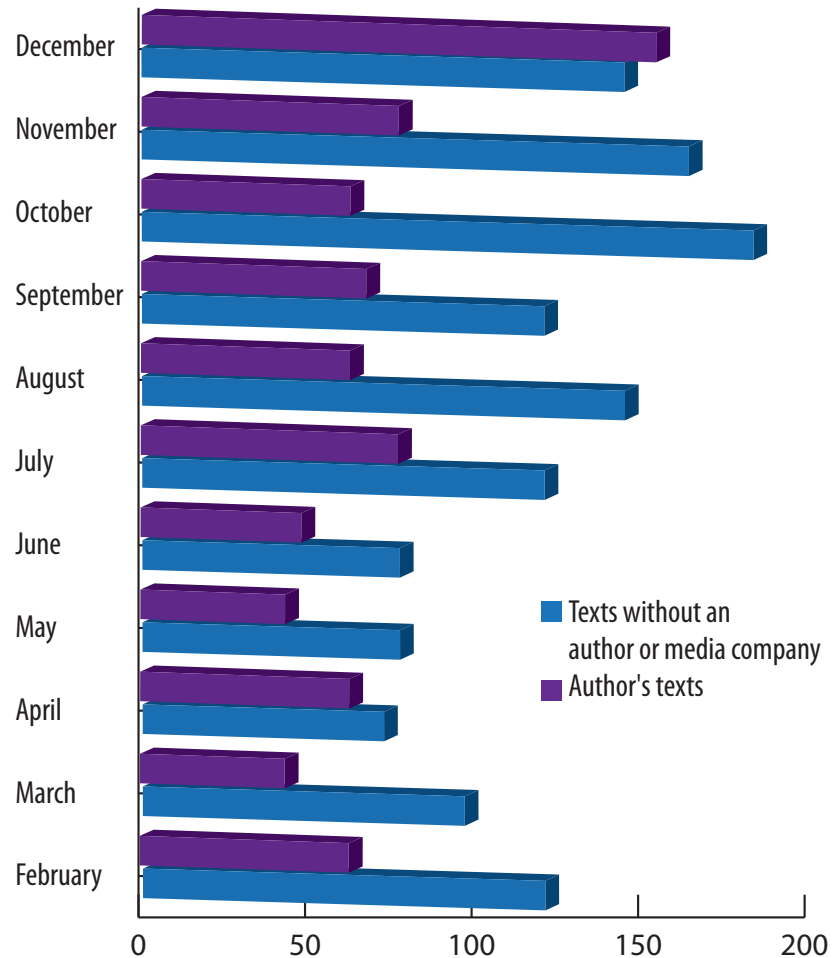
9.3.5 What the Public Relations Office does

The Public Relations Office creates and maintains a positive image of the Agency. By analysing newspaper articles, research of relevant organisations in the country and abroad, as well as current political situation, the Public Relations Office is trying to inform both officials and the citizens about the Agency.

Throughout the first half of 2010, primary communication with the citizens was achieved through the round tables organised in various parts of Serbia with a purpose to familiarize officials with the rights and responsibilities outlined in the Law on the Anti-corruption Agency. Likewise, the general public was informed about the Agency's work through the press conferences and press releases.

The number of cases in which the media informed on the work of the Agency at their own initiative eventually increased in comparison to the number of cases in which media reporting was initiated by the Agency, in a total number of published media reports on the Agency in 2010.

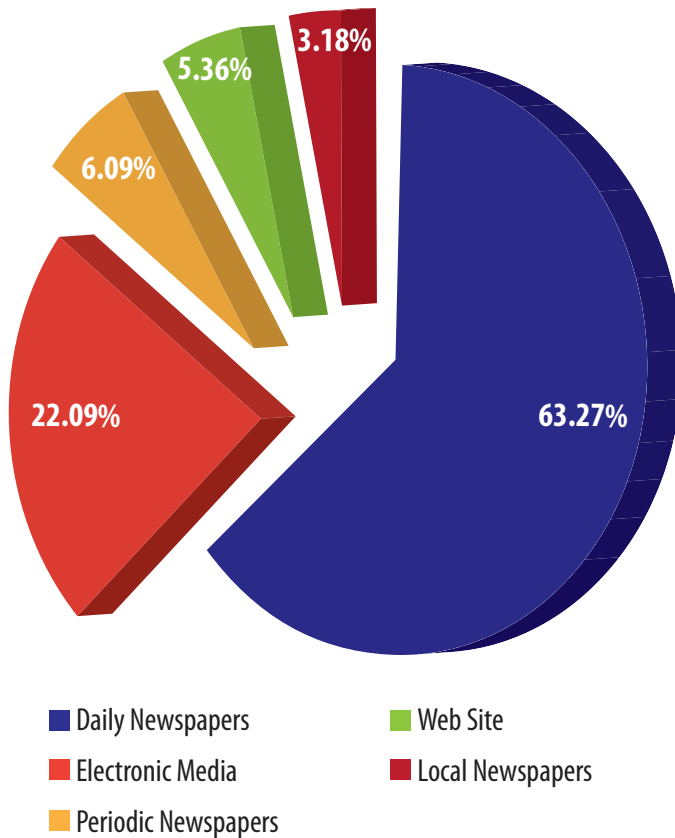
Sample: 2,336 press releases of Agency's press clippings



According to the results of the "Opinion Poll on Corruption in Serbia", conducted in three stages by Medium Gallup, familiarity with the work of the Agency and its competencies grew from initial 40% in the first stage of survey to 60% in the third stage.

The growth of public familiarity with the work of the Agency is the result of meetings and round tables attended by the citizens and media representatives, briefings with journalists and media companies, and all other activities of the Public Relations Office in 2010. Extensive media interest in the work of the Agency was supported by Agency's involvement in the development of additional forms and mechanisms of communication, particularly with the media.

Sample: 2,336 press releases of Agency's press clippings



Due to a comprehensive campaign, celebration of the International Day of the Fight Against Corruption resulted in a significant public reaction. The campaign included a video clip broadcasted in the electronic media, and printed materials distributed in the newspapers. Announcement of the competition "Let's avoid pulling connections and acquaintances" for elementary and secondary school children in Serbia and organisation of a central event of celebration of the International Day of the Fight Against Corruption presenting the results of work of the Agency and awarding prizes for children; were also elements of this comprehensive campaign. The attention to this event was high due to the presence and active involvement of the President of the Republic of Serbia, representatives of the Government, National Assembly, and particularly representatives of independent bodies and international institutions. The media made 33 announcements on this happening. The round table "Preventing Corruption with Integrity Plans" also attracted much of public attention, since the Prime Minister and members of the Government of the Republic of Serbia, as well as representatives of relevant international institutions in Serbia pointed to the importance of adoption of integrity plan and their implementation.

9.3.6 Results

In 2010, the Public Relations Office achieved the following results:

- The media recognized the role and importance of the Agency, that is evident in their own reporting on the Agency's activities (75% of cases).
- 11 national broadcasting media companies appointed journalists who will continually monitor the work of the Agency.
- The celebration of the International Day of the Fight Against Corruption contributed to the public awareness about the Agency's activities.
- 19 round tables/seminars were conducted throughout Serbia in cooperation with the Section for Training Programmes.
- 2 meetings with the editors of the major media.
- 2 meetings with journalists.
- 8 press conferences.
- 32 press releases.
- 22 interviews.
- Over 20 appearances in live shows.
- Round table "Preventing Corruption with Integrity Plans" – 12 media reports.
- Organised and celebrated the International Day of the Fight Against Corruption – 33 media reports.
- Created and updated a database of all media in Serbia.
- Established cooperation with the majority of local media.
- Created and updated the Agency's web site.
- Created and updated a bulletin on the work of the Agency.

9.3.7 Recommendations

Based on the first year experience of the Public Relations Office, the following recommendations were made:

- It is necessary to cooperate more actively with the representatives of the media and insist on the increase in the number of journalists who will be specifically focused on monitoring of different aspects of the work of the Agency.
- It is extremely important to promote cooperation with journalists and local media.
- It is necessary to organize more public campaigns to promote a preventive role of the Agency in the fight against corruption and raise awareness of the general public about the functions of the Agency.

10. ANEX 2010 REPORT OF THE DEPARTMENT FOR CONFLICT OF INTEREST RESOLUTION

10.1 INTRODUCTION

The Department for Conflict of Interest Resolution seeks to eliminate the reasons for occurrence of corruption, by means of issuing approval to perform multiple functions, conflict of interest resolution, decumulation of functions, and decision-making on other forms of violations of the Law. If, upon completion of a procedure, it is established that violation of the Law did occur, measures stipulated by the Law should be applied to redress it. In this way, the causes that led or may lead to corruption are removed. This Department makes decisions on requests of officials to receive approval to simultaneously perform several public functions or to perform other work or activity along with their public function, assessing whether these public functions or other work or activities are compatible from the perspective of competences and conflict of interest.

On the day when the Law on the Anticorruption Agency was put into force²³, the first organizational unit that started operating within the Sector for Prevention was the Department for Conflict of Interest Resolution. In line with their personal wishes, two lawyers were transferred to the Department from the Committee for Conflict of Interest Resolution, a body which had ceased to exist when the Law on the Anticorruption Agency was put into force. Given that the Agency had the obligation to undertake the unresolved cases of the Committee for Conflict of Interest Resolution, as well as the fact that interested citizens and legal entities asked the Agency to interpret the provisions of the new Law, the Department for Conflict of Interest Resolution started operating from the very first day when the Law on the Anticorruption Agency came into force.

²³ The Law on the Anticorruption Agency was put into force on January 1st 2010.

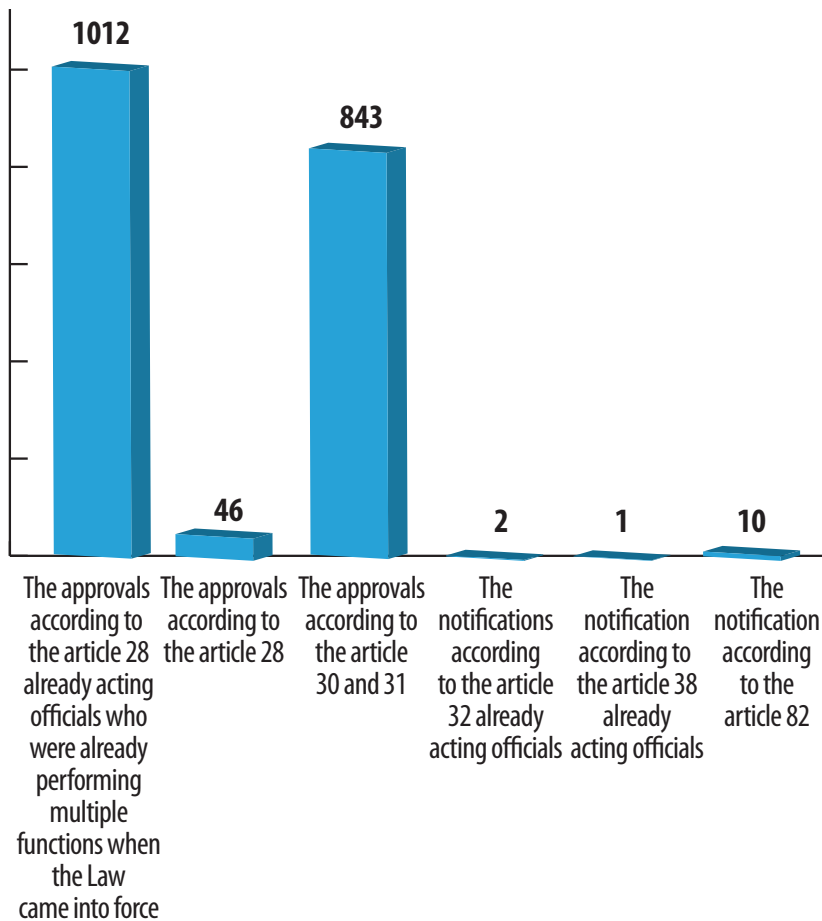
At the moment, along with the Head of Department, there are three senior advisers and one independent adviser working in the Department.

10.2 RESULTS OF THE WORK OF THE DEPARTMENT IN 2010

10.2.1 Summary

- 20 decisions were issued against public officials with the consequent termination of their functions according to the Law; 11 warning measures; 3 measures of public disclosure of decision on violations of the Law; 3 measures of public disclosure of recommendations for dismissal; 82 decisions that established incompatibility of functions and stipulated deadlines for termination of incompatible functions performance (in line with the provision of Article 82 of the amended Law); 12 decisions concluded that it was not compatible to perform a function and other work or activity, with specified deadline for termination of performance of other work or activity (in line with provision of Article 31 of the amended Law).
- In 20 cases, the approval to perform other functions was issued, and in 20 cases, the approval to perform other work or activity was issued.
- In 9 cases, requests to issue approval to perform another function were denied, and in 16 cases, requests to issue approval to perform other work or activity were denied.
- In 854 cases, it was established that functions were compatible in line with Article 82 of the amended Law; in 737 cases, it was established that an official could perform other work or activity along with his/her public function (in line with Article 31 of the amended Law), without a formal approval.
- 13 conclusions to reject a request for approval to perform another function, work or activity were made.²⁴
- 14 conclusions on termination of procedure were made.
- 228 opinions on interpretation and implementation of the Law were given.

²⁴ Before the adoption of the Law on Amendments of the Law on the Anticorruption Agency in July 2010, the Agency made 516 conclusions on rejection of acting officials' requests for approval. After the Law was amended, the Agency annulled these conclusions, and treated the submitted requests as notifications, in line with the provision of Article 82 of the amended Law.



Overview of all requests and notifications of officials that were submitted to the Agency in 2010

In 2010, the Agency received the total number of 1913 requests for approval to perform another public function, approval to perform other work or activity, and approval to establish business relations or employment relations after an official has ceased to perform a public function. This number also includes the notifications of acting officials – an obligation introduced after the Law on Amendments of the Law on the Anticorruption Agency was adopted, as well as the notifications of suspected conflict of interest.

Of the total number of requests received, 1012 requests were submitted by acting officials who were already performing multiple functions when the Law was put into force, requesting to continue to perform these functions; 46 requests were submitted by officials who wanted to perform another function that they assumed or intended to assume after January 1st 2010; 843 requests submitted by officials were related to approval to perform other work or activity; 2 officials notified the Agency about their suspicions that they had found themselves in conflict of interest; one former official requested approval to establish a business collaboration with a legal entity operating within the sphere in which the official used to perform his function (pan-

touflage); and 10 acting officials notified the Agency about all the functions they performed, as it was prescribed by the Law on Amendments of the Law on the Anticorruption Agency.

10.2.2 Requests to issue approval to acting officials and notifications of acting officials after the adoption of the Law on Amendments of the Law on the Anticorruption Agency

Before the adoption of the Law on Amendments, The Law on the Anticorruption Agency had a transitory provision²⁵ pertaining to the obligation of acting officials²⁶ to, in case that they perform several public functions at the same time, select one function that they shall keep performing, while resigning on all other functions, and notify the Agency about their act. The deadline to submit this notification was April 1st 2010. Before the expiration of this deadline, a certain number of acting officials, who mostly performed public functions on the local level, submitted requests to the Agency for approval to keep performing functions that they performed on the day when the Law was put into force. The Agency considered that these officials cannot receive approval to perform multiple functions at the same time, because this transitory provision of the Law on the Anticorruption Agency was explicitly referring to this type of cases. This is why the Agency rejected a number of these requests.²⁷ The reason for which the Agency rejected only a limited number of these requests is due to the fact that the Constitutional Court of Serbia brought a temporary measure which suspended the enforcement of all individual decisions pertaining to the transitory provision of the Law.²⁸ In July 2010, the Law on Amendments of the Law on the Anticorruption Agency was adopted, containing a new transitory provision. This provision concerns the obligation of acting officials to notify the Agency about all the functions that they perform. According to this provision, the Agency is not authorized to give approval to these officials to perform multiple functions. Instead, the Agency shall issue decisions that contain a deadline for officials to stop performing incompatible functions, only in cases when it is established that impartial performance of public functions is jeopardized, or that performance of multiple functions leads to a conflict of interest. After the adoption of the

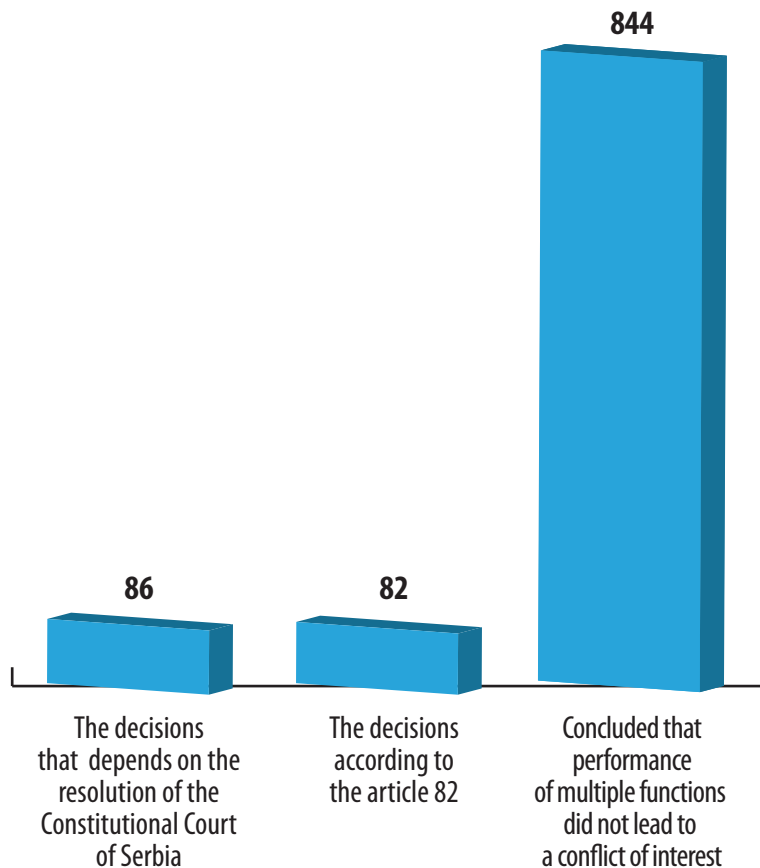
25. Article 82 of the Law on the Anticorruption Agency .

26. Acting officials are those who assumed their public functions before January 1st 2010, when the Law on the Anticorruption Agency was put into force.

27. The Agency received the total number of 1012 requests, out of which 516 were rejected.

28. Before the expiration of the deadline stipulated by the transitory provision, four public officials submitted to the Constitutional Court of Serbia requests for assessment of constitutionality of provisions of the Law on the Anticorruption Agency, claiming that acting officials were put in an unequal position in comparison to public officials who were appointed to other public functions after January 1st 2010. In May 2010, the Constitutional Court of Serbia issued a temporary measure, which was valid until July 2010 when the Law on Amendments of the Law on the Anticorruption Agency was adopted.

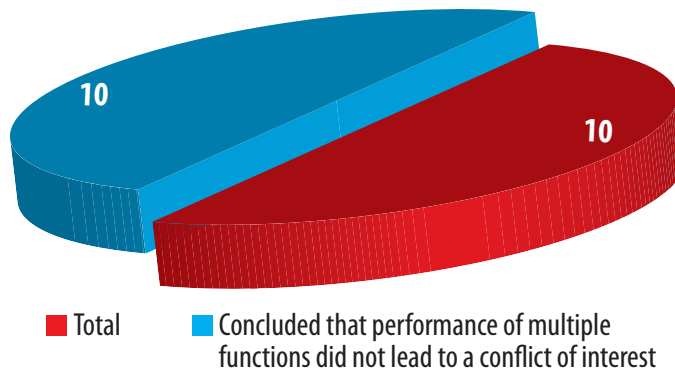
Law on Amendments, the Agency cancelled the decisions which rejected a number of requests submitted by acting officials, and accordingly treated all requests submitted by acting officials as notifications, in line with the amended Law.



Overview of manner of issuing decisions upon requests by acting officials who performed multiple public functions before January 1st 2010

Of the total number of requests for approval to perform another function submitted by the acting officials who performed multiple functions, the Agency concluded that in 844 cases, the impartial function performance was not jeopardized, i.e. that performance of multiple functions did not lead to a conflict of interest. However, in these cases the Agency did not make decisions to consequently issue approval, given that this was not within its authority according to the amendments of the Law. In 82 cases, the Agency concluded that performing multiple functions did jeopardize the impartial public function performance, and in line with the provisions of the amended Article 82 of the Law, it issued decisions that ordered these officials to stop performing incompatible functions within the prescribed deadline. This deadline is relevant to 86 cases, the resolution of which depends on the Constitutional Court of Serbia.²⁹

²⁹ In September 2010, the Agency initiated a procedure before the Constitutional Court of Serbia, asking the Court to issue a decision which will establish that the last paragraph of the transitory provision of Article 82 of the Law on Amendments of the Law on the Anticorruption Agency is not in accordance with the Constitution. This procedure before the Constitutional Court is still ongoing.



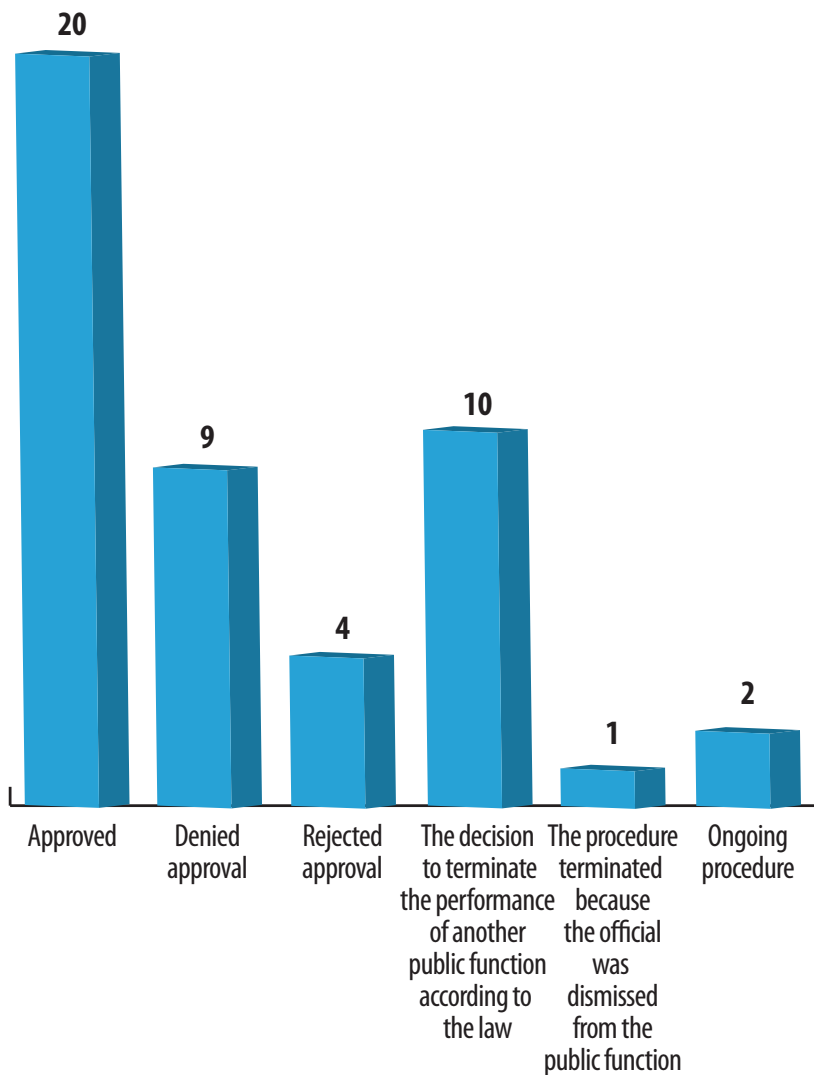
**The manner of acting on the basis of notification
in line with Article 82 of the Amended Law**

Concerning the other acting officials who did not submit their requests for approval to the Agency, and who did not resign on their public functions within the deadline stipulated by the original Law on the Anticorruption Agency, only 10 of them notified the Agency about the multiple functions that they performed. In all 10 cases, the Agency has determined that impartial function performance was not jeopardized, i.e. that performing these multiple functions did not lead to a conflict of interest. However, the Agency did not issue formal approval with regard to their requests, because according to the Law on Amendments of the Law on the Anticorruption Agency it was not within its competence.

**10.2.3 Request for approval
to perform another public function**

An official who performs a public function may, in extraordinary circumstances, perform another public function if he/she receives the approval from the Agency to do so. The exception to this rule are the officials who were elected to public functions directly by the citizens. They may simultaneously perform other public functions to which they were also directly elected by the citizens without the approval of the Agency, but under condition that simultaneous performance of these functions is not explicitly prohibited by the Constitution of the Republic of Serbia.

If an official assumes another public function without the Agency's approval, the latter function is terminated by the force of the law. The decision on termination of the new function is made by the authority that elected, appointed or designated the official to the new function. The authority shall make this decision on the basis of the Agency's decision which established that the official is appointed to the new public function contrary to the provisions of this Law.



Overview of manner of decision making upon requests for approval to perform another function that officials assumed, or intended to assume, after January 1st 2010

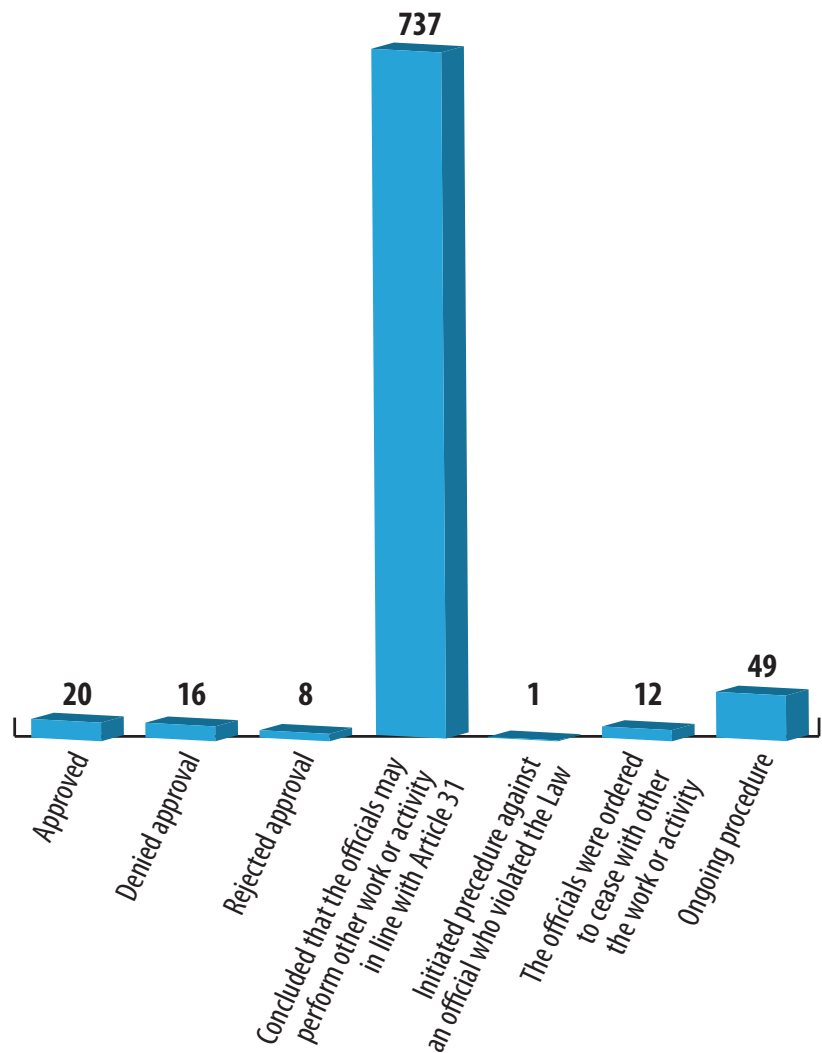
Of the total number of requests for approval to perform another public function, in case when the officials have assumed or have intended to assume this function after January 1st 2010, the Agency adopted and approved 20 requests, denied approval in 9 cases, and rejected 4 requests, while in 10 cases the Agency made a decision to terminate the performance of another public function according to the law, in 2 cases the procedure is still ongoing, and one procedure was terminated because the official in question was dismissed from the public function.

10.2.4 Request for approval to perform other work or activity along with the public function

An official, who performs a full-time public function or continuous work, may perform other work or activity only with the approval of the Agency. The exception to this rule are those officials who deal with either research and scientific work, or with educational, cultural, artistic, humanitarian or sports activities, in ad-

dition to their public function. They do not need the approval of the Agency to combine these activities with the public function. However, if the Agency establishes that dealing with research and scientific work, or dealing with educational, cultural, artistic, humanitarian or sports activities may jeopardize the impartial performance of a public function or its reputation, i.e. that it is a case of conflict of interest, the Agency establishes a deadline within which the official is obliged to cease his/her work or activities.

An official who performs a public function which doesn't entail full time working hours or continuous work has the obligation to inform the Agency about the kind of work or activity that he/she is engaged in along with his/her public function. If the Agency establishes that performing such work or activities could harm the reputation of the public function in question, or that it creates a conflict of interest, it shall issue a decision ordering the official to cease his/her work or activities within the specified deadline.

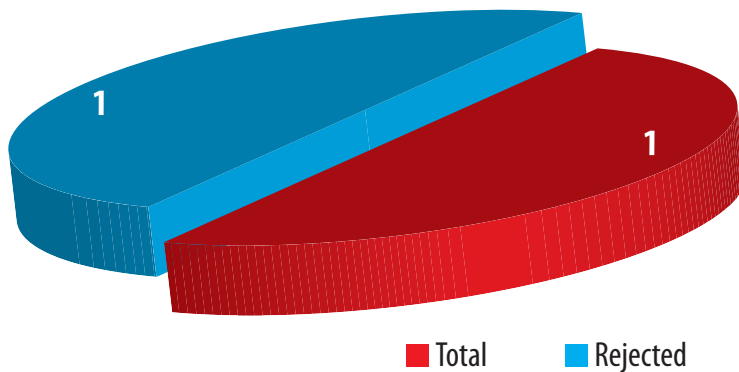


The total number of received requests for approval to perform other work or activity along with the public function

In 2010, the Agency received a total number of 843 requests to perform other work or activity along with the public function. In 20 cases, the Agency gave its approval; in 16 cases, the requests to perform other work or activity along with the public function were denied; in 8 cases, the Agency rejected the requests; in 737 cases, the Agency notified the officials that they may perform other work or activity in line with Article 31 of the amended Law; in 12 cases, the officials were ordered to cease with other the work or activity; in one case, a procedure was initiated against an official who violated the Law; and there are 49 cases which are still ongoing.

10.2.5 Requests for approval of employment and requests for approval of establishing business Collaboration after the Cessation of Public Function Performance

Not sooner than two years after the performance of public function was ceased, the official in question may be employed or establish business collaboration with a legal entity, an entrepreneur, or an international organization that deals with the activities related to the function that the official used to perform, if he/she receives the Agency's approval to do so. The exception to this rule are the officials who were elected to functions directly by the citizens, as they do not need the Agency's approval to be employed or establish business collaboration.

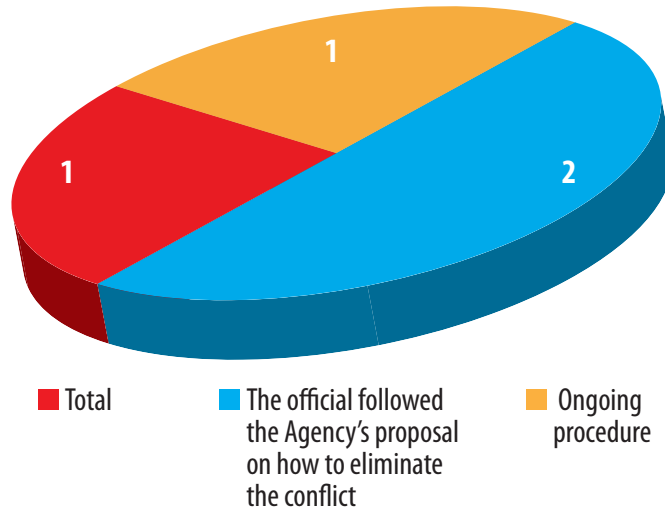


Manner of resolution of pantouflage cases

In 2010, there was only one case of this kind. A former official, whose function performance had ceased, submitted a request for approval to establish business collaboration with a legal entity that deals with affairs from the domain related to the former official's public function (pantouflage). However, it turned out that the official's function had ceased more than two years ago, so the Agency did not act upon his request.

10.2.6 Notifications of Officials about Suspicions of Conflict of Interest

If a public official, at the moment when he/she assumes the function, or during the performance of a public function suspects that there is a conflict of interest, he/she is obliged to notify the Agency within 8 days. The Agency shall issue an opinion on whether the notions are founded. If it concludes that the notions were founded, the Agency shall propose actions to eliminate the conflict of interest, and set a deadline for the official to implement these actions.



The manner of resolving cases upon notifications submitted by officials suspecting that they are in a conflict of interest



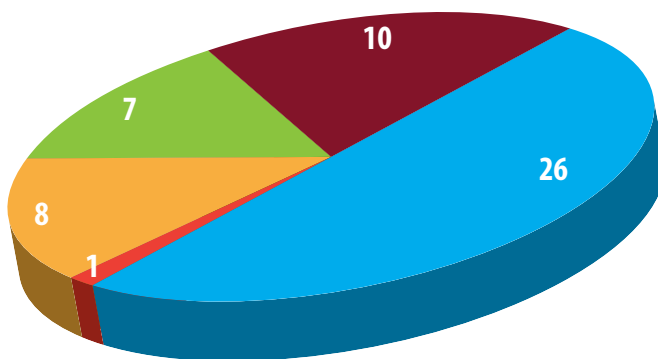
In line with Article 32 of the Law, in 2010 the Agency received only two notifications submitted by officials who suspected that they were in conflict of interest. In one case, the official followed the Agency's proposal on how to eliminate the conflict, while the other case is still ongoing.

10.2.7 Initiating procedures and deciding on violations of the Law

The Department for Conflict of Interest Resolution, by virtue of the office, or upon submitted reports by physical or legal entities (providing it was established that the claims in these reports were grounded), initiates a procedure and drafts³⁰ a decision on violations of the Law on the Anticorruption Agency concerning the issue of public officials' conflict of interest. After this, the Department drafts a decision that contains actions against the official in question, as it is stipulated by the Law.

Procedures by virtue of the office

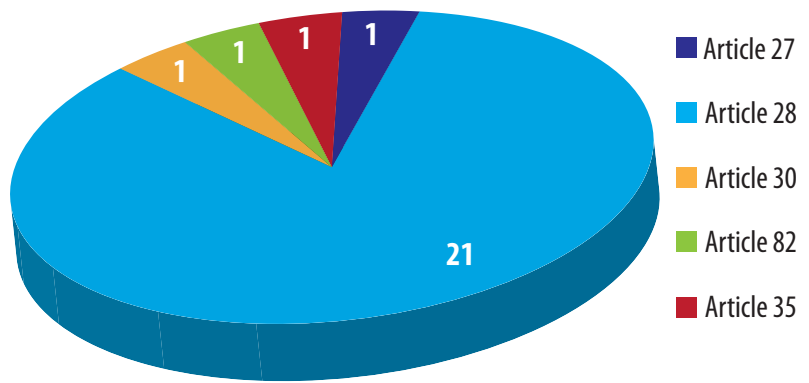
In 2010, the Agency initiated 26 procedures by virtue of the office. Of the total number of cases, 10 procedures are still ongoing; in 7 cases, decisions on termination of function according to the Law were made; and in 9 cases, the procedure was terminated, as in one case it was established that there was no conflict of interest, and in 8 cases the officials acted upon the Agency's orders during the procedure.



■ Total
 ■ Archived case after it was established that there was no conflict of interest
 ■ The procedure terminated after Agency's proposal is accepted by official
 ■ Decisions on termination of function according to the Law
 ■ Ongoing procedure

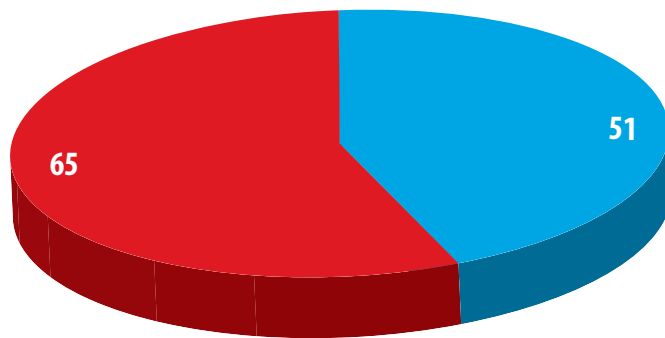
The total number of procedures initiated by virtue of the office and overview of the Agency's actions in these cases

³⁰ The Agency Director makes all decisions on violations of the Law and decides on actions in the first instance.



Overview of the articles of the Law that were violated and for which the Agency initiated procedures by virtue of the office

Procedures upon reports

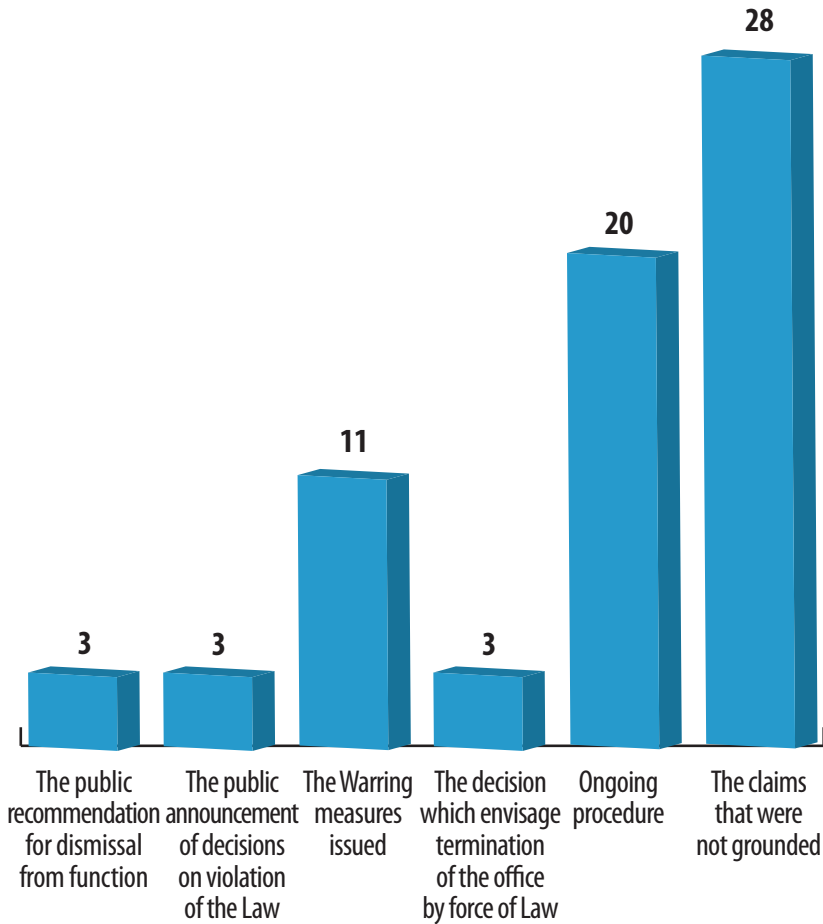


- The total number of officials against the reports were made
- The total number of the reports against official who violated the Law

The total number of reports and the total number of officials against whom the reports were made

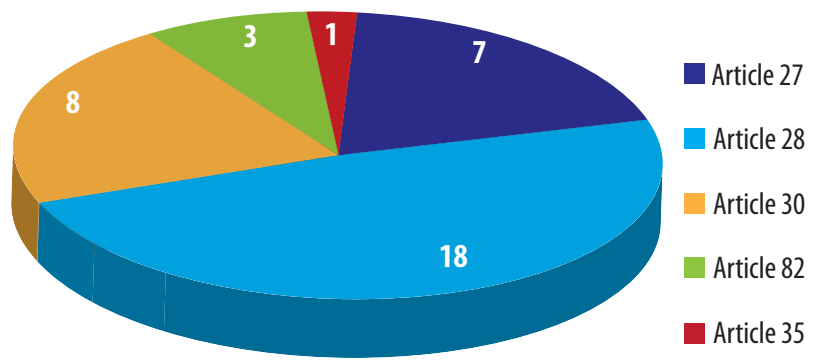


In 2010, the Agency received 51 reports against 65 officials for violation of the Law on the Anticorruption Agency.



Manner of acting upon received reports

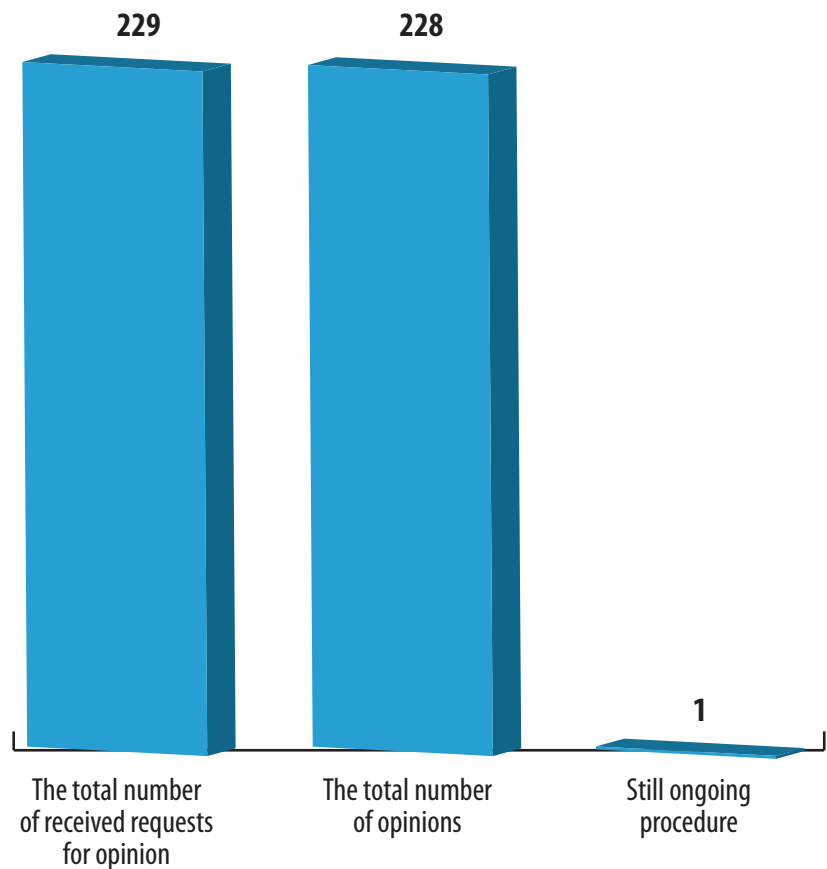
Of the total number of officials against whom the reports were submitted, the Agency concluded that 37 reports were grounded enough to initiate procedures for violation of the Law. In 20 cases, the procedures are still ongoing; in 3 cases, the Agency issued decisions that the officials' functions were terminated by the Law; in 8 cases, the Agency issued warning measures; in 3 cases, the Agency undertook the action of public disclosure of recommendation for dismissal from function; in 3 cases, the Agency decided to make a decision on violation of the Law publicly available. In 28 cases, the Agency established that the claims in the reports were not grounded, so the procedures were not initiated, or they were terminated.



Overview of articles of the Law that were violated, for which the Agency initiated procedures upon reports

10.2.8 Giving opinion on implementation of the Law

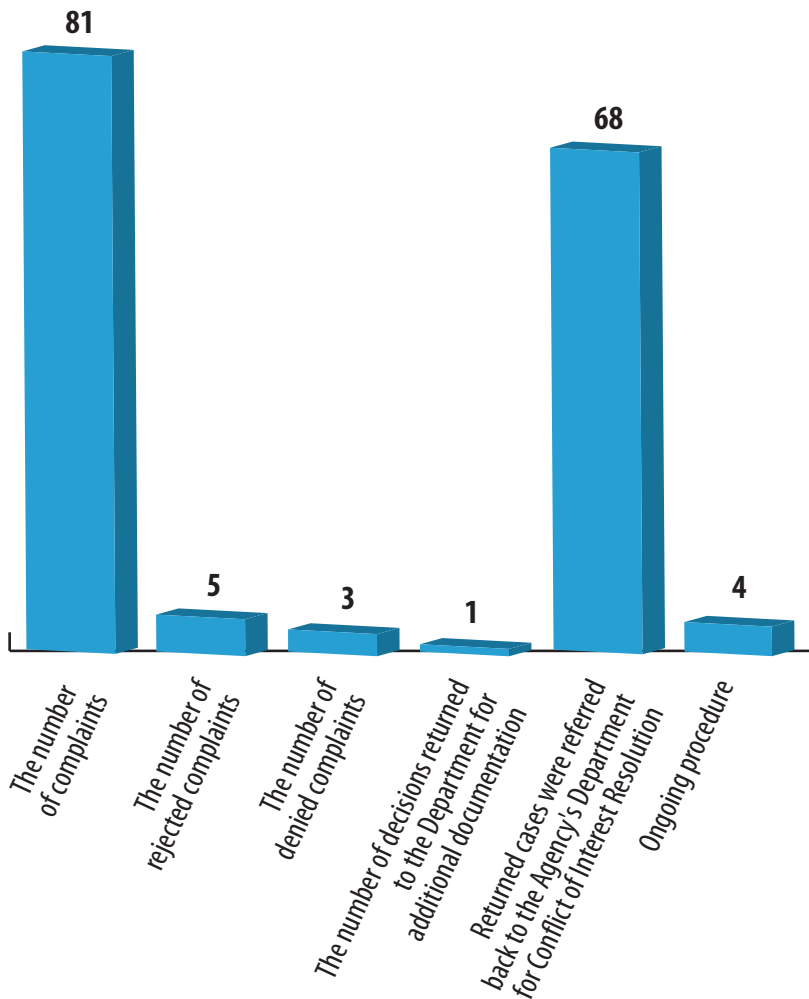
The Agency shall give a written response, within an adequate deadline, to all interested physical or legal entities that submit a request to the Agency asking for its opinion about the interpretation or the implementation of the Law on the Anticorruption Agency. All interested citizens should send the Agency, through regular mail, a written request containing a clearly formulated question.



The total number of received requests for opinion and overview of the Agency's actions

10.2.8.1 Complaints

The Law on the Anticorruption Agency specifies that a complaint against the Department's decisions on actions can be filed to the Agency's Board.

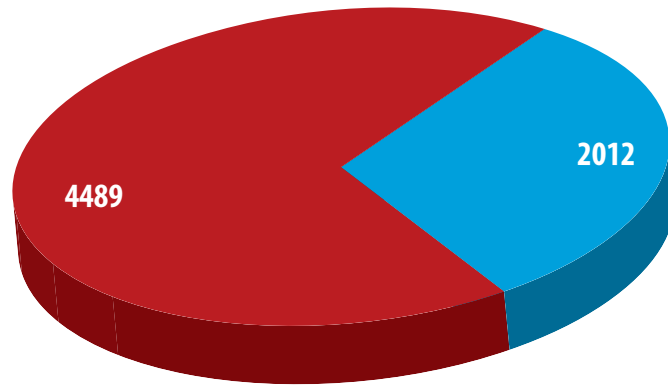


Number of filed complaints and the Agency's Board manner of resolving them

In 2010, the Board received 81 complaints. Of this number, 68 cases were referred back to the Department for Conflict of Interest Resolution, as a result of the adoption of the Law on the Amendments of the Law on the Anticorruption Agency.³¹ These complaints were related to the denied requests for approval to perform another public function that had been submitted to the Agency by the acting officials before the Law amendments. As for the rest of the complaints, 5 were rejected, 3 were denied, one case was returned to the Department for additional documentation, and in 4 cases the procedure of considering the complaints is still ongoing.

31. These cases became part of the group of cases of acting officials that the Agency treated as notifications, after the Law was amended.

10.2.8.2 About Public Officials

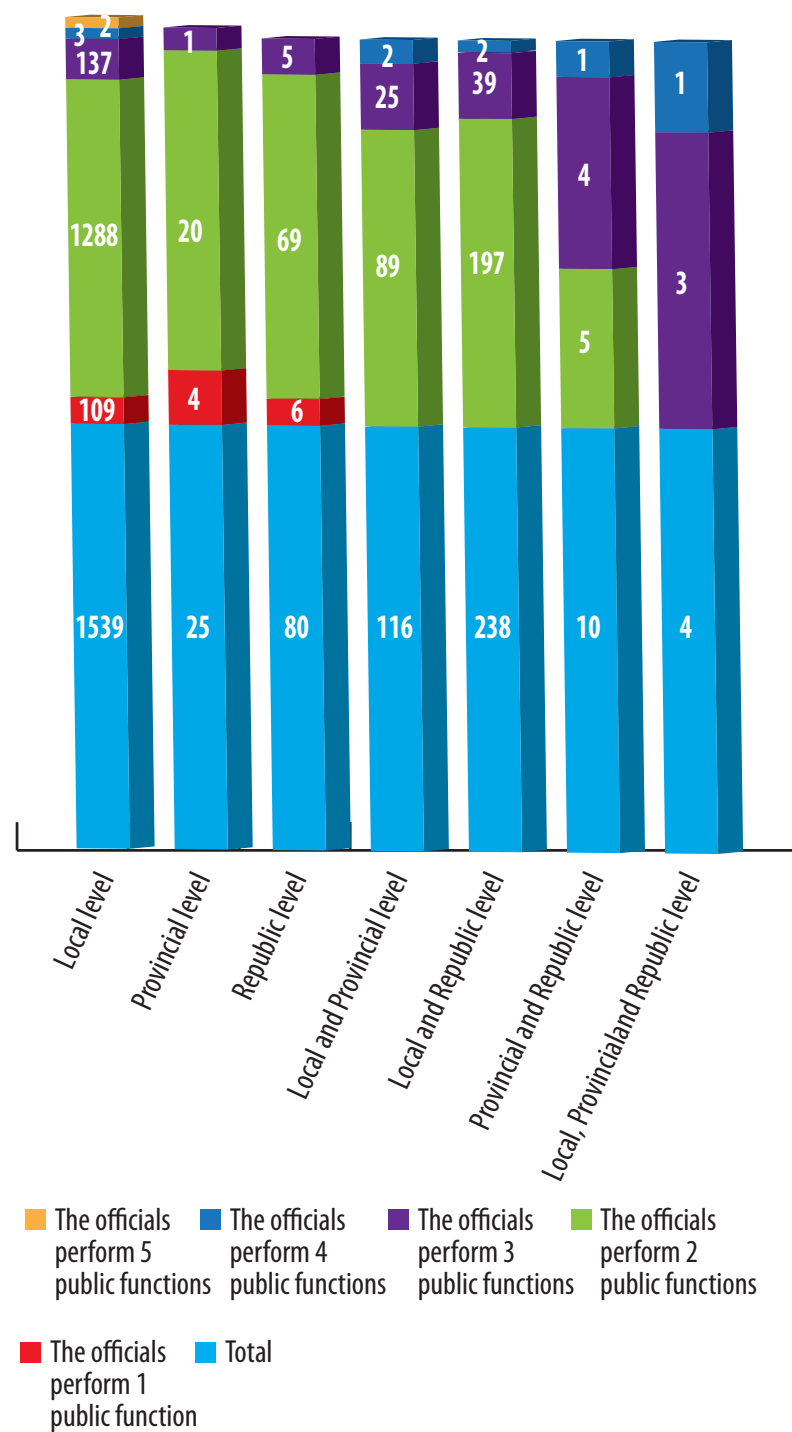


- The number of functions performed by public officials
- The number of public officials

The comparative overview of the number of officials whose cases were processed by the Department for Conflict of Interest Resolution, and the number of functions performed by these officials.

In 2010, the Department for Conflict of Interest Resolution processed the cases of 2012 officials. These officials performed the total number of 4489 public functions.





Overview of functions that the officials perform on different levels

Of the total number of officials that the Department for Conflict of Interest resolution dealt with in 2010, 1539 performed functions on the local level, 25 on the provincial level, 80 on the Republic level, 116 on the local and the provincial levels, 238 on the local and the Republic levels, 10 on the provincial and the Republic levels, and 4 on the local, the provincial, and the Republic levels.

On the local level, 109 officials perform one public function, 1288 perform two, 137 perform three, and two perform 5 public functions at the same time.

On the provincial level, 4 officials perform one public function, 20 perform two, and one performs three public functions.

On the provincial level, 6 officials perform one function, 69 simultaneously perform two functions, and 5 perform three functions.

Of the total number of officials who simultaneously perform functions on the local and the provincial levels, 89 of them perform two functions, 25 perform three functions, and two perform 4 functions.

Of the total number of officials who simultaneously perform functions on the local and the Republic levels, 377 perform two public functions, 39 perform three functions, and two perform 4 functions.

Of the total number of officials who simultaneously perform functions on the provincial and the Republic levels, 5 perform two functions, 4 perform three, and one performs 4 public functions at the same time.

10.3 CHALLENGES

While implementing the provisions of the Law on the Anticorruption Agency that are related to prevention of conflict of interest among the public officials, the Department has faced the following challenges:

1. One of the basic problems in implementation of the Law on the Anticorruption Agency consists of incomplete transitory and closing provisions that do not regulate the Agency's actions with regard to acting officials who were performing public functions on the day when the Law came in force, given that the Law introduced a set of obligations that were directly related to public officials (e.g. the obligations to ask for approval to simultaneously perform a public function and other work or activity; to transfer extended managerial rights to a wider range of officials in comparison to the previous Law which regulated this area; to report participation in public tenders; to report suspicions of conflict of interest, etc.).
2. The procedure of issuing approval in line with Article 28 of the Law was not regulated precisely enough, which was changed with adoption of the Law on Amendments of the Law on the Anticorruption Agency in July 2010.
3. According to Article 82 of the above mentioned Law on Amendments of the Law on the Anticorruption Agency, officials who were performing multiple functions in the moment

when the Law was put into force were obliged to notify the Agency about all the functions they performed. If the Agency established that by performing multiple functions an official jeopardizes the impartial performance of public function, it will issue a decision that sets a deadline within which the official in question must cease to perform the incompatible functions. However, the exception to this provision are the officials who perform one public function and another function to which they were elected directly by the citizens. This means that even in case when simultaneous performance of these two functions jeopardizes the impartial performance of the public function, i.e. when it is a case of conflict of interest, the Agency does not have the possibility to set a deadline ordering the official to stop performing these incompatible functions. Given that the Constitution, as well as some other laws contain provisions which explicitly prohibit the accumulation of certain functions, it may be concluded that the provisions of the Law on the Anticorruption Agency, which would establish incompatibility and order termination of performance of incompatible functions, cannot be applied to these officials.³²

4. A certain number of valid laws contain provisions on conflict of interest that are not harmonized with the provisions of the Law on the Anticorruption Agency.³³

10.4 CONCLUSION AND RECOMMENDATION

The Agency concludes that, by expanding the obligations that were imposed on public officials in line with the Law on the Anticorruption Agency, the area of conflict of interest in performance of public functions is being regulated in a more comprehensible way, in comparison to the obligations that the public officials had had according to the previous Law,³⁴ In addition, the Law on the Anticorruption Agency expanded the range of officials and, thus, expanded the number of persons to whom the provisions on prevention of conflict of interest may be applied. This certainly does not mean that the Law shouldn't be elaborated and improved in this regard, in order to make its implementation more efficient. Also, it is noticeable that other laws that contain provisions on conflict of interest among the public officials are not harmonized with the Law on the Anticorruption Agency.

³². See footnote 2.

³³. Some of these laws are, for example, Law on the National Bank of the Republic of Serbia, Law on Health Protection, Law on the Prohibition of Discrimination, Law on Barristers. This list is certainly not complete.

³⁴. Before the adoption of the Law on the Anticorruption Agency, the area of conflict of interest among public officials was regulated by the Law on Conflict of Interest Prevention in Discharge of Public Office (Official Gazette of the Republic of Serbia 43/2004).

tion Agency,³⁵ which means that a lot of work should be done in order to build a harmonized legal framework that regulates this area on the state level.

After the first year, the Agency formulated the following recommendation based on the operation of the Department for Conflict of Interest Resolution:

- It is necessary to amend the provisions regulating the issue of public officials' conflict of interest which are contained in other laws and regulations, so that they become harmonized with the Law on the Anticorruption Agency – in order to create a consistent and harmonized legal framework that regulates this area.



35. See the Report section about the challenges.

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