

The Implementation of the National Anti-Corruption Strategy and the Action Plan

REPORT ON THE IMPLEMENTATION OF THE NATIONAL ANTI-CORRUPTION STRATEGY IN THE REPUBLIC OF SERBIA 2013-2018 AND THE ACTION PLAN FOR THE IMPLEMENTATION OF THE NATIONAL ANTI-CORRUPTION STRATEGY



REPUBLIC OF SERBIA
ANTI-CORRUPTION
AGENCY



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Belgrade, March 2015

PRELIMINARY NOTES

The National Anti-Corruption Strategy of the Republic of Serbia 2013-2018 (hereinafter referred to as: the Strategy) was adopted at the session of the National Assembly on July 1 2013.¹ The Strategy states that in the Republic of Serbia there exists strong awareness and political will to make substantial progress in the fight against corruption, with respect of democratic values, rule of law and protection of fundamental human rights and freedoms, as well as a notion that these elements were used as a basis for enacting the Strategy, whereas specific measures and activities for its implementation will be provided in the Action Plan. The general objective of the Strategy is to eliminate corruption as much as possible, which is an obstacle to the economic, social and democratic development of the Republic of Serbia. In the implementation of the Strategy, authorities and holders of public powers that are involved in the prevention and fight against corruption, are obliged to perform their duties in accordance with the following general principles: (1) the principle of rule of law; (2) the principle of “zero tolerance” for corruption; (3) the principle of accountability; (4) the principle of universality of implementation of measures and cooperation of entities; (5) the principle of efficiency; and (6) the principle of transparency. The Strategy lists fields of priority actions, which were identified based on qualitative and quantitative analysis of indicators, related to trends, scope, forms and other issues in reference to corruption in the Republic of Serbia, based on different sources of information. The chapter of the Strategy titled Corruption Prevention contains fields of priority actions’ related goals, as well as of all other areas in which corruption might be identified.

The Action Plan for the Implementation of the National Anti-Corruption Strategy in the Republic of Serbia 2013-2018 (hereinafter referred to as: the Action Plan) was adopted by the Government’s Conclusion dated August 25 2013.² The Action Plan envisages specific measures and activities necessary for the implementation of strategic objectives, timeframes, responsible entities and resources required for implementation. It also defines activity performance indicators that will be used for monitoring of execution levels, as well as efficiency assessment indicators related to set objectives. The Action Plan emphasizes that the Anti-Corruption Agency shall exclusively use activity performance indicators in the process of monitoring the implementation of the Strategy, and that documents and other materials referred to in these indicators shall be submitted to the Anti-Corruption Agency as evidence of the activities’ execution. In addition to a large number of activities, this document also contains remarks related to the execution of specific activities, while listing eight general remarks at the beginning of the Action Plan. It also states that implementation of the Action Plan does not require additional funds from the Republic of Serbia budget.

The Anti-Corruption Agency (hereinafter referred to as: the Agency) was established as an autonomous and independent state authority pursuant to the Law on the Anti-Corruption Agency,³ which has been in force since January 1 2010. Article 5 of the Law on the Anti-Corruption Agency lists the competences of the Agency, including, inter alia, oversight of

1 „Official Gazette of the RS“, No. 57/13.

2 „Official Gazette of the RS“, No. 79/13.

3 „Official Gazette of the RS“, No. 97/08, 53/10, 66/11 – CC decision, 67/13 – CC decision, 112/13 – authentic interpretation and 8/15 – CC decision.

implementation of the Strategy, Action Plan and sector action plans, and issuance of opinions and directives for their enforcement.

This is the fifth Report on the implementation of strategic documents in the fight against corruption, submitted by the Agency to the National Assembly of the Republic of Serbia pursuant to Article 26(2) of the Law on the Anti-Corruption Agency, and the second related to the new Strategy and Action Plan.

The first report on the implementation of the new Strategy and Action Plan for 2013 was submitted to the National Assembly in March 2014, as a part of the Report on the Work of the Agency for 2013.⁴ The National Assembly debated on these two reports in the beginning of June 2014, and enacted a conclusion⁵ in which it is stated that it is necessary for all state authorities designated as responsible entities according to the Action Plan for the Implementation of the Strategy, that in the course of the implementation of activities envisaged by the Action Plan, to take all prescribed measures and activities related to the implementation of strategic goals, while following time frames and reporting forms in order to secure the fulfilment of objectives as set by the Strategy and to enable the efficient oversight of its implementation.

The goal of this report is to systemize in one place as much as possible the available data on measures and activities taken during 2014 according to the new Strategy and Action Plan, as well as to present an assessment on the activities' compliance based on that data, to draw attention to the issues that emerged during the reporting period, and to give recommendations for overcoming any obstacles.

This report is intended for responsible entities from the Strategy and Action Plan, as well as for the expert public, and all citizens interested in the state of affairs that the Republic of Serbia is currently in regarding the fight against corruption.

Structure of the Report

The Report is divided into three chapters: Introduction, General Part and Specific Fields.

The **Introduction** contains the methodology used during the preparation of the Report, improvements of oversight mechanisms and oversight related challenges.

The chapter entitled **General Part** contains an assessment of the fulfilment of the Strategy for 2014, a summary of the Report and the Agency's general recommendations for improvement of the implementation and of oversight of new strategic documents in the fight against corruption.

The chapter entitled **Special Fields** deals with specific areas of the Strategy and contains an assessment of the fulfilment of measures and activities envisaged by the Action Plan, as well as the Agency's opinion and recommendations, where necessary. Particularly, issues pointed out by the Strategy are mentioned and certain objectives are defined for the purpose of their removal. As in the case of the previous four reports, the findings are complemented with the data from various reports, researches and analysis of international organizations, domestic non-governmental and professional organizations, and for the first time, the Report also contains findings from Alternative reports on the implementation of the Strategy and Action Plan.

⁴ Anti-Corruption Agency, *The Report on the Implementation of the National Anti-Corruption Strategy in the Republic of Serbia for the period 2013-2018 and the Action Plan for the Implementation of the National Anti-Corruption Strategy*, March 2014, available at: <http://www.acas.rs/prvi-izvestaj-o-primeni-nacionalne-strategije-za-borbu-protiv-korupcije/>.

⁵ National Assembly, *The Conclusion on the Review of the Report on the Work of the Anti-Corruption Agency for 2013, with the Report on the Implementation of the National Anti-Corruption Strategy in the Republic of Serbia for the period 2013-2018 and the Action Plan for the Implementation of the National Anti-Corruption Strategy*, „Official Gazette of the RS“, No. 60/14.

INTRODUCTION

Methodology of the Report

One of the goals of the Report is to consolidate in one place most of the available information on the fulfilment of objectives formulated in the Strategy, as well as on measures and activities envisaged by the Action Plan. The new strategic documents in the fight against corruption envisage fundamentals for performing oversight activities on the implementation of the Strategy and Action Plan and an assessment of the fulfilment of activities to be performed by the Agency, coordination of the implementation of the Strategy to be performed by the line ministry in charge of judicial affairs, as well as monitoring of results on implementation of the Strategy and Action Plan to be performed by the Anti-Corruption Council (hereinafter referred as to: the Council).

Data collection methodology. – Following the publication of the Action Plan on September 6 2013, the Agency developed the Guidelines for Reporting on the Strategy and Action Plan Implementation and Implementation Oversight, providing more detailed information to the responsible entities from the Action Plan on the preparation of reports and recommending a draft reporting format. It is expected that the Guidelines will facilitate and harmonize the reporting process, and consequently, facilitate the oversight process as well. The Guidelines are published on the Agency's website,⁶ followed by their forwarding to all liable parties of the Strategy and Action Plan, along with the information on the adoption of new strategic documents in the fight against corruption. The Standing Conference of Towns and Municipalities provided assistance to the Agency in contacting local self-government units. In late 2014, the Agency sent to all responsible entities a reminder containing information that January 15 2015 was the deadline for submission of the final quarterly report on implementation of the Strategy and Action Plan, along with the overview of conduct for the whole of 2014, the review on measures taken following the Agency's recommendations from the Report for 2013, as well as the name and contact details of a person in charge of the cooperation with the Agency in the field of reporting on the Strategy and Action Plan. The Guidelines provided the possibility for submission of E-reports, a fact that was recommended during actual telephone contacts as well, aimed at reducing the posting costs of a great number of reports and avoiding difficulties related to the archiving of printed materials that the Agency receives during the reporting process, especially having in mind that the new oversight system also implies submission of evidences on the accomplished activities. Throughout the period of preparation and submission of reports, the responsible entities have on an almost daily basis contacted the Agency and in direct contact received instructions on reporting. The responsible entities are expected to reflect in their reports also on those activities that have on-going time frames because that, on the one hand, gives them the possibility to provide recommendations for the necessary amendments to the Action Plan, while on the other, can initiate implementation of activities long before the determined time frame (unless it is conditioned by another activity), because the Action Plan's timeframe is set as a final cut-off date for implementation of activities.

⁶ Anti-Corruption Agency, *The Guidelines for Reporting on Strategy and Action Plan Implementation and Implementation Oversight*, available at: <http://www.acas.rs/praksa-agencije/pracenje-strategije/>.

Methodology for Assessing the Fulfilment of Activities. – The Agency is assessing whether the activity is fulfilled in line with the indicator or not. This technical assessment is supplemented with the qualitative assessment on the fulfilment of activity, i.e. the Agency's opinion is based on available data on whether the activity is implemented in a manner and within the timeframe envisaged by the Action Plan. The manner of implementation of the activity implies the fulfilment of instructions provided in the measure, activity and remark provided with the activity, while instruction in some cases also relates to the column „required resources“. Aside from the technical and qualitative assessment, the Agency also provides opinions and recommendations with the goal of improving implementation regarding certain activities within the Action Plan if necessary. Alongside the Agency's recommendations, also listed is the responsible entity's recommendation, if such recommendation is provided in its report.

The Report includes the following activities: (1) those due for implementation by the end of 2014 (apart from those assessed by last year's report as fulfilled); (2) those for which the Action Plan as timeframe sets "permanent" and that are, with certain exceptions, considered as due every year; (3) those for which, based on the responsible entity's report, derives that are implemented before the timeframe as set by the Action Plan, and (4) those that have not been due for implementation by the end of 2014, but for which, based on the responsible entity's report, undoubtedly derives that their implementation is on-going. If the responsible entity's report states that implementation of an activity is on-going, but without listing measures that are taken, or is evident that measures which are listed are not implemented with the goal to fulfil activities from the Action Plan, the Agency does not list the information on those activities, considering that they may unnecessarily burden the text, while having no usable value for the Report. Moreover, the Action Plan in certain parts stipulates that identical activities should be implemented by two or more responsible entities, each in its area of expertise. If it evident that activities are fully separated, i.e. that each responsible entity should separately implement it, and in a manner implying the absence of any kind of participation in other entity's activity, the Agency treats those activities as separated, i.e. as two or more activities depending on the number of responsible entities.

In the course of this Report's preparation, the Agency implemented the same methodology as during the 2013 Report preparation process. Still, in a new reporting cycle, with a significant increase in activities that are being assessed, some issues that have been opened require amending of the methodology in a following manner:

1. As it happens that the Agency does not receives data on the technical fulfilment of activities, it also happens that it cannot gather information on technically fulfilled activities in reference to their implementation in accordance with the Action Plan, and thus, whenever such cases are recorded, this fact is mentioned within the qualitative assessment on the fulfilment of activity.
2. The implementation of certain activities is fully conditioned with the implementation of previous activities, as in the case of the adoption of a bill by the Government and consequent adoption of a law by the National Assembly, activities that follow the preparation of a draft law by the authorized line ministry. If an exemplary draft law is not prepared and submitted to the Government, the unfulfilled activities by the Government and National Assembly cannot be considered their responsibility, and thus, whenever such cases are recorded, this fact is mentioned as "Activity is not fulfilled in line with the indicator, given that previous conditioning activity is not implemented".

3. The case of conditioning activities also raises the issue of timeframes for the fulfilment of activities. If the first responsible entity in a row has implemented a certain activity after the determined timeframe, the following entity, as per the rule, is prevented from implementing the given activity within the timeframe envisaged by the Action plan, having in mind that timeframes are mainly calculated so that they begin from the date of adoption of the Action Plan, and not starting from the implementation date of previous activities. In such cases, if the timeframe for implementation of the conditioning activity is known, and if the succeeding responsible entity in the row has fulfilled its obligation within the set timeframe, this fact is particularly mentioned, having in mind that it cannot be held liable for not implementing the activity within the timeframe envisaged by the Action Plan.
4. Having in mind that the responsible entities in charge of the implementation of certain trainings in the majority of cases have not been submitting data to the Agency referring to the training related indicators from the Action Plan (training plan implemented by the year of Strategy validity, reports on implementation of training plan, programmemes and lists of training participants, and reports on training evaluation), while in a certain number of cases based on the reports of the responsible entities it was evident that trainings are truly being implemented, the Agency in such cases, even with the lack of data from the envisaged indicator, gave an assessment on the implementation of activity for the reported period, with the remark that there is no data on the activity's implementation in a manner envisaged by the Action Plan.

Enhancing Oversight Mechanisms

Within the project "Support to the Strengthening of Corruption Prevention Mechanisms and Institutional Development of the Anti-Corruption Agency", financed by the Ministry of Foreign Affairs of the Kingdom of Norway, the Agency initiated a pilot programme on alternative reporting regarding the implementation of the Strategy and the Action Plan. In a competition organized during May and June, and a renewed competition in August, three civil society organizations were selected – Transparency Serbia, the Belgrade Centre for Security Policy, in cooperation with the Association of Public Prosecutors and Deputy Public Prosecutors of Serbia and the Belgrade Centre for Human Rights. These organisations monitored the implementation of the Strategy and the Action Plan for 2014 in specific areas, and in mid-January 2015 reported on the matter by submitting alternative reports to the Agency.

Transparency Serbia produced an alternative report in the areas of: Political activities, Public Finances, and the Media (the TS Alternative Report).⁷

The Belgrade Centre for Security Policy, in cooperation with the Association of Public Prosecutors and Deputy Public Prosecutors of Serbia, developed an alternative report for in the areas of: Judiciary, Police, and Implementation and Oversight of Implementation of the Strategy (the BCSP/APS Alternative Report).⁸

⁷ Transparency Serbia, *Report on the Implementation of the National Anti-Corruption Strategy in the Republic of Serbia for the period 2013-2018 and the Action Plan for the Implementation of the National Anti-Corruption Strategy*, available at: <http://www.acas.rs/alternativni-izvestaji/>.

⁸ Belgrade Center for Security Policy and Association of Public Prosecutors and Deputy Public Prosecutors of Serbia: *Alternative Report: An estimate on the Implementation of the Action plan for the Implementation of the National Strategy for Fight Against Corruption in the Republic of Serbia for the period 2013-2018 for areas "Judiciary", "Police", "Implementation and Oversight of Implementation of the Strategy" and "Recommendations", from August 25, 2013 to December 6, 2014*, available at: <http://www.acas.rs/alternativni-izvestaji/>.

The Belgrade Centre for Human Rights developed an alternative report in the areas of: Privatization and Public-Private Partnerships, Spatial Planning and Development, Health Care, Education and Sports, and Prevention of Corruption (the BCHR Alternative Report).⁹

The Alternative Reports were prepared in line with the unified methodology developed by the Agency in cooperation with the civil society organizations and authors of the alternative reports, and have been used for verification of data and conclusions from the reports of responsible entities, for analysis on the fulfilment of the Strategy and the Action Plan and as material for the equalization of oversight quality and reporting on all parts of the Strategy and the Action Plan. In addition a component, was complementing oversight on the responsible entities obligations' fulfilment by providing the perspective of civil society. This is the first report that incorporates conclusions and recommendations from alternative reports, while lessons learned from this process will be used in the next round of pilot programme implementation, to be organized in 2015 within the same project. The alternative reports have made a significant contribution to the informative nature of this report and have significantly added to the quality of analysis by providing an expert overview on the implementation of the majority of measures. The Agency is expecting that the alternative reporting process will enhance the quality of oversight of strategic documents in the fight against corruption, as well as the capacities of civil society in performing oversight of operations and fulfilment of public sector obligations in the fight against corruption.

In late 2014, funded by the same project, software development for reporting on the implementation of the Strategy and the Action Plan was initiated, including the creation of a database for the responsible entities' entries regarding reports on the implementation of the Strategy using a previously assigned user name and password for accessing the database. Aside from savings and a considerably facilitated reporting process, as well as prevention of individual liable entities' practices to submit uncompleted reports, the software will also enable the facilitated organisational structure and quantitative data processing on the fulfilled, i.e. unfulfilled obligations, in addition to systematic-analytical data processing, based on which will be enabled a simplified conclusion-making on the least, i.e. the most fulfilled activities, by areas of activities, public authorities involved, etc.

Challenges in the Field of Oversight

The percentage of responsible entities that have submitted reports is considerably increased (74%) against last year's reporting cycle when, beginning in March, reporting obligations that were honoured totalled 46% of responsible entities. Still, it should be emphasized that this percentage has been increased due to the considerably increased number of local self-government units that have submitted their reports this year (70%, against 37% of last year), as well as a substantial number of first instance and higher courts, whose own total number increased as of January 1 2014, from 58 to 91. Other responsible entities honoured their reporting obligation in similar percentages as 2013. Aside from the greater number of submitted final reports, in 2014 an increase in numbers of independently submitted quarterly reports was recorded.

By end of February 2015, from a total of 277 responsible entities excluding Kosovo and Metohija, the Agency received a total of 204 responsible entities reports, out of which 39

were from national and provincial authorities,¹⁰ 64 from courts,¹¹ and 101 from local self-government units.¹²

Responsible entities reports present a foundation for performing oversight and providing opinions on the implementation of the Strategy and the Action Plan. Nevertheless, responsible entities reports are still arriving late. That was the case during 2014 in almost one third of the submitted reports, while similar to 2013 it was necessary to again contact certain individual responsible entities with the request to submit reports. Such conduct of authorities presents a challenge for the Agency, having in mind that the Agency's obligation referring to the submission of its Report to the National Assembly within a determined timeframe allows no possible deviations.

The quality of responsible entities reports is being continuously improved, but they are still not at a satisfactory level and the quality considerably varies from one report to another. Some of the reports continue to be reduced to a simple listing of on-going implementation of activities, with no overview on measures being implemented, or to a listing of activities that obviously are not executed with the goal of the Strategy and the Action Plan implementation, but more referring to the regular activities of the responsible entities, which can to some extent be related to the reported measure. The reasons for such behaviour of responsible entities can most likely be found in their lack of understanding of the purpose of the oversight activity conducted over the implementation of the Strategy and the Action Plan, which is not exhausted by the notion of pointing out that some public authority has not fulfilled some of its obligations. According to the Agency's opinion, the basic and predominate purpose of the oversight is to improve the quality of implementation of the Strategy and the Action Plan by performing monitoring, by enabling early notice for possible future easier resolving of issues, by recording and promoting examples

10 Reports have submitted: the National Assembly, the Ombudsman Office, the Office of the Commissioner for Information of Public Importance and Personal Data Protection, the State Audit Institution, the Government, the Ministry of Justice, the Ministry of Interior, the Ministry of Finance, the Ministry of Economy, the Ministry of Trade, Tourism and Telecommunications, the Ministry of Construction, Transport and Infrastructure, the Ministry of Labor, Employment, Veteran and Social Affairs, the Ministry of Public Administration and Local Self-Government, the Ministry of Education, Science and Technological Development, the Ministry of Health, Ministry of Culture and the Media, the Ministry of Youth and Sports, the Tax Administration, the Customs Administration, the Republic Directorate for Property of the Republic of Serbia, the Public Procurement Administration, the Republic Directorate for Protection of Rights in Public Procurement Procedures, the Judicial Academy, the Privatization Agency, the High Court Council, the State Prosecutorial Council, the Supreme Court of Cassation, the Republic Public Prosecutor's Office, the Prosecutor's Office for Organized Crime, the Academy of Criminalistic and Police Studies, the Republic Geodetic Authority, the Statistical Office of the Republic of Serbia, the Government of the Autonomous Province of Vojvodina, the Provincial Secretariat for Sports, the Central Registry of Compulsory Social Insurance, the Chamber of Commerce and Industry of Serbia, the Anti-Corruption Council, the Health Care Council and the Commission for Accreditation and Quality Assurance.

11 Reports have submitted: the Higher Courts from Belgrade, Vranje, Zaječar, Kragujevac, Kraljevo, Leskovac, Negotin, Niš, Novi Pazar, Novi Sad, Pančevo, Pirot, Požarevac, Prokuplje, Sombor, Užice, Čačak and Šabac; the First Instance Courts from Belgrade (the First, Second and Third), Arandelovac, Bačka Palanka, Bečej, Bor, Brus, Bujanovac, Valjevo, Veliko Gradište, Vrbas, Vršac, Despotovac, Dimitrovgrad, Zrenjanin, Ivanjica, Kikinda, Knjaževac, Kragujevac, Kraljevo, Lebane, Leskovac, Loznica, Majdanpek, Mionica, Mladenovac, Negotin, Novi Pazar, Novi Sad, Paraćin, Petrovac na Mlavi, Pirot, Požarevac, Prijepolje, Prokuplje, Požega, Ruma, Senta, Smederevo, Sremska Mitrovica, Stara Pazova, Subotica, Trstenik, Užice, Šabac and Šid.

12 Reports have submitted: the cities of Belgrade, Valjevo, Vranje, Zaječar, Zrenjanin, Jagodina, Kragujevac, Kraljevo, Kruševac, Niš, Novi Pazar, Novi Sad, Pančevo, Požarevac, Smederevo, Sombor, Sremska Mitrovica, Subotica, Čačak and Šabac, and the municipalities of Aleksandrovac, Alibunar, Apatin, Arandelovac, Arilje, Babušnica, Bajina Bašta, Batočina, Bač, Bačka Palanka, Bačka Topola, Bela Palanka, Beočin, Blace, Bojnik, Boljevac, Bosilegrad, Bujanovac, Velika Plana, Veliko Gradište, Vladimirovci, Vladičin Han, Vrbas, Vršac, Gornji Milanovac, Despotovac, Dimitrovgrad, Doljevac, Žabalj, Žabari, Žitište, Indija, Ivanjica, Kanjiža, Kikinda, Kladovo, Knjaževac, Kovačica, Kovin, Kosjerić, Koceljeva, Krupanj, Kula, Kučevo, Lapovo, Lučani, Ljubovija, Mali Zvornik, Mali Idoš, Medveđa, Merošina, Negotin, Nova Varoš, Nova Crnja, Novi Bečej, Opovo, Osečina, Paraćin, Petrovac na Mlavi, Plandište, Preševo, Priboj, Ražanj, Rača, Raška, Rekovac, Ruma, Sjenica, Sokobanja, Stara Pazova, Surdulica, Temerin, Titel, Topola, Tutin, Čičevac, Ub, Crna Trava, Čajetina, Čoka and Šid.

9 Belgrade Center for Human Rights, Implementation of the National Strategy for Fight Against Corruption in the Republic of Serbia for the period 2013-2018 and the Action Plan for Implementation of the National Anti-Corruption Strategy, Alternative Report for 2014, available at: <http://www.acas.rs/alternativni-izvestaji/>.

of good practice of public authorities' operations, and by providing recommendations for the more efficient implementation of strategic documents. Unfortunately, the content of a certain number of responsible entities' reports illustrates their lack of consideration of reporting in this manner, because they do not demonstrate the need to share examples of well-performed tasks or challenges with others, but more to present their regular activities as the implementation of the Strategy and the Action Plan. The uneven quality of responsible entities reports also creates difficulties in the process of assessing the fulfilment of an activity, in terms of maintaining methodological consistency.

The amendments to the Law on the Anti-Corruption Agency that should enable improvements of the oversight mechanism were, according to the Action Plan, envisaged for adoption in March 2014. However, they were not adopted during the reported period even though the National Assembly, according to the conclusion on the adoption of the Report on the Agency's Operations and the Report on the Implementation of the Strategy and the Action Plan for 2013, stated its expectations that the Government will, in the shortest possible timeframe, submit to the National Assembly amendments to the Law on the Anti-Corruption Agency in order for the Agency's legal framework of operations to be harmonized with the needs noted in its work so far, as well as given the oversight role that the Agency should have over the implementation of the Strategy and the Action Plan. On the other hand, with the second Draft of the Action Plan to Chapter 23,¹³ the adoption of the amendments to the Law on the Anti-Corruption Agency related to the oversight mechanism for implementation of the Strategy and the Action Plan is stipulated by Measure 2.1.4.2. for Q4/2014. Besides postponing the adoption of the amendments to the Law on the Anti-Corruption Agency, the second Draft of the Action Plan to Chapter 23 deviates from the mechanism envisaged by the Strategy and from the Action Plan's Measure 5.2 by not including meetings where the Agency can invite responsible entities and the public, and replaces them with the Agency's authority to call in the activity holder to submit the necessary data, and if necessary to provide additional verbal information related to the submitted data. Also unclear are the reasons for omission of feedback mechanisms on the activity holder's responsibility to whom is submitted the Agency's opinion containing the assessment on the lack or unsatisfactory execution of the Strategy and the Action Plan, by not mentioning the activity holder's obligation to discuss about this opinion and to inform the public and the Agency about the conclusions of the discussion, as stipulated by the Strategy and the Action Plan. This is not the only obligation from the Action Plan whose timeframe for implementation has been postponed by the Second Draft of the Action Plan to Chapter 23. For this reason certain concerns may occur, both for responsible entities regarding clarities on the timeframe within which they are obliged to take certain measures, as well as for the Agency in relation to the manner in which it should relate towards future reports of the responsible entities who can obviously call upon the above-mentioned fact as a reason for not implementing some of the obligations from the Action Plan as per the determined timeframe.

The Agency recommends that during the adoption of the Action Plan to Chapter 23, the relationship between this document and the Action Plan for Implementation of the Strategy be clearly defined, and that the oversight mechanism set in the Action Plan to Chapter 23 be harmonized with the oversight mechanism envisaged by the Action Plan for Implementation of the Strategy.

The Action Plan also contains a certain number of issues that are subject to the possibility of various interpretations, based on which some doubts may occur, during both implementation and in the monitoring process of this strategic document's implementation (e.g. initiation of a certain timeframe). Beginning February 2014, the Agency submitted

these questions along with the request for providing an opinion to the Ministry of Justice and Public Administration. The response was submitted to the Agency at the beginning of March 2014.¹⁴ Even though certain issues were resolved, the received answers, unfortunately, have left room for ambiguities regarding the interpretation of issues, which undoubtedly burden implementation, as well as oversight efforts on the implementation of the Action plan.

¹³ Second Draft of the Action Plan to the Chapter 23, available at: <http://www.mpravde.gov.rs/tekst/7715/drugi-nacrt-akcionog-plana-za-poglavlje-23.php>.

¹⁴ Responses of the Ministry of Justice and Public Administration to the inquiries of the Anti-Corruption Agency, March 2014, available at: <http://www.acas.rs/pracenje-strategije/>.

GENERAL PART

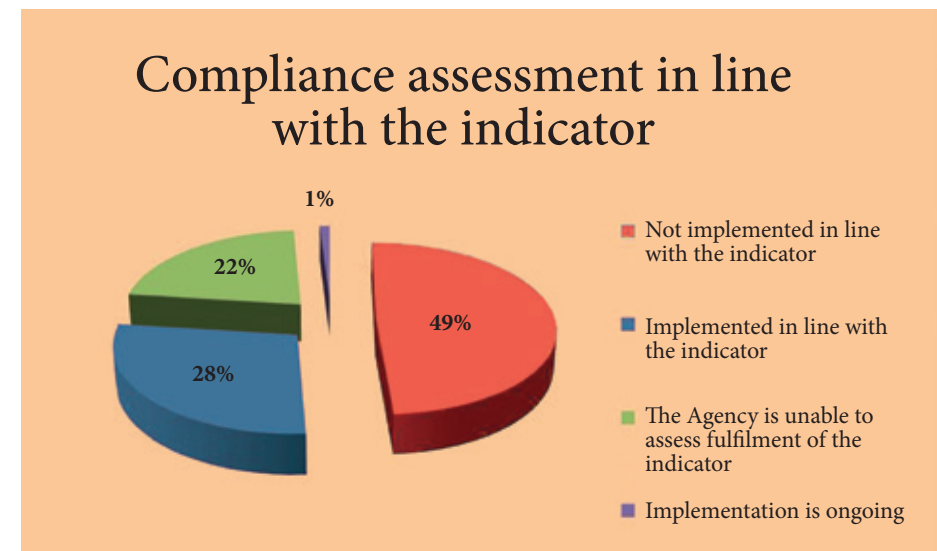
Assessment on the Fulfilment of the Strategy for 2014

The Strategy defines a total of 53 goals, while 224 measures and 640 activities for their fulfilment are envisaged by the Action Plan, out of which 372 activities have been examined for conduct.

Out of 372 examined activities, as per the Agency's assessment:

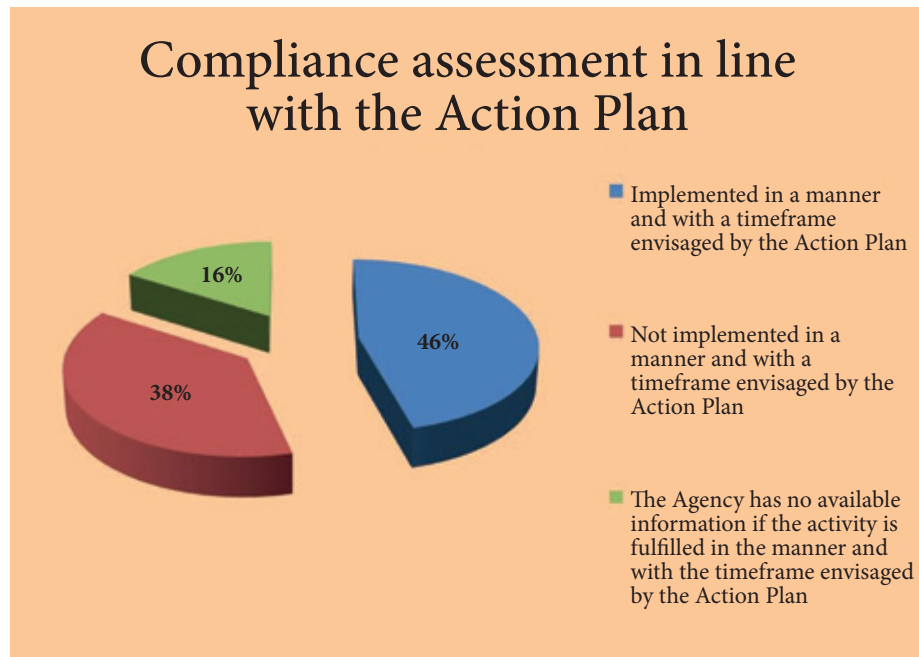
1. A total of 107 activities are fulfilled in accordance with the indicator, out of which:
 - 54 activities are fulfilled in a manner, and within a timeframe envisaged by the Action Plan (this number includes one-off, as well as permanent types of activities).
 - 36 activities are not fulfilled in a manner, nor within a timeframe envisaged by the Action Plan (this number includes one-off, as well as permanent types of activities).
 - The Agency holds no available data for 17 activities on whether they are fulfilled in accordance with the Action Plan.
2. A total of 181 activities are not fulfilled in accordance with the indicator, out of which 51 are not fulfilled in accordance with the indicator, given that the previous conditioning activity has not been fulfilled.
3. The Agency is unable to assess the fulfilment of 77 activities.
4. Implementation of seven activities is on-going.

A total of 12 measures are fulfilled, out of which 3 are of a permanent nature and their implementation will be reassessed next year as well.



As the above pie chart shows, slightly over one quarter of activities are fulfilled in accordance with the indicator (28%), while almost half of activities are assessed as not implemented (49%). Of particular concern is the fact that the Agency is unable to assess fulfilment of close to one quarter of activities (22%) mainly due to the lack of reported information on activity from responsible entities, or because of information provided in a manner that does not allow making reliable conclusions on whether the activity was fulfilled or not. This situation presents a trend evident in previous reporting periods as well.

Related to the fulfilled activities, it should be emphasized that 18 of them are of permanent nature and that their implementation will be reassessed next year as well. On the other hand, more than one quarter (28%) of unfulfilled activities is recorded as such, given that previous conditioning activity is not fulfilled by the responsible entities. This is the most frequent case with activities related to the adoption of new, or amending existing regulations.



As the above pie chart shows, almost half of the fulfilled activities are implemented in accordance with the Action Plan (46%). However, more than one third of the fulfilled activities are not implemented in the manner, or within the timeframe, set by the Action Plan (38%). For a significant number of activities (16%), the Agency was unable to obtain data on whether they are implemented in accordance with the Action Plan.

Even though these conclusions undoubtedly help create a general image on the fulfilment of the Strategy, it is important to mention that they are a result of numerical indicators, which give an equal value to all activities, and which also necessarily do not have to correspond to the importance of each individual activity and measure related to the implementation of the Strategy's goals.

Summary of the Report

Following progress achieved in 2013, Serbia recorded a mild drop in 2014 as measured by *Transparency International's* Corruption Perception Index (CPI). With the result of 41 on the scale from 100-0, Serbia is placed as 78th out of 175 evaluated countries in 2014 (Serbia is placed as 72nd out of 177 evaluated countries in 2013). This result sets Serbia in the group of countries with widespread corruption, which demonstrates that last year's progress is not used as an incentive for implementation of reforms that would enable systematic prevention of corruption. Serbia's results are similar to most of its neighbouring countries. Even though this index does not monitor changes on a daily basis but in the long-term and does not necessarily reflect on the activities of state authorities, or on the number of corruption cases during the reported period, it measures according to the impression of relevant interviewees. It can be concluded that anti-corruption related measures are still not significantly convincing.

The European perspective and determination of the European Union (EU) to monitor on Chapter 23 progress during the complete period of negotiations, present the biggest long-term chance for Serbia in the area of the fight against corruption. However, interest from international organizations is not used to its fullest. In the European Commission's (EC) reports on Serbia's progress, numerous issues and recommendations as in the case of the previous years are listed, but also some new ones. Instead of using the European integration process as an engine for the implementation of full and systematic anti-corruption reforms, obtaining "positive opinions" on individual legislative solutions from the European institutions is highlighted. Citizens' support in the fight against corruption is large, but at the same time, the statements of ruling political representatives set the expectations bar to a very high level.¹⁵

According to the public opinion poll conducted in June and July 2014 by the Centre for Free Elections and Democracy (CeSID) and the United Nations Development Programme for Serbia (UNDP) regarding Serbian citizens' perceptions on corruption (the ninth research cycle), unemployment (44%) and poverty (16%) are two of Serbia's key problems, while corruption is perceived as the biggest problem in the country by 11% of interviewees. A slight decline in the perceived importance of corruption (from 12% to 11%) seen between the two cycles is related to the reduced number of cases of direct (9% of interviewees) and indirect (21% of interviewees) experiences related to corruption. Slightly fewer cases of respondent-initiated corruption are recorded in this research cycle, but also an increased number of instances where citizens are asked to commit bribery. The average amount of bribes nearly halved against the previous research cycle and now amounts to EUR134. Slightly less than one third of interviewees (31%) believe that the level of corruption in the last year is slightly (29%) or very slightly (2%) reduced. On the other hand, citizens are demonstrating higher levels of optimism related to resolving corruption in Serbia, and so, an additional 8% of those polled believe that corruption will substantially decrease over the coming year if efforts to address it continue at this pace. The key means for addressing corruption are strict legal measures and provisions (as reported by 78% of those polled), whilst inadequate oversight of government services is seen as the main obstacle to tackling this issue (as reported by 41% of those polled). Throughout the three latest cycles, the Government of Serbia has

¹⁵ Transparency Serbia, *Stagnation in fight against corruption in 2014: This year's index of perception on corruption according to the Transparency International, Serbia received slightly reduced estimate than for 2013*, available at: www.transparen-tnost.org.rs.

consistently been viewed as the chief stakeholder in addressing corruption. Nearly one-half of interviewees (47%) believe that the Government should place itself at the forefront of efforts to tackle corruption, and this is its best ranking since this research project began.¹⁶

According to findings from the TS Alternative Report, the Strategy and the Action Plan have not been realistic drivers of change in the area of the fight against corruption, evidenced by numerous indicators. Namely, some of the foreseen measures were part of state bodies' plans even before the Strategy was enacted, or a part of broader legal reforms and capacity building efforts, part of other strategic documents or even have been fulfilled in reference to already existing obligations. Reforms are accomplished in areas where they are a part of some other plans, and are implemented when dynamics of events in those areas allowed so, including political will, available resources, international influences, etc. On the other hand, in some of the most important segments of reforms that have their exclusive foundation in the Strategy, events are folding "at their own pace." Thus, aside from previously set deadlines and clearly observed need, planned amendments to the Law on the Anti-Corruption Agency have not occurred, while the Law on Financing Political Activities not only remained unchanged, opposite to the defined plans, but has seen the adoption of urgent amendments, which previously were not planned. Poor treatment of the Strategy and the Action Plan is clearly evidenced by the fact that by the end of the first year of implementation, the "back door" amendments are planned via the Action Plan to Chapter 23, whose draft version included certain measures from the Action Plan, but with often significantly prolonged time-frames.¹⁷

Political Activities

The Law on Financing Political Activities is amended but not in the manner envisaged by the Action Plan. On October 24 2013, the Ministry of Finance established a working group to develop a Draft Law on Amendments to the Law on Financing Political Activities (hereinafter referred as to: the Draft). The public hearing was open from August 4-25 2014. In its public call for participation in the public hearing on the Draft, the Ministry of Finance's rationale that due to reasons of expediency, amendments to the Law on Financing Political Activities will enable the implementation of a measure envisaging amending of the Law on the State Audit Institution in a manner where the audit programme will as mandatory include an audit of parliamentary political parties at the national level, as well as of a measure that envisages amendments to the Law on Tax Procedure and Tax Administration in order to introduce an obligation for the Tax Administration Director to, as mandatory, include providers of funds and other services to political entities in the annual or extraordinary tax audit plan, in accordance with the Agency's report on financing of political activities and political entities. Following the public hearing, the OSCE's Office for Democratic Institutions and Human rights (ODIHR) and the Council of Europe's Venice Commission issued a joint opinion, which among other things, estimated that the Draft significantly improved the quality of the Law on Financing Political Activities. In the meanwhile, following the initiative of the Serbian Progressive Party's caucus presenter, on November 8 2014, the National Assembly under an urgent procedure adopted the Law on Amendments to the Law on Financing Political Activities, which formally and comprehensively is not related to the Draft. This law, aside from amendments related to minor budgetary reallocations, introduced sev-

16 CeSID and UNDP Serbia, *Citizens' attitudes on corruption, The ninth research cycle, Public opinion pool – July 2014*, pages 7-8, available at: www.rs.undp.org.

17 TS Alternative Report, page 12.

eral novelties enabling political subjects to acquire property from public resources, as well as to use public resources funds earmarked for their regular activities in lieu of financing costs of election campaigns. Even before the adoption of this law, the Agency publically presented its opinion that these legal solutions will enable political subjects to misuse public funds and that thus, controlling activities of the Agency will be hindered.

In June 2014, the Agency conducted a research and developed a needs analysis for political entities' trainings that are obliged to act in accordance with the Law on Financing Political Activities. The goal of this analysis is to harmonise future training curriculums with identified difficulties in the field of implementation of existing regulations, as well as to manage political entities' expectations by straightening their capacities that will enable them to fulfil in a timely manner obligations related to their financial management. The analysis identifies a clear need of political entities to be trained and informed in more detail on financial management issue and regarding reporting on the respective obligations. Back in 2012, the Agency developed a training curriculum for political entities that will be updated in line with this analysis, while initiation of trainings is planned for March 2015.

The Agency developed a Model on the new Law on the Anti-Corruption Agency, incorporating solutions from the Strategy and the Action Plan. In July 2014, the Model was submitted to the Ministry of Justice in a form of an initiative for new law enacting, as well as to each individual MP and to the Government. On January 29 2015, the Ministry of Justice established a working group for the preparation of a working version of the text on the Law on the Anti-Corruption Agency, including participation of, among others, several representatives of the Agency, and which initiated its activities on February 23 2015.

In accordance with the analysis on data, which is necessary for the efficient control of the property and incomes of state officials and of institutions who are in disposal of that data, in 2014, the Agency concluded an agreement on operational-technical cooperation with the Tax Administration, as well as agreements on cooperation with the Customs Administration and the Treasury Administration. In addition, a draft agreement on cooperation with the Ministry of Interior was prepared.

In September 2014, the Agency conducted research and developed an analysis on the needs of public administration employees for trainings, in reference to the implementation of new regulations related to the prevention of conflict of interest and the control of property. The analysis determined that there is noteworthy space for improvement in the existing level of knowledge in the areas of prevention of conflict of interest and control of property. From the moment when the new legislative regulation related to these areas enters into force, the reasons for implementing these types of trainings will grow even stronger. The Agency also developed a training curriculum that will be updated following the passing of the amendments or enacting of the new Law on the Anti-Corruption Agency.

During 2014 and in comparison to the 2013 data, the Agency increased the number of controls on the timely submission of reports on property and incomes of state officials by 9%, as well as the number of controls on the accuracy and completeness of data from respective reports by 8%. In addition, in the area of resolving conflicts of interest, the number of proceedings initiated *ex officio* was increased by 5% against 2013 data.

The Committee on Constitutional and Legislative Issues of the National Assembly failed to prepare an analysis on the existing legal framework with recommendations for the identification of possibilities for the improvement of public participation in the process of the adoption of regulations.

The Draft Law on Lobbying is not submitted to the Government, even though the Ministry

of Trade, Tourism and Telecommunications stated in the report that the working version of that regulation is prepared.

During 2014, the Agency prepared opinions on the assessment of corruption risks detected in the provisions of 13 draft laws, three bills and one draft rulebook. The opinions contain findings and recommendations for the improvements of analysed drafts and bills, and were submitted to the line Ministries and the Assembly's committees, and for posting on the Agency's website. Drafts and bills that have been adopted in the meantime contain some of the recommendations provided in Agency's opinions regarding estimate of corruption risks. However, in all these regulations still exist certain solutions that contain deficiencies and corruption related risks.

The Ministry of Public Administration and Local Self-Government established a working group for the preparation and implementation of a public information campaign plan on mechanisms for participation at all levels vis-à-vis the regulation and adoption process.

During 2014, the Agency also conducted research and analysis on causes and forms of corruption at the local level. The data for analysis was provided based on the Agency's existing practice, current researches and analysis implemented by international and civil society organizations, as well as based on research implemented by the Agency in cooperation with the Standing Conference of Towns and Municipalities, whose target group consisted of local self-government units.

Public Finances

The e-Taxes portal is operational, but its possible positive effects in the fight against corruption are not visible to the public.

A law that in a comprehensive manner governs the customs service is not enacted.

The Programme Budgeting Methodology was developed in January 2014, while the Instructions for Development of the Programme Budgets were published in February 2014.

There was no public hearing on the 2015 Budget Bill during 2014.

The Budget for 2015 was prepared in a programme budgeting form, and for the first time as such for all budgetary users, but the outcome is not fully satisfactory. The novelty is presented in the fact that the budget is planned for a period of three years, and that there is a document based on which one can create opinions on planned fiscal measures not only for 2015 but for the next two years.

On July 4 2014, the Government enacted the Decree on the Registry of Immovable Property in Public Ownership that entered into force on July 17, and its implementation began on February 28 2015.

On October 30 2014, the Government enacted the Public Procurement Development Strategy in the Republic of Serbia for the period 2014-2018 that enabled harmonization with the Law on Public Procurement. The Strategy also foresees an increase in the efficiency of procedures by reducing unnecessary formalities, increasing the transparency of procedures, centralization of public procurement, environmental protection and the fight against corruption. The priority areas of this strategy's development framework are improvements in the regulatory framework, strengthening of the institutional framework, improvements of efficiency and sustainability of the public procurement systems and combating irregularities in public procurement system.

The Public Procurement Administration prepared the Model on internal planning for pre-

venting corruption in public procurements for contracting authorities having a total estimated annual value of public procurement that exceeds one billion dinars, as well as the Internal Act Model, developed in line with the Rulebook that sets out the contents of the Contracting Authorities Register and documents to be enclosed with a contracting authorities' registration application, which in an excellent manner elaborates on the obligations that they have on the basis of the bylaw and leaves them with options for formulating individual provisions. The Public Procurement Administration enacted the Rulebook on the contents of the public procurement report and the manner of keeping records on public procurement.

The Memorandum on cooperation between the Public Procurement Administration, the Republic Commission for the Protection of Rights in Public Procurement Procedures, the Ministry of Finance, the Ministry of Economy, the State Audit Institution, the Anti-Corruption Agency, the Anti-Corruption Council and the Commission for the Protection of Competition is signed, which, among other things, foresees improvement in data exchange between the mentioned institutions, as well as the creation of a joint database.

The State Audit Institution continuously submits requests for administrative offences and criminal charges against responsible parties in audited entities in cases of registered suspicion of committed administrative or criminal offenses, while the Public Procurement Administration, following March 1 2014 (the entry into force date of the new Law on Administrative Offences) submitted 26 requests for administrative offensive proceedings to the Republic Commission for the Protection of Rights in Public Procurement Procedures.

The State Audit Institution's reports demonstrate that in the field of public finance management there occurred no significant improvements, because issues similar to the previous year's auditor's reports have reoccurred, and also because the internal control system does not function as it should within almost any of the audited entities.

On December 29 2014, the National Assembly enacted the Law on Ratification of the Framework Agreement between the Republic of Serbia and the Commission of the European Communities on the Rules for Cooperation concerning EC Financial Assistance to the Republic of Serbia in the Framework of the Implementation of Assistance under the Instrument for Pre-Accession Assistance (IPA II).

The Group for Combating Irregularities and Fraud in dealing with EU funds (AFCOS) was formally institutionalized within the Ministry of Finance, but in order to become operational it needs a comprehensive regulatory basis establishing its duties, responsibilities and arrangements for cooperation with the EC, while the AFCOS Network is yet to be established.

Privatization and Public-Private Partnership

The Privatization Law and the Law on Amendments to the Law on Bankruptcy were enacted on August 2, 2014 under urgent procedure, while the Law on Amendments to the Law on Agency for Licensing of Bankruptcy Trustees has not been enacted.

The Memorandum on cooperation between the Privatization Agency, the Ministry of Interior, the Republic Prosecutor's Office, the Supreme Court of Cassation, the Anti-Corruption Agency and the Anti-Corruption Council has been signed, which foresees the general direction of mutual cooperation, the manner of implementation of mutual coordination, as well as formulation of conclusions, i.e. tasks of all signatories, and whose implementation will be discussed during the next semi-annual meeting. The first semi-annual meeting, attended by all signatories, was held late December 2014.

In July 2014, the Agency prepared the Report on the legal framework and corruption risks in

the area of public-private partnership and concessions with recommendations forwarded to the Ministry of Finance, the Government, the National Assembly and the Commission for Public-Private Partnership. In order to address corruption risks and provide recommendations for their removal and further development in this area, the Agency in this report addressed, among other elements, the need for the harmonization of provisions of the Law on Public-Private Partnership and Concessions with other regulations which are significant for this area, in addition to the needs for formulating precise, clear and objective criteria for defining a balanced relationship related to risk-sharing between public and private partners, creating more refined and additionally amended provisions related to oversight of public-private partnership and concessions' implementation and a review on the composition and position of the Commission for Public-Private Partnership and further clarification of its competences. In addition, it is particularly highlighted that the public is still unable to access data on public-private partnership and concessions, i.e. that the Registry on Public Contracts, which should present a unified E-database on Public Procurement Portal has not yet been created.

Judiciary

The setting of clear criteria for the election of managers in courts and public prosecutor's offices is not established.

The Law on Judges and the Law on the Public Prosecutor's Office are compliant with the Law on the Judicial Academy in terms of criteria for the first election to judicial function. However, the Constitution Court's decision from February 2014, determined that Article 40 (8, 9 and 11) of the Law on the Judicial Academy is not in compliance with the Constitution. The Commission for Implementation of the National Judicial Reform Strategy established a working group to draft a solution for overcoming this problem. The interim solution can be found in the Action Plan to Chapter 23, where it is estimated that in Q1/2015, the Rules of Procedure on criteria and standards for the evaluation of the qualification, competence and worthiness of candidates for election of judges and court presidents can be used as a basis to ascertain that completed initial training at the Judicial Academy represents a significant advantage in assessing the qualification and competence for judicial function, i.e. public prosecutor's function.

On July 22 2014, the High Judicial Council enacted the Rulebook on criteria, standards, procedures and bodies for evaluation of the work of judges and court presidents, while the work on preparing the Rulebook on criteria, standards, procedure and bodies for assessment of the work of judicial assistants is on-going. On May 29 2014, the State Prosecutorial Council enacted the Rulebook on criteria and standards for evaluation of the work of public prosecutors and deputy public prosecutors, while the work on preparing the Rulebook for evaluation of complexity and difficulty of cases in public prosecutors' offices is on-going, whereas the Draft rulebook on criteria and standards for assessment of candidates' qualification and competence for election to prosecutorial office is submitted to the DG Enlargement for obtaining an opinion, as well as to all public prosecutors' offices in the Republic of Serbia and professional associations.

The Law on Seizure and Confiscation of the Proceeds from Crime is not amended by introducing an obligation of the Ministry of Interior to submit to the prosecutor's office a completed financial investigation report in addition to a criminal charge, and with the second draft of the Action Plan to Chapter 23, the deadline for implementation of this measure is prolonged to Q4/2015.

The Criminal Code is not amended to introduce the criminal offense of illicit enrichment,

and with the second Draft of the Action Plan to Chapter 23, the amendments to the regulations in force or enacting of new ones based on the analysis of the legal and institutional framework aimed to define more specifically the consequences of "illicit enrichment" are foreseen for Q2/2016. The Criminal Code is not amended with the goal of improving measures against corruption related crimes and industrial related criminal offenses, and with the second Draft of the Action Plan to Chapter 23, the amendments to the Criminal Code based on the analysis of necessary harmonization of the Criminal Code with EU standards are foreseen for Q4/2015.

The Memorandum on cooperation between the police, public prosecutors' offices, judiciary and other public authorities and institutions to determine the manner of cooperation and focal points is not signed, even though it achieved a high degree of consensus as per the final version of the text.

An unique methodology for data collection, recording and statistical reporting on criminal offenses related to corruption is not developed, and with the second Draft of the Action Plan to Chapter 23, the deadline for implementation of this activity is prolonged to Q2/2015.

The Rulebook that would introduce objective criteria for election of forensics and would secure even distribution of forensics per case is not enacted, but in line with the analysis of the Law on Judicial Forensics that concludes on the need to more comprehensively regulate issues of elimination of risks in this area, on October 15 2014, a working group was established for the preparation of the Draft Law on Amendments to the Law on Judicial Forensics.

Instead of a rulebook that would regulate a method of the use of funds raised through the institution of criminal prosecution delay, the Law on Amendments to the Law on Criminal Procedure was enacted under urgent procedure introducing centralization of the use of funds and defining that such assets can be allocated to humanitarian organizations, funds, public institutions or other legal and natural persons, following public competition published by the Ministry of Justice.

A needs analysis on introducing a team of economic forensics in public prosecutor's offices has been conducted.

On September 25 2014, the Ministry of Justice established a multisectoral working group for the development of a Financial Investigation Strategy, with the task to develop models for improved data exchange between bodies participating in the work of this working group, to design models of improved cooperation between relevant agencies, to form joint investigation teams, to perform exchange and analysis of data between public bodies and to embed officers to other state bodies in order to improve cooperation where necessary, as well as to analyse needs for improvement of the public prosecutor's office operations as a principal body in charge of criminal proceedings. The first working text of this Strategy was prepared in December 2014.

Police

The Draft Law on Police is prepared, and the Ministry of Interior on its Website announced a public call for the participation in the public hearing on the Draft, opened from March 26 to April 20 2015.

In February 2014 a needs analysis was conducted referring to police officers trainings working on activities related to the fight against corruption, with international and in-house experts taking part in the analysis, and on the basis of which, as a pilot phase will be organized a programme of specialized trainings for a selected group of police officers, while later, adopted to the needs of the Ministry of Interior, the same will be implemented for the Criminal Police

Directorate's police officers dealing with cases related to combating commercial crimes.

In September 2014, the Ministry of Interior established a working group in charge of monitoring the implementation of the Action Plan that held three meetings by December 2014.

In June 2014, Belgrade hosted the conference "Corruption Risk Analysis and Strengthening Police Integrity" during which it presented the "Risk analysis on possibilities and actual levels of corruption in the police" publication. According to the Ministry of Interior's report, there currently exists no methodological concept for the conducting of analysis on corruption that would enable a clear demonstration of high-risk areas and for the implementation of activities in the areas of prevention and education.

During May 2014, a project that should have prepared the Ministry of Interior for introduction of a modern human management system was finalized, followed by initiation of a second project that includes the introduction of a new organizational structure of human resources management, normative regulation, i.e. drafting of procedures and designing an appropriate IT system.

Spatial Planning and Construction

On December 8 2014, the Law on Amendments to the Law on Planning and Construction was enacted under urgent procedure. According to the Government's report, the reasons for this law enactment are the increase of transparency in the area of planning and construction, introduction of certainty in the procedures by reaffirming the principle of legal safety, introduction of simplified and more efficient procedures and the further harmonization of Serbia's legislative framework with the EU *acquis*. However, the new legal solutions have not in a satisfactory manner implemented measures from the Action Plan.

In August 2014, the Anti-Corruption Agency presented an opinion on the Draft Law on Amendments to the Law on Planning and Construction, available on the Agency's Website.

Health

The Ministry of Health established special working groups for the preparation of a risk analysis on corruption embedded in the provisions of the Law on Health Care, the Law on Health Insurance, the Law on Chambers of Health Care Professionals and the Law on Medicines and Medical Devices. The analysis is directed toward not only corruption risk prevention, but also on the improvement and full implementation of laws, and in such a manner are proposed additional amendments. The analysis was performed at the beginning of April 2014.

The Ministry of Health in cooperation with the Ministry of Justice, having in mind the Action Plan to Chapter 23, established a working group for the fight against corruption with the task of developing an analysis of the full legislative framework in the area of the health system related to corruption risks, while also working on the preparation of law amendments in the health care area.

The Draft Law on Ratification of the European Charter of Patients' Rights is prepared, but following an opinion received from the Ministry of Foreign Affairs, dated July 22 2014, where it stated that as per its form and content, the Charter is not the subject of the international contracts ratification procedure, the Draft Law on Ratification has been withdrawn from further procedure.

The Memorandum on cooperation between the Ministry of Health, the Ministry of Justice, the Ministry of Interior, the Health and Family Committee of the National Assembly, the Republic

Public Prosecutor's Office, the State Audit Institution and the Anti-Corruption Agency, is envisaging, among other elements, manners of improving mutual coordination efforts, obligation of signatories to assign respective representatives within 30 days to hold regular semi-annual meetings, as well as the involvement of professional associations and chambers of health care professionals into the system of permanent and obligatory mutual coordination.

The Law on Health Care, the Law on Medicines and Medical Devices and the Law on Donations and Humanitarian Aid are not amended, and according to the Government's report, respective draft laws are not submitted to the Government.

The Law on Health Records was enacted on November 8 2014, and will enter into force on January 1 2016. The rationale for its enacting are, among others, the introduction of IT technologies in the practice of implementation of the health care services for the population, efforts of the Republic of Serbia to harmonize its legal health related system with respective European and international standards in this area, as well as with documents such as the European Charter of Patients' Rights, the UN Convention on the Rights of the Child and the Council of Europe's Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data.

On September 12 2014, the Ministry of Health submitted a membership application to the European Healthcare Fraud and Corruption Network, which was accepted on September 23.

Education and Sports

The Ministry of Education, Science and Technological Development established a working group for preparing the Draft Law on Amendments to the Law on General Education, while adoption of the new Law on Higher Education is planned for 2015.

Also, a working group for the preparation of the Draft Law on Education Inspection is established, but having in mind that the Ministry of Public Administration and Local Self-Government is currently working on the Draft Law on Inspection Oversight that governs the overall area of inspection related activities, the Ministry of Education, Science and Technological Development took a view that it should postpone its activities until the adoption of this related legislation in order not to create a collision between these two laws.

The Ministry also prepared a working text on the Draft Law on Sports.

Media

The Law on Public Information and Media, the Law on Electronic Media and the Law on Public Media Services were enacted on August 2 2014.

The Rulebook on Co-financing of Projects for the Realization of Public Interest in the Public Information Sector was enacted on November 19 2014.

The Anti-Corruption Council prepared and on February 20 2015, submitted to the Government the "Report on the Ownership Structure and Media Control in Serbia", describing and substantiating in detail issues from this area, as well as presenting recommendations for their removal.

Corruption Prevention

The Law on the Anti-Corruption Agency is not amended, thus there are yet no Agency's authorities to prescribe the methodology for risks analysis on corruption in regulations and the related obligation of legislation proponents to implement it, as well as state officials and

public sector employees' obligation to attend trainings in the field of the fight against corruption, ethics and integrity.

The Law on Free Access to Information of Public Importance is not amended.

Not all by-laws necessary for the full implementation of the Law on Classified Information are enacted.

The Law on Amendments to the Law on Civil Servants where it is envisaged that the High Civil Service Council monitors implementation of the Code of Conduct for civil servants, gathers information and prepares analysis on the matter, was enacted in September 2014.

On March 3 2014, the Agency enacted the Rulebook on conduct of public competition for allocation of funds to civil society organizations in the field of anti-corruption programmes and project implementation, which was amended on two occasions, in November 2014 and January 2015, mainly due to the needs identified on the basis of the initial implementation. During 2014, the Agency organized two competitions for the allocation of funds to civil society organizations, related to the preparation of alternative reports on implementation of the Strategy and the Action Plan, within the project "Support to the Strengthening Corruption Prevention Mechanisms and Institutional Development of the Anti-Corruption Agency", financed by the Ministry of Foreign Affairs of the Kingdom of Norway.

During 2014, the Agency held two coordination meetings with civil society organizations' representatives, while a training programme for civil society organizations was adopted on August 13 2014. It refers to a two-day programme whose goal is to raise the capacities and strengthen the competences of civil society organizations in the field of the prevention of corruption.

During 2014, the Chamber of Commerce and Industry of Serbia organized nine events that directly or indirectly covered the topic of companies' anti-corruption related efforts.

The Law on Whistleblower Protection was enacted on November 25 2014, and its implementation began six months following entry into force date, i.e. in June 2015. In the course of enacting this law, remarks made during a public hearing that referred to the protection of whistleblowers, types of whistleblowing (internal, external, or to the public), as well as remarks on transitional and final provisions were partially adopted. However, this law contains certain deficiencies and weaknesses that, according to the Agency's opinion, can jeopardize the fulfilment of the declared goal – the establishment of effective and efficient protection of whistleblowers. In addition, this law mainly deals with procedural issues, which in certain segments are not sufficiently precisely determined.

Implementation and Oversight of Implementation of the Strategy and the Action Plan

At the beginning of August 2014, the Government established the Coordination Body for the implementation of the Action Plan to administer the National Anti-Corruption Strategy, chaired by the Prime Minister and with Ministers in charge of judicial and financial affairs, and a representative of the Anti-Corruption Council as well as other members. It is foreseen that the Coordination body meets at least semi-annually, while other members of the Government and heads of responsible authorities can participate in its work, as required.

Amendments to the Law on the Anti-Corruption Agency that should enable improvements of the oversight mechanism have not been adopted.

General Recommendations of the Anti-Corruption Agency for the Enhancement of Implementation and Oversight of Implementation of the Strategy and the Action Plan

To the National Assembly – to secure the introduction of the obligation for legislation proponents to make a referral in the bill rationale on the recommendations related to the new normative solutions contained in the Action Plan, or in the needs analysis stipulated by the Action plan, as well as to demonstrate an approach in which amendments are made, while in the case of no amendments made, to rationale the reasons for such positioning;

To the Ministry of Justice – during the adoption procedure of the Action Plan to Chapter 23, to clearly define the relationship between this document and the Action Plan for implementation of the Strategy, and harmonize the oversight mechanism in the Action Plan for Chapter 23 with the oversight mechanism envisaged by the Action Plan for implementation of the Strategy; to consider making amendments to the Action Plan in all segments where there are no specified authorities in charge of initiating certain activities, while in executing coordination activities related to the implementation of the Strategy and the Action Plan, to recommend to all responsible entities that if they notice similar errors, to initiate in a timely manner the necessary amendments for making the procedure in order to secure the implementation of activities from the Action Plan within prescribed time limits; to consider making amendments to the Action plan in all segments where the timeframe for one-off obligations is set to "permanent" in order to determine deadlines for such obligations and thus, secure implementation and oversight of the implementation of the Strategy and the Action Plan; to consider amendments to the Action Plan by clearly stating the sequencing of all activities in order for the Agency and responsible entities to be fully assured on timeframes for implementation of those activities; to secure the introduction of an obligation for responsible entities from the Action Plan to inform in a timely manner on activities they have implemented that present a prerequisite for other responsible entities' implementation of activities, with the goal of more efficient implementation of the Action Plan; to specify on the addressee of the third, fourth and fifth recommendation from the Strategy, and then to consider the possibility of making the respective line Ministries' duty to monitor these areas within their sphere of activities as a part of their obligations related to oversight implementation, and to inform the Agency on the matter as part of their reporting obligation on implementation of the Strategy.

To the Ministry of Finance – during the review and approval of the Action Plan's responsible entities' budget bills, to take into consideration the allocation of necessary resources envisaged by the Action Plan, as well as the fact that the responsible entities plan their activities in accordance with those resources and that without them it is impossible to implement some of the activities envisaged; to reconsider part of the Action Plan referred to as "required resources", and in line with budget plans submit an initiative to the Ministry of Justice for all necessary amendments;

To all responsible entities – when implementing activities from the Action Plan, aside from instructions as set in the Measure, activity and remark, to also use a description of the situation from the Strategy in order to secure the fulfilment of the goal as formulated by the Strategy; to improve the quality of reporting by including a review of all elements from the Action Plan and to follow timeframes for submission of reports to the Agency in order to enable oversight of the implementation of the Strategy and the Action Plan; to prepare training curricula related to activities that are of a permanent nature, followed by preparation of reports on their implementation that will be necessary to submit to the Agency as evidence of the activity's implementation, aside from other indicators for conducting training related activities.

SPECIFIC FIELDS

3.1. POLITICAL ACTIVITIES

Within the first area of the Strategy – Political Activities – five objectives are formulated: to eliminate deficiencies in the legal framework and control the financing of political activities and political entities (**Objective 3.1.1.**), to eliminate deficiencies in the legal framework and to build capacities in the field of prevention of conflict of interest, control of property and incomes of public officials (**Objective 3.1.2.**), to adopt and implement an effective legal framework that regulates lobbying and participation of the public in the legislative process (**Objective 3.1.3.**), to determine clear criteria for the nomination, election and dismissal, as well as for evaluation of results of directors of public enterprises (**Objective 3.1.4.**), and to adopt provincial and local anti-corruption action plans whose implementation will be supervised by standing working bodies of provincial, i.e. local self-government units assemblies (**Objective 3.1.5.**).

For the fulfilment of these five objectives, 24 measures and 74 activities are envisaged, out of which the conduct on 39 activities are investigated.

According to the Agency's assessment, out of the 39 investigated activities:

1. Seven activities are fulfilled in line with the indicator, out of which:
 - Three activities are fulfilled in the manner and within the timeframe envisaged by the Action Plan.
 - One activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan for the reported period.
 - Three activities are fulfilled in the manner, but not within the timeframe envisaged by the Action Plan.
2. A total of 31 activities are not fulfilled in line with the indicator, while 11 of them are not fulfilled in line with the indicator, given that the previous conditioning activity is not implemented.
3. The implementation of one activity is on-going.

Acting on the Strategy and the Action Plan

Objective 3.1.1. To eliminate deficiencies in the legal framework and control the financing of political activities and political entities

The issues that the Strategy is pointing to refer to deficiencies in individual provisions of the Law on Financing Political Activities (LFPA),¹⁸ especially in terms of the obligations of persons connected to political entities, use of public resources and obligations of authorities for performing the control of political entities financing, and also related to the fact that no external audit of political entities was carried out by the Strategy's adoption date, as they are

¹⁸ „Official Gazette of the RS“, No. 43/11 and 123/14.

not envisaged by the Law as mandatory subjects of audits conducted by the State Audit Institution (SAI), besides the lack of necessary capacities of the competent authorities.

According to the TS Alternative Report, some very important occurrences and issues remained out of the Strategy's reach, and so, for example, the Strategy deals with the issue of financing political activities to the extent of the current LFPA, while on the other side, it is not covering issues related to financing campaigns for national minorities councils, referendum related campaigns, financing from persons that are connected with political entities and of individuals as candidates for election related functions, misusing or using public resources for running of political campaigns (e.g. via employment in the public sector), implementing political activities that are presented as state bodies and other public institutions' activities, "purchase of votes" etc.¹⁹

For this Objective's fulfilment, the Action Plan envisages eight Measures.

Measure 3.1.1.1. To amend the Law on Financing Political Activities to clearly set out and divide responsibilities of the Anti-Corruption Agency, the State Audit Institution and other authorities in the process of control of political activities and political entities, and to precisely determine obligations and mechanisms for transparent financing of political entities

The first activity foresees that by March 6 2014, the Ministry of Finance prepares a Draft Law on Amendments to the Law on Financing Political Activities and submits it to the Government.

The activity lists a remark that the working group should include the ministry in charge of judicial affairs, representatives of political entities, local self-government and autonomous provinces authorities, the Standing Conference of Towns and Municipalities, and to take into account aspects of granting loans, NGOs' activities, and mechanisms of reporting of the Agency.

Indicator: The Draft Law on Amendments to the Law on Financing Political Activities is submitted to the Government

The activity is not fulfilled in line with the indicator.

The second activity foresees that by June 6 2014, the Government submits the Bill on Amendments to the Law on Financing Political Activities to the National Assembly.

Indicator: The Bill on Amendments to the Law on Financing Political Activities is submitted to the National Assembly.

The activity is not fulfilled in line with the indicator, given that previous conditioning activity is not fulfilled.

The third activity foresees that by September 6 2014, the National Assembly adopts the Law on Amendments to the Law on Financing Political Activities.

Indicator: The Law on Amendments to the Law on Financing Political Activities is adopted.

The activity is not fulfilled in line with the indicator, given that previous conditioning activity is not fulfilled.

¹⁹ TS Alternative Report, page 18.

On October 24 2013, the Ministry of Finance (MF) established a working group for preparation of the Draft Law on Amendments to the LFPA (hereinafter referred as: the Draft). Public hearing on the Draft was open from August 4-25 2014.²⁰ Following the public hearing, on August 29, the MF submitted a request for obtaining an expert opinion to the OSCE's Office for Democratic Institutions and Human rights (ODIHR) and the Council of Europe's Venice Commission, which issued a joint opinion with recommendations for improvements of the Draft on October 15 2014, but the Draft was not amended as per this opinion by the time this report was finished.

The Draft eliminated many deficiencies of the LFPA observed in its up to date implementation. The sanctions for activities committed in violation of legal provisions are imposed in place of previously non-existent ones; authorities of the SAI are clearly set regarding performing audits of financial statements of political entities against the type of control performed by the Agency; the obligation is prescribed regarding the annual tax control plan performed by the Tax Administration that includes control of providers of donor funds, goods and services to the political entities; numerous political parties' legal obligations are more precisely determined, as well as of the providers of contributions to the political entities, of state authorities and of the Agency.

In the Joint opinion of the OSCE/ODIHR and the Venice Commission, aside from the assessment that the Draft largely improved the quality of the LFPA, four key and thirteen additional recommendations were provided.²¹

The TS Alternative Report also gives a positive assessment on the Draft, but finds that the Draft provided no solutions to some issues that have demonstrated to be most problematic ones (wide use of promotional activities by the public officials during election campaigns, and situation when following submission of financial statements, the financial sources and timeframe for repayment of loans and outstanding debts remain unknown, as well as the scope and timeframes of control that should be implemented by the Agency), and that thus, requires amending. The TS Alternative Report contains recommendations to examine the grounds of objections and suggestions received from international experts, and wherever they are identified as valid, to amend the current Draft appropriately.²²

The Agency's assessment is that the enclosure of the above mentioned recommendations into the Draft would considerably eliminate the deficiencies of the legal framework and in implementation of control of financing political activities. The quality of the Draft's preparation would also be complemented by including political entities representatives, local self-government units, autonomous provinces and the Standing conference of Towns and Municipalities, as already envisaged by the Action Plan. Unfortunately, besides from the Agency's recommendation on the observance of the remark as set in the Action Plan, such event did not occur.

On November 8 2014, the National Assembly following the initiative of the Serbian Progressive Party's caucus presenter adopted under urgent procedure the Law on Amendments to the LFPA,²³ which formally and comprehensively is not related to the Draft.

²⁰ Public hearing on the Draft Law on Amendments to the Law on Financing Political Activities, available at: <http://www.mfn.gov.rs/pages/issue.php?id=1580>.

²¹ Available at: www.legislationline.org/documents/id/19358.

²² TS Alternative Report, pages 27-28.

²³ „Official Gazette of the RS“, No. 123/14.

Its adoption preceded media articles that in a negative light spoke on disproportionately high amounts of public funds allocated for financing of political parties in times of announced implementation of Government austerity and fiscal consolidation measures.²⁴

In such context, the key reason for its adoption under urgent procedure can also be found in the Bill's rationale which states, among other things, that the proposed amendments related to financing political parties from public sources are "in the function of reducing budget funds usage for foremost reasons related to the need of public finance stability, mainly via a system of sustainable deficit and public debt financing, and thus macroeconomic stability."²⁵ In such way, the Law on Amendments to the LFPA determines that public funds earmarked for covering costs of political entities' regular activities whose candidates are selected as MPs, deputies and counsellors, are set at the level of 0.105% of tax incomes of the Republic of Serbia's budget, autonomous province and local self-government units (and 0.07% for election campaigns). In contrast to earlier legal provisions in force that envisaged financing of political entities' regular activities from public sources at the level of 0.15% of budgetary expenditures (and 0.1% for election campaign), these changes truly favour the rationale regarding public finance stabilization and sustainable deficit and public debt financing, but do not correspond to Measure 3.1.1.1. of the Action Plan. This Law, aside from amendments related to smaller budgetary allocations, introduces several novelties that enables political entities to acquire property by also using public sources, as well as to use public sources funds allocated for regular activities for financing of costs of election campaigns.

Even before the adoption of this law, the Agency publically presented its opinion that these legal solutions will enable political subjects to misuse public funds and that thus, controlling activities of the Agency will be hindered. At the same time, the Agency questioned the appropriateness of the law's adoption under urgent procedure in the situation of the existing draft legislation prepared in line with the Action Plan.

Aside from the fact that amendments to the LFPA are not prepared in accordance with the Action Plan, the Agency concluded that they do not contribute to fulfilment of Measure 3.1.1.1. from the Action plan, and consequently do not lead towards fulfilment of Objective 3.1.1. of the Strategy – to eliminate deficiencies in the legal framework and to control financing of political activities and political entities.

According to the assessment from the TS Alternative Report, amendments to the Law can be considered as positive from the standpoint of budgetary savings, but have missed the opportunity to clearly determine the purpose of budgetary financing, which would enable a more meaningful manner of setting the budget's financing levels, as well as the allocation of budgetary funds. In addition, amendments to the Law introduced some changes that will have negative effects on the equality of participants in the political competition,

24 Daily newspaper Blic, „Full pockets: Harder for us, better for political parties“, October 21, 2014, available at: <http://www.blic.rs/Vesti/Politika/504190/PUNE-KASE-Sto-nam-je-teze-strankama-sve-bolje>; Weekly NIN, „Power means privileges“, September 18, 2014, available at: <http://www.nin.co.rs/pages/article.php?id=89145>; Daily newspaper Večernje novosti, „Goati: Increase for parties hits wallets“, October 23, 2014, available at: <http://www.novosti.rs/vesti/naslovna/politika.393.html:515997-Goati-Povišica-partijama-udar-na-cep>; Daily newspaper Pravda, „They don't tight their belts: Political parties receive close to two billion of budget funds annually!“, October 21, 2014, available at: <http://www.pravda.rs/2014/10/21/oni-ne-stezu-kais-stranke-iz-budzeta-dobijaju-skoro-dve-milijarde>; Daily newspapers Telegraf, „Here is how much of our money parties receive: For political parties 5.5 million Eur more than estimated!“, October 21, 2014, available at: <http://www.telegraf.rs/vesti/politika/1275123-evo-koliko-naseg-novca-dobijaju-stranke-partijama-55-miliona-evra-vise-od-predvidjenog>.

25 Available at: <http://www.parlament.gov.rs/акти/донети-закони/донети-закони.45.html>.

and which have deprived the sense of certain legal concepts. This assessment is foremost related to enabling of budgetary funds that are allocated for financing of political entities' regular activities to be used for election campaign financing as well, which is particularly harmful in the context of the absence of restrictions referring to limitations of the overall campaigns' costs or some of its parts, a case that is existing in comparative practices and relevant international standards.²⁶

Even though the Draft is prepared and the Joint opinion of the OSCE/ODIHR and the Venice Commission of the Council of Europe was received, including recommendations for improvements, the second draft of the Action Plan to Chapter 23 changed the deadline for amending the LFPA to, unfortunately, as far as Q3/2016. The TS Alternative Report recommends, in parallel to amending the LFPA, to consider the need of amending other related regulations (e.g. budgetary regulations, election regulations, regulations on advertising, Criminal Code) in order for the reform to be comprehensive and be able to bring the desired effects related to the elimination of causes of possible corruption. The TS Alternative Report concludes that all listed issues obviously point to the need to amend the Action Plan in order to redefine activities, determine new deadlines for its implementation and include other entities as executors of activities that are not currently mentioned.²⁷

Measure 3.1.1.2. To amend the Law on the State Audit Institution so that the audit programme necessarily includes an audit of the parliamentary political parties at the national level

The first activity foresees that by March 6 2014, the Government prepares the Bill on Amendments to the Law on the State Audit Institution and submits it to the National Assembly.

Indicator: The Draft Law on Amendments to the Law on the State Audit Institution is submitted to the National Assembly.

The activity is not fulfilled in line with the indicator.

The second activity foresees that by September 6 2014, the National Assembly adopts the Law on Amendments to the Law on the State Audit Institution

Indicator: The Law on Amendments to the Law on the State Audit Institution is adopted.

The activity is not fulfilled in line with the indicator, given that previous conditioning activity is not fulfilled.

The MF in its public call for participation in the public hearing on the Draft,²⁸ argued that due to the reasons of suitability, via amendments made in the LFPA will implement Measure 3.1.1.2. which is foreseeing the introduction of amendments to the Law on the State Audit Institution,²⁹ as well as Measure 3.1.1.3. foreseeing amendments to the Law on Tax Procedure and Tax Administration³⁰ in order to introduce an obligation for the Tax Administration director to include providers of funds and other services to political entities in the annual or extraordinary tax audit plan, in accordance with the Agency's report on financing of political activities and political entities.

26 TS Alternative Report, page 21.

27 *Ibid*, page 29.

28 Public hearing on the Draft Law on Amendments to the Law on Financing Political Activities, available at: <http://www.mfn.gov.rs/pages/issue.php?id=1580>.

29 „Official Gazette of RS“, No. 101/05, 54/07 and 36/10.

30 „Official Gazette of RS“, No. 80/02, 84/02 – corr., 23/03 – corr., 70/03, 55/04, 61/05, 85/05, 62/06, 61/07, 20/09, 72/09, 53/10, 101/11, 2/12 – corr. 93/12, 47/13, 108/13, 68/14 and 105/14.

According to the assessment provided in the TS Alternative Report, a decision to amend the LFPA instead of amending the Law on the State Audit Institution is not a good one, because there are some issues that can be resolved only by amending that particular law, which envisages that audit subjects can be political parties, but not other political entities, while it would also be more appropriate in a normative sense to set all mandatory elements of the annual work plan of the SAI in its core law, which also should define the SAI authorities related to audits of persons connected to political entities, as well as type of audits of political entities performed by the SAI.³¹

Measure 3.1.1.3. To amend the Law on Tax Procedure and Tax Administration in order to introduce an obligation for the Tax Administration director to include providers of funds and other services to political entities in the annual or extraordinary tax audit plan, in accordance with the Agency's report on the financing of political activities and political entities

The first activity foresees that by March 6 2014, the Ministry of Finance prepares a Draft Law on Amendments to the Law on Tax Procedure and Tax Administration and submits it to the Government.

Indicator: The Draft Law on Amendments to the Law on Tax Procedure and Tax Administration is submitted to the Government.

The activity is not fulfilled in line with the indicator.

The second activity foresees that by June 6 2014, the Government submits the Bill on Amendments to the Law on Tax Procedure and Tax Administration to the National Assembly.

Indicator: The Bill on Amendments to the Law on Tax Procedure and Tax Administration is submitted to the National Assembly.

The activity is not fulfilled in line with the indicator, given that the previous conditioning activity is not fulfilled.

The third activity foresees that by September 6 2014, the National Assembly adopts the Law on Amendments to the Law on Tax Procedure and Tax Administration.

Indicator: The Law on Amendments to the Law on Tax Procedure and Tax Administration is adopted.

The activity is not fulfilled in line with the indicator, given that the previous conditioning activity is not fulfilled.

Remark: See Measure 3.1.1.2 description.

³¹ TS Alternative Report, pages 30-31.

Measure 3.1.1.4. To build capacities of the Anti-Corruption Agency for the process of control of financing political activities

The first activity foresees that by March 6 2014, the Anti-Corruption Agency prepares a needs analysis.

Indicator: Needs analysis is prepared.

The activity is fulfilled in line with the indicator.

According to the data at the Agency's disposal, the activity is fulfilled in the manner and within the timeframe foreseen by the Action Plan.

The second activity foresees that by December 6 2014, the Anti-Corruption Agency in line with the performed analysis amends organisational structure and hires an appropriate number of qualified staff.

Indicator: The number and staff structure correspond to the needs analysis.

The activity is not fulfilled in line with the indicator.

The third activity foresees that the Anti-Corruption Agency prepares and on a permanent basis implements employees training curriculum in line with the performed analysis.

Indicator: Training curriculum executed by the year of Strategy validity; reports on training curricula implementation; curricula and lists of training participants, and reports on trainings evaluation.

The activity is not fulfilled in line with the indicator for the reported period.

The fourth activity foresees that by December 6 2014, the Anti-Corruption Agency purchases equipment in line with the performed needs analysis.

Indicator: The report on purchased equipment is submitted.

The activity is not fulfilled in line with the indicator.

Following the needs analysis, on December 3 2013, the Agency's Director, following the opinion of the Agency's Committee, enacted the new Rulebook on internal organization and organisational structure of job positions in the Professional Service Department of the Agency, which entered into force on December 24 2014, following the approval of the National Assembly's line committee, and with which, in line with the needs assessment, the number of staff in the Department for Control of Political Entities Financing was increased (according to the new Rulebook, the Sector for Control of Political Activities Financing). The current state of affairs regarding the internal organization in the Professional Service Department of the Agency is taken into consideration when presenting the needs, aside from the key issues arising from performing regular activities, as well as related to the strategic and legal framework. By performing staff related needs analysis, it was found that in the Department for Control of Political Activities Financing there exists a need to increase the number of employees from 10 to 21, while the new Rulebook foresees that instead of the current 10, the number of systemized job positions should be 20. Staff training needs will grow, but they were not conducted in the previous period, while for the reasons of improving current work conditions, in the next three-year period it is necessary to provide more office space for employees, funds for the purchase of equipment for newly hired staff, as well as funds for the upgrade of already employed staff's equipment. Due to the lack of funds and austerity measures, the purchase of equipment did not occur in the previous period, and the Agency is still using equipment purchased in 2012.

The TS Alternative Report recommends that the Draft Law on Amendments to the LFPA be additionally amended to include in a more precise manner the Agency's obligations in con-

trol of performing procedures, and concludes that only when the Agency's obligations, but also of other public authorities become more precise, and based on control related experiences so far, it will be possible to estimate the number of needed new staff on a permanent basis working in the Agency on control activities, but also the number of hired personnel for performing control related operations on a contractual basis, especially related to election campaigns, types of trainings they need to pass, equipment they need to have, etc., and in accordance to those data to amend the Action Plan.³²

Measure 3.1.1.5. To build capacities of the State Audit Institution for the efficient audit of parliamentary political parties
The first activity foresees that by March 6 2014, the State Audit Institution prepares a needs analysis. Indicator: The needs analysis is prepared.
The activity is fulfilled in line with the indicator. According to information at the Agency's disposal, the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.
The second activity foresees that by December 6 2014, the State Audit Institution amends the organisational structure and hires appropriate number of professional staff in line with the performed needs analysis. Indicator: The number and staff structure correspond to the needs analysis.
The activity is not fulfilled in line with the indicator.
The third activity foresees that the State Audit Institution prepares and on a permanent basis implements employees training curriculum in line with the performed analysis. Indicator: Training curriculum executed by the year of Strategy validity; reports on training curricula implementation; curricula and lists of training participants, and reports on trainings evaluation.
The activity is not fulfilled in line with the indicator.

On March 6 2014, the SAI prepared a needs analysis for strengthening capacities related to the efficient implementation of parliamentary political parties audit.

The SAI states in its report that changes in the organisational structure of job positions and hiring an appropriate number of professional staff, as listed within the second activity, is conditioned by the adoption of amendments to the LFPA as from Measure 3.1.1.1. Having in mind that these amendments are not adopted, the SAI is unable to fulfil this activity in line with the Action Plan. The SAI gave the same explanation for the third activity within this measure as well, related to preparation and implementation of employees training curriculum, which is also not fulfilled.

Within the project "Advancing Accountability Mechanisms in the Public Finances", supported by the United Nations Development Programme for Serbia (UNDP), the SAI organized a regional conference titled "Audit of Political Parties" with the goal of gathering best comparative experiences from this area.³³

³² TS Alternative report, page 35.

³³ State Audit Institution, *Report the Implementation of the Strategy*, February 2015.

The TS Alternative Report here also assessed that the quality of the implemented activity primarily depends on the content of future legal provisions (to what extent will the number of audits be determined, scope of audits, etc.), and thus, it can happen that the current assessment be proven as inadequate following legal amendments, in one or another way.³⁴

Measure 3.1.1.6. To strengthen the capacities of all public authorities implementing the Law on Financing Political Activities and other related regulations and processing cases of its infringement
The first activity foresees that by March 6 2014, the Ministry of Finance prepares a list of authorities implementing the LFPA. Indicator: The list is prepared.
The activity is not fulfilled in line with the indicator.
The second activity foresees that by September 6 2014, listed authorities as from the first activity of this Measure prepare a needs analysis. Indicator: The needs analysis is prepared.
The activity is not fulfilled in line with the indicator, given that previous conditioning activity is not fulfilled.
The fourth activity foresees that listed authorities as from the first activity of this Measure prepare and implement on a permanent basis a training curriculum in line with the analysis. Indicator: Training curriculum executed by the year of Strategy validity; reports on training curricula implementation; curricula and lists of training participants, and reports on trainings evaluation.
The activity is not fulfilled in line with the indicator, given that previous conditioning activity is not fulfilled.

* The third activity was not due for implementation until the end of 2014.

In its report, the MF is not referring to the first activity whose fulfilment presents a conditioning activity for implementation of other activities as envisaged by this Measure.

The TS Alternative Report states that the MF failed to prepare a list of authorities implementing the LFPA reasoning that following the adoption of the Law on Amendments to the LFPA, the number of authorities implementing this law will increase. According to the assessment from the TS Alternative Report, this activity should have been implemented in the course of preparation of the Draft Law on Amendments to the LFPA by the MF working group.³⁵

Agency's opinion and recommendation: The Agency recommends to the Ministry of Finance that following implementation of the first activity, alongside listed authorities, inform on the matter the Ministry of Justice, as well as the body in charge of the Strategy's implementation coordination, and also the Anti-Corruption Agency and the Council, and authorities in charge of implementation oversight, i.e. monitoring of Strategy's implementa-

³⁴ TS Alternative Report, page 36.

³⁵ *Ibid*, page 37.

Measure 3.1.1.7. To establish mechanisms of continuous training and provide information to political entities obliged to act in accordance with the Law on Financing Political Activities

The first activity foresees that by November 6 2013, the Anti-Corruption Agency prepares a training related needs analysis.

Indicator: Training related needs analysis is prepared.

The activity is fulfilled in line with the indicator.

According to information at the Agency's disposal, the activity is fulfilled in the manner, but not within the timeframe envisaged by the Action Plan.

The second activity foresees that by September 6 2014, the Agency prepares a training curriculum in line with the needs analysis.

Indicator: The training curriculum in line with needs analysis is prepared.

The activity is not fulfilled in line with the indicator.

The third activity foresees that the Anti-Corruption Agency on a permanent basis implements a training curriculum prepared in line with the needs analysis.

This activity lists a remark that the timeframe initiates following entry into force date of the law as from Measures 3.1.1.1. and 3.1.1.2.

Indicator: Training curriculum executed by the year of Strategy validity; reports on training curricula implementation; curricula and lists of training participants, and reports on trainings evaluation.

The activity is not fulfilled in line with the indicator.

In June 2014, the Agency conducted research linked to the preparation of political entities' trainings related needs analysis, and in August 2014, also prepared a training related needs analysis for political entities that are obliged to act in accordance with the LFPA.³⁶ The goal of this analysis is that future training curriculums be aligned with recognized and objective difficulties related to the implementation of current regulations, as well as with the expectations that political entities have in the domain of their capacities' related to the timely and objective fulfilment of obligations from the area of financial management. Having in mind available resources, research by sending questionnaires to the political entities was chosen as an optimal research methodology. The questionnaire was sent to 121 addresses of political parties, coalitions and citizens' groups. The replies were received from 26 political entities (21%). Regardless of the fact that this research was of a voluntary nature, the relatively high degree of political entities' lack of interest for participation in this kind of activity is disturbing, given that its outcome should be a mechanism that would ease and improve their work. Concerns are increased by the fact that the majority of political parties represented in the National Assembly did not send their replies, even though they are those political parties that spend the majority of public resources earmarked for financing of political entities. The analysis of the received replies determined the unambiguousness of political entities' needs to be more informed and trained for financial management and reporting, referring to the obligations they have. The most important recommendations referring to trainings in the area of political entities financing can be grouped as follows:

³⁶ Anti-Corruption Agency, *Training related needs analysis and providing information to political entities that are obliged to act in accordance with the Law on Financing Political Activities*, August 2014, available at: <http://www.acas.rs/izvestaji/istrazivanja-i-analize/>.

- Political entities are mostly interested in topics from the area of financing of regular activities and election campaigns' costs.
- Political entities are mostly interested to learn more on the manners of collecting financial resources in accordance with regulations.
- Having in mind that interviewees stated that they are mostly familiar with legal provisions, more attention is needed on by-laws.
- Trainings should include segments on audit and accounting, which can significantly influence the quality of the fulfilment of obligations and political entities' financing control.
- More attention should be directed, tentatively speaking, towards smaller political entities (citizens' groups and political parties that are not represented in the National Assembly) instead on those with high numbers of members, developed infrastructure and more income.
- Special attention should be paid to political entities' local branches, because the greatest number of problems related to financial management and reporting obligations derive from this level.
- From the point of view of expressed needs, it is necessary to organize at least two- or three-day interactive trainings and complex seminars that would contain theoretical, as well as practical elements.

Back in 2012, the Agency developed a training programme for political entities that will be updated in line with this analysis, while the initiation of trainings is foreseen for March 2015.

In the TS Alternative Report it is recommended to alter the Action Plan to specify that the Agency should perform training related needs analysis based on performed controls' findings (frequently repeated errors and omissions), as well as based on amendments to the LFPA (when adopted, i.e. when it becomes more likely that they will be adopted), and based on the expressed needs of political entities' representatives.³⁷

According to the Ministry of Justice's interpretation,³⁸ the first two activities should be implemented before the adoption of amendments as per Measures 3.1.1.1. and 3.1.1.2, which in practice means that trainings related needs analysis and training curriculum should be prepared in accordance with current legal provisions, while trainings will be implemented following the coming into force of new legal solutions, all of which can bring to complete discrepancy between the new needs and documents that have been enacted based on the old needs.

Measure 3.1.1.8. foresees the Agency's obligation that by March 6 2014, it performs full control of the annual financial statements of political entities for 2012, comparison of data with annual financial statements for 2011 and statements on election campaign costs from 2012. The Agency performed the control of submitted annual financial statements of political entities for 2012, and its findings are published in the "Report on Political Finance Control – 2012 election campaign and the Annual Financial Statement for 2012". The report was presented on December 9 2013, at a conference held in the National Assembly, followed by a discussion related to control's findings. In May 2013, the Agency published and publicly presented "The First Report on Performed Controls of Political Entities Financing – Election campaigns 2012". In reference to this activity, in

³⁷ TS Alternative Report, page 39.

³⁸ Ministry of Justice and Public Administration replies to questions presented by the Anti-Corruption Agency, March 2014, available at: <http://www.acas.rs/pracenje-strategije/>.

the report on implementation of strategic documents for 2013, the Agency concluded that is fulfilled in line with the indicator and implemented in a manner and timeframe foreseen by the Action Plan.³⁹

On the other hand, given that Measure 3.1.1.8. also foresees the Agency's obligation to ascertain policy compliance on campaign financing and to conduct appropriate sanctions and measures in all identified cases of law violations, in last year's report the Agency recommended to the ministry in charge of judicial affairs to propose amendments to the Action Plan in order to formulate additional activities that will enable full implementation of this measure.

According to the assessment from the TS Alternative Report, this measure is partially fulfilled because comparisons with the annual financial statements for 2011 are not fully possible, because the previous control was performed on a sample, the accuracy and completeness of certain data from annual financial statements are not determined, and in some cases, controls and data collection are still ongoing.⁴⁰

Objective 3.1.2. To eliminate deficiencies in the legal framework and to build capacities in the field of prevention of conflict of interest, control of property and incomes of public officials

The issues that the Strategy is pointing to, refer to inadequate legislation related to conflict of interest, an imprecise legal definition of the term and rights and obligations of public officials, as well as of the Agency's authorities and duties in performing controls of property and incomes of public officials.

Related to the issues that are not covered by the Strategy, in the TS Alternative Report it is stated that during 2014, a number of public cases on the issue of conflict of interest and property and incomes of persons that are not public officials arose, particularly of public officials' advisors and higher positioned police officers, as well as that no positive changes were noted in the area of performing oversight of conflict of interest prevention regarding other persons that are covered by the legislation, except for public officials (e.g. civil servants).⁴¹

³⁹ Anti-Corruption Agency, *Report on the Implementation of the National Anti-Corruption Strategy in the Republic of Serbia for the period 2013-2018 and the Action Plan for the Implementation of the National Anti-Corruption Strategy*, pages 123-124, available at: <http://www.acas.rs/prvi-izvestaj-o-primeni-nacionalne-strategije-za-borbu-protiv-korupcije/>.

⁴⁰ TS Alternative Report, page 40.

⁴¹ *Ibid*, page 20.

For this Objective's fulfilment, the Action Plan envisages seven Measures.

Measure 3.1.2.1. To amend the Law on the Anti-Corruption Agency in order to make distinctions and clearly define terms of accumulation of functions (to prevent holding multiple public functions that are in mutual conflict of interest) and conflict of interest (to eliminate private interest in exercising public authorities)

The first activity foresees that by September 6 2014, the Ministry of Justice prepares and submits to the Government a Draft Law on Amendments to the Law on the Anti-Corruption Agency that should clearly define the term of accumulation of functions, procedures for prevention of performing more than one public function, legal exceptions, the term of public authority holder, his/hers rights and obligations, as well as obligation of enacting a by-law containing a catalogue of public functions, and aside mentioned, to regulate the term of conflict of interest and define prohibited behaviours of public authority holders in terms of prevention of conflict of private and public interests.

The activity is presented with a remark that the Anti-Corruption Agency should be consulted during the preparation of the Draft.

Indicator: The Draft Law on Amendments to the Law is submitted to the Government.

The activity is not fulfilled in line with the indicator.

The second activity foresees that by December 6 2014, the Government submits the Bill on Amendments to the Law on the Anti-Corruption Agency to the National Assembly.

Indicator: The Bill on Amendments to the Law on the Anti-Corruption Agency is submitted to the National Assembly.

The activity is not fulfilled in line with the indicator, given that previous conditioning activity is not fulfilled.

The Anti-Corruption Agency developed the Model on the Anti-Corruption Agency,⁴² incorporating solutions from the Strategy and Action Plan, and in July 2014, submitted it in a form of an initiative for a new law to the Ministry of Justice, as well as to each individual MP and to the Government. The new law was submitted with the rationale that in the course of implementation of the current law, a need to clarify and make more precise a certain number of provisions is noted, and to regulate certain important issues in a different manner, foremost, related to conflict of interest, accumulation of public functions, disclosure of public officials' property and assets and Agency's authorities, while the introduction of more clear and strict rules on public authorities holders' responsibilities, improvement of Agency's operational efficiency and strengthening its independence are listed as the most important reasons for enacting the new law.

On January 29 2015, the Ministry of Justice established a working group for preparation of a working version of the Law on the Anti-Corruption Agency, including participation of, among others, several representatives of the Agency, and which initiated its activities on February 23 2015.

The activities envisaged for fulfilment of the **Measure 3.1.2.2.** are not due for implementation until the end of 2014.

⁴² Anti-Corruption Agency, *Model Law on the Law on Anti-Corruption Agency*, July 2014, available at: www.acas.rs/.

Measure 3.1.2.3. To amend the Law on the Anti-Corruption Agency in order to increase the number of liable parties obliged to submit property disclosure reports, data for the control of property and income disclosure reports, and to authorize the Agency to carry out extraordinary property controls and to act on anonymous reports

The first activity foresees that by September 6 2014, the Ministry of Justice prepares and submits to the Government a Draft Law on Amendments to the Law on the Anti-Corruption Agency by increasing the number of connected persons, by precisely determining persons under the extended ambit of connected persons for which a public authority holder is obliged to submit a report on property and income disclosure, and to determine obligations and responsibilities for those persons to personally submit all necessary data and documents to the Agency, by expanding the obligation of submitting documents and information on banks, financial organizations and companies, by envisaging an obligation of submitting extraordinary property disclosure report in certain circumstances, by setting Agency's authority to perform extraordinary property controls beyond annual control plan and to act on anonymous reports.

The remark to this activity states that the Anti-Corruption Agency should be consulted during preparation of the Draft.

Indicator: The Draft Law on Amendment to the Law on the Anti-Corruption Agency is submitted to the Government.

The activity is not fulfilled in line with the indicator.

The second activity foresees that by December 6 2014, the Government submits the Bill on Amendment to the Law on the Anti-Corruption Agency to the National Assembly.

Indicator: The Bill on Amendment to the Law on the Anti-Corruption Agency is submitted to the National Assembly.

The activity is not fulfilled in line with the indicator, given that previous conditioning activity is not fulfilled.

* The third activity was not due for implementation until the end of 2014.

Remark: See Measure 3.1.2.1. description.

The TS Alternative Report recommends considering an increase to the number of persons that would have certain obligations as stipulated by the Law, to not only persons connected to the public authority holders, but also persons that do not have the capacity of public authority holders but can influence enacting of important decisions, or they enact them (e.g. advisors, certain type of civil servants). It is also recommended to take into consideration provisions of the Law on Whistleblower Protection, as well as the need to urgently amend Article 56 of the Law on the Anti-Corruption Agency in the part that was marked as non-constitutional, while keeping in mind the provisions of the Law on Whistleblower Protection and specifically of reporting on the Law violations to the Agency.⁴³

⁴³ *Ibid*, page 43.

Measure 3.1.2.4. To create an efficient infrastructure for cooperation between the Anti-Corruption Agency and authorized institutions for the purpose of control of data in submitted property and income disclosure reports

The second activity foresees that by September 6 2014, the Anti-Corruption Agency signs memoranda on cooperation with competent institutions who are in disposal of required data, for setting the manner of cooperation and contact points (teams) that will be obliged to submit the required data to the Agency in a timely manner.

The remark to this activity states that exchange of personal data between authorized institutions must be done in accordance with the law.

Indicator: The Memorandum on cooperation between the Anti-Corruption Agency and authorized institutions in disposal of required data is signed.

The activity is not fulfilled in line with the indicator.

* In last year's report, the first activity is assessed as fulfilled.

The third activity was not due for implementation until the end of 2014.

The Agency conducted an analysis of data necessary for the efficient control of public officials' property and income, and of the institutions that are in disposal of this information based on data from the property and assets disclosure reports in accordance with Article 46 of the Law on the Anti-Corruption Agency, and concluded that the respective data are in the possession of following institutions: the Ministry of Interior; the Tax Administration; the Republic Geodetic Authority; the Serbian Business Registers Agency; the Central Securities Depository and Clearing House; the National Bank of Serbia/commercial banks; the Administration for the Prevention of Money Laundering; the Public Procurement Administration; the Pension and Disability Insurance Fund of the Republic of Serbia; the Customs Administration; the Tax Administration; courts; port authorities; other bodies, organizations and public enterprises: the PE "EPS" and its regional electricity distributors; insurance companies; the PUC "Infostan"; companies engaged in money transfers operations (*Western Union*, etc.); the Serbian Authors Agency; the Medicines and Medical Devices Agency of Serbia, etc.

In line with this analysis, during 2014, the Agency concluded the Agreement on operational-technical cooperation with the Tax Administration, as well as agreements on cooperation with the Customs Administration and the Treasury Administration. In addition, a draft agreement on cooperation with the Ministry of Interior was prepared.

The Agency previously concluded the Protocol on operational-technical cooperation with the Republic Geodetic Authority (2012) and the Agreement on operational-technical cooperation with the Administration for the Prevention of Money Laundering (2013). The cooperation is also established with the Serbian Business Registers Agency on the basis of the Contract on data exchange via the Serbian Business Registers Agency's web-service (2013), as well as with the Central Securities Depository and Clearing House via enabled access to their web-service, without signing a particular agreement on the matter.

The results are visible and measurable on a daily level, because during data control processes based on public officials' property and assets disclosure reports, necessary data can be easily reached, thus making the control process more efficient, which is resulting in a greater numbers of initiated procedures for deciding on cases of alleged violations of the Law on Anti-the Corruption Agency, as well as in an increased number of requests for administrative offenses and criminal charges proceedings.

The operational related procedures and concluded agreements, i.e. protocols, clearly set access, handle and personal data exchange rules.

Excellent cooperation also exists with other authorized institutions with which memorandums are still not concluded.

<p>Measure 3.1.2.5. To educate public administration/political parties employees on the implementation of new provisions related to the prevention of conflicts of interest and property control</p>
<p>The first activity foresees that by September 6 2014, the Anti-Corruption Agency prepares an analysis, followed by preparation of employees training curriculum in line with the executed analysis.</p> <p>Indicator: The training curriculum based on the analysis is prepared.</p>
<p>The activity is fulfilled in line with the indicator.</p> <p>According to information at the Agency's disposal, the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.</p>
<p>The third activity foresees that the Anti-Corruption Agency performs the permanent acquisition of equipment in line with the needs analysis.</p> <p>Indicator: The Report on purchased equipment is submitted.</p>
<p>The activity is not fulfilled in line with the indicator.</p>

* The second activity was not due for implementation until the end of 2014.

In September 2014, the Agency conducted research and developed a training related needs analysis for public administration employees in the field of implementation of new legal provisions related to the prevention of conflict of interest and property control.⁴⁴ The Agency also prepared a training curriculum that will be updated following the adoption of amendments or enacting of the new Law on the Anti-Corruption Agency. The specificity of this research is that training related needs analysis of public administration employees is performed beforehand enacting of planned law amendments that are to introduce new rules in the field of prevention of conflict of interest and property control. As in the case of research related to the fulfilment of Measure 3.1.1.7., a research by sending questionnaires to public administration bodies was chosen as the optimal research methodology. The questionnaire was sent to all public administration bodies' addresses from the Agency's register (4,651), classified in 14 systems. The replies arrived from 570 public administration bodies from 13 systems (slightly over 12%). Given that this research was of a voluntary nature, such response levels of public administration bodies can be considered as expected. The analysis of the received replies determined that there is noteworthy space for improvement of the existing level of knowledge in the areas of prevention of conflict of interest and control of property. The most important recommendations referring to trainings in the field of prevention of conflict of interest and control of property can be grouped as follows:

- Even though public officials present important target group of future education related efforts, the emphasis should be placed on public administration employees, hav-

⁴⁴ Anti-Corruption Agency, *Training related needs analysis for public administration employees in the field of implementation of legal provisions related to the prevention of conflict of interest and property control*, September 2014, available at: <http://www.acas.rs/izvestaji/istrazivanja-i-analize/>.

ing in mind that they also are, as the current situation implies, in the possibility to be found in a situation where their private interest have reciprocal repercussions on the public one, and on others left outside the regulatory focus.

- Trainings should include topics covering: the term conflict of interest; manners of recognizing and detecting conflict of interest; violation of regulations in the field of conflict of interest and methods of solving issues; violation of regulations in the field of property and income disclosure; manners of performing controls of the property and the most important legal concepts in this filed.
- Trainings should cover issues of ways in which it is possible to specify abstract legal provisions and adjust them to real life situations.
- Having in mind that a relatively high level of awareness on obligations deriving from legal provisions is demonstrated, the trainings should be directed on operational documents and techniques for fulfilment of obligations related to property and income disclosure.

The TS Alternative Report also raises the issue of why is the deadline for preparation of this analysis set so that this activity be implemented before anticipated amendments to the Law, when it is obvious that it will have to be updated following legislative amendments.⁴⁵

The Agency is unable to acquire all necessary equipment in the reported period and in line with the performed needs analysis, but the work on this activity implementation is ongoing.

<p>Measure 3.1.2.6. To establish a proactive approach in performing the control of property and incomes of public officials and in reviewing the existence of conflict of interest</p>
<p>The first activity foresees that by September 6 2014, the authorized committee of the National Assembly approves the amended organisational structure of job positions in the Anti-Corruption Agency implying an increase of the number and structure of executive functions in organizational units dealing with the control of property and income disclosure reports and on resolving issues of conflict of interest.</p> <p>Indicator: The organisational structure of job positions is amended.</p>
<p>The activity is fulfilled in line with the indicator.</p> <p>According to information at the Agency's disposal, the activity is fulfilled in the manner but not within the timeframe envisaged by the Action Plan.</p>
<p>The third activity foresees that the Agency on a permanent basis increases the number of controls of reports, and reviews of existence of conflict of interest initiated ex officio.</p> <p>Indicator: The number of controls of reports, and reviews of existence of conflict of interest initiated ex officio is increased against previous year data.</p>
<p>The activity is fulfilled in line with the indicator.</p> <p>According to information at the Agency's disposal, the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.</p>

* The second activity was not due for implementation until the end of 2014.

The new Rulebook on internal organization and organisational structure of job positions in the Professional Service Department of the Anti-Corruption Agency entered into force

⁴⁵ TS Alternative Report, pages 46-47.

on December 24 2014, and increased the number of executive positions in the Professional Service Department of the Agency in the following manner:

- instead of the current 21, the number of executive positions in the Sector for property and income control of public officials is systemized at a total of 28 positions;
- instead of the current 9, the number of executive positions in the Sector for resolving of conflict of interest is systemized at a total of 14 positions.

During 2014, and compared to 2013 data, the Agency increased the number of controls on the timely submission of reports on property and incomes of state officials by 9%, as well as the number of controls on the accuracy and completeness of data from respective reports by 8%. In addition, in the field of resolving conflicts of interest, the number of proceedings initiated *ex officio* was increased by 5.11% against 2013 data.

The TS Alternative Report recommends that the Action Plan be additionally more precise in order to more clearly envisage the level of pro-activeness that will be considered as successful (in the next and following years of the Action Plan's implementation).⁴⁶

The activities envisaged for fulfilment of **Measure 3.1.2.7.** are not due for implementation until the end of 2014.

Objective 3.1.3. To adopt and implement an effective legal framework that regulates lobbying and participation of the public in legislative process

The issues that the Strategy is referring to relate to the insufficient involvement of the public in legislative processes, while as one of the reasons indicates the non-existence of legal guarantees which would assure that the adoption of a regulation would be in all cases preceded by public hearings, as well as the fact that the lobbying process as a mechanism for affecting interested individuals and groups for the purposes of adopting regulations and decisions is not legally regulated.

According to the EC 2014 Progress Report on Serbia, even though public hearings are slightly more present in legislative processes, they need to be continually implemented in greater measure and with more realistic timeframes in order to enable all interested parties to provide their qualitative contribution. This is of particular importance for draft regulations that have great economic and social influence in order to improve social dialogue, which worsened during the reported period.⁴⁷

The TS Alternative Report states that amendments to the Government's Rules of Procedures provided more precise rules in reference to when it is mandatory to hold public hearings during the legislation preparation process, and in what form. In addition, the Government as the most frequent legislation proponent improved the structure of its portal e-Government where it is publishing data on public hearings. However, even though public hearings are more frequently organized in accordance with these rules, there are still more situations where public hearings are not fully organized in accordance with the Rules of procedures, and there are even cases of legislation for which public hearings are not organized even though they are eligible as per double criteria standards (public interest and scope of changes). Even when public participation is enabled in accordance with the Rules of procedures, the participants do not always receive information on the reasons for their proposals' acceptance or rejection, aside of non-existing practice of

⁴⁶ *Ibid*, page 48.

⁴⁷ *Ibid*, page 17.

publishing received proposals and suggestions. Recently published lists of proposals to the Draft Law on Inspection Oversight and the rationale for their acceptance or rejection can be recorded as one of the positive exceptions. It is also stated that this particular problem presents citizens' inability to influence on the content of the most important document, on which in great measure depends implementation of all other regulations – the budget. Not only that possibility for providing and reviewing budget related proposals is not opened, but this year also saw a significant breach of the budget calendar deadline envisaged for its preparation. An aspect of growing concern regarding the lack of public participation refers to the seemingly positive practice of direct consultations of interested parties, which partially happened in the case of implementation of the Law on Labour or during the recently held negotiations of expert teams of the Ministry of Justice and the Bar Association of Serbia related to amendments of the "notary" regulation, and so it can be concluded that even of undoubtedly positive practice for public authorities to enable consultations with interested parties on individual regulations' contents, this certainly does not mean that those regulations have no influence on other citizens and legal entities who are deprived of the opportunity to influence the legislative process.⁴⁸

For this Objective's fulfilment, the Action Plan envisages four Measures.

Measure 3.1.3.1. To establish mechanisms that will ensure participation in the process of enacting regulations at all levels for interested parties and the public

The first activity foresees that by March 6 2014, the Committee on Constitutional and Legislative Issues of the National Assembly prepares an analysis of the existing legal framework with recommendations to determine opportunities for improving participation of the public in processes of enacting regulations.

The remark to this activity states that it should be implemented separately via amendments to the Law on the National Assembly, the Law on Public Administration, the Law on Local-Self Government, the Law on the Protector of Citizens, the Law on the National Bank of Serbia and the Law on Referendum and Civil Initiative.

Indicator: The Report on conducted analysis is prepared.

The activity is not fulfilled in line with the indicator.

* The second, third, fourth, fifth and sixth activity were not due for implementation until the end of 2014.

The National Assembly in its report states that it will continue direct cooperation with the Ministry of Justice as per this measure and that further instructions are expected from the line committee of the National Assembly. On November 26 and 27 2014, the Committee on Constitutional and Legislative Issues held two workshops, and on December 18, one thematic meeting related to the matter regulated by this measure. As per the remark to this activity, the National Assembly states that the Committee on Constitutional and Legislative Issues, as the responsible entity for implementation of this activity, is not authorized to propose legislative amendments.⁴⁹

On June 25 2013, the National Assembly adopted the National Assembly's Resolution on Legislative Policy⁵⁰ in which it is stated that as one of the legislative politics' objectives is the

⁴⁸ *Ibid*, pages 22-23.

⁴⁹ National Assembly, *Report on the Implementation of the Strategy*, January 2015.

⁵⁰ See: http://www.parlament.gov.rs/upload/archive/files/cir/pdf/ostala_akta/2013/RS30-13.pdf.

envisaged enabling of full transparency and openness during the entire legislative procedure, in addition to, as one of the principles expected to be observed by all parties involved in the legislative procedure, the principle of publicity, implying publicly presenting initial positions regarding statutory agreements in the specific area, particularly to target groups to which the specific regulation is related to, including the principle of announcement, preparation and adoption of regulations in the regular legislative procedure, which enables the qualitative participation of the public to which these regulations apply. The Resolution also envisages that in order to increase the quality of the legislative process and resulting regulations, it is necessary to arrange and elaborate, aside other elements, the principle of public hearings and consultations with relevant stakeholders, and that in relation to this, is necessary to arrange in more detail, as well as to consistently obey the rules on participation of the public and interested parties during the entire legislative process.⁵¹

Agency's opinion and recommendation: As in last year's report, the Agency mentions the obligation of the National Assembly's Committee on Constitutional and Legislative Issues to perform an analysis of the existing legal framework with recommendations for the identification of possibilities for improvements of public participation in the process of adoption of regulations, particularly via amendments of the law as listed in this activity's remark, as well as the indicator for fulfilment of this activity – the report on conducted analysis. According to the Agency's opinion, implementation of this activity does not imply proposing amendments to stated laws, but performing an analysis with recommendations to be submitted to the regulation's authorized proponents. If is not possible to implement the activity in the manner envisaged by the Action Plan, and the Agency suggests to the Ministry of Justice to consider amending the Action Plan in this segment.

Measure 3.1.3.2. To adopt a law that regulates lobbying and access of the public to all information on lobbying in public authorities bodies

The first activity foresees that by September 6 2014, the ministry in charge of foreign and domestic trade and telecommunications prepares the Draft Law on Lobbying and submits it to the Government.

The activity is presented with a remark that the working group should be composed of the ministry in charge of public administration affairs and the Anti-Corruption Agency's representatives.

Indicator: The Draft Law on Lobbying is submitted to the Government.

The activity is not fulfilled in line with the indicator.

The second activity foresees that by December 6 2014, the Government prepares and submits the Bill on Lobbying to the National Assembly.

Indicator: The Bill on Lobbying is submitted to the National Assembly.

The activity is not fulfilled in line with the indicator, given that the previous conditioning activity is not fulfilled.

* The third activity was not due for implementation until the end of 2014.

51 Anti-Corruption Agency, *Report on the Implementation of the National Anti-Corruption Strategy in the Republic of Serbia for the period 2013-2018 and the Action Plan for the Implementation of the National Anti-Corruption Strategy*, March 2014, pages 128-129, available at: <http://www.acas.rs/prvi-izvestaj-o-primeni-nacionalne-strategije-za-borbu-protiv-korupcije/>.

The Ministry of Trade, Tourism and Telecommunications in the report states that the working version of the Law on Lobbying is prepared. However, from the report's content it cannot be concluded why this activity was not implemented within the timeframe envisaged by the Action Plan.⁵²

The TS Alternative Report recommends considering an alteration of this activity's responsible holder, because the lobbying activity is only partly related to the scope of work of the current activity's holder, and in a greater part is related to the scope of work of the Ministry of Public Administration and Local Self-Government, especially in the context of public administration bodies' obligation to secure the publicity of its conducts.⁵³

Measure 3.1.3.3. To adopt amendments to the Law on the Anti-Corruption Agency and the Government's Rules of Procedures in order to establish the Government's obligation to submit the bills for opinion to the Anti-Corruption Agency, as well as to submit the received opinion (if received within 10 days) attached to the bill legislation when submitting it to the National Assembly

The first activity foresees that by September 6 2014, the Ministry of Justice prepares the Draft Law on Amendments to the Law on the Anti-Corruption Agency and submits it to the Government.

Indicator: The Draft Law on Amendments to the Law on the Anti-Corruption Agency is submitted to the Government.

The activity is not fulfilled in line with the indicator.

The second activity foresees that by December 6, 2014, the Government submits the Bill on Amendments to the Law on the Anti-Corruption Agency to the National Assembly.

Indicator: The Bill on Amendments to the Law on Anti-Corruption Agency is submitted to the National Assembly.

The activity is not fulfilled in line with the indicator, given that the previous conditioning activity is not fulfilled.

* The third and fourth activities were not due for implementation until the end of 2014.

Remark: See Measure 3.1.2.1. and 3.1.2.3. description.

During 2014, the Agency prepared opinions on the assessment of corruption risks detected in the provisions of 13 draft laws, three bills and one draft rulebook. The opinions contain findings and recommendations for improvements of the analysed drafts and bills, and were submitted to the line Ministries and Assembly's committees, and for posting on the Agency's Website. Drafts and bills that have been adopted in the meantime contain some of the recommendations provided in the Agency's opinions regarding their estimation of corruption risks. However, in all these regulations there still exist certain solutions that contain deficiencies and corruption related risks. The most frequent deficiencies and corruption related risks in the analysed drafts and bills relate to insufficiently clear provisions, allowing wide discretionary competences to the public administration bodies during their implementation, and leaving ministries to clarify some of the issues with by-laws even though they should be regulated by legal provisions, all of which increase abuse related risks. In addition, due to the

52 Ministry of Trade, Tourism and Telecommunications, *Report on the Implementation of the Strategy*, January 2015.

53 TS Alternative Report, pages 50-51.

fact that by-laws cannot regulate issues for which it is necessary to be regulated by legal provisions, a number of important issues are not fully regulated in practice, i.e. there are legal loopholes. Aside from the mentioned deficiencies, corruption related risks emerging in the provisions of analysed drafts and bills relate to the usage of terms that are not defined by the regulation's draft or bill, as well as to non-compliance of certain provisions. The quality of the draft regulations is largely influenced by the manner in which they are prepared. Is it not that seldom that the Government forwards bills for parliamentary procedure without previously conducted public hearing. In addition, in cases when public hearings are conducted, draft laws frequently have no rationales, thus it is impossible to determine the goal for their enacting given that it is also not defined in the regulation's provisions. The considerable additional issues represent delays in enacting of by-laws. Namely, according to the National Alliance for Local Economic Development (NALED) data from August 2014, the delays in enacting of by-laws in the Republic of Serbia totals 931 days. Given that without timely enacted by-laws, complete and adequate implementation of laws is hindered, it is clear that by-laws have to be prepared in parallel to draft laws in order to be enacted in the shortest possible time.

During 2014, the Agency's representatives also held two trainings on corruption related risk assessment in regulations, within the Programme for the legislative process for employees working in the area of regulatory affairs, organized by the Human Resources Management Service.

Measure 3.1.3.4. To conduct public information awareness campaigns on mechanisms for participation in the process of enacting regulations at all levels ^w
The first activity foresees that by December 6 2014, the ministry in charge of local self-government affairs prepares public information campaign's plan The activity is presented with a remark that the public information campaign's plan should be prepared in cooperation with the National Assembly, the Standing Conference of Towns and Municipalities and interested civil society organizations. Indicator: The public information campaign's plan is prepared.
The activity is fulfilled in line with the indicator. According to information at the Agency's disposal, the activity is fulfilled in the manner, but not within the timeframe envisaged by the Action Plan.

* The second activity was not due for implementation until the end of 2014.

On November 18 2014, the Ministry of Public Administration and Local Self-Government established a working group for preparation and implementation of a public information awareness campaign on mechanisms for participation in the process of enacting regulations at all levels with the task to, in accordance with the Action Plan, prepare and implement respective activities and submit a report to the Minister, with the deadline set at December 30 2014. Even though as a part of subsequent reports the Ministry did send a draft public information campaign plan, submitted documents provide insufficient information on activity's fulfilment.

The Ministry additionally points out that the assumptions associated to professional and qualitative campaign's implementation directed toward the improvement of the existing legal framework for citizens' participation (Objective 3.1.3.), are not achieved, and that therefore there exists a risk that the campaign would not deliver preferred results. According to the Ministry's opinion, for that reason it is necessary to prolong the deadline for the cam-

aign's implementation pending the fulfilment of Objective 3.1.3., i.e. adoption of an effective legal framework that will regulate lobbying and participation of the public in the process of adoption of regulations.

Objective 3.1.4. To determine clear criteria for the nomination, election and dismissal, as well as for evaluating the results of public enterprises' directors

For implementation of this objective, the Action Plan foresees one measure that is not due for implementation until the end of 2014.

Objective 3.1.5. To adopt provincial and local anti-corruption action plans whose implementation is supervised by standing working bodies of provincial, i.e. local self-government assemblies

The Strategy notes that due to the lack of action plans for the fight against corruption at the provincial and local self-government level, potential for occurrence of corruption in these levels is increased.

For this Objective's fulfilment, the Action Plan envisages four Measures.

Measure 3.1.5.1. To develop models of anti-corruption action plans for local self-government units and the autonomous province
The first activity foresees that by March 6 2015, the Anti-Corruption Agency performs an analysis of corruption related manifestations at provincial and local self-government levels. The activity is presented with a remark that civil sector organizations, as well as the Standing Conference of Towns and Municipalities and field experts should be consulted, that models should present a standardization of requests that all local self-government and provincial units can fulfil, in addition to containing measures, procedures and criteria for election of assembly bodies' members. Indicator: The analysis and definition of most frequent corruption related manifestations at provincial and local self-government level is conducted.
Activity's implementation is ongoing.

* The second activity was not due for implementation until the end of 2014.

During 2014, the Agency also conducted research and analysis on causes and forms of corruption related manifestations at the local level.⁵⁴ The data for analysis are provided based on Agency's existing practice, current researches and analysis implemented by international and civil society organizations, as well as based on a research implemented by the Agency in cooperation with the Standing Conference of Towns and Municipalities, whose target group consisted out of local self-government units. The research implied sending questionnaires to local self-governments units. A total of 41 local self-government units replied to the ques-

⁵⁴ Anti-Corruption Agency, *Analysis of corruption causes and manifestations at the local level*, available at: <http://www.acas.rs/izvestaji/istrazivanja-i-analize/>.

tionnaire. Given that the Action Plan foresees the obligation of including experts and civil society organizations in consultancy procedures during the conducting of the analysis, the Agency has on several occasions tried to include the respective parties into this process, but the interest of civil society organizations was very limited. The most important recommendations related to the possible content of future local level plan models in the fight against corruption are following:

- The local level plan model in the fight against corruption has to take into consideration the capacities, scope and authorities of local self-governments in identifying corruption related causes, as well as the range of measures that are at the disposal for this governmental level.
- Local self-government units have to pay special attention to their original jurisdictions. With that in mind, it is necessary to conduct a normative framework analysis at the local level with the goal of its improvement.
- Local self-government units have to pay special attention to transparency during enacting regulations at the local level in order to secure that regulations are enacted in the general, and not the individual interest.
- Mandatory part of the local level plan in the fight against corruption should also be a refinement of mutual relationships between local self-government units and companies, services and institutions that are established, financed and controlled by them, because analysis points to great unevenness in their regulation, which represents a significant risk of corruption.
- Local plans in the fight against corruption should incorporate measures related to the internal regulation of those areas that are of a particular corruption related emerging risks, such as: human resources management, inspection operations, public procurements, etc.

Activities foreseen for fulfilment of **Measures 3.1.5.2. and 3.1.5.3.** are not due for implementation until the end of 2014.

Measure 3.1.5.4. To conduct a public information campaign for citizens related to mechanisms of a provincial and local anti-corruption action plan
The first activity foresees that by March 6 2014, the Anti-Corruption Agency prepares a public information campaign plan.
Indicator: The public information campaign plan is prepared.
The activity is not fulfilled in line with the indicator.

* The second activity was not due for implementation until the end of 2014.

Agency's opinion and recommendation: According to the Ministry of Justice's interpretation,⁵⁵ March 6 2014, was set as the deadline for preparation of the plan on the public information campaign on mechanisms of provincial and local anti-corruption action plans, meaning that the mentioned plan for the public information campaign should be prepared before the conclusion of any kind of activity related to the adoption of these local and provincial anti-corruption related mechanisms. The Agency believes that it would be inap-

⁵⁵ Ministry of Justice and Public Administration replies to questions presented by the Anti-Corruption Agency, March 2014, available at: <http://www.acas.rs/pracenje-strategije/>.

appropriate and inefficient to work on the plan for a public information campaign, when not only that local and provincial plans that should be subjects of the campaign are not adopted, but also their models are not even existing, nor the analysis that should derive those models. In addition, it is unclear why the Ministry of Justice here provides a different interpretation compared to the interpretation of similar issues related to Measure 3.2.1.2.3. Such inconsistency in the Ministry of Justice's reply to the Agency's question related to ambiguousness in the Action Plan and has left room for concerns in reference to the Action Plan's implementation, as well as to its implementation oversight.

3.2. PUBLIC FINANCES

Within the second area of the Strategy – Public Finances – ten objectives are formulated, for which fulfilment of 50 measures and 129 activities are envisaged, out of which conduct on 66 activities are investigated.

According to the Agency's assessment, out of the 66 investigated activities:

1. A total of 23 are fulfilled in line with the indicator, out of which:
 - Five activities are fulfilled in the manner and within the timeframe envisaged by the Action Plan.
 - Four activities are fulfilled in the manner and within the timeframe envisaged by the Action Plan for the reported period.
 - Six activities are fulfilled in the manner, but not within the timeframe envisaged by the Action Plan.
 - Four activities are within the timeframe, but not in the manner envisaged by the Action Plan.
 - One activity is fulfilled within the timeframe, but not in the manner envisaged by the Action Plan for the reported period.
 - The Agency holds no information on the fulfilment of three activities envisaged by the Action Plan.
2. A total of 23 activities are not fulfilled in line with the indicator, out of which one activity is not fulfilled in line with the indicator for the reported period, while five activities are not fulfilled in line with the indicator given that the previous conditioning activity is not fulfilled.
3. The Agency was unable to assess the fulfilment in case of 18 activities.
4. The implementation of 2 activities is ongoing.

Five measures are fulfilled.

This area of the Strategy is divided into three sub-areas: Public Revenues, Public Expenditures and Public Internal Financial Control, External Audit and Protection of EU Financial Interests.

3.2.1. Public Revenues

Four objectives are formulated within this sub-area: to fully develop the e-Tax system and to regularly update the respective data (**Objective 3.2.1.1.**), to establish legislative and institutional frameworks for implementation of the System of unique tax identification numbers for natural persons and legal entities (**Objective 3.2.1.2.**), to identify and eliminate any deficiencies in the legal framework of the customs system conducive to corruption (**Objective 3.2.1.3.**), and to establish efficient control of the implementation of customs regulations (**Objective 3.2.1.4.**).

The Strategy notes that the Tax Administration (TA) started working more transparently parallel to the establishment of the new e-Tax system, but that this system is still at its initial stage, leaving enough space for further building the capacities, technical requirements, education of employees, as well as for carrying out campaigns for raising awareness of citizens about the existence and operation of this system. The Strategy also notes that the system for connecting records of persons with records of property and income, that are kept in the Republic of Serbia, via a unique tax identification number (UTIN) is not established, thus hindering the track of changes and controlling of reported information. The issues that the Strategy is pointing to refer to the lack of legal framework, technical equipment and skilled personnel.

According to the assessment presented in the TS Alternative Report, issues of generating other public revenues remained outside the Strategy's reach – e.g. via borrowing in the country and abroad, sale of public assets (except privatization) or asset lease. Furthermore, outside the Strategy's direct focus remained issues of public revenue planning, while related to institutions, activities of only two administrations within the MF are covered, but not of the other bodies that can have a certain role in the respective fields.⁵⁶

The TS Alternative Report as a systematic issue points to the lack of information and comparative analysis related to the manner in which legislative and regulatory politics are reflecting on public revenues, and as an example provides the Law on Notary Public during whose initial implementation the state renounced certain revenues generated before (e.g. court contracts verification fees), and adds that so far there exists no published analysis based on which it could be made an unambiguous conclusion on whether the public revenues generated from former court taxes have fully overran to the public notaries, or there have been some benefits from their abolition for citizens and legal entities.⁵⁷

In the TS Alternative Report it is stated that in the public there exists no visible positive effects of the e-Tax portal in the fight against corruption, while on the other hand, there exists an abundance of information related to the problems and possible corruption cases within the very Tax Administration of the Ministry of Finance, but that information on potential investigations are not published.⁵⁸

⁵⁶ TS Alternative Report, page 62.

⁵⁷ *Ibid*, page 65.

⁵⁸ *Ibid*, page 66.

Acting on the Strategy and the Action Plan

Objective 3.2.1.1. To fully develop the e-Tax system and to regularly update the respective data

For implementation of this objective, the Action Plan foresees three measures.

Measure 3.2.1.1.1. To strengthen the Tax Administration capacities for the efficient implementation of the e-Tax system

The first activity foresees that by September 6 2014, the Ministry of Finance prepares a needs analysis.

Indicator: The needs analysis is prepared.

The Agency is unable to assess the fulfilment of this activity.

* The second, third, fourth and fifth activities were not due for implementation until the end of 2014.

In its report, the MF is not referring to this activity, but on the activity within the same measure that is foreseeing that by September 6 2015, the TA and the Ministry of Finance secure the necessary technical conditions and equipment in line with the previously conducted needs analysis, and points that the acquisition of necessary equipment is performed, and that the necessary technical conditions in line with the conducted needs analysis are partly secured.⁵⁹ The TA in a similar manner reported on this activity as well.⁶⁰

However, the MF failed to report on the needs analysis during 2014.

The TS Alternative Report states that they were unable to reach information on this activity's implementation and concludes that, given that with the second Draft of the Action Plan to Chapter 23 (Activity 2.2.10.11.) the deadline for this measure's implementation is prolonged to Q4 2015, it is likely that this activity will not be implemented.⁶¹

Measure 3.2.1.1.2. To conduct a public information campaign for citizens in reference to the actuality, operations and manners of the e-Tax system use

The first activity foresees that by March 6 2014, the Ministry of Finance prepares a campaign plan.

Indicator: The campaign's plan is prepared.

The Agency is unable to assess the fulfilment of this activity.

The second activity foresees that the Ministry of Finance on a permanent basis conducts the campaign according to the plan.

Indicator: The campaign is implemented according to the plan: The report on the conducted campaign.

The Agency is unable to assess the fulfilment of this activity.

⁵⁹ Ministry of Finance, *The Report on the Implementation of the Strategy*, January 2015.

⁶⁰ Tax Administration, *The Report on the Implementation of the Strategy*, January 2015.

⁶¹ TS Alternative Report, page 76.

In its report, the MF is not providing information on this activity's implementation, while based on the request for access to information of public importance sent by the TS for preparing the alternative report, the Ministry said that it does not hold the required information. On the other hand, relevant information on the e-Tax system can be found on the PA Website available at <http://purs.gov.rs/e-porezi/informacije.html>.⁶²

According to the Ministry of Justice's interpretation,⁶³ the second activity should be implemented during the validity period of the Strategy, after the preparation of the campaign's plan and in accordance to it, thus determining that the timeframe and manner in which the campaign will be conducted related to the overall campaign's plan.

Measure 3.2.1.1.3. To ensure regular data entry and update

The single activity within the measure foresees that the TA on a permanent basis conducts control of data update, system's functioning and remedying possible technical flaws.

Indicator: The number of controls on the e-Tax system's validity and accuracy; reports on conducted controls.

The Agency is unable to assess the fulfilment of this activity.

In its report, the PA states that appropriate software programmes are developed that enable regular data entry and update, with application of entry data' control accuracy.⁶⁴ In the Q2 report, the TA states that adopted amendments to the Law on Tax Procedure and Tax Administration⁶⁵ enabled them to secure development and functioning of the e-Tax system on permanent bases, that the Law precisely determined initiation period of mandatory e-forms submission for certain tax forms, and that measures directed towards improving tax payers' awareness related to their preparedness to follow the new mandatory tax declaration method in timely and technically correct manner are also prepared, while the TA employees are educated in a number of different fields in order to raise the quality of cooperation with the tax payers to the highest possible level.⁶⁶ However, the TA did not submit to the Agency the respective information related to the indicator, and also did not reply to the request for access to information of public importance sent by the TS for the purpose of preparing its alternative report, in which it was specified that a request for submission of copies containing information on the number of performed controls on the e-Tax system's validity and accuracy, as well as for copies of reports on conducted controls.⁶⁷

62 TS Alternative Report, page 77.

63 Ministry of Justice and Public Administration replies to questions presented by the Anti-Corruption Agency, March 2014, available at: <http://www.acas.rs/pracenje-strategije/>.

64 Tax Administration, *The Report on the Implementation of the Strategy*, January 2015.

65 „Official Gazette of the RS“, No. 68/14.

66 Tax Administration, *The Report on the Implementation of the Strategy*, July 2014.

67 TS Alternative Report, page 78.

Objective 3.2.1.2 To establish a legal and institutional framework for implementation of the System of a unique tax identification number for natural persons and legal entities

For implementation of this objective, the Action Plan foresees six measures.

Measure 3.2.1.2.1. To adopt a law regulating the System of unique tax identification numbers

The first activity foresees that by September 6 2014, the Ministry of Finance prepares an analysis of records on persons and personal income and on connectivity models via the UTIN.

Indicator: The analysis is prepared.

The Agency is unable to assess the fulfilment of this activity.

* The second, third and fourth activities were not due for implementation until the end of 2014.

In its report, the MF is not referring to this activity, and by the time of the TS Alternative Report's conclusion, failed to reply to their request for submission of information on this measure implementation.⁶⁸

On the other hand, the second draft of the Action Plan to Chapter 23 foresees a new law or amendments to the current regulations' adopting in order to establish the UTIN system, with Q4/2016 set as the deadline. In this way, the deadline for adoption of this law is prolonged for almost a year, compared to the deadline from the Action plan originally set to January 2016.

The activities envisaged for the fulfilment of **Measures 3.2.1.2.2., 3.2.1.2.3., 3.2.1.2.4., 3.2.1.2.5. and 3.2.1.2.6.** are not due for implementation until the end of 2014.

The Measure 3.2.1.2.3. foresees the TA obligation to prepare a public information campaign for citizens related to the UTIN, but the deadline is not yet set. In reference to the Agency's inquiry related to the Action Plan's lack of clarity, the Ministry of Justice provided its reply stating that the deadline was not set due to a technical error, but that using the analogy it can be concluded that the activity is due for implementation following the enacted law regulating the UTIN system, and given the Measure 3.2.1.1.1., it can be undoubtedly concluded that the deadline for fulfilment of the first activity as per Measure 3.2.1.2.3. is set to a six months time period, following the law's adoption.⁶⁹

68 *Ibid*, page 78.

69 Ministry of Justice and Public Administration replies to the Anti-Corruption Agency's questions, March 2014, available at: <http://www.acas.rs/pracenje-strategije/>.

Objective 3.2.1.3. To identify and eliminate any deficiencies in the legal framework of the customs system conducive to corruption

According to the EC Report on Serbia's progress for 2014, there has been some progress in the area of the customs union, but further efforts are needed to complete alignment in a number of key areas, as well as related to the strengthening of the Customs Administration's (CA) administrative capacity, while the customs declaration processing system remains to be upgraded.⁷⁰

For implementation of this objective, the Action Plan foresees six measures.

Measure 3.2.1.3.1. To adopt a law that in a comprehensive manner governs the customs service
The first activity foresees that by March 6 2014, the Ministry of Finance prepares a Draft Law on Customs and submits it to the Government. Indicator: The Draft Law on Customs is submitted to the Government.
The activity is not fulfilled in line with the indicator.
The second activity foresees that by June 6 2014, the Government submits the Bill on Customs to the National Assembly. Indicator: The Bill on Customs is submitted.
The activity is not fulfilled in line with the indicator, given that the previous conditioning activity is not fulfilled.
The third activity foresees that by September 6 2014, the National Assembly adopts the Law on Customs. Indicator: The Law on Customs is adopted.
The activity is not fulfilled in line with the indicator, given that the previous conditioning activity is not fulfilled.

The Draft Law on Customs is prepared, and in the period January-March 2014, the CA harmonized the Draft's provisions against the MF, the Ministry of Justice and Public Administration and the Republic Secretariat for Legislation's objections, subsequent to forwarding it to the MF for further jurisdiction. The CA recommends performing coordination of all entities' activities related to the legislative process with the goal of the acceleration of the adoption of the customs law, because the Draft foresees strong anti-corruption mechanisms and terms for execution of certain obligations from the Action Plan.⁷¹

The Draft is harmonized against the Ministry of Public Administration and Local Self-Government's objections, as well as amendments to the Law on Civil Servants, due to which, according to the MF and the CA reports, the activity is not implemented within a timeframe as set by the Action Plan.⁷²

On July 31 2014, the Government adopted the Bill on Amendments to the Law on Customs and submitted it to the National Assembly, which has not yet decided on it. The reasons for

⁷⁰ TS Alternative Report, page 61.

⁷¹ Customs Administration, *The Report on the Implementation of the Strategy*, April and July 2014.

⁷² Ministry of Finance, *The Report on the implementation of the Strategy*, January 2015.; Customs Administration, *The Report on the Implementation of the Strategy*, January 2015.

this law are: 1) to enable the development and implementation of the NCTS (New Computerized Transit System), harmonized with the system and procedures of the Convention on a Common Transit Procedure for NCTS (these amendments are aligned with the EU Customs Law's solutions), and 2) to amend in the part of customs violations (the issuance of misdemeanour orders for customs violation cases that can be considered as minor, and determination of authorities for bodies in charge of misdemeanour proceedings, in accordance with the new Law on Misdemeanours).⁷³

The activities envisaged for the fulfilment of **Measures 3.2.1.3.2, 3.2.1.3.3, 3.2.1.3.4. and 3.2.1.3.5.** were not due for implementation until the end of 2014.

b To improve the Customs Administration information system
The first activity foresees that by September 6 2014, the CA prepares a needs analysis with recommendations related to new staff hiring and purchase of equipment. Indicator: The needs analysis with recommendations related to new staff hiring and purchase of equipment is prepared.
The activity is fulfilled in line with the indicator. According to information at the Agency's disposal, the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.
The third activity foresees that within a 5-year period, the CA conducts the procurement of equipment following the needs analysis recommendations. Indicator: The procurement of equipment following the needs analysis recommendations is performed; the report on procured equipment.
Activity's implementation is ongoing.
The fourth activity foresees that the CA on a permanent basis improves the data exchange system with other countries' customs administrations. Indicator: The number of countries with which data is exchanged is improved.
The activity is fulfilled in line with the indicator. According to information at the Agency's disposal, the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.

* The second activity was not due for implementation until the end of 2014.

According to the CA report, the needs analysis with recommendations related to new staff hiring and purchase of equipment is prepared, with which it is determined that the number and structure of hired staff is not in line with the recommendations, but having in mind the amendments to the Budget System Law and the introduction of the new recruitment freeze policy by the end of 2016, there exists no possibility for hiring new staff, in addition to the outflow of trained and experienced IT staff. Due to the lack of financial resources allocated from the Republic of Serbia budget for 2014, only an insignificant part of equipment was purchased in line with the needs analysis recommendations. In addition, the *SEED (Systematic Electronic Exchange of Data)* – system of data exchange with neighbouring customs administrations is expanded with regards to the data exchange with the customs administration in Kosovo ter-

⁷³ Government of the Republic of Serbia, *The Report on the Implementation of the Strategy*, January 2015.

ritory, while the usage of this system is expanded from the initial exclusive usage by the Intelligence Department, to the customs offices, as well as to the Management and Risk Analysis Department and the Internal Control Department. The EU project *NCTS*, operative in the countries-signatories of the Convention on a common transit procedure, is ongoing.⁷⁴

The TS Alternative Report recommends that via amendments to the Action Plan there also be determined a solution to the noted problem (inability to hire necessary staff), and that this measure be clearly related to the Strategy's implementation, because the development and maintenance of the IT system have a predominant role in the exercise of customs service's basic operations, while within the scope of the fight against corruption, attention should be focused on the activities that should remove the key issues in this area.⁷⁵

Objective 3.2.1.4. To establish efficient control of the customs regulations application

For implementation of this objective, the Action Plan foresees three measures.

Measure 3.2.1.4.1. To increase the number of activities for the improvement of citizens' awareness on manners related to reporting corruption cases in the Customs Administration

The single activity within the measure foresees that the CA on a permanent basis continues to conduct citizens' awareness campaigns on manners related to reporting corruption cases in the Customs Administration

Indicator: Training curriculum executed by the year of Strategy validity; reports on training curricula implementation; curricula and lists of training participants, and reports on trainings evaluation.

The Agency is unable to assess the fulfilment of this activity.

According to the CA report, in line with regular activities directed towards the control of custom officers' operations correctness and legality, and with the goal of improving efficiency and straightening integrity in the fight against corruption, the Internal Control Department introduced a single customers phone number - 066 303 300 – for filing remonstrances and complaints, which is at citizens' disposal 24h a day. In addition, posters and flyers presenting single customers telephone numbers are presented at all border crossings, in all customs offices, customs branch offices and customs units, and there exists a possibility to submit e-Reports on corruption and regulation violations cases via the Customs Administration's website.⁷⁶

The TS Alternative Report states that within the sample executed monitoring exercise, the control of these notifications has been performed, and that the activity was implemented to a certain degree.⁷⁷

Agency's opinion and recommendation: The Agency points that this activity's indicator foreseen by the Action Plan, which also relates to trainings, cannot be adequately implemented on citizens' awareness campaigns, which in overall terms is preventing making an assessment on the activity's fulfilment in line with the indicator. In its last year's report, the Agency recommended to the ministry in charge of judicial affairs that this indicator due to its inadequacy be altered, in order to be able to assess the activity's fulfilment.⁷⁸

74 Customs Administration, *The Report on the Implementation of the Strategy*, January 2015.

75 TS Alternative Report, page 81.

76 Customs Administration, *The Report on the implementation of the Strategy*, January 2015.

77 TS Alternative Report, page 82.

78 Anti-Corruption Agency, *The Report on the Implementation of the Strategy and Action Plan*, March 31, 2014, page 136,

Measure 3.2.1.4.2. To strengthen the capacities of the Internal Control Department

The first activity foresees that by September 6 2014, the CA prepares a needs analysis.

Indicator: The needs analysis is prepared.

The activity is not fulfilled in line with the indicator.

* The second, third and fourth activities were not due for implementation until the end of 2014.

According to the CA report, a proposed human resources plan for the Internal Control Department for 2014 was prepared.⁷⁹

However, preparation of the proposed human resources plan for a one year period cannot be considered as implementation of the activity foreseen by the Action Plan.

Measure 3.2.1.4.3. foresees installing a video surveillance system in customs offices and at border crossings, with a centralized signal recorder placed in the CA, and with real time video surveillance access option in each customs office.

According to the CA report, on July 5 2013, a working group for video surveillance was established, authorized for the preparation of a feasibility study - project task on centralized video surveillance system, as well as for making proposals related to the normative regulation in the field of CA video performing surveillance. By the end of June 2014, as part of the feasibility study development, the working group concluded the locations' visits where the CA performed the given authority-regulated operations, and by the end of July, the feasibility study was completed and a working group for the implementation of the feasibility study was established.⁸⁰

3.2.2. Public expenditures

Three objectives are formulated within this sub-area: to enhance participation of the public in monitoring of budget funds spending (**Objective 3.2.2.1.**), to provide consistent implementation of the Law on Public Procurement and to form a records storage system on the conduct of competent authorities related to irregularities found in their reports (**Objective 3.2.2.2.**), to improve cooperation and coordination related to anti-corruption activities between relevant institutions at all levels of government (**Objective 3.2.2.3.**).

According to the assessment presented in the TS Alternative Report, certain corruption related issues remained outside the Strategy's reach, foremost, activities related to planning of public expenditures, as well as other forms of public expenditures (e.g. various forms of subsidies, social payments, wages etc.).⁸¹

In addition, the TS Alternative Report states that in 2014, certain issues' controversy reoccurred, in particular related to granting subsidies and other forms of state aid, as well as doubts related to the distribution of state grants for non-governmental organizations.⁸²

available at: <http://www.acas.rs/izvestaji/godisnji-izvestaj/>.

79 Customs Administration, *The Report on the Implementation of the Strategy*, January 2015.

80 Customs Administration, *The Report on the Implementation of the Strategy*, January 2015.

81 TS Alternative Report, pages 62-63.

82 *Ibid*, pages 65.

Acting on the Strategy and the Action Plan

Objective 3.2.2.1 To enhance participation of the public in monitoring the spending of budget funds

The Strategy notes that the public is not completely or in a comprehensive manner familiar with the budget funds' planning and spending processes, as well as that the National Assembly's debate on manners in which the public funds have been spent during the budgetary year is lacking for the tenth year in a row.

The 2015 Budget proposal was submitted to the National Assembly later than foreseen by the Budget System Law, thus preventing not only citizens (e.g. via public hearings) from influencing its content, but also the MPs were left with a very limited time for that as well. According to the assessment presented in the TS Alternative Report, there is no justification for the fact that a public hearing was not conducted on amendments to the Budget System Law as well, while the 2014 Budget was supplemented twice before the end of the FY. The TS Alternative Report continues to assess that, even though the 2015 Budget is prepared as a programmatic document, and for the first time for all budgetary users, the outcome is not fully satisfactory, and as an example it mentions the Government Information Office from whose table can be read the number of documents to be published on the site, but with no possibility to perceive to what extent will the Government's operational transparency be truly increased. It also mentions an important issue as to what extent are these indicators compulsory by nature, because they are only provided in the bill's rationale and have not become part of the final text of the Budget Law adopted by the National Assembly. The novelty also presents the fact that the budget is planned for a three year period, thus to some extent the oversight related to preparing and thoroughly discussing the fiscal strategy only a couple of months in advance is substituted with the fact that now there is a document based on which can be assessed the planned fiscal measures not only for 2015, but for the next two years as well. The Budget Law contains numerous saving measures, measures related to the collection of the increased volume of budgetary funds and budgetary users' financial control measures, but often these measures are attributed as "temporary" derogation from rules set in other regulations (e.g. related to pensions, local self-government disbursements, payment of employees' allowances). It is not entirely clear how this budget will influence the public procurement, particularly the payments on concluded contracts, and so it could be concluded that some public procurement contracts will have a priority against other budgetary expenditures, but also that the preference among these contracts will be determined based on the subject of procurement.⁸³

According to the assessment from the TS Alternative Report, the amended Budget System Law contains some good rules, but also envisages possible exceptions in the next year or two (which is, inter alia, the case with public funds users "recruitment freeze" policy), as well as that the part of budget, which is allocated for the Serbian Security Information Agency (BIA) is not published, which raises the question on whether all BIA costs must be secret, and is the BIA the only body in need of protection of some budgetary information given that there are other security services as well. In addition, postponements in the enactment of the budget negatively reflect on lower instances budgets' planning processes given that transferred funds have a great importance in

⁸³ *Ibid*, page 67.

their financing, thus limiting space for budget related public hearings at the local level that are conducted in some municipalities and cities. Aside from that, the practice of transferring budget reserve funds has been continued, without disclosing information on the reasons governing the Government's decision related to the level of transfers, the purpose and manner of selection of local self-governments, which raises doubts on whether this is the issue of, inter alia, political motivations. This year also lacked a public hearing on the 2013 closing budget statement, submitted to the National Assembly on August 1 2014.⁸⁴

For implementation of this objective, the Action Plan foresees five measures.

Measure 3.2.2.1.1. To establish mechanisms for the transition from line item to programme budgeting at all government levels

The first activity foresees that by September 6 2014, the Ministry of Finance prepares a methodology on programme budgeting based on examples of good practice.

The remark to this activity states that amendments to the Budget System Law envisage the adoption of programme budgeting by 2015.

Indicator: The Methodology based on examples of good practice is prepared.

The activity is fulfilled in line with the indicator.

According to information at the Agency's disposal, the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.

* The second, third and fourth activities were not due for implementation until the end of 2014.

According to the MF report, the Instruction on preparation of programme budgets was prepared,⁸⁵ working groups for the introduction of programme budgets at the level of single budgetary user were established, three workshops with each of the working groups for the introduction of programme budgets were held, and the final 2015 programme budget structures were defined.⁸⁶

The TS Alternative Report states that following the Minister's Decision dated April 3 2013, a Working group for the introduction of a programme budget was established, composed of all state bodies' representatives, adding that activities related to the programme budget methodology ended in January 2014, and that the Instructions were published in February 2014, and in the form of publication submitted to the Working group members. It continues by stating that the Instructions were prepared in cooperation with the SCTM and the USAID Business Enabling Project. With the goal of supporting local self-government units' efforts related to the introduction of programme budgets, the SCTM prepared guidelines and document models, programme and programme activities related goals, and a list of uniform indicators, as well as forms for the programme budget's preparation. The SCTM website contains Q&A's provided for local self-governments, as well as comments and recommendations, possible solutions and examples of good practices from

⁸⁴ *Ibid*, page 68.

⁸⁵ Instruction on preparation of programme budgets, February 2014, available at: <http://www.mfin.gov.rs/UserFiles/File/budzetski%20korisnici/2014/Uputstvo%20za%20izrad%20programmeskog%20budzeta.pdf>.

⁸⁶ Ministry of Finance, *The Report on the implementation of the Strategy*, January 2015.

single local self-government's experiences.⁸⁷ The TS Alternative Report assess that the Methodology has provided a detailed, relatively easily understandable and example supported manner for budgetary users on how to prepare a programme budget, and that it can be assumed that it is partly developed on good practice examples, even thought that is impossible to unambiguously be concluded from its content. The TS Alternative Report recommends to consider amending the Methodology in line with issues noted during the preparation of the programme budget and examples of "bad practice", i.e. situations in which the budget is prepared not in accordance with the Methodology, or situations in which, besides the application of the Methodology's principles, the programme budget did not fulfil the programme related objectives that are set for creating of the preconditions for increased transparency and responsibility in budget funds spending.⁸⁸

Agency's opinion and recommendation: The Action Plan foresees the obligation of the Ministry of Finance that until the coming in to force of the Law, it prepares a training curriculum for budget users' representatives and manuals containing instructions, as well as to implement the training plan and distribute manuals containing instructions. At the same time, the Action plan foresees that the deadline for preparation of training curriculum and the manual containing instructions be set as starting from 2015, so it remains unclear when the fulfilment of this activity should be assessed. On the other hand, some trainings have already been implemented, and the manual, i.e. the Instructions are prepared and distributed, and so it can be assessed that the implementation of this activity is ongoing, i.e. that is already partly fulfilled. However, the Agency recommends to the ministry in charge of judicial affairs that via appropriate amendments to the Action Plan it clarify timeframes in order that the time period being assessed be undisputable.

Measure 3.2.2.1.2. To publicly disclose the budgetary inspection's annual activity report to the National Assembly

The single activity within the measure foresees that the Ministry of Finance on an annual basis publishes the budgetary inspection's annual activity report on the web presentation.

Indicator: Published budgetary inspection's annual activity report is available to citizens.

The activity is not fulfilled in line with the indicator for the reported period.

In the MF report it is stated that the Budgetary Inspection Department prepares an annual activity report on its operations and submits it to the Minister, who delivers it to the Government, who in turn submits it to the National Assembly no later than March 31 of the current year for the previous budgetary year. It is also stated that this activity was fulfilled on March 24 2014. Still, the TS Alternative Report stated that by searching the MF's it website was unable to find the Annual activity report for the budgetary inspection in 2013, while the National Assembly's website is listing the Annual activity report for the budgetary inspection in 2012, but not for 2013.⁸⁹

87 See: <http://www.skgo.org/reports/details/1542>.

88 TS Alternative reports, pages 83 and 84.

89 *Ibid*, page 84.

Measure 3.2.2.1.3. To establish an electronic system for monitoring the state budget spending performed by the MPs

The first activity foresees that by January 6 2014, the Ministry of Finance prepares a needs analysis.

Indicator: The needs analysis is prepared.

The Agency is unable to assess the fulfilment of this activity.

The second activity foresees that by December 6 2014, the Ministry of Finance deploys expert staff in line with the needs analysis.

Indicator: Expert staff are appropriately deployed according to the needs analysis.

The Agency is unable to assess the fulfilment of this activity.

The forth activity foresees that by July 6 2014, the Ministry of Finance prepares employee training curriculum.

Indicator: Employee training curriculum is prepared.

The Agency is unable to assess the fulfilment of this activity.

The fifth activity foresees that preceding the start of the electronic system implementation, the Ministry of Finance conducts employees training curriculum.

Indicator: Training curriculum executed by the year of Strategy validity; reports on training curricula implementation; curricula and lists of training participants, and reports on trainings evaluation.

The Agency is unable to assess the fulfilment of this activity.

* The third activity was not due for implementation until the end of 2014.

In its report, the MF is not referring to this activity, and by the time of the TS Alternative Report's conclusion, it failed to reply to their request for submission of information on this measure's implementation.⁹⁰

However, the TS Alternative Report states that, according to other available information, the system is yet not established. Namely, on November 28 2014, in Arandelovac, the national GOPAC branch (National branch of the Global Organization of Parliamentarians against Corruption) participated in the consultative workshop with the Committee on Finance, State Budget and Control of Public Spending of the National Assembly, organized within the project "Strengthening the Oversight Function and Transparency of the Parliament" implemented by the United Nations Development Programme (UNDP) and the National Assembly, with the support of the Swiss Agency for Development and Cooperation (SDC), during which it was concluded that the introduction of the Portal for monitoring the state budget spending is a priority in the GOPAC national branch work for 2015.⁹¹

90 TS Alternative Report, page 85.

91 TS Alternative Report, pages 85-86.

Measure 3.2.2.1.4. To establish mechanisms for introducing efficient control of suitability and accountability of public funds spending
The first activity foresees that by September 6 2014, the Ministry of Finance performs an analysis on regulations governing the suitability and accountability of public funds spending. The remark to this activity states that as members of the working group, representatives of the budgetary inspection, the SAI, the PPO, etc. should be included. Indicator: The analysis is conducted.
The Agency is unable to assess the fulfilment of this activity.
The second activity foresees that by December 6 2014, the Ministry of Finance prepares draft laws on amendments to the laws in line with the analysis, and submits them to the Government. Indicator: Draft laws on amendments to the laws are submitted to the Government.
The Agency is unable to assess the fulfilment of this activity.

* The third and fourth activities were not due for implementation until the end of 2014.

In its report, the MF does not refer to this activity, and by the time of the TS Alternative Report's conclusion, failed to reply to their request for submission of information on this measure's implementation. However, the TS Alternative Report states that having in mind that draft amendments to the law that would more closely regulate the issue of suitability of public fund spending are not published, it can be concluded that the measure is not implemented, but that also, on the other hand, amendments to the Budget System Law, adopted in parallel to the 2015 Budget Law, as well as this law too, envisage certain measures with the goal of establishing responsibilities for public funds spending. The TS in its alternative report concludes that in regulating the issue of control related to the suitability of public fund spending, one must start from the step preceding that control, i.e. from regulating the issue of suitability in the planning phase, and in that sense some rules related to public procurement are already introduced with regards to contracting authorities' internal acts, whereas the suitability of planning can also be assisted by programme budget preparation. To this end, the TS Alternative Report recommends to hire internal auditors, but also to enable citizens that during public hearings point to problematic spots, while experiences gained so far by the SAI in the undertaken suitability audits could also be of assistance.⁹²

92 *Ibid*, pages 86-87.

Measure 3.2.2.1.5. To establish full records on public ownership and its beneficiaries
The first activity foresees that by September 6 2014, the Republic Directorate for Property of the Republic of Serbia prepares and on a regular basis updates full records on public ownership and its beneficiaries, as well as secure its publishing. Indicator: Full records on public ownership and its beneficiaries is established and published.
The activity is not fulfilled in line with the indicator for the reported period.
The second activity foresees that by September 6 2014, the Republic Directorate for Property of the Republic of Serbia reviews the conversion right of use on developed and undeveloped land in public ownership, and to ensure the transfer to public ownership in favour of the Republic of Serbia, the autonomous province and local self-governments. Indicator: The report on the number and results of conducted conversion reviews.
The activity is not fulfilled in line with the indicator for the reported period.

On July 4 2014, the Government enacted the Decree on keeping records on public ownership of property⁹³ that entered into force on July 17, with an implementation date set of February 28 2105. The Decree foresees (Article 15) that the Republic Directorate for Property of the Republic of Serbia (further: the Directorate) will establish an automatic data processing programme for keeping single records system on public ownership of property, as a web application, within 6 months from entry into force of the Decree.

The Directorate established cooperation with the IT Department of the Republic Geodetic Authority (RGA) and the Administration for Joint Services of the Republic Bodies with the goal of preparation of a technical specification for development of applicable software for an e-Register of single public property records system, which should be defined in the public procurement process.

In the Directorate's Public procurement plan for 2014, purchase of software for enabling complete and updated records of assets of the Republic of Serbia was planned as a low-value procurement, and as an indicative date for initiation of the procedure and signing of contract was set for March 2014, with an indicative date for execution of the contract set to March 2014-March 2015. In the Directorate's Report on low-value purchases in Q4/2014, for this purchase it states that the procurement process will be implemented by signing a contract with the Directorate for e-Government, operational within the Ministry of Public Administration and Local Self-Government. The 2015 Budget Law for the e-Register of the single public property records system allocated funds in total of 4.000.000 RSD.⁹⁴

The Directorate for e-Government, operational within the Ministry of Public Administration and Local Self-Government, conducted low-value public procurement process – the Applicable software for single public property records system. The contract is signed with the bidder *E-smart System* from Belgrade, by setting the final software development date to March 5 2016, a date from which are created the preconditions for keeping the single public property records system in an electronic form. Having in mind that in line with amendments to the Law

93 „Official Gazette of the RS“, No. 70/14.

94 TS Alternative Report, page 88.

on Public Property,⁹⁵ the process related to the establishing of public property ownership of autonomous provinces and local self-government units is open until October 6 2016, while the preparation and submission of final statements for 2016 of all users and holders of the right of use who are obliged to keep special records of publicly owned property, followed by performed inventory procedure is set to February 28 2017, the Directorate can submit its first complete annual report on the status of publicly owned property for the previous year, by May 31 2017.

Having in mind that during 2014 a change in the legal framework related to the area of keeping a single public property records system is observed, by prolonging the deadline for establishing the public property ownership of autonomous provinces and local self-government units, the Directorate in its report recommends that the deadline for implementation of this activity be moved pending appropriate legislative conditions, i.e. to February 28 2017.⁹⁶

The TS Alternative Report lists the obstacles for implementation of this measure, as follows:

- 1) Up-to-datedness of the single public property records system of the Republic of Serbia depends on the RGA' timeliness in the fulfilment of its obligations, prescribed by the provisions of Articles 72, 74 and 88 of the Law on Public Property envisaging that, with no delays, initiates *ex officio* performed registration of the right on publicly owned property of the Republic of Serbia in legally prescribed cases, and thus, the consistent application of these legal provisions should be kept in mind.
- 2) Given the limited human resources of the Directorate, acting on extensive requests related to registration of the right on public property ownership of autonomous provinces and local self-government units (single requests relate to tens and hundreds of immobilities) will require a longer period.
- 3) The new legal concept assuming that the single public property records system is also kept at the level of autonomous provinces and local self-government units as public property right holders, while the Directorate keeps the single records, created certain doubts, different interpretations and difficulties that are the consequence of insufficient harmonization within the legal framework, while also issues of adequate and complete annual property inventory process and setting up of a database of publicly owned unmoveable property of all users cannot be missed, i.e. failed introduction into accounting records of a significant part of property currently being used by other users, the issues of setting up a methodology for the determination of such property's value, as well as on the appropriate body authorized for such operations.⁹⁷

Objective 3.2.2.2. To consistently implement the Law on Public Procurement and establish records on competent authorities' conduct related to irregularities found in their reports

The Strategy notes that thus far there lacked efficient sanctioning of violations related to public procurement processes, as well as adequate cooperation between authorized institutions, and that decisions of the Republic Commission for the Protection of Rights in Public Procurement Procedures (CPP) are not consistently implemented. It is also noted that the new Law on Public Procurement (LPP)⁹⁸ provided the enabling of significant progress in the normative field, but that it is necessary for other regulations to be harmonized accordingly, as well as to enact appropriate by-laws.

95 „Official Gazette of the RS“, No. 105/14.

96 Republic Directorate for Property of the Republic of Serbia, *Report on the Implementation of the Strategy*, January 2015.

97 TS Alternative Report, page 89.

98 „Official Gazette of the RS“, No. 124/12.

According to the TS Alternative Report, the PPO presented the H1/2014 Report, which is pointing to the significantly increased number of contracting authorities that submit reports to the PPO. In addition, the share of low-value procurements was more than halved, which obviously was the consequence of the new rule implementation implying their mandatory public publishing, while in the previous period they were mainly used in order to sign contracts with pre-selected companies due to the limited procedural transparency. The five-fold reduction in the share of negotiated procedures without an invitation to bid, especially of those due to alleged urgency, which was one of the biggest issues, should be interpreted in the same manner. However, the negative side is that the new legislative measures have not yet led to an increase of competition, which is still under a three bids per procurement status. That could be the indicator of the economy's lack of trust in the system, i.e. mistrust related to contracting possibilities with the state without previously making agreements, but also maybe the consequence of some other factors (e.g. the economy's weakness, companies' insolvencies etc., redundant formal requirements requested for participation in the procedure), supplemented by obvious foreign companies' disinterest or mistrust related to the participation in these matters (only 2% of bids), aside the Stabilization and Association Agreement entering into force and the long effective CEFTA agreement, which abolish or reduce privileged treatment of local bidders.

On the other hand, close to one quarter of procurements were exempt from the Law on some basis, which is more than before, but the positive side is that the observed period registered a fewer number of new procurements pursuant to intergovernmental treaties' provisions implying domestic regulatory exemption, while contracted infrastructural operations pursuant to creditors' rules instead of domestic regulations is valued at close to 6 billion RSD.

Based on the new authorities given, in the period from March-June, the PPO initiated 26 misdemeanour proceedings related to violations of the LPP, but according to an assessment provided in the TS Alternative Report, it is plausible to assume that the number of misdemeanours is definitely significantly higher, and that the PPO should significantly strengthen its administrative capacity in order to be able to focus more on this aspect of its operations.

The TS Alternative Report continues to note that during the LPP adoption procedure, the majority of the parliamentary debate referred to estimated savings in reference to its implementation, thus making it normal that during 2014, the public showed interest in finding out if the state really achieved the promised hundreds of million EUR in savings. However, according to the assessment presented in the TS Alternative Report, the approach to this subject was initially incorrectly determined, because the amount of savings cannot be precisely calculated against some total amount, but only as per some individual examples when the same type of goods is procured every year, and even here only conditionally, because other market factors are also altering the estimate, but nevertheless it is important to carefully monitor the LPP implementation in this manner as well, but also in qualitative terms in order to meet the needs of citizens in the best possible way, for whom the procurements are conducted after all.⁹⁹

99 *Ibid*, page 72.

For implementation of this objective, the Action Plan foresees eleven measures.

Measure 3.2.2.2.1. To update the Public Procurement Development Strategy in the Republic of Serbia starting from current changes in the regulatory and institutional framework

The first activity foresees that by March 6 2014, the Ministry of Finance prepares the Draft Amendments to the Public Procurement Development Strategy in the Republic of Serbia and submits it to the Government.

The remark to this activity states that this activity should be implemented with the participation of the PPO.

Indicator: The Draft Amendments to the Public Procurement Development Strategy in the Republic of Serbia are submitted to the Government.

The activity is fulfilled in line with the indicator.

According to information at the Agency's disposal, the activity is fulfilled in the manner, but not within the timeframe envisaged by the Action Plan.

The second activity foresees that by May 6 2014, the Government adopts the Amendments to the Public Procurement Development Strategy in the Republic of Serbia.

Indicator: The Government adopted the Amendments to the Public Procurement Development Strategy in the Republic of Serbia.

The activity is fulfilled in line with the indicator.

According to information at the Agency's disposal, the activity is fulfilled in the manner, but not within the timeframe envisaged by the Action Plan.

Remark: The Government fulfilled the activity within the determined timeframe of two months, but due to the previous responsible entity's delay in the activity's implementation it cannot be considered responsible for the activity's lack of fulfilment in the timeframe determined by the Action Plan.

The MF in its report states that the PPO should be marked as the responsible entity for the preparation of draft amendments to the Public Procurement Development Strategy in the Republic of Serbia.¹⁰⁰

On September 2 2014, the PPO developed and submitted to the Government the Draft Amendments to the Public Procurement Development Strategy in the Republic of Serbia for the period 2014-2018. The Draft was prepared in line with the submitted suggestions related to the working version sent to the competent public administration bodies on June 3. On June 20, the working version was presented at the conference and published on PPO Website in order to secure a transparent approach to document preparation process. The Strategy's draft and the action plan for its implementation was, in accordance with the Government's Rules of Procedures, submitted for opinion to the competent bodies, followed by submission to the General Secretariat of the Government for purposes of consideration and decision making at the Government's session.¹⁰¹

On October 30 2014, the Government enacted the Public Procurement Development Strategy in the Republic of Serbia for the period 2014-2018.¹⁰² This Strategy was harmonized

100 Ministry of Finance, *The Report on the Implementation of the Strategy*, January 2015.

101 *Ibid.*

102 „Official Gazette of the RS“, No. 122/14.

against the LPP, which specifically regulates modifications in the regulatory and institutional framework, governs the centralization of public procurement and public procurements in the area of defence and security in the Republic of Serbia. It foresees an increase in the procedural efficiency by reducing unnecessary administrative requirements, increase in procedural transparency, centralized public procurement, environment protection and the fight against corruption. The priority areas addressed by the Strategy relate to the regulatory framework improvement, strengthening of the institutional framework, increasing the efficiency and sustainability of the public procurement system, and eliminating irregularities in the public procurement system.¹⁰³

Therefore, the Public Procurement Development Strategy in the Republic of Serbia is not amended, but enacted as a new.

According to the TS Alternative Report, one of the serious issues for the entire system of public procurements is that some high-value procurements are still conducted without application of the LPP provisions, based on intergovernmental agreements or agreements with international financial institutions. This issue is not directly covered by the Public Procurement Development Strategy in the Republic of Serbia for the period 2014-2018, and for now there are no planned appropriate measures for resolving those issues in the field of public procurements related to factual possibilities to perform efficient oversight, therefore is recommended that this strategy be amended.¹⁰⁴

Measure 3.2.2.2.2. To define criteria and methods for determining the suitability of public procurements and accountability in cases of determined unsuitability

The single activity within the measure foresees that by March 6 2014, the PPO enacts by-laws determining clear suitability assessment related criteria and methods.

Indicator: The by-laws are enacted.

The activity is fulfilled in line with the indicator.

According to information at the Agency's disposal, the activity is fulfilled within the timeframe, but not in the manner envisaged by the Action Plan.

The Agency notes that by implementing the single activity within the determined measure, the fulfilment of the actual measure if achieved (within the timeframe, but not in the manner envisaged by the Action Plan).

On December 5 2013, the PPO enacted the Rulebook on contents of the act that more closely regulates the public procurement procedure for the contracting authority.¹⁰⁵ The PPO report states that the activity is not implemented in the manner envisaged by the Action Plan, but in a feasible manner and in accordance with other regulations' provisions. Namely, the PPO is authorized to enact by-laws in the field of public procurement, but only of those prescribed by the LPP and not a special by-law that would set clear suitability assessment related criteria and methods. However, the PPO is authorized to more closely regulate the content of the so-called internal act, which more closely regulates the public procurement procedure for the contracting authority (Article 22(2) of the LPP). The internal act obliges the contracting

103 Government of the Republic of Serbia, *The Report on the Implementation of the Strategy*, January 2015.

104 TS Alternative Report, pages 92-93.

105 „Official Gazette of the RS“, No. 106/13.

authority, among other things, also to regulate the procurement plan and planning related responsibility. On the other hand, Article 51(3) of the LPP requires that the contracting authority in its procurement plan, separately indicate, among other things, the reasons and justifications for each procurement. In that way, in line with the LPP, contracting authorities are obliged to provide a suitability related rationale for each procurement. The procurement plan is submitted to the SAI and the PPO. The Rulebook provides criteria that the contracting authority should take into particular consideration during the procurement planning process, related to the determination of suitability for each individual procurement (Article 4). All contracting authorities are obliged that by March 13 2014, enact individual internal acts in line with the Rulebook. In the Report on the Implementation of the Strategy for H1/2014,¹⁰⁶ the Anti-Corruption Agency recommended to the PPO to amend the Rulebook, if feasible in accordance with the LPP, by including suitability related methods and accountability related rules in case of determined unsuitability so that this activity and measure be fulfilled in the manner determined by the Action Plan. In case that such amendments are not feasible, the Anti-Corruption Agency made a recommendation to the PPO to address the Ministry of Justice to consider possibilities of appropriate rephrasing this measure and activity in the Action Plan. On January 14 2015, the PPO informed the Ministry of Justice and the Anti-Corruption Agency that Article 22(1) of the LPP regulates the content of this by-law, which previously must pass the Republic Secretariat for the Legislation's review procedure before it is enacted. If the LPP denies the providing authority to the PPO to regulate certain issues via by-laws, the matter cannot be regulated in that manner.¹⁰⁷

According to the assessment provided in the TS Alternative Report, it cannot be concluded that this activity's implementation is fully accomplished for the purpose of this measure and the activity's inclusion in the Action Plan, given that the Rulebook and the Internal Act Model are pointing to the contracting authorities to the issue of public procurement related suitability, but do not elaborate criteria for the assessment of suitability's potentiality and methodologies for its determination, while an additional issue present is the fact that the quality of internal acts is not a subject of systematic control, and that there is no obligation related to their publication, thus leaving unclear how many contracting authorities fulfilled this obligation. Detailed regulation of the issue of suitability and manners of its assessment is not an easy task, especially due to the fact that comparative practice in this area is not sufficiently developed as well. In its alternative report, the TS recommends to amend the Action Plan and to create a clear legal foundation for the development of by-laws that would regulate the issue of suitability, and that the SAI be appropriately included in the act preparation process given its certain experiences in the suitability-performed audits.¹⁰⁸

106 Anti-Corruption Agency, *Review on the Implementation of the Strategy for H1/2014*, available at: <http://www.acas.rs/praksa-agencije/pracenje-strategije/>.

107 Public Procurement Office, *Report on the Implementation of the Strategy*, January 2015.

108 TS Alternative Report, page 94.

Measure 3.2.2.2.3. To prepare an internal plan model for the prevention of corruption in public procurements to be used by contracting authorities during development of their internal plans

The single activity within the measure foresees that by March 6 2014, the PPO prepares and adopts this model.

Indicator: The internal plan model for the prevention of corruption is adopted.

The activity is fulfilled in line with the indicator.

According to information at the Agency's disposal, the activity is fulfilled in the manner, but not within the timeframe envisaged by the Action Plan, given that the previous conditioning activity is not fulfilled.

The Agency notes that by implementing the single activity within the determined measure, the fulfilment of the actual measure is achieved.

In cooperation with the Anti-Corruption Agency, the PPO developed the Proposal plan for the fight against corruption in public procurements, and on February 25 2014, in line with Article 21(6) of the LPP, submitted it to the Government for adoption. The Government Committee on Legal System and Public Administration informed the PPO of the decision made on April 17, related to the postponement of discussions on the Proposal decree on establishing the plan for the fight against corruption in public procurements, with the note that the regulation proponent needs to acquire the opinions of the Ministry of Defence, the Ministry of Interior and the Serbian Security Information Agency, to perform additional consultations with the Ministry of Justice and Public Administration related to issues addressed at the Committee's meeting, and to inform the Government on all performed matters. On May 26, the PPO submitted the Proposal decree for opinion to all listed bodies, and at the same time requested from the Ministry of Justice for instructions in reference to the manner in which the contracting authorities whose total estimated value of procurements on an annual basis exceeds one billion RSD can enact its internal plans related to the fight against corruption in public procurements, given that the mentioned obligation relates to the adoption of the plan for the fight against corruption in public procurements, whose review is postponed. In addition, a clear instruction related to the fulfilment of PPO obligation from the Measure 3.2.2.2.3. is requested, having in mind that this measure's fulfilment is related to the adoption of the mentioned plan, because for the PPO to be able to prepare an internal plan model used by the contracting authorities in the course of preparation of their internal plans, it is necessary that the plan for the fight against corruption in public procurements be previously adopted. In the Review on the Implementation of the Strategy for H1/2014, the Anti-Corruption Agency recommended to the Ministry of Justice to consider, in cooperation with the PPO, possibilities for removal of listed obstacles related to the PPO's fulfilment of obligations.¹⁰⁹

Even though the plan for the fight against corruption in public procurements has not been adopted, the PPO prepared the Internal Act Model with the goal of fulfilling the obligation from the Action Plan and assisting the contracting authorities in the course of the preparation of internal plans for the fight against corruption in public procurements.¹¹⁰

109 Anti-Corruption Agency, *Review on the Implementation of the Strategy for H1/2014*, page 7, available at: <http://www.acas.rs/praksa-agencije/pracenje-strategije/>.

110 Public Procurement Office, *Report on the Implementation of the Strategy*, January 2015; see also: <http://www.ujn.gov.rs/ci/documents/models>.

According to the TS Alternative Report, even though this measure was implemented, in reference to it can be raised an issue related to the non-fulfilment of previous activities – the Government’s enacting of the plan for the fight against corruption in public procurements, and possible amendments to the LPP in order to additionally specify the plan’s provisions, especially having in mind possible challenges related to the implementation of other laws by the contracting authorities. In case of appropriate amendments made to the Action Plan, the TS recommends listing of an activity related to internal plans’ verification of compliance in reference to the by-law.¹¹¹

Measure 3.2.2.2.4. To prepare a model for enacting the contracting authorities’ internal acts that will in a precise manner govern the public procurement procedure, including registration of any action taken and identification of personal responsibility related to the regularity of conduct

The single activity within the measure foresees that by March 6 2014, the PPO prepares and adopts this model.

Indicator: The Internal Plan Model for the prevention of corruption is adopted.1

The activity is fulfilled in line with the indicator.

According to information at the Agency’s disposal, the activity is fulfilled in the manner, and within the timeframe envisaged by the Action Plan.

The Agency notes that by implementing the single activity within a determined measure, the fulfilment of the actual measure is achieved.

On February 10 2014, the PPO published on its Website the Internal Act Model, prepared in accordance with the Rulebook on the contents of the act that more closely regulates the public procurement procedure for the contracting authority.

Representatives of the PPC and the SAI, as well as of the contracting authorities included in the implementation of the public procurement phases, participated in the Model’s preparation. The Model was of practical importance for contracting authorities, given that it served as a basis for enacting internal rulebooks, a fact noted by performing insight into the rulebooks submitted by the contracting authorities to the PPO.¹¹²

According to the assessment from the TS Alternative Report, the Model in an excellent manner elaborates on the obligations that contracting authorities have on the basis of the by-law, and leaves them with options for formulating certain provisions, but the emerging issue here is that certain contracting authorities uncritically take over generic terms from the Model, instead of replacing them with titles of their respective sphere of activities, organizational units or job posts. An additional issue is the non-existence of systematically performed control of compliance in reference to obligations from the by-law, and thus, with the aim of resolving this issue, is recommended to consider the further elaboration of activities in the Action Plan.¹¹³

111 TS Alternative Report, page 95.

112 Anti-Corruption Agency, *Review on the Implementation of the Strategy for H1/2014*, page 7, see also: <http://www.ujn.gov.rs/ci/documents/models>.

113 TS Alternative Report, page 97.

Measure 3.2.2.2.5. To establish records on the competent authorities’ conduct related to the identified irregularities presented in the control and regulatory bodies’ reports

The single activity within the measure foresees that by September 6 2014, the Ministry of Finance establish the records on conduct.

Indicator: The records are established.

The Agency is unable to assess the fulfilment of this activity.

In its report, the MF is not referring to this activity, and by the time of the TS Alternative Report’s conclusion, it failed to reply to their request for submission of information on this measure’s implementation. The TS Alternative Report concludes that the activity is unclear, bodies are unidentified, and their obligation to submit information to the Ministry of Finance for entry into records is not determined, thus it recommends to additionally specify the Action Plan to establish a legal obligation related to reporting on conduct, which could include conduct of the PPO, the PPC, the Commission for the Protection of Competition, the SAI, the Commission for Public-Private Partnership, the Anti-Corruption Agency, while important data could be in possession of the public prosecutors, police, state attorneys, budgetary inspection, bodies with internal audit units, contracting authorities, bodies in charge of supervising contracting authorities’ operations and organizations that are public power holders (e.g. chambers).¹¹⁴

Measure 3.2.2.2.6. To regulate the manner of keeping records and reporting on performance of contractual obligations of bidders

The single activity within the measure foresees that by March 6 2014, the PPO prepares and adopts a by-law regulating the manner of keeping records and reporting on the performance of contractual obligations, with clearly established responsibilities related to taking prescribed measures in case of the non-performance of contractual obligations by the bidders.

Indicator: The by-law is enacted.

The activity is fulfilled in line with the indicator.

According to information at the Agency’s disposal, the activity is fulfilled within the timeframe, but not in the manner envisaged by the Action Plan.

The Agency notes that by implementing the single activity within a determined measure, the fulfilment of the actual measure is achieved.

On March 29 2013, the PPO enacted the Rulebook on the contents of the public procurement report and manner of keeping records on public procurement.¹¹⁵ The Rulebook foresees that the quarterly report on public procurements, among other elements, contains information on the performance of implementing the public procurement contract, while providing the necessary elements that the quarterly report, submitted by a bidder, must contain, including hence, information on the performance of implementing a public procurement contract (Article 3). Quarterly reports are submitted to the PPO via a software application, where the bidder enters information on the performance and/or non-performance of the contract, and in the case of performance enters information on the

114 *Ibid*, pages 97-98.

115 „Official Gazette of the RS“, No. 29/13.

worth of contract execution, while in the case of non-performance enters the reason for non-performance. In a special section titled “rationale” additional information on contract performance is entered, i.e. non-performance. Elements listed in Article 3 of the Rulebook serve bidders to define the content of the report on public procurement that is submitted to the PPO, while all bidders have an obligation to within 10 days after the close of the quarter submit their quarterly reports to the PPO. In this manner the PPO implemented activity not in the form of enacting a special by-law, but in a manner that was feasible within powers and authorities envisaged by the LPP. Similar to the case of Measure 3.2.2.2.2., the PPO states that the LPP provides no authorities for enacting of a special by-law that would separately regulate the manner of keeping records and reporting on the performance of the contractual obligations of bidders. Having in mind that Article 132(3) of the LPP envisages that the PPO defines in detail the contents of reports on public procurements and the manner of keeping records on public procurements, the PPO via this by-law has implemented the obligation from the Action Plan.¹¹⁶

Even if not implemented by enacting the new by-law, it can be concluded that the by-law submitted by the PPO as evidence for implementation of the activity, the purpose of the measure is achieved.

Measure 3.2.2.2.7. To increase the transparency of the public procurement procedures
The single activity within the measure foresees that by September 6 2015, the PPO upgrades the Public Procurement Portal in order for procurement plans and other relevant acts and information on public procurements to be available to the public. Indicator: The procurement plans and other relevant acts and information on public procurements are available to the public via Portal; Report of the PPO.
Activity's implementation is ongoing.

According to the PPO report, the software application, to be used by bidders for submission of their procurement plans to the PPO, became operational in mid January 2014. Still, this activity is not implemented in accordance with the Action Plan, having in mind that this manner of activity's implementation is not foreseen by the LPP. Procurement plans will not be published on the Public Procurement Portal for the time being, and they are stored in the PPO databases, which analyses them, while the legal obligation also envisages their submission to the SAI. The PPO recommends that in the course of future amending procedure to the LPP, an obligation related to their publication on the Public Procurement Portal be defined.¹¹⁷

Measure 3.2.2.2.8. To keep the system of e-procurements and e-biddings in order to reduce the influence of a “human factor”
The first activity foresees that by September 6 2014, the PPO conducts a feasibility analysis. Indicator: The feasibility analysis is conducted.
The activity is not fulfilled in line with the indicator.

* The second activity was not due for implementation until the end of 2014.

¹¹⁶ Public Procurement Office, *Report on the Implementation of the Strategy*, January 2015.
¹¹⁷ *Ibid.*

The implementation of the first activity was postponed to Q3/2015, in line with the Public Procurement Development Strategy in the Republic of Serbia for 2014-2018. Based on this Strategy, as well as the Action Plan for its implementation, the deadline for implementation of the activity “Analysis of the existing legislative and institutional framework for implementation of e-procurement in the Republic of Serbia (e-bidding, e-auctions, e-dynamic procurement system, e-catalogues)” is set to Q3/2015, having in mind the new EU directives' solutions from the area of public procurements that came to force in 2014, and which also relate to the e-procurement area.¹¹⁸

Measure 3.2.2.2.9. To strengthen capacities of regulatory and control bodies in the field of public procurement, particularly of the Public Procurement Office given the new powers determined by the Law on Public Procurement
The first activity foresees that by March 6 2014, the PPO prepares a list of regulatory and control bodies in the field of public procurement. Indicator: The list of regulatory and control bodies in the field of public procurement is prepared.
The activity is fulfilled in line with the indicator. According to information at the Agency's disposal, the activity is fulfilled in the manner, but not within the timeframe envisaged by the Action Plan.
The second activity foresees that by September 6 2014, each listed body prepares a needs analysis. Indicator: The needs analysis is prepared.
The activity is not fulfilled in line with the indicator, given that the previous conditioning activity is not fulfilled.

* The third, fourth, fifth and sixth activities were not due for implementation until the end of 2014.

The Public Procurement Development Strategy in the Republic of Serbia for 2014-2018 determines the institutional framework in the area of public procurement. It is stated that the primary bodies in the public procurement system are the PPO and the PPC, while other institutions relevant in the field of public procurements include the SAI, the MF, the Ministry of Trade, Tourism and Telecommunications, the Commission for Public-Private Partnership, the Anti-Corruption Agency, the Commission for the Protection of Competition and the Administrative Court. Furthermore, the PPL designates the Administration for Joint Services of Republic Bodies as the body in charge of centralized public procurement. At the same time, this Strategy envisages that in the coming period it will be necessary to create the legal assumptions for transferring the duties pertaining to preparation, drafting and implementation of legislation and measures in the field of concessions and public-private partnership, currently within the remit of the ministry in charge of foreign and internal trade, to the ministry in charge of economy. Given the need of executing other activities envisaged by the Action Plan for the implementation of this Strategy, on January 14 2015, the PPO forwarded information to all bodies that constitute the institutional framework in the field of public procurement, in reference to the list of regulatory and control bodies in the area of public procurement.¹¹⁹

¹¹⁸ *Ibid.*
¹¹⁹ *Ibid.*

Within the Proposal Strategy, the PPO submitted information on the needs related to the straightening of human, technical and office capacities, necessary for performing all of its given competences. The Strategy prescribed strengthening of capacities of the Administration for Joint Services of the Republic Bodies, the Commission for Public-Private Partnership and the PPC.¹²⁰

Measure 3.2.2.2.10. To implement the final decisions of the Republic Commission for the Protection of Rights in Public Procurement Procedures, in all cases

The first activity foresees that by September 6 2014, the Ministry of Finance amends regulations so as to establish clear procedures related to the implementation of the PPC decisions.

The remark to this activity states that the report should also contain information on the number of implemented decisions.

Indicator: The regulations are amended.

The activity is not fulfilled in line with the indicator.

The second activity foresees that the PPC on a permanent basis monitors the implementation of its decisions.

Indicator: The Report of the Republic Commission for the Protection of Rights in Public Procurement Procedures.

The activity is fulfilled in line with the indicator for the reported period.

According to information at the Agency's disposal, the activity is fulfilled in the manner, and within the timeframe envisaged by the Action Plan.

Agency's opinion and recommendation: The Agency points out that here, as well as in all other parts in the Action Plan where specific responsible entities are not envisaged, but where that feature is left to another body's decision, it is important that the responsible entity that prepares a list on the matter, given the expansion of responsible entities' list, i.e. list of obligations, also informs the ministry in charge of judicial affairs, as the body in charge of coordination of the Strategy, the Ministry of Finance, as the body in charge of preparation of the budget law for each budgetary year, as well as the Anti-Corruption Agency and the Anti-Corruption Council, as bodies in charge of oversight of implementation, i.e. monitoring of the Strategy's implementation results.

In reference to the first activity, in its report the MF states that it is necessary to additionally define the reference regulation, i.e. determine if the stated regulation is in the Ministry of Finance's field of competence.¹²¹

Related to this activity, the Alternative Report of the TS notes that the CPP conduct related procedures are already prescribed by the LPP, and that for this reason the Action Plan should be more precise in reference to the need of possibly amending the LPP, or by prescribing authorities for enacting of a by-law that would regulate this matter more closely.¹²²

In reference to the second activity, in its report the CPP states that during the reported pe-

120 TS Alternative Report, page 100.

121 Ministry of Finance, *Report on the Implementation of the Strategy*, January 2015.

122 TS Alternative Report, page 102.

riod it has continued to request and to review the contracting authorities' reports related to acting upon its decisions. Additionally, on April 14 2014, the Decision on monitoring of the CPP's decisions implementation is enacted, which regulates in detail the internal procedure for acting with regards to the performance of activities envisaged by the Strategy and the Action Plan. The operating mode of an organizational unit is arranged – the Group for monitoring of the implementation of decisions, control over the implementation of contracting authorities' decisions and the prevention of abuse in requests for the protection of rights, which improved the implementation of this activity.¹²³

In reference to this activity, the TS Alternative Report notes that it would be of particular importance for the CPP to regularly publish its decisions and findings related to their implementation.¹²⁴

Measure 3.2.2.2.11. To educate on the implementation of new solutions in the field of public procurements

The first activity foresees that by July 6 2014, the PPO prepares a training curriculum and manuals with instructions.

The remark to this activity states that the manual should contain model Acts enacted during the public procurement procedure, as well as examples of good practice.

Indicator: The training curriculum based on the needs analysis' recommendations is developed; Manuals with instructions are developed and printed.²

The activity is not fulfilled in line with the indicator.

* The second activity was not due for implementation until the end of 2014.

In late June 2014, the PPO developed a training curriculum related to the implementation of new solutions in the area of public procurement for the period September-December 2014. The work on preparation of a training curriculum for H1/2015 is ongoing, given the fact of the trainings' implementation envisaged by the Action Plan for the implementation of the Public Procurement Development Strategy in the Republic of Serbia. In addition, preparation of a manual for public officers' certification in public procurement is ongoing, and it will be published on the PPO website in January-February 2015.¹²⁵

Objective 3.2.2.3. To improve cooperation and coordination of activities related to combating corruption between relevant institutions, at all government levels

The Strategy points to issues related to the absence of adequate cooperation between relevant institutions.

123 Republic Commission for the Protection of Rights in Public Procurement Procedures, *Report on the Implementation of the Strategy*, January 2015.

124 TS Alternative Report, page 102.

125 Public Procurement Office, *Report on the Implementation of the Strategy*, January 2015.

For implementation of this objective, the Action Plan foresees three measures.

Measure 3.2.2.3.1. To improve cooperation and coordination of activities related to combating corruption between relevant institutions in the field of public finances
The single activity within the measure foresees that by March 6 2014, the PPO initiates signing of a memorandum on cooperation between the PPO, the CPP, the Ministry of Finance and economy, the SAI, the Anti-Corruption Agency, the Anti-Corruption Council and the Commission for the Protection of Competition. Indicator: The memorandum on cooperation is signed.
The activity is fulfilled in line with the indicator. According to information at the Agency's disposal, the activity is fulfilled in the manner, but not within the timeframe envisaged by the Action Plan.
The Agency notes that by implementing the single activity within the determined measure, the fulfilment of the actual measure if achieved (in the manner, but not within the timeframe envisaged by the Action Plan).

The Memorandum on cooperation was signed on April 14 2014, and envisages, among other elements, improvements in data exchange between institutions, as well as establishing of a joint database.

The TS Alternative Report recommends that the Action Plan be amended so as to encompass the issue of Memorandum on cooperation implementation, to a minimal degree (e.g. by conducting periodic meetings and considering the need for improvement of cooperation), while publication of the Memorandum on cooperation and conclusions from these meetings should be envisaged.¹²⁶

Measure 3.2.2.3.2. To train police and public prosecutor's office officers in reference to public procurement for conducting more effective investigations of criminal offenses, as well as judges for more efficient judicial proceedings in cases of determining the criminal responsibility in the field of public procurements, and magistrates for more efficient conduct of offence proceeding cases prescribed by the Law on Public Procurement
The first activity foresees that by March 6 2014, the Judicial Academy prepares employees training curriculum and manuals with instructions. Indicator: The employees training curriculum based on the needs analysis is prepared; Manuals with instructions are developed and printed. ³
The activity is not fulfilled in line with the indicator.
The second activity foresees that the Judicial Academy on a permanent basis conducts staff training and distributes manuals with instructions. Indicator: Training curriculum executed by the year of Strategy validity; reports on training curricula implementation; curricula and lists of training participants, and reports on trainings evaluation.
The activity is not fulfilled in line with the indicator.

¹²⁶ TS Alternative Report, page 104.

According to the Judicial Academy's report, the programme is prepared, initiation of implementation is set to April 2014, while programme implementation will last until end 2015. Within the Programme "Preventing Corruption in Public Finances" a working group is established, lecturers are agreed on, and two training modules are developed that will be implemented in cycles. The first module is envisaged for the PPO and the CPP, with the lecturers coming from magistrates' courts or criminal courts. The training is currently implemented in cooperation with UNDP. Development of advanced level of trainings for both modules is planned, and all modules will be implemented to encompass the entire territory of the Republic of Serbia during programme implementation.¹²⁷

In reference to this measure's implementation, the TS Alternative Report recommends to additionally define and amend the Action Plan so that the minimum number of police officers, prosecutors and judges be determined that should be encompassed by these trainings, as well as the final testing related to increased knowledge, in order for it to be possible to assess this training's impact. A number of recommendations related to the content of the training plan are also provided.¹²⁸

Measure 3.2.2.3.4.4 To introduce records on the conduct of magistrates courts, prosecutors' offices and courts of general jurisdiction related to irregularities found in the reports of the State Audit Institution and Public Procurement Office
The first activity foresees that by December 6 2014, the Judicial Academy conducts the SAI and the PPO employees' education on the features of corruption related criminal offences. Indicator: The number of conducted trainings.
The activity is not fulfilled in line with the indicator.
The second activity foresees that the SAI and the PPO on a permanent basis file misdemeanour charges and submit their findings to the competent prosecutor's office. Indicator: The number of charges.
The activity is fulfilled in line with the indicator for the reported period, and in the part related to the SAI, as well as in the part related to the PPO. According to information at the Agency's disposal, the activity is fulfilled in the manner, and within the timeframe envisaged by the Action Plan, in part related to the SAI, as well as in the part related to the PPO.

* The third activity was not due for implementation until the end of 2014.

In its report, the Judicial Academy states that training programmes are initiated in April 2014, and that they will be implemented by the end of 2015. During the training programme's implementation, the SAI will prepare a manual with the goal to more closely present the role and competences of this institution, which will consequently be forwarded to judicial bodies. The training will also add to the PPO and the SAI networking efforts, as well as to better cooperation and understanding of their respective roles by judges and prosecutors.¹²⁹

The SAI on a continuous basis files requests for initiation of offence proceedings and criminal charges against responsible entities in the subjects of audits for which exist suspicion of

¹²⁷ Judicial Academy, *Report on the Implementation of the Strategy*, February 2015.

¹²⁸ See more detailed: TS Alternative Report, pages 105-106.

¹²⁹ Judicial Academy, *Report on the Implementation of the Strategy*, February 2015.

committing misdemeanour or criminal offences. The names of responsible persons against which the SAI filed requests, i.e. charges, are published on the SAI internet page.¹³⁰

Following March 1 2014, (coming to force of the new Law on Misdemeanours), the PPO filed 26 requests for initiation of offence proceedings to the CPP.¹³¹

In reference to this activity, the TS Alternative Report recommends that the Action Plan be amended so that the deadlines for initiation of offence proceedings related to gained information on the specific offence of the LPP are determined, but also that the PPO and the SAI capacities related to those obligations be planned, to foresee the obligation of publishing information on initiated offence proceedings and to establish records of responsible entities within contracting authorities for the fulfilment of certain obligations from the LPP, in order to ease initiation of offence proceedings.¹³²

Measure 3.2.2.3.5.5 To establish efficient cooperation of civil society organizations and regulatory, control and bodies of repression in the field of preventing and combating corruption cases in public procurements

The first activity foresees that by March 6 2014, the Judicial Academy prepares a training curriculum on the prevention and combat of corruption cases in public procurements. The remark to this activity states that it should be implemented in cooperation with the PPO.

Indicator: The training curriculum and manual on prevention and combat of corruption cases in public procurements is prepared.

The activity is not fulfilled in line with the indicator.

* The second and third activities were not due for implementation until the end of 2014.

In reference to this measure, the Judicial Academy, in addition to information on programmes and implementation of trainings that are submitted within other measures dealing with trainings in the area of public procurement, in its report states that during the implementation of the programmes, numerous round tables will be organized with the participation of civil society representatives that will present results of their researches, as well as their experiences, while these meetings will improve the training programmes as well.¹³³

130 State Audit Institution, *Report on the Implementation of the Strategy*, February 2015.

131 Public Procurement Office, *Report on the Implementation of the Strategy*, January 2015.

132 TS Alternative Report, pages 107-108.

133 Judicial Academy, *Report on the Implementation of the Strategy*, February 2015.

3.2.3. Public Internal Financial Control, External Audit and Protection of EU Financial Interests

Three objectives are formulated within this sub-area: established and developed system of public internal financial control in the public sector at all levels of government (**Objective 3.2.3.1.**), amended legal framework for ensuring complete financial and operational independence of the SAI in accordance with standards of the International Organization of Supreme Audit Institutions (INTOSAI) and carried out audits of expediency (**Objective 3.2.3.2.**), and established and developed system of prevention, detection, reporting and conduct on irregularities related to the use of EU funds and funds of other international institutions and organizations (**Objective 3.2.3.3.**).

The issues that the Strategy is pointing to relate to the inadequate legal framework consisting mostly of by-laws, but also to the inconsistent application of existing regulations, the internal auditor's understaffing against systemized job positions due to the lack of highly educated manpower, low wages, inadequacy of systematized vocations against the workload and complexity of operations and competition of the private sector, as well as the fact that managerial responsibility and financial management and control are still comprehended in its narrower meaning in terms of focusing on legality and regularity of financial transactions without explicit consideration of the issues related to cost-effectiveness, efficiency and suitability.

According to the TS Alternative Report, the SAI reports demonstrate that in the area of public finance management there occurred no significant progress, because of the reoccurrence of very similar issues as in the previous year's audit reports, which require appropriate reaction of other state authorities as well, foremost the National Assembly (which should aside considering audit reports also rectify systematic problems, either by amending laws, or by calling on the Government to take responsibility for underperforming), as well as public prosecutors that should not wait for the submission of criminal charges from auditors, but should themselves investigate the possibility of potential cases of abuses subject to criminal responsibility in the background of the noted breach of procedures. In its alternative report, the TS concludes that these SAI findings confirm that it is necessary to build other public finance protection related mechanisms, such as internal audits and budgetary inspections, while afterwards the SAI could commit to a greater extent to investigating public expenditure's expediency, and that for the same reasons, other forms of controls should be strengthened that obviously so far have not showed sufficient results, especially related to the Ministry of Economy's control over public enterprises, as well as the Ministry of Finance and line ministries' control related to the recruitment freeze policy.¹³⁴

The TS Alternative Report continues by stating that in this year as well, the SAI noted that the internal control system is not operational as it should be in the case of almost none of the audited subjects, and that internal audits were performed to their full capacity only in the case of three out of 72 audited subjects. As an improvement from previous years, the SAI noted that in the rationale to the Draft law, the public debt balance is presented for the first time, as well as that for the first time the expediency audit related to the use of public vehicles showed results – “considerable reduction in the number of official vehicles”, “reduction in the number of authorized official vehicles' users”, “inventory of vehicles not in use”, etc. The important fact is that the SAI performed for the first time this year an audit of reports responsiveness, which is of key importance for performing controls related to compliance against previously provided recommendations.¹³⁵

134 TS Alternative Report, page 74.

135 *Ibid*, page 75.

Acting on the Strategy and the Action Plan

Objective 3.2.3.1. To establish and develop a system of public internal financial control in the public sector at all levels of government

For implementation of this objective, the Action Plan foresees seven measures.

<p>Measure 3.2.3.1.1. To regulate the legal status of internal auditors and secure functional and operational internal audit independence and define principles of financial management and control, as well as function and operations of the Central Harmonization Unit.</p>
<p>The first activity foresees that by March 6 2014, the Ministry of Finance prepares a compliance analysis of the current regulatory framework against EU standards, comparative solutions and best practices.</p> <p>The remark to this activity states that the measure can be implemented via amendments to the Budget System Law, or by enacting of a new law regulating internal control or internal audit, depending on compliance analysis results.</p> <p>Indicator: The analysis is developed.</p>
<p>The activity is not fulfilled in line with the indicator.</p>
<p>The second activity foresees that by September 6 2014, the Ministry of Finance prepares the Draft Law and submits it to the Government.</p> <p>The remark to this activity states that as working group members, auditors with biggest practical experience in the field of internal audit should be included.</p> <p>Indicator: The Draft Law is submitted to the Government.</p>
<p>The activity is not fulfilled in line with the indicator.</p>
<p>The third activity foresees that by December 6 2014, the Government submits the Bill to the National Assembly.</p> <p>Indicator: The Bill is submitted.</p>
<p>The activity is not fulfilled in line with the indicator, given that the previous conditioning activity is not fulfilled.</p>

* The fourth activity was not due for implementation until the end of 2014.

According to the MF report, the Republic of Serbia has for the most part fulfilled its short-term and mid-term development priorities related to the public internal financial control (PIFC) by enacting the Strategy for Development of Public Internal Financial Control in the Republic of Serbia for the period 2009-2014, by adopting a regulatory framework, i.e. enacting the Budget System Law containing provisions related to the establishment of PIFC and obligation of public funds users' heads to establish the financial management and control system (FMC) and the internal audit function in their organizations by establishing the Central Harmonization Unit (CHU). The overall PIFC system in the Republic of Serbia is regulated by the Budget System Law and elaborated in more details in the rulebooks, and even further in the Rulebook for Financial Management and Control and the Rulebook for Internal Audit. The amendments to existing regulations from the area of PIFC are conducted on a permanent basis and as per need. The Declaration on cooperation between the EC DG Budget and the MF from 2007, implies cooperation in the field of PIFC development, thus all regulations enacted in this field are previously granted with the EC's consent. Following

the conclusion of the performance overview in the field of PIFC in the Republic of Serbia, the EC prepared a report for the Chapter 32. Upon receipt of EC report, the Government adopted negotiation position for Chapter 32, whose main element is the PIFC. The new PIFC development strategy for the period 2015-2019 will include EC findings and commitments deriving from the Negotiation position of the Government for Chapter 32. The working group for deliberation and discussion on the strategy draft is established, the first meeting was held on May 23 2014 and the first draft is prepared.¹³⁶

In reference to this measure, the TS Alternative Report recommends that the Action Plan be updated and timeframes aligned against other strategic documents, as well as to resolve conceptual doubts, because, on one hand, the Action Plan advocates for a stronger legal position of internal auditors and envisages the enactment of a special law or making significant amendments to the Budget System Law, while on the other hand, it seems that the MF currently keeps a stance that existing legal framework is sufficient and in line with the standards.¹³⁷

Measure 3.2.3.1.2. To implement regulations from the field of public internal financial control

The single activity within the measure foresees that the Ministry of Finance on an annual basis prepares reports on the issue whether and which public funds users consistently perform their commitments related to enacting plans for the implementation and development of financial management and control systems, assigning a responsible manager in charge of financial management and control, enacting internal acts and procedures related to financial internal control, as well as submitting annual report to the CHU.

The remark to this activity states that the Consolidated Annual Report on the Status of Public Internal Financial Control in the Republic of Serbia is published on the Ministry of Finance's website, and that this measure refers to liable parties as defined by the Budget System Law.

Indicator: The CHU prepares a consolidated annual report on the status of the public internal financial control in the Republic of Serbia, showing whether and which public fund users performed their commitments.

The activity is fulfilled in line with the indicator.

According to information at the Agency's disposal, the activity is fulfilled within the timeframe, but not in the manner envisaged by the Action Plan.

According to the TS Alternative Report, the Consolidated report for 2013 on the PIFC status is prepared, adopted by the Government's Conclusion on July 18 2014, and published on the MF's website. The Government has so far adopted five consolidated reports, subsequently published on this ministry's website. However, given that the consolidated report presents information on the fulfilment of commitments as per groups of budget fund users, it cannot be clearly noted which have failed to accomplish certain commitments, and thus it is recommended that consolidated reports be amended with this information, as well as information on the related measures taken.¹³⁸

¹³⁶ Ministry of Finance, *Report on the Implementation of the Strategy*, January 2015.

¹³⁷ TS Alternative Report, page 112.

¹³⁸ TS Alternative Report, page 113.

Measure 3.2.3.1.3. To strengthen capacities of public funds users that have established their own internal audit

The third activity foresees that by March 6 2014, the CHU prepares internal audit training curriculum from areas that can be subject to control, as well as on manners of conduct in cases of identified significant irregularities or fraud.

Indicator: The internal audit training curriculum is prepared.

The Agency is unable to assess the fulfilment of this activity.

The fourth activity foresees that the CHU on a permanent basis conducts internal audit training curriculum from areas that can be subject to control, as well as on manners of conduct in case of identified significant irregularities or fraud.

The remark to this activity states that by December 31 2012, in the public sector (ministries, public enterprises, institutions, agencies, insurance funds), 141 internal auditors are certified.

Indicator: Training curriculum executed by the year of Strategy validity; reports on training curricula implementation; curricula and lists of training participants, and reports on training evaluations.

The Agency is unable to assess the fulfilment of this activity.

** The first and second activities were not due for implementation until the end of 2014.*

In the Consolidated annual report for 2013 in reference to the status of the PIFC, public funds users are provided with recommendations related to the need of systemized job positions' alignment against the number of executive positions based on the risk assessment, complexity of operations and volume of funds, and states that internal auditors' training and certification are based on internationally accepted standards related to internal control and internal audit, and the methodology harmonized with EU member countries' best practices, that training on improving communication, presentation and negotiation skills is conducted, and that the theoretical part of training, conducted in two cycles, encompassed 108 trainees and 46 public funds users, while practical part of training covered 71 trainees and 17 public funds users, as well as that taking of exams for acquiring the professional title of certified public internal auditor is organized, which was passed by 48 candidates. The Conference on prominence of internal financial control for mayors and city administrations' managers is held, as well as one-day training for 67 City of Novi Sad Administration officials and managers, with providing advices and instructions to public funds users on manners of organizing internal audits and establishing a financial management and control system.¹³⁹

¹³⁹ *Ibid*, page 115.

Measure 3.2.3.1.4. To strengthen the Central Harmonization Unit's capacities

The first activity foresees that by September 6 2014, the Ministry of Finance prepares a needs analysis.

Indicator: The needs analysis is prepared.

The Agency is unable to assess the fulfilment of this activity.

The fifth activity foresees that the Ministry of Finance on a permanent basis enables the CHU to establish connections with other participants of public internal financial control, as well as with CHU employees from other countries.

Indicator: The report on connections.

The Agency is unable to assess the fulfilment of this activity.

** The second, third and fourth activities were not due for implementation until the end of 2014.*

According to the MF report, the needs analysis will be conducted by a working group established for reviewing and debating the draft development strategy of the PIFC for the period 2015-2019. One of the measures from the Negotiation position for Chapter 32 is devoted to administrative capacities' analysis in order to enable the CHU to perform its function to full capacity. The draft development strategy of the PIFC for the period 2015-2019 includes measures related to the improvement of CHU employees' professional skills by attending seminars and courses in specific areas of financial management and control and internal audit.¹⁴⁰

In the Consolidated annual report for 2013 on the implementation of the PIFC it is stated that CHU employees' trainings are conducted on a permanent basis, while connecting with other participants of the PIFC process is enabled via holding regular meetings, workshops and by using internet page instruments for reviewing important issues related to the PIFC, and that cooperation with the SAI, the Association of Internal Auditors of Serbia – associated member of the Global Institute of Internal Auditors, is established and maintained, as well as with other countries' CHU with whom are exchanged experiences related to the PIFC establishment and development. In addition, recommendations related to mitigating the issues that the CHU is facing are also provided: 1) initiation of an appropriate staff recruitment process; 2) harmonization of wage and employees reward systems in the CHU against respective systems in the SAI, as envisaged by the Strategy from August 2009; 3) providing necessary financial assets and other resources that will enable the CHU to conduct trainings with the aim of increasing the level of understanding and acceptance of financial management and control system and internal audit function by managers; 4) securing necessary financial assets and other resources that will enable the CHU to connect with other participants of the PIFC process via obtaining data processing programmes and organizing regular meetings and workshops for reviewing issues of importance for the PIFC.¹⁴¹

¹⁴⁰ Ministry of Finance, *Report on the Implementation of the Strategy*, January 2015.

¹⁴¹ TS Alternative Report, page 117.

Measure 3.2.3.1.5. To increase the number of trained public sector managers and employees on financial management and control system's substance and importance
The single activity within the measure foresees that the CHU on a permanent basis organizes and conducts trainings related to financial management and control. Indicator: Training curriculum executed by the year of Strategy validity; reports on training curricula implementation; curricula and lists of training participants and reports on trainings evaluation.
The activity is fulfilled for the reported period. The Agency has no available information if the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan. Remark: In accordance with the methodology's amendments, the Agency assesses that the activity is fulfilled for the reported period even though the responsible entity failed to submit all information as per indicator.
The Agency notes that by implementing the single activity within the determined measure, the fulfilment of the actual measure is achieved for the reported period.

The CHU continuously organizes trainings for managers and employees in charge of financial management and control processes. The purpose of training is to familiarize trainees with the system of financial management and control and activities that need to be taken in order for system to be established and developed. The task is to work on improving the financial management and decision-making in order to accomplish public funds users' objectives and operational performance in a legal, orderly, ethical, economical, efficient and effective manner. The basic training programme for financial management and control comprises four areas, as follows: 1) introduction to public internal financial control; 2) the COSO internal control-integrated framework; 3) risk management system; and, 4) managerial control system. Public fund users are offered advice and recommendations via the telephone, e-mail, on the spot or during consultations held in the CHU. A number of public fund users' trainings is organized on development methodologies' procedures, risk management and risk register.¹⁴²

Measure 3.2.3.1.6. Increased number of trained internal auditors
The single activity within the measure foresees that the CHU on a permanent basis organizes internal auditors' trainings and certification programmes. The remark to this activity states that internal auditors should be trained for performing compliance audits, financial audits, IT audits and performance audits, or combination of listed types of audits, as well as on the manner of conduct in cases of detected significant deficiencies or fraud. Indicator: Training curriculum executed by the year of Strategy validity; reports on training curricula implementation; curricula and lists of training participants, and reports on trainings evaluation.
The Agency is unable to assess the fulfilment of this activity.

142 *Ibid*, pages 118-119.

With the mentorship and expert guidance, 72 participants and 30 organizations are included in the practical segment of the internal audit education aimed at gaining the professional title of certified public internal auditor. The exam for gaining a professional title of certified public internal auditor is organized in May 2014, when an additional 27 candidates gained this title, bringing the total number of certified public internal auditors to 216.¹⁴³

By the end of 2013, the total number of certified public internal auditors amounted to 189.¹⁴⁴

Measure 3.2.3.1.7. To create e-Records on parties liable to introduction of public internal financial control system, at all levels
The single activity within the measure foresees that by September 6 2014, the Ministry of Finance develops software, defines information needed, and collects and enters information on liable parties. Indicator: Developed, transparent e-Records with all defined data, updated on a regular basis.
The activity is not fulfilled in line with the indicator.

According to the MF report, within this activity the necessary funds for software development are secured, the tender procedure is conducted and the best bidder is selected, terms of reference and the software platform are prepared, and the software demo version is presented.¹⁴⁵

Objective 3.2.3.2. To amend the legal framework for ensuring the full financial and operational independence of the SAI in accordance with standards of the International Organization of Supreme Audit Institutions (INTOSAI) and conducted audits of expediency

For implementation of this objective, the Action Plan foresees two measures.

Measure 3.2.3.2.1. To amend the Law on State Audit Institution, which ensures full financial and operational independence
The first activity foresees that by July 6 2014, the Government prepares and submits the Bill on Amendments to the Law on State Audit Institution, harmonized against standards of the International Organization of Supreme Audit Institutions (INTOSAI). The remark to this activity states that Council members and other SAI officials' office term should be extended, in a manner to be longer than legislative and executive officials' term, to ensure that the SAI official whose office term ended, continues to perform professional services in the SAI, to increase the number of MPs that can initiate Council members' dismissal procedure, and to strengthen Council members' financial independence and immunity. Indicator: The Bill on Amendments to the Law on State Audit Institution is harmonized against standards of the INTOSAI.
The activity is not fulfilled in line with the indicator.
The second activity foresees that by September 6 2014, the National Assembly adopts the Law on Amendments to the Law on the State Audit Institution. The remark to this activity is identical to the first activity's remark. Indicator: The Law on Amendments to the Law on the State Audit Institution is adopted.
The activity is not fulfilled in line with the indicator, given that the previous conditioning activity is not fulfilled.

143 Ministry of Finance, *Report of the Implementation of the Strategy*, January 2015.

144 TS Alternative Report, page 120.

145 Ministry of Finance, *Report of the Implementation of the Strategy*, January 2015.

The Government in its report states that in reference to the first activity's implementation is by obvious error marked as the responsible entity, because the mentioned law was previously amended in 2010, following the MP caucus proposal, and also given the Measure 3.1.1.2., which stipulates the MF as the responsible entity for amending the law. Therefore, the Government recommends that the Action Plan envisage other responsible entity for this activity's implementation.¹⁴⁶

Measure 3.2.3.2.2. To strengthen the State Audit Institution's capacities and improve the working conditions by increasing the number of employees and permanently resolve the issue of office premises
The first activity foresees that by December 6 2014, the SAI increases the number of employees in line with its staffing plan. Indicator: Hired personnel according to SAI Staffing Plan.
The activity is not fulfilled in line with the indicator.
The second activity foresees that by December 6 2014, the Government secures adequate office premises that enable adequate staffing of the SAI. Indicator: The SAI is moved into new premises.
The activity is not fulfilled in line with the indicator.

In its report, the Government is not referring to the implementation of this measure.

The SAI failed to fully implement the staffing plan, i.e. during 2014, it failed to hire the planned number of executive staff due to receiving the approval of the line National Assembly's committee on the new recruitment policy beginning June 2014. In addition, the SAI office premises issue is still left unresolved. During 2014, the necessary personnel were hired, and additional personnel recruitment was initiated based on a public competition published in October 2014.¹⁴⁷

As at October 31 2014, out of a total number of systemized job positions in the SAI (431), 223 positions are filled. The SAI uses business premises in five locations in Belgrade, and one in Niš, Novi Sad and Kragujevac. According to the second Draft to the Action Plan for Chapter 23, the deadline for this activity has been moved to Q2/2016.¹⁴⁸

146 Government of the Republic of Serbia, *Report on the Implementation of the Strategy*, January 2015.

147 State Audit Institution, *Report on the Implementation of the Strategy*, February 2015.

148 TS Alternative Report, pages 122-123.

Objective 3.2.3.3. To establish and develop a system of prevention, detection, reporting and conduct on irregularities related to the use of EU and other international institutions and organizations' funds

For implementation of this objective, the Action Plan foresees three measures.

Measure 3.2.3.3.1. To improve the normative framework that governs the prevention, detection, reporting and conduct on irregularities in the context related to the use of EU funds.
The first activity foresees that by March 6 2014, the Government enacts amendments to the Decree on Organization of the Decentralized Management of the EU Pre-Accession Instrument Assistance (IPA). The remark to this activity states that donors should be consulted during the drafting procedure. Indicator: The amendments are adopted.
The activity is fulfilled in line with the indicator. According to information at the Agency's disposal, the activity is fulfilled within the timeframe, but not in the manner envisaged by the Action Plan.
The second activity foresees that by March 6 2014, the Ministry of Finance prepares and submits to the Government the Draft law regulating the IPA for 2014-2020 programming period. Indicator: The Draft law is submitted to the Government.
The activity is fulfilled in line with the indicator. According to information at the Agency's disposal, the activity is fulfilled in the manner envisaged by the Action Plan. The Agency has no available information if the activity is fulfilled within the timeframe envisaged by the Action Plan.
The third activity foresees that by May 6 2014, the Government submits the Bill to the National Assembly. Indicator: The Bill is submitted.
The activity is fulfilled in line with the indicator. According to information at the Agency's disposal, the activity is fulfilled in the manner envisaged by the Action Plan. The Agency has no available information if the activity is fulfilled within the timeframe envisaged by the Action Plan.
The fourth activity foresees that by July 6 2014, the National Assembly adopts the Law. Indicator: The Law is adopted.
The activity is fulfilled in line with the indicator. According to information at the Agency's disposal, the activity is fulfilled in the manner, but not within the timeframe envisaged by the Action Plan. Remark: The National Assembly fulfilled the activity in the prescribed timeframe of two months, and thus, due to the first responsible entity's implementation delay, cannot be considered responsible for the activity's nonfulfillment in the timeframe envisaged by the Action Plan.

During 2013 and 2014, the Government enacted the following acts related to this area:

- Decree on the management of programmes of EU pre-accession assistance under component IIb of the Instrument for Pre-accession Assistance (IPA) – Cross-border cooperation programmes with IPA beneficiary countries for the period 2007-2013;¹⁴⁹
- Amendments to the above Decree,¹⁵⁰ that in accordance with EU requirements provide a legal basis for operation of a new internal unit within the Ministry of Finance in charge of coordinating activities related to prevention and combating irregularities and fraud in EU fund management;
- Decree on appointing the audit authority for auditing the management system for pre-accession assistance programmes of the EU under the Instrument for Pre-accession assistance (IPA);¹⁵¹
- Conclusion on adoption of the Action plan for securing the functionality of management and implementation system for EU funded Pre-accession assistance programmes for 2013, in the Republic of Serbia (May 29 2014);
- Conclusion on adopting the text of the Financial agreement between the Government of the Republic of Serbia and the EU represented by the EC for the 2013 National programme for the Republic of Serbia within the Pre-accession assistance instrument, institutional building component (decentralized management) (June 3 2014);
- Decision on appointing responsible persons and bodies in the management system for pre-accession assistance programmes of the EU for the period 2007-2013,¹⁵² whose enacting ceased to enforce the Decision on assigning responsible persons and determining bodies in the management system for Pre-accession assistance programmes of the EU for the period 2007-2013;¹⁵³
- Decree on the management of programmes of EU Pre-accession assistance under component I of the Instrument for Pre-accession Assistance (IPA) - Transition Assistance and Institution Building for the period 2007-2013,¹⁵⁴ whose enacting ceased to enforce the Decree from 2013.¹⁵⁵

For the new financial framework 2014-2020, the EC introduced a new Pre-accession assistance instrument – IPA II. On March 11 2014, the Council of Ministers and the European Parliament adopted Regulation (EU) No. 231/2014 establishing the IPA II, which introduced programming process novelties. In that sense, this instrument programming for the period 2014-2020, among other elements, is performed in line with policy and sectoral areas as set in the EC Indicative Strategy Paper (ISP) for the Republic of Serbia (2014-2020), adopted in August 2014. On December 23 2014, the Government adopted the Draft Law on Ratification of the Framework Agreement between the Republic of Serbia and the European Commission on the Arrangements for Implementation of Union Financial Assistance to the Republic of Serbia under the Instrument for Pre-accession Assistance (IPA II), and submitted it to the National Assembly with the proposal to be enacted under urgent procedure. The Frame-

149 „Official Gazette of the RS“, No. 92/13.

150 „Official Gazette of the RS“, No. 140/14.

151 „Official Gazette of the RS“, No. 113/13.

152 „Official Gazette of the RS“, No. 140/14.

153 „Official Gazette of the RS“, No. 62/14.

154 „Official Gazette of the RS“, No. 140/14.

155 Government of the Republic of Serbia, *Report on the Implementation of the Strategy*, January 2015.

work Agreement presents a comprehensive legal instrument based on which awarded grants should be implemented in the Republic of Serbia. On December 29 2014, the National Assembly¹⁵⁶ enacted the Law on Ratification of the Framework Agreement.¹⁵⁷

Following consultations held with all relevant institutions, it was agreed that the future legal basis for IPA fund management in the period 2014-2020 be further regulated by by-laws, given that the Law on Ratification of the Framework Agreement will present a sufficient legal basis for arrangements in this area, whose individual aspects will be further regulated by by-laws.¹⁵⁸

The activities related to the fulfilment of **Measure 3.2.3.3.2.** are not due for implementation until the end of 2014.

Measure 3.2.3.3.3. To establish an organizational unit for combating irregularities and fraud within the Ministry of Interior, (AFCOS) as a mechanism for cooperation of competent institutions with the European Anti-Fraud Office (OLAF)

The first activity foresees that by May 6 2014, the Ministry of Interior amends the Rulebook on the organisational structure of job positions.

Indicator: The Rulebook on the organisational structure is amended to establish a new organizational unit, the AFCOS.

The activity is fulfilled in line with the indicator.

According to information at the Agency's disposal, the activity is fulfilled in the manner, and within the timeframe envisaged by the Action Plan.

Remark: Based on the agreement between the new and responsible entity envisaged by the Action Plan, the responsible entity is altered.

The second activity foresees that by July 6 2013, the Ministry of Interior secures adequate office premises for ADCOS operations.

Indicator: The AFCOS has adequate office premises.

The activity is fulfilled in line with the indicator.

According to information at the Agency's disposal, the activity is fulfilled in the manner, and within the timeframe envisaged by the Action Plan.

Remark: Based on the agreement between the new and responsible entity envisaged by the Action Plan, the responsible entity is altered.

The third activity foresees that by July 6 2014, the Ministry of Interior hires staff in accordance with the amended organisational structure.

Indicator: The number and structure of hired staff correspond to the amended organisational structure.

The activity is fulfilled in line with the indicator.

According to information at the Agency's disposal, the activity is fulfilled within the timeframe, but not in the manner envisaged by the Action Plan.

Remark: Based on the agreement between the new and responsible entity envisaged by the Action Plan, the responsible entity is altered.

* *The fourth and fifth activities were not due for implementation until the end of 2014.*

156 Government of the Republic of Serbia, *Amendments to the Report on the Implementation of the Strategy*, February 2015.

157 „Official Gazette of the RS – International Agreements“, No. 19/14.

158 Ministry of Finance, *Report of the Implementation of the Strategy*, January 2015.

On September 19 2013, the Ministry of Interior informed the Ministry of Finance about the inability to institutionalize within the MoI the Group for combating irregularities and fraud in dealing with EU funds (AFCOS), so it was decided to institutionalize the AFCOS within the MF in order to remove obstacles related to the formal initiation of negotiation related activities. On October 21 2013, the Government approved the Rulebook on internal organization and organisational structure of job positions within the MF, formally institutionalizing the AFCOS as the Group for combating irregularities and fraud in dealing with EU funds. In July 2014, two out of three systemized job positions were filled, followed by preparation of a Draft Action plan for strengthening coordination efforts in the field of combating irregularities, in cooperation with the European Anti-Fraud Office (OLAF), which encompasses, among other activities, the AFOCS employees' trainings. The first of the planned activities, the workshop titled "Managing irregularities in dealing with EU funds", implemented in cooperation with OLAF representatives via the TAIEX programme was held in Belgrade in October 2014, for 35 relevant state institutions representatives participating in the implementation of EU funded programmes.¹⁵⁹ According to the assessment presented in the EC 2014 Progress Report on Serbia, the AFCOS has yet to become fully operational, while it also lacks a comprehensive legal basis defining its tasks, responsibilities and cooperation arrangements with the EC, in addition to the AFCOS network that also has yet to be established.¹⁶⁰

3.3. PRIVATIZATION AND PUBLIC-PRIVATE PARTNERSHIP

Within the third area of the Strategy – Privatization and Public-Private Partnership – three objectives are formulated: to amend the legal framework for elimination of corruption risks in regulations governing procedures and controls related to the privatization, restructuring and bankruptcy of state owned and social enterprises (**Objective 3.3.1.**), to establish efficient implementation and control of the regulatory enforcement system in the field of privatization, restructuring and bankruptcy (**Objective 3.3.2.**), and, to eliminate corruption related risks in the field of public-private partnership and concessions, and to secure their consistent application (**Objective 3.3.3.**).

For the fulfilment of these three objectives, 15 measures and 29 activities are envisaged, out of which 15 activities are investigated.

According to the Agency's assessment, out of the 15 investigated activities:

1. Five activities are fulfilled in line with the indicator, out of which:
 - One activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.
 - One activity is fulfilled in the manner, but not within the timeframe envisaged by the Action Plan
 - Three activities are fulfilled within the timeframe, but not in the manner envisaged by the Action Plan.
2. Three activities are not fulfilled in line with the indicator, one of which is not fulfilled in line with the indicator for the reported period.
3. The Agency is unable to assess the fulfilment in case of seven activities.

¹⁵⁹ Ministry of Finance, *Report on the Implementation of the Strategy*, January 2015.

¹⁶⁰ TS Alternative Report, page 59.

One measure is fulfilled.

The issues that the Strategy is raising, which are also noted in the Anti-Corruption Council's 2012 Report, refer to the fact that due to inconsistencies in a series of privatization regulations and a lack of transparency, numerous irregularities are enabled; that the practice has shown that no financial statements were made prior to privatization in accordance with the Law on Accounting and Auditing and the International Accounting Standards; that assets and liabilities were undervalued, or that enormous assets were excluded in order to reduce a company's assessment value, which would then be sold at a price significantly lower than its real value; that many privatization agreements violate the equivalence of giving, which is also enabled by inadequate control; that in the majority of state or socially owned companies' restructuring procedures, in the managing of total capital stock that remained following the ownership transformation process, in bankruptcy procedures of companies operating with social capital or companies that were sold followed by later breaking of a contract, in performing oversight over companies' operations whose privatization is terminated by appointing a temporary capital representative, insufficient legal regulation is noted, or regulated to the state's disadvantage, and thus for example, appointing temporary capital representatives is exclusively performed on the basis of internal criteria determined by the Privatization Agency itself; that part of the Law on Bankruptcy dealing with the restructuring plan is not accurate enough; that the bankruptcy procedure also contains a number of deficiencies in terms of regulations and their implementation's imprecision. The Strategy notes that effects of the Law on Public-Private Partnership and Concessions cannot be fully perceived, and that therefore it is necessary to conduct a corruption related risk analysis referring to this law and its compliance with other relevant laws.

Acting on the Strategy and the Action Plan

Objective 3.3.1. To amend the legal framework for elimination of corruption risks in regulations governing procedures and controls related to privatization, restructuring and bankruptcy of state owned and social enterprises

For implementation of this objective, the Action Plan foresees six measures.

Measure 3.3.1.1. To conduct analysis of regulations' provisions regulating privatization, restructuring and bankruptcy processes in terms of corruption related risks

The single activity within the measure foresees that by March 6 2014, the Ministry of Finance and Economy conducts a regulatory impact analysis based on the Agency's methodology.

The remark to this activity states that the Republic Prosecutor's Office, the Supreme Court of Cassation, the Privatization Agency, the Anti-Corruption Agency, the Anti-Corruption Council, the Ministry of Interior, the ministry in charge of judicial affairs and civil society organizations dealing with these topics should be consulted during preparation of this analysis.

Indicator: The report on regulatory impact analysis.

The Agency is unable to assess the fulfilment of this activity.

In their reports, the MF failed to submit information related to this activity, while the Ministry of Economy stated that the public hearing on the Draft Law on Privatization and the Draft Law on Amendments to the Law on Bankruptcy is held, as well as that competent bodies' opinions are secured, followed by draft laws forwarded to the Government.¹⁶¹

Following Cabinet formatting in late April 2014, the Ministry of Economy initiated the preparation of the Draft Law on Privatization, as well as the Draft Law on Amendments to the Law on Bankruptcy, adopted at the Government's session held on July 27 2014, later submitted to the National Assembly, which under urgent procedure enacted the mentioned laws on August 2 2014.

The Agency holds no information if the draft law preparation procedure was preceded by the analysis on corruption related risks. Part of the remarks presented by the Agency in its opinions to these laws were adopted, but the new regulatory solutions contain certain deficiencies indicated by the Agency, which removal would contribute to the reduction of corruption related risks in mentioned areas. Aside from not encompassing all amendments mentioned in the Strategy and the Action Plan, the new regulatory solutions related to the Law on Privatization failed to sufficiently clearly and precisely determine the criteria to be used in the course of the privatization model and method's setting in each individual case, nor is it clearly determined in which cases, i.e. under what circumstances will the Government, authorized autonomous province body or local self-government unit enact a decision on the privatization of state owned entities. In addition, it is envisaged that the Government can enact a decision on measures related to the preparation and relieving of liabilities of the subject of privatization when it meets at least one of the determined criteria, which are generally set and can be interpreted in different ways. Finally, the Law on Amendments to the Law on Bankruptcy failed to encompass provisions determining persons considered as related parties, nor is it determined the mandatory elements of a bankruptcy debtor's value estimate, an obligation of the administrative receiver prior to a debtor's sale as a legal entity.

As a part of the alternative report preparation process, the Belgrade Centre for Human Rights (BCHR) sent requests to the MF and the Ministry of Justice in reference to submitting documents containing analysis of the Law on Privatization from aspects related to the corruption risks based on the Agency's methodology, which failed to be replied to.¹⁶²

As in last year's report, here it is important to emphasize that the responsible entity could not conduct the mentioned regulations' analysis based on the Agency's methodology, which is still not officially adopted, while implementation related to the obligation of legislation proponents will follow only after the adoption of amendments to the Law on the Anti-Corruption Agency as set in the Measure 4.1.1. Still, before drafting and during the analysis, the responsible entity should have consulted entities as mentioned in the Action Plan's remark, instead of submitting drafts to the Government, by which it has initiated implementation of the following two measures. Given that these measures foresee the preparation of amendments in line with the analysis, the responsible entity could not implement them in line with the Action Plan without previously conducting the analysis. In last year's report as well, the Agency recommended that the National Assembly secure the introduction of the Agency's remarks and opinions into these bills, which are the result of the corruption related risk analysis, to consult the listed entities on the draft's content, which are provided in the remark to the activity foreseen for implementation in the Measure 3.3.1.1., as well as that these bills

be introduced with instructions given in the remark to Measure 3.3.1.2. and Measure 3.3.1.3. According to the Agency's assessment, only in that manner is it possible to overcome this problem and to secure that Measures 3.3.1.1., 3.3.1.2. and 3.3.1.3. can be implemented in accordance with the Action Plan, which will enable fulfilment of the Objective 3.3.1. The Agency holds no information on any measures taken as per this recommendation.

Even though all activities are fulfilled within the timeframe, none is fulfilled in the manner envisaged by the Action Plan given that the regulative impact analysis related to the privatization and bankruptcy area from the aspect of corruption related risks is not prepared. In addition, the Action Plan for this measure as a responsible entity of the first activity sets the Ministry of Finance, even though this law drafting is under the sphere of activities of the Ministry of Economy. According to the Law on Ministries from 2014, the Ministry of Finance performs the state administration tasks related to privatization and rehabilitation of banks and other financial organizations, while the Ministry of Economy performs state administration tasks related to privatization and bankruptcy. According to the Law on Ministries from 2012, the financial and economic spheres of activities were merged into one Ministry performing state administration tasks related to privatization and rehabilitation of banks and other financial organizations, privatization and bankruptcy.

The Draft Law on Privatization was adopted on the Government session held on July 27 2014, and submitted as the Bill to the National Assembly that under urgent procedure enacted the Law on Privatization¹⁶³ on August 2 2014. The Agency notes that the adopted regulatory solutions failed to encompass all necessary amendments.

In the EC 2014 Progress Report on Serbia it is emphasized that the adopted regulative solutions are important, but that "these laws are adopted under an urgent procedure with limited possibility for parliamentary debate". Among other things, the Report points to the need for taking comprehensive risk analyses for areas vulnerable to corruption, privatization being one.¹⁶⁴

Measure 3.3.1.3. To amend the Law on Bankruptcy and the Law on the Bankruptcy Supervision Agency in order to eliminate deficiencies enabling corruption, in accordance with the analysis

The first activity foresees that by December 6 2014, the Ministry of Finance prepares draft laws on amendments to the laws, in accordance with the analysis, and submits them to the Government.

The remark to this activity states that the rank of bankruptcy claims of creditors and estimation of property's value (with or without continuation of lien) should be specified; that the bankruptcy administrator must be legally obliged to analyse operations of the bankruptcy debtor prior to the commencement of the bankruptcy procedure, to identify reasons that led to the bankruptcy and to notify creditors on the matter by submitting a detailed report; to delete an exception where a bankruptcy judge can select a bankruptcy administrator and determine greater powers of the creditors' assembly for dismissal of a bankruptcy administrator, and to specify powers and procedures involving the Privatization Agency.

Indicator: The draft laws on amendments to the laws are submitted to the Government.

The activity is not fulfilled in line with the indicator.

* The second and third activities were not due for implementation until the end of 2014.

161 Ministry of Economy, *Report on the Implementation of the Strategy*, February 2014.

162 BCHR Alternative Report, page 23.

163 „Official Gazette of the RS“, No. 83/1.

164 BCHR Alternative Report, page 19.

In its report, the Ministry of Economy is not referring to the analysis but only notes that the Law on Amendments to the Law on Bankruptcy was adopted in early August 2014. At the beginning of July, the Agency prepared the Opinion on the assessment of corruption related risks in the Draft Law on Amendments to the Law on Bankruptcy.¹⁶⁵

The Law on Amendments to the Law on Bankruptcy failed to encompass all elements listed in the remark to the first activity, which relate to the provisions determining all persons considered as related parties, as it failed to set the obligation of the bankruptcy debtor's value estimate, an obligation of the administrative receiver prior to the debtor's sale as a legal entity.¹⁶⁶

Similar as in the case of Measure 3.3.1.2, the Action Plan mistakenly determined the Ministry of Finance as the responsible entity for this measure's first activity implementation.

In its report, the Ministry of Economy states that it is necessary to also enact the Rulebook on bankruptcy administrators' legitimacy and the Rulebook on minor and serious violations of bankruptcy administrator's duties, as well as that it is necessary to harmonize the following regulations: the Rulebook on National standards for administering the bankruptcy estate, the Rulebook on the conditions and manner of random selection of bankruptcy administrators, the Rulebook on the manner and conduct of the reorganization using the pre-packaged plan of reorganization and its content, and the Rulebook on expert oversight of certified bankruptcy administrators' operations.¹⁶⁷ The implementation of these activities is ongoing.

The Law on Amendments to the Law on the Bankruptcy Supervision Agency is not enacted, nor does the Agency hold information on the implementation of certain measures aimed at this activity's implementation.

The activities foreseen for the fulfilment of **Measures 3.3.1.4., 3.3.1.5. and 3.3.1.6.** are not due for implementation until the end of 2014.

¹⁶⁵ Anti-Corruption Agency, *Opinion on the assessment of corruption related risks in the Draft Law on Amendments to the Law on Bankruptcy*, July 2015, available at: <http://www.acas.rs/praksa-agencije/analize-propisa-na-rizike-od-korupcije/>.

¹⁶⁶ Anti-Corruption Agency, *Review on the Implementation of the Strategy for H1/2014*, pages 4-5, available at: <http://www.acas.rs/praksa-agencije/pracenje-strategije/>.

¹⁶⁷ Ministry of Economy, *Report on the Implementation of the Strategy*, February 2014.

Objective 3.3.2. To establish efficient implementation and control of the regulatory enforcement system in the field of privatization, restructuring and bankruptcy

For implementation of this objective, the Action Plan foresees three measures.

Measure 3.3.2.1. To establish a system of continuous and compulsory coordination between the Privatization Agency and respective state bodies and authorities aimed at establishing a proactive approach related to preventing corruption risks in this field

The first activity foresees that by December 6 2014, the Privatization Agency initiates signing of the Memorandum on cooperation between the Ministry of Interior, the Republic Public Prosecutor's Office, the Supreme Court of Cassation, the Anti-Corruption Agency and the Anti-Corruption Council.

Indicator: The Memorandum on cooperation is signed.

The activity is fulfilled in line with the indicator.

According to information at the Agency's disposal, the activity is fulfilled in the manner, but not within the timeframe envisaged by the Action Plan.

The second activity foresees that the Privatization Agency organizes semi-annual meetings related to the signing of the Memorandum.

The remark to this activity states that meetings should be attended by the Ministry of Interior, the Republic Public Prosecutor's Office, the Supreme Court of Cassation, the Anti-Corruption Agency and the Anti-Corruption Council.

Indicator: Meeting minutes.

The activity is fulfilled in line with the indicator.

According to information at the Agency's disposal, the activity is fulfilled in the manner, and within the timeframe envisaged by the Action Plan.

The third activity foresees that by September 6 2014, the Privatization Agency defines the Handbook on good practices and manners of conduct in this area, as prevention mechanisms.

The remark to this activity states that the cooperation with the Ministry of Interior, the Republic Public Prosecutor's Office, the Supreme Court of Cassation, the Anti-Corruption Agency and the Anti-Corruption Council is compulsory.

Indicator: The Handbook is published and available on Privatization Agency's website.

The activity is not fulfilled in line with the indicator.

The Memorandum on cooperation was signed on November 3 2014, while the delay in this activity's implementation occurred due to a change of personnel in the Privatization Agency and the MoI, i.e. the change of staff authorized for signing.

The Memorandum envisages the basic directions of cooperation, manners of mutual coordination implementation, as well as related to conclusion making, i.e. tasks of all signatories whose implementation is reviewed during the next semi-annual meeting. The BCHR Alternative Report notes that the Memorandum formulated a simple, but clear and overreaching coordination mechanism.¹⁶⁸

¹⁶⁸ BCHR Alternative Report, page 29.

The first semi-annual meeting, attended by all Memorandum signatories, was held late in December 2014. Meeting topics included the analysis of privatization and bankruptcy regulation implementation, as well as potential corruption related risks in these regulations. It was agreed that the Privatization Agency prepares draft meeting conclusions, including participants' next tasks, at which meeting participants will subsequently provide their remarks and suggestions.¹⁶⁹

In reference to the third activity, the Privatization Agency in its report states that it was not in a position to more closely define the handbook on good practices and manners of conduct in this area, without the prior enacting of a new normative framework regulating privatization and bankruptcy matters. Namely, the Law on Privatization, the Law on Amendments to the Law on Bankruptcy, as well as the Law on Amendments to the Law on the Right to Free Shares and Monetary Compensation were enacted at the beginning of August 2014, while some by-laws regulating this area came in to force at the beginning of January 2015.

Measure 3.3.2.2. To develop and implement peer professional training curriculum for authorities participating in the privatization process and bodies in charge of prevention and criminal prosecution of corruption cases
The first activity foresees that by March 6 2014, the Judicial Academy prepares a professional development training curriculum for bodies participating in the privatization process and bodies in charge of prevention and criminal prosecution of corruption cases. Indicator: Professional development training curriculum is submitted.
The activity is not fulfilled in line with the indicator.
The second activity foresees that the Judicial Academy on a permanent basis conducts the professional development training curriculum. Indicator: General remark No. 7 (see Footnote 32).
The activity is not fulfilled in line with the indicator for the reported period.

The Judicial Academy in its report states that preparation of the professional development training curriculum is ongoing. The second Draft of the Action Plan to Chapter 23 significantly moves the deadline for this activity's implementation, to Q2/2016.

The BCHR Alternative Report states that the Judicial Academy failed to prepare the training curriculum as envisaged by this measure, because it already had its own regular training programmes, to train trainees in line with its mandate and also to invite members of other law enforcement bodies (e.g. members of police), but that it is not authorized to train officers or experts dealing with privatization issues. Training curriculums are designed and developed based on evaluations that are conducted during anti-corruption seminars from 2006-up to date.¹⁷⁰

169 Privatization Agency, *First regular semiannual meeting minutes*, January 2015.
170 BCHR Alternative Report, page 32.

Measure 3.3.2.3. To conduct an analysis of the Ministry of Finance's authority to control the suitability of the Privatization Agency's operations
The first activity foresees that by March 6 2014, the Ministry of Finance prepares an analysis on authorities and issues related to the implementation of the Privatization Agency's operations suitability oversight Indicator: The analysis is prepared.
The Agency is unable to assess the fulfilment of this activity.
The second activity foresees that by September 6 2014, the Ministry of Finance drafts regulation amendments and conducts other measures deriving from the analysis on authorities and issues related to the implementation of the Privatization Agency's operations suitability oversight. Indicator: Measures deriving from the analysis are taken.
The Agency is unable to assess the fulfilment of this activity.

Similar as for Measures 3.3.1.2. and 3.3.1.3., the Action Plan mistakenly sets the Ministry of Finance as the responsible entity for this measure's implementation, even though the privatization issue is in the sphere of activities of the Ministry of Economy. Still, both Ministries in their reports failed to review the implementation of this measure.

Agency's opinion and recommendation: The Agency recommends to the ministry in charge of judicial affairs to initiate enacting amendments to the Action Plan in this part, in order to set the ministry in charge of economy as the responsible entity, whose sphere of activities includes issues of privatization, or to alternatively secure that the line ministry implement these activities and report on the matter to the Agency via reports on the implementation of the Strategy and the Action Plan.

Objective 3.3.3. To eliminate corruption related risks in the field of public-private partnerships and concessions, and to secure their consistent application

Even though privatization presents one of the areas with an extremely high potential for corruption, the expert community more frequently point to the fact that corruption potential is much higher in public-private partnership (PPP) than in public procurement or privatization, and that the main reason for that can be found in such arrangement's insufficient demarcation of risks and benefits' share between the public and private partners. The TS, among others, as particularly risky consider those types of public-private partnerships that are exempt from the law enforcement, foremost including large projects implemented under intergovernmental agreements.¹⁷¹

171 *Ibid*, page 19.

For implementation of this objective, the Action Plan foresees six measures.

Measure 3.3.3.1. To conduct a corruption related risk analysis of the Law on Public-Private Partnership and Concessions and on the degree of compliance with other laws

The single activity within the measure foresees that by September 6 2014, the Ministry of Finance prepares a corruption related risk analysis and on the degree of compliance with other laws.

The remark to this activity states that precise, clear and objective criteria for setting of a “balanced ratio” in risk sharing relationships between partners should be formulated, to more precisely determine the Public-Private Partnership Commission’s authorities in order to prevent potential conflict of interest in practice having in mind the Law’s provision on the Commission’s granting opinion in PPP approving procedures, in whose preparation has also been involved.

Indicator: Prepared analysis on corruption related risks; Prepared analysis of compliance against other laws.

The Agency is unable to assess the fulfilment of this activity.

In its report, the MF is not referring to the implementation of this measure.

As a part of the alternative report preparation process, the BCHR addressed the authorized institutions with the request of submitting information on this activity’s implementation, but failed to receive the requested documents.¹⁷²

In accordance with the applicable regulations, different ministries are in charge of performing oversight and preparation and monitoring of regulations in this area. Namely, the Law on Public-Private Partnership and Concessions¹⁷³ and the Decree on oversight of implementation of public contracts on public-private partnership¹⁷⁴ envisage that oversight of the implementation of public contracts is performed by the Ministry of Finance, i.e. the autonomous province body or local self-government unit in charge of finances. On the other hand, according to the 2012 and 2014 Law on Ministries’ provisions, the Ministry of Foreign and Domestic Trade and Telecommunications, currently the Ministry of Trade, Tourism and Telecommunications, performs state administration tasks related to regulations governing the field of foreign investments, concessions and PPPs. The Agency pointed to this issue in its Report on the legal framework and corruption risks in the field of PPP and concessions, and recommended that the single Ministry – the Ministry of Finance, aside from performing oversight, be also in charge of regulations in the area of foreign investments, concessions and PPPs.

Agency’s opinion and recommendation: The Agency recommends to the ministry in charge of judicial affairs to initiate enacting amendments to the Action Plan in this part in order to set an appropriate responsible entity as the activity’s implementing subject.

In July 2014, the Agency prepared the Report on the legal framework and corruption related risks in the field of PPP and concessions with recommendations, and forwarded it to the MF, the Government, the National Assembly and the Public-Private Partnership Commission. Aimed at pointing at corruption related risks and providing recommendations for their removal, as well as on the forms of development in this area, the Agency in this report stated that it is necessary, among other things, to harmonize provisions of the Law on Public-Private Part-

¹⁷² *Ibid*, page 34.

¹⁷³ „Official Gazette of the RS”, No. 88/11.

¹⁷⁴ „Official Gazette of the RS”, No. 47/13.

nership and Concessions against other significant regulations in this area, to formulate precise, clear and objective criteria for setting of a balanced ratio in the risk sharing relationship between public and private partners, to define and amend provisions regulating the oversight of the implementation of public-private partnership and concessions, to review the composition and position of the Public-Private Partnership Commission and specify its authorities. In addition, it is particularly emphasized that publicly available data on public-private partnerships and concessions are still not available, i.e. that the Registry of Public Contracts is not established, which should present a single e-Database available at the Public Procurement Portal.¹⁷⁵

The activities envisaged for the fulfilment of **Measures 3.3.3.2., 3.3.3.3., and 3.3.3.4.** are not due for implementation until the end of 2014.

Measure 3.3.3.5. To conduct public awareness campaigns on public-private partnership

The first activity foresees that by March 6 2014, the Ministry of Finance prepares campaign’s plan.

Indicator: The campaign’s plan is prepared.

The Agency is unable to assess the fulfilment of this activity.

The second activity foresees that the Ministry of Finance on a permanent basis conducts the campaign in line with the determined plan.

The remark to this activity states that interested civil society organizations should be included in the training plan implementation.

Indicator: The report on conducted campaign.

The Agency is unable to assess the fulfilment of this activity.

In its report, the MF is not referring to the implementation of this measure.

Agency’s opinion and recommendation: The Agency recommends to the ministry in charge of judicial affairs to initiate enacting amendments to the Action Plan in this part in order to set appropriate responsible entity as activity’s implementing subject.

Measure 3.3.3.6. To establish control and transparency related mechanisms of Public-Private Partnership Commission’s operations

The single activity within the measure foresees that the Ministry of Finance on a permanent basis on its website publishes and regularly updates the information on public-private partnership and concessions’ suitability.

Indicator: The information on public-private partnership and concessions’ suitability are available at the website and are regularly updated.

The Agency is unable to assess the fulfilment of this activity.

In its report, the MF is not referring to the implementation of this measure.

¹⁷⁵ Anti-Corruption Agency, *Report on the legal framework and corruption risks in the field of public-private partnership and concessions*, July 2014, available at: <http://www.acas.rs/izvestaj-o-pravnom-okviru-rizicima-korupcije-u-oblasti-jpp-koncesija/>.

3.4. JUDICIARY

Within the fourth area of the Strategy – Judiciary – ten objectives are formulated: to secure full judicial independence, i.e. autonomy and transparency of budget executing authorities (**Objective 3.4.1.**), to enable the election, promotion and accountability of holders of judicial offices based on clear, objective, transparent and pre-determined criteria (**Objective 3.4.2.**), to establish efficient and proactive acting upon detecting and prosecuting corruption related criminal offenses (**Objective 3.4.3.**), to improve substantive criminal legislation harmonized with international standards (**Objective 3.4.4.**), to establish efficient horizontal and vertical cooperation and exchange of information between the police, prosecutor's office, judiciary, other state authorities and institutions, regulatory and supervisory bodies, as well as European and international institutions and organizations (**Objective 3.4.5.**), to establish a single recording system (e-Register) for criminal offenses with elements of corruption, in accordance with the law regulating personal data protection (**Objective 3.4.6.**), to strengthen mechanisms for prevention of conflict of interest in judiciary professions (**Objective 3.4.7.**), to secure adequate public prosecutor's office and courts' resources for acting upon corruption cases (capacity building) (**Objective 3.4.8.**), and to enact a long-term strategy that comprehensively promotes the issue of financial investigation (**Objective 3.4.9.**).

For the fulfilment of these ten objectives, 35 measures and 134 activities are formulated, out of which the conduct on 99 activities are investigated.

According to the Agency's assessment, out of 99 investigated activities:

1. 30 activities are fulfilled in line with the indicator, out of which:
 - 13 activities are fulfilled in the manner and within the timeframe envisaged by the Action Plan.
 - Four activities are fulfilled in the manner and within the timeframe envisaged by the Action Plan for the reported period.
 - Five activities are fulfilled in the manner, but not within the timeframe envisaged by the Action Plan.
 - Two activities are fulfilled within a timeframe, but not in a manner envisaged by the Action Plan for the reported period.
 - The Agency holds no information on the fulfilment of six activities in accordance with the Action Plan.
2. Total of 49 activities are not fulfilled in line with the indicator, five of which are not fulfilled in line with the indicator for the reported period, while 13 activities are not fulfilled in line with the indicator given that the previous conditioning activity is not implemented.
3. The Agency was unable to assess the fulfilment in case of 19 activities.
4. The implementation of one activity is ongoing.

Four measures are fulfilled.

The EC 2014 Progress Report for Serbia states that the reinstatement of previously dismissed judges and prosecutors was finalized, as well as that the new network of courts of general jurisdiction started operating in January 2014. The Judicial Reform Strategy Implementation Commission was established in September 2013 for monitoring and assessing progress achieved in the implementation of the Strategy, but still remains unhelpful in securing the timely and adequate implementation of the judicial reform strategy, while various delays are noted in the Action Plan's implementation related to its fulfilment. Work on constitutional amendments to improve the position of the judiciary, as well as on legal changes to address the quality and consistency of judicial practice and judicial education are still at an early stage. Following a certain number of recruitments, a significant number of magistrates were appointed, but governed by unclear criteria. The positive step of presenting amendments to the law enacted in June 2014, foreseeing that the High Judicial Council (HJC) and the State Prosecutorial Council (SPC) will nominate only one candidate, rather than three, to the National Assembly for each judicial and prosecutorial post. However, the constitutional and legislative frameworks still leave room for undue political influence affecting the independence of the judiciary, particularly in relation to the career of magistrates. Constitutional amendments on the composition and method of election of members of the HJC and SPC are needed to strengthen the independence, representativeness and hence legitimacy of these bodies. The High Judicial Council failed to properly define the independence of some judges from higher and appellate courts that were confronted with direct attempts to exert political influence over their daily activities. The practice of publicly commenting on trials and announcing arrests and detentions in the media ahead of court decisions, risks being detrimental to the independence of the judiciary and raises serious concern.

The system of the random allocation of cases is not yet automated in all courts, which provides scope for circumventing the system. It is still needed to implement a comprehensive system of regular individual and periodical evaluation of judges and prosecutors, to enable the effective implementation of codes of ethics, disciplinary rules and legislation on conflicts of interest and the lifting of immunity for certain posts, in order to ensure full accountability of judges and prosecutors. Training capacity and expertise should be significantly increased.

In December 2013, the Supreme Court of Cassation (SCC) adopted a national backlog reduction programme with the objective of reducing the number of cases older than two years by 80% nationwide by the end of 2018. The backlog of court cases remained a concern, with 2.8 million cases pending at the end of 2013. The figure for cases older than two years is particularly worrying (at over 1.7 million out of which 1.2 million are enforcement cases). Migration of case files to mirror the delegation of competences under the new court network has not been finalized. The Administrative Court continued to face an increasing volume of new cases, while the backlog of the Constitutional Court also remained significant in 2013. The Law on Mediation in Dispute Resolution was adopted in May 2014, but has not yet entered into force.

The current system of collecting court statistics is not efficient and does not allow for making a meaningful analysis of the performances of the judicial system.

There is a need to further improve the expertise of judges in certain areas, especially in taxation and financial matters, consumer protection, state subsidies, competition, asylum and human rights protection.

The appointment of the first generation of public notaries that took place in July 2014 presents a positive step, but concerns are raised as to the election and appointment procedures, which should be improved, and it is necessary to significantly increase the number of notaries in order to meet the demand. The number of bailiffs has increased, but remains insufficient.

Persistent differences in the workload among judges, lack of adequate premises and equipment still constitute serious obstacles to judicial efficiency, while proper case methodology to measure workload and to ensure a more equal distribution of cases among judges and prosecutors as part of the reform of the court network is required. Inconsistency in case-law continues to be a concern, especially in appeal courts.

As regards access to justice, following the general introduction of the adversarial system in criminal proceedings from October 2013, concerns about procedural safeguards remain, especially in the absence of a free legal aid system.¹⁷⁶

According to the assessment from the BCSP/APS Alternative Report, incompatibility between the Action Plan for the implementation of the Strategy, the Action Plan for Chapter 23 and the Action Plan for the implementation of the Judicial Reform Strategy, undoubtedly creates doubts related to institutions authorized for the implementation. In addition, it can be seen that based on individual Action Plan measures' implementation, the fulfilment of planned activities occurred in those areas and institutions that were donor supported, i.e. in those that were granted with international development assistance, while institutions lacking this kind of assistance demonstrated significantly less results. In that way it is possible to note that the HJC in some areas accomplished more significant results than the SPC, given that various programmes, projects and donors were directed towards providing assistance to the HJC, while the SPC almost had no international support.

One of the issues hampering implementation of the Action Plan's individual activities is the constitutional position of the judiciary, i.e. individual institutions. The expert public announces constitutional amendments aimed at increasing the level of judicial independence, which is in line with the opinion of the Council of Europe's Venice Commission and the EU experts' recommendations provided with the opinions and comments to the judicial regulations. Undoubtedly that announced constitutional amendments have an influence on the fulfilment of certain activities, as well as on the line of legislators' thinking.

The lack of transparency and availability of a great number of documents that represented a base for certain measures, such as needs analysis, are particularly pointed as the issues related to preparation of the BCSP/APS Alternative Report.¹⁷⁷

¹⁷⁶ European Commission 2014 Progress Report on Serbia, Brussels, October 8, 2014, pages 69-72, available at: www.seio.gov.rs.

¹⁷⁷ BCSP/APS Alternative Report, pages 12-13.

Acting on the Strategy and the Action Plan

Objective 3.4.1. To secure full judicial independence, i.e. autonomy and transparency of budget executing authorities

The Strategy notes that in order for an independent judiciary to be achieved, it is necessary to attain the full separation of judicial and executive budgets, which currently is not the case, and even though the judicial budget management is in the HJC and the SPC competences, these bodies still have not fully taken over these competences due to the lack of necessary technical, administrative and professional capacities.

For implementation of this objective, the Action Plan foresees four measures.

Measure 3.4.1.1. To establish the High Judicial Council and the State Prosecutorial Council's capacities for independent budget planning and execution

The first activity foresees that by March 6 2014, the HJC and the SPC prepare a needs analysis.

The remark to this activity states that the Judicial Academy should be included in the preparation of training related analysis, as well as that the indicated timeframe is subject to change in order to comply with activities envisaged in the Judicial Reform Strategy.

Indicator: Prepared needs analysis.

The activity is not fulfilled in line with the indicator, neither in the part related to the HJC, nor in the part related to the SPC.

The second activity foresees that by December 6 2014, the HJC and the SPC amend the act on organisational structure so that the number of employed personnel in HJC and the SPC Administrative offices corresponds to the needs analysis.

Indicator: The number of employees in HJC and the SPC Administrative offices.

The activity is not fulfilled in line with the indicator, neither in the part related to the HJC, nor in the part related to the SPC.

* The second, third and fourth activities were not due for implementation until the end of 2014.

The Law on Amendments to the Law on Organization of Courts¹⁷⁸ entered into force on November 27 2013. The HJC is taking over competences of the ministry in charge of judicial affairs stipulated in the Article 70(2, 4, 5) starting from June 1 2016, when it is envisaged that the HJC takes over the full exercise of budgetary competences. Given that this relates to the needs to be effective only after this date, the HJC believes that preparation of a capacity related needs analysis should be moved to Q4/2015. Currently, the HJC has sufficient capacities for exercising budgetary competences, as determined by the regulations. The scope of HJC budgetary competences refers to drafting budgetary funds necessary for running costs, except for court staff expenditures and maintenance costs of equipment and judicial facilities, and to allocation of these funds, as well as to performing oversight of improper use of budgetary funds and oversight of financial and material operations of courts. Via the Budget Planning and Management Information System (BPMIS), a budget preparation application

¹⁷⁸ „Official Gazette of the RS“, No. 101/13.

(new information system for budget planning and management, which supports all budget preparation phases and is an integral part of the public finance management IT system, and which enables integration with existing budget execution systems), the courts submit e-drafts of their financial plans to the HJC, while the HJC reviews the received information related to human resources, the number of pending court cases, the condition of equipment, accommodation capacities, etc. during courts' budget drafting procedures. In that way, the HJC has an insight into the needs of courts, and from those standpoints participates in the Republic of Serbia budget preparation procedure. On December 19 2014, the HJC enacted the Rulebook on the internal organization and organisational structure of job positions in the HJC Administrative office. For now, the number of executive officers in the department for material-financial operations fully corresponds to HJC needs.¹⁷⁹

Supported by the USAID programme, the HJC secured instruments for automatized budget preparation procedure and finance management. The BPMIS enabled the HJC to improve planning and negotiating capacities related to resources necessary for performing operations, but also to perform more fair allocation of funds. The USAID programme also assisted during the development of five operational procedures for improved HJC budget planning and execution, which relate to preparation of financial plans, financial management, budgetary accounting and financial reporting, inventory of financial assets and liabilities, and internal financial control and internal audit.¹⁸⁰

Based on the conducted needs analysis and in line with staffing plan for 2014, the SPC prepared the Rulebook on internal organization and organisational structure of job positions in the SPC Administrative office, adopted on May 29 2014. The Rulebook envisages strengthening administrative capacities of the office, new professional job positions relating to the status of holders of public prosecutor's offices, public prosecutors budgets, and in-house accounting-financial operations and internal audit activities. The Rulebook systemized 24 job positions, with a total of 21 civil servants and 4 general service employees, out of which 3 were appointed civil servants. In its report, the SPC states that having in mind the full transfer of budgetary competences in 2016, a new and amended needs analysis of SPC capacities related to budgetary planning and executing will be prepared.¹⁸¹

In cooperation with USAID, the SPC works on BPMIS introduction.¹⁸²

Measure 3.4.1.2. To set clear criteria for the election of managers in courts and public prosecutors' offices
The first activity foresees that by March 6 2014, the HJC defines and adopts the criteria. Indicator: The decision on adoption of criteria; The Rulebook on the organisational structure of job positions.
The activity is not fulfilled in line with the indicator.
The second activity foresees that by March 6 2014, the SPC defines and adopts the criteria. Indicator: The decision on the adoption of criteria; The Rulebook on the organisational structure of job positions.
The activity is not fulfilled in line with the indicator.

179 High Judicial Council, *Report on the Implementation of the Strategy*, January 2015.

180 BCSP/APS Alternative Report, page 14.

181 State Prosecutorial Council, *Report on the Implementation of the Strategy*, January 2015.

182 BCSP/APS Alternative Report, page 15.

Adoption of the criteria for the election of managers, now defined as courts secretaries, is not in the HJC competence, and thus, another responsible entity should be selected for this activity implementation, as stated in the HJC opinion. The Amendments to the Law on the Organization of Courts introduce the court secretary instead of court manager function, whose competences and activities are more closely determined by the Court Rules of Procedure, enacted by the minister in charge of judicial affairs, subject to the prior opinion of the president of the HJC.¹⁸³

The court manager is a new professional job position in the Serbian judiciary, introduced by the 2010 Court Rules of Procedure as the highest non-judicial professional job post, with duties related to the court administration's financial and operational organization. Court managers should alleviate court presidents from activities related to court administration and court staff management, the administrative-technical, operational and financial organization of courts, as well as to enable professionalization in court management operations. In cooperation with the HJC, USAID prepared a number of documents related to the job description and manner of court managers' election process, as well as training curriculum for future and already selected managers, submitted to the Judicial Academy as well. The working group for the introduction of professional court managers posts, established by the USAID programme in January 2009, whose recommendations also introduced the professional court secretary post in the Court Rules of Procedure, defined court manager's duties, prepared job descriptions, hiring criteria, necessary trainings and the recommended number of court managers that need to be recruited, trained and hired, thus the reasons for the HJC to not implement these documents, i.e. already prepared court managers' election criteria, remain unclear. The SPC did not have similar project support, and in their case, such documents are not developed.¹⁸⁴

In its report, the SPC states that is unable to make a decision on the adoption of manager related criteria, as well as the Rulebook on the organisational structure of job positions, owing to managers not being stipulated by the Law on Public Prosecution.¹⁸⁵

183 High Judicial Council, *Report on the Implementation of the Strategy*, January 2015.

184 BCSP/APS Alternative Report, page 16.

185 State Prosecutorial Council, *Report on the Implementation of the Strategy*, January 2015.

<p>Measure 3.4.1.3. To include the training and professional development programme of the High Judicial Council and the State Prosecutorial Council's Administrative Office staff into the Judicial Academy training programme</p>
<p>The first activity foresees that by March 6 2014, the HJC and the SPC prepare a needs analysis related to professional development training of the HJC and the SPC Administrative Office staff. Indicator: The needs analysis is prepared.</p>
<p>The activity is fulfilled in line with the indicator, in the part related to the HJC, as well as in the part related to the SPC. According to information at the Agency's disposal, the activity is fulfilled in the manner, but not within the timeframe envisaged by the Action Plan.</p>
<p>The second activity foresees that by March 6 2014, the Judicial Academy prepares a training curriculum in line with the needs analysis. The remark to this activity states that the HJC and the SPC need to be consulted. Indicator: The staff training curriculum based on the needs analysis is prepared.</p>
<p>The activity is fulfilled in line with the indicator. According to information at the Agency's disposal, the activity is fulfilled in the manner, but not within the timeframe envisaged by the Action Plan.</p>
<p>The third activity foresees that the Judicial Academy on a permanent basis conducts the staff training plan. Indicator: Training curriculum executed by the year of Strategy validity; reports on training curricula implementation; curricula and lists of training participants, and reports on trainings evaluation.</p>
<p>The activity is not fulfilled in line with the indicator for the reported period.</p>
<p>The fourth activity foresees that the Judicial Academy on an annual basis conducts the evaluation. Indicator: The Evaluation report on training curriculum.</p>
<p>The activity is not fulfilled in line with the indicator for the reported period.</p>

In cooperation with the Kingdom of Norway and the International Management Group (IMG), a needs analysis related to the professional development training curriculum of the HJC Administrative Office staff was prepared, followed by the HJC president's enacting on December 23 2014, of the Manual on the Organization and Implementation of the Professional Development Training Programme for Employees of the Administrative Office of the HJC, and the Professional Development Plan for Employees of the Administrative Office of the HJC for the period 2015 – 2018. These documents can be found on the HJC Website, while the Judicial Academy was informed on their enacting.¹⁸⁶ The Manual defined the guidelines for training design (definition of needs, selection of training methodology), training preparation (defining of training objectives and outcomes, development of curricula and materials, logistical preparations), conduction of trainings, as well as monitoring and assessing the effectiveness of the Professional development plan's implementation. The professional development plan is a very detailed and well-prepared document, divided into two time segments, with short- and medium-term priorities. Each improvement area is listing the goals, training duration,

¹⁸⁶ High Judicial Council, *Report on the Implementation of the Strategy*, January 2015.

number of trainings, number of participants, topics and training outcomes, sub-topics, success indicators and sources of verification, missing only the assessment on the required funds for their implementation. Given the scope of planned trainings, as well as the limited capacities of the Judicial Academy, an open question that remains relates to this plan's applicability, apart from in the form of a new project. In cooperation with the HJC Administrative Office, the IMG experts also prepared the draft Manual for the Office staff training. The SPC failed to receive similar project support in this area as well, in contrast to the HJC.¹⁸⁷ The SPC prepared a needs analysis related to the professional development of Administrative Office staff, which was submitted to the Judicial Academy for training programme preparation purposes.¹⁸⁸ The analysis determined that Administrative Office staff have a need for additional trainings including in the fields of computer skills, English language proficiency, as well as related to trainings in the field of budget management and planning skills, and preparation of closing statement.

In its report, the Judicial Academy states that training curriculum related to project and budget management skills are prepared, while the IT training programme is not developed because the HJC and the SPC still have not implemented the e-database management component, thus making it impossible to implement the IT related training.¹⁸⁹

<p>Measure 3.4.1.4. To secure data transparency related to the financing of the High Judicial Council and the State Prosecutorial Council</p>
<p>The single activity within the measure foresees that the HJC and the SPC on their websites once a year publish the annual financial statement. Indicator: The report is published in accordance with the Budget System Law.</p>
<p>The activity is fulfilled in line with the indicator for the reported period, in the part related to the HJC, as well as in the part related to the SPC. According to information at the Agency's disposal, the activity is fulfilled in the manner, and within the timeframe envisaged by the Action Plan.</p>
<p>The Agency notes that by implementing the single activity within the determined measure, the fulfilment of actual measure if achieved.</p>

The HJC has so far developed five annual performance reports, including financial statements. All reports can be found at the HJC Website.¹⁹⁰ The SPC publishes its financial statements on a quarterly basis.¹⁹¹

In accordance with the Budget System Law and the Budget Preparation and Reporting Instructions for Budgetary Users, the HJC and the SPC are required to publish quarterly and annual financial statements. The Information booklet on the HJC operations provides a detailed overview of the HJC budget implementation, while the HJC 2013 Report includes the courts' budget execution review. The SPC Annual financial statement is published in the Information booklet on the SPC operations, in January 2014. The SPC web Home page contains a special presentation with published financial statements, thus making this information easily accessible.¹⁹²

¹⁸⁷ BCHR Alternative Report, pages 17-18.

¹⁸⁸ State Prosecutorial Council, *Report on the Implementation of the Strategy*, January 2015.

¹⁸⁹ Judicial Academy, *Report on the Implementation of the Strategy*, February 2015.

¹⁹⁰ High Judicial Council, *Report on the Implementation of the Strategy*, January 2015.

¹⁹¹ State Prosecutorial Council, *Report on the Implementation of the Strategy*, January 2015.

¹⁹² BCHR Alternative Report, page 18.

Objective 3.4.2. To enable the election, promotion and accountability of holders of judicial office based on clear, objective, transparent and pre-determined criteria

The Strategy notes that significant progress is made by establishing the Judicial Academy, which will represent the only manner for election of future holders of judicial office and will have a key role in securing the implementation of the professional standards and merit based principle in the judiciary.

For implementation of this objective, the Action Plan foresees nine measures.

Measure 3.4.2.1. To harmonize the Law on Judges and the Law on Public Prosecutor's Office with the Law on the Judicial Academy in terms of criteria for election to judicial office
The first activity foresees that by May 6 2014, the ministry in charge of judicial affairs prepares draft laws on the amendments to the laws, and submits them to the Government Indicator: The draft laws on amendments to the laws are submitted to the Government.
The activity is fulfilled in line with the indicator. According to information at the Agency's disposal, the activity is fulfilled in the manner, and within the timeframe envisaged by the Action Plan.
The second activity foresees that by July 6 2014, the Government submits the bills on amendments to the laws to the National Assembly. Indicator: The bills on amendments to the laws are submitted to the National Assembly.
The activity is fulfilled in line with the indicator. According to information at the Agency's disposal, the activity is fulfilled in the manner, and within the timeframe envisaged by the Action Plan.
The third activity foresees that by September 6 2014, the National Assembly adopts the laws on amendments to the laws. Indicator: The laws on amendments to the laws are adopted.
The activity is fulfilled in line with the indicator. According to information at the Agency's disposal, the activity is fulfilled in the manner, and within the timeframe envisaged by the Action Plan.
The Agency notes that by implementing all activities within the determined measure, the fulfilment of actual measure is achieved.

The Law on Amendments to the Law on Judges, and the Law on Amendments to the Law on Public Prosecutor's Office,¹⁹³ are harmonized with the Law on Judicial Academy, i.e. the criteria for election to judicial office are harmonized. However, the Constitutional Court's decision from February 2014,¹⁹⁴ determined that the Law on the Judicial Academy, Article 40 (8, 9 and 11), are not in accordance with the Constitution, and that shall cease to be in effect on the day of the decision's publishing in the "Official Gazette of the RS". The provisions determined by the Constitutional Court as not in accordance with the Constitution envisage

193 „Official Gazette of the RS“, No. 101/13.

194 „Official Gazette of the RS“, No. 32/14.

that the HJC and the SPC are obligated that when nominating candidates for the election of first instance and higher courts' judges, i.e. deputy public prosecutor, nominate a candidate that has completed the initial Judicial Academy training. That means that if among the registered candidates there are none who have completed the initial training, they can propose a person who meets the general election requirements. The Constitutional Court determined that these provisions violate the constitutional principle of equality before the Constitution and laws for all, in addition to the Constitutionally established function of the HJC and the SPC that as independent and autonomous bodies they nominate candidates for the first election of judges, i.e. deputy public prosecutor. The initial training conducted at the Judicial Academy, according to the Constitutional Court's opinion, can be valued only as one of the criteria for assessing the level of expertise and qualifications of candidates for judges and deputy public prosecutor's position, based on indicators established by the HJC and SPC, as the legally authorized bodies in the matter. The disputed legal provisions, according to the Constitutional Court's assessment, transfer the initial training obtained at the Judicial Academy into the condition for executing the function, and thus, from the circle of potential candidates are eliminated all individuals that have not completed the mentioned training, regardless of their expertise and qualifications assessment based on other criteria, for which there is no basis in constitutional-law terms.

According to the conclusion from the BCSP/APS Alternative Report, this decision speaks on the lack of systematic reforms implementation in the Serbian judiciary system. Namely, the establishment of the Judiciary Academy and initial training should have been followed by resolving the status of judicial and public prosecutors' assistants, that are not considered as judicial professionals in Serbia but as a temporary category for persons pending to be selected for judges or public prosecutors, and which have civil servant status. The judicial and public prosecutors' assistants have established an association that has submitted the initiative for the constitutional assessment of these law's provisions. Also, the status of the Judicial Academy should have been regulated differently in order to have sufficient guarantees related to the independence, or to migrate the election of candidates for the initial training into judicial councils. The Commission for the implementation of the National Judicial Reform Strategy has established a working group that should recommend a solution to this issue. The interim solution can be found in the Action Plan for Chapter 23, which envisages that in Q1/2015, based on the Rulebook on the Criteria, Standards and Process of Performance Evaluation of Judges and Court Presidents, be determined that completed initial training at the Judicial Academy presents a significant advantage during the assessment of expertise and qualifications of candidates for the judiciary, i.e. public prosecutor's offices.¹⁹⁵

195 BCSP/APS Alternative Report, pages 19-20.

Measure 3.4.2.2. To amend the Rulebook on the entrance examination for initial training at the Judicial Academy, aimed at increasing the enrolment transparency
The first activity foresees that by September 6 2014, the Judicial Academy establishes a working group for drafting the Rulebook. Indicator: The Decision on the establishment of the working group.
The activity is fulfilled in line with the indicator. According to information at the Agency's disposal, the activity is fulfilled in the manner, and within the timeframe envisaged by the Action Plan.
The second activity foresees that by January 6 2015, the Judicial Academy prepares and adopts the Rulebook. Indicator: The Rulebook is adopted.
Implementation of the activity is ongoing.

In mid-December 2013, the Judicial Academy Steering Committee reviewed the possibilities of amending the Rulebook and determined the directions of alterations. By the end of December 2013, a working group for amending the Rulebook was established. A survey/questionnaire was prepared for 1-4 generation of Judicial Academy's students.¹⁹⁶ The BCSP/APS Alternative Report questions if this measure is necessary given that the list of candidates is published on the Judicial Academy's internet page, and that parts of the entrance examination are conducted in accordance with the best practices that fulfil certain criteria – the written examination is taken under the code, the oral examination is recorded, examination questions are drawn on the day of the examination. The BCSP/APS Alternative Report recommends that the need for this measure be re-examined and harmonized with recommendations provided by the Working group for the reform and development of the Judicial Academy.¹⁹⁷

Measure 3.4.2.3. To promote initial and permanent training at the Judicial Academy among law students, judicial and prosecutorial assistants and interns
The first activity foresees that by March 6 2014, the Judicial Academy prepares a curriculum of informative seminars and develops information materials. Indicator: The curriculum and information materials are prepared.
The activity is not fulfilled in line with the indicator.
The second activity foresees that the Judicial Academy on a permanent basis conducts the curriculum of informative seminars. Indicator: Training curriculum executed by the year of Strategy validity; reports on training curricula implementation; curricula and lists of training participants, and reports on trainings evaluation.
The activity is not fulfilled in line with the indicator for the reported period.

¹⁹⁶ Judicial Academy, *Report on the Implementation of the Strategy*, February 2015.
¹⁹⁷ BCSP/APS Alternative Report, page 21.

In its report, the Judicial Academy states that information materials (brochures, leaflets, as well as PPTs) are prepared, but that it is necessary to further work on the development of promotional materials and align them with possible legislative amendments. The beginning of promoting the initial and permanent training will depend on the Constitutional Court's decision and possible amendments to the Law on the Judicial Academy and the Judicial Academy's by-laws. The implementation of promotional activities was planned from September 2014.¹⁹⁸

Measure 3.4.2.4. To amend the Law on the Judicial Academy, the Law on the High Judicial Council, the Law on the State Prosecutorial Council, to introduce the mandatory permanent training for all holders of judicial office
The first activity foresees that by May 6 2014, the ministry in charge of judicial affairs prepares the drafts on amendments to the laws and submits them to the Government. Indicator: The draft laws on amendments to the laws are submitted to the Government.
The activity is not fulfilled in line with the indicator.
The second activity foresees that by July 6 2014, the Government submits the bills on amendments to the laws to the National Assembly. Indicator: The bills on amendments to the laws are submitted to the National Assembly.
The activity is not fulfilled in line with the indicator, given that previous conditioning activity is not fulfilled.
The third activity foresees that by September 6 2014, the National Assembly adopts the laws on amendments to the laws. Indicator: The laws on amendments to the laws are adopted.
The activity is not fulfilled in line with the indicator, given that previous conditioning activity is not fulfilled.

According to the Ministry of Justice's report, the implementation of this measure has been put on temporary hold given the Constitutional Court's decision, while development of the Judicial Academy's needs study, led by an experts' team, is ongoing. The first meeting was held on July 4.¹⁹⁹

The BCSP/APS Alternative Report questions if it is necessary to introduce the permanent training if the criteria on the scope of mandatory training needs and manners of possible consequences for non-attendees are not defined. According to the European Parliament's analysis conducted in 2011, a small number of countries envisage mandatory trainings, and are mostly introduced for certain areas (for example, in Belgium on juvenile justice), or in cases of considerable legislative amendments (Finland, Lithuania), or when its function is altered (Bulgaria, Germany). Mandatory training in duration of five days annually was introduced in France from 2008 and in Italy from 2006. The training in the Netherlands is mandatory only for public prosecutors, while for judges it is only recommended. The comparative law practice questions if mandatory trainings can be imposed on judges, and in which manner will the judge be considered liable if they refuse to take part in trainings, which actually presents the issue of the relationship between judicial independence on one

¹⁹⁸ Judicial Academy, *Report on the Implementation of the Strategy*, February 2015.
¹⁹⁹ Ministry of Justice, *The Report on the Implementation of the Strategy*, January 2015.

hand, and responsibility, i.e. expertise, on the other. The UN Basic Principles on the Independence of the Judiciary foresee that the judiciary or independent association of judges must be exclusively responsible for advancing professional trainings. The Council of Europe Committee of Ministers' Recommendation P (94) foresees that judges, in addition to other listed obligations, must "undergo all necessary trainings for the proper and efficient fulfilment of their duties."²⁰⁰

Measure 3.4.2.5. To adopt a normative framework defining clear and objectively measurable criteria and procedures for the election and advancement of holders of judicial office (criteria to be objectively measured)

The first activity foresees that by March 6 2014, the HJC prepares and adopts the Rulebook on criteria and procedures for the election and advancement of holders of judicial office.

Indicator: Entry into force of the Rulebook on objective criteria and procedures for election and advancement of holders of judicial office and deputy public prosecutors.

The activity is not fulfilled in line with the indicator.

The second activity foresees that by March 6 2014, the SPC prepares and adopts the Rulebook on objective criteria and procedures for the election and advancement of holders of judicial office and deputy public prosecutors.

Indicator: Entry into force of the Rulebook on objective criteria and procedures for election and advancement of holders of judicial office and deputy public prosecutors.

The activity is not fulfilled in line with the indicator.

The third activity foresees that by March 6 2014, the HJC and the SPC publish these Rulebooks on their websites.

Indicator: The Rulebooks of the HJC and the SPC are published on their websites.

The activity is not fulfilled in line with the indicator.

On April 15 2014, the HJC established a working group for the preparation of a rulebook that will prescribe criteria and procedures for the election and advancement of holders of judiciary offices, i.e. for evaluation of qualifications, competence and worthiness for election of judges and courts presidents. The Rulebook on Criteria, Standards, Procedures and Bodies for the Performance Evaluation of Judges and Court Presidents was enacted on July 22 2014.²⁰¹ During the same meeting is decided that during the period September 1-December 15, a pilot phase of the Rulebook's implementation be conducted, aimed at assessing the feasibility of the Rulebook and identifying potential problems in their application before the official initiation of its implementation on January 15 2015. Following the implemented pilot phase, the HJC decided to postpone the Rulebook's implementation until July 1 2015, by which time it will have reviewed the Consultative Council of European Judges, TAIEX and OEBS' recommendations, as well as suggestions received during the pilot phase implementation. This Rulebook presents a foundation for the election to another court and judicial advancement.²⁰² The Rulebook is published on the HJC Website. The Judges' Association of Serbia also said in a letter to the HJC president to postpone the implementation of the

200 BCSP/APS Alternative Report, pages 21-22.

201 „Official Gazette of the RS“, No. 81/14.

202 High Judicial Council, *Report on the Implementation of the Strategy*, January 2015.

Rulebook, particularly having in mind Opinion No. 17 of the Consultative Council of European Judges on the evaluation of judges' work, the quality of justice and respect for judicial independence, and the fact that the focus of the Consultative Council's Opinion is placed on how the individual evaluation of judges' work can improve the quality of justice without jeopardizing the judicial independence. Given that aside from activities on the rulebook for the election of judges and courts presidents, the ongoing activity presents the work on the Rulebook on Criteria, Standards, Procedures and Bodies for Performance Evaluation of Judicial Assistants, the HJC considered to be suitable that these three key documents be harmonized and simultaneously implemented. On the other hand, the second draft to the Action Plan for Chapter 23 foresees the Q1/2015 as this activity implementation period.²⁰³

Following several years' work on the criteria for performance evaluation of public prosecutors, and the submission of working versions of the documents to EC experts, on May 29 2014, the SPC adopted the Rulebook on Criteria and Standards for Performance Evaluation of Public Prosecutors and Deputy Public Prosecutors,²⁰⁴ while during the same meeting it established the working body for the preparation of criteria and standards for the qualification, competence and worthiness of election of holders of public prosecutors' offices.²⁰⁵ The adopted rulebook had a trial implementation period for a representative number of public prosecutors' offices, which ended on December 15 2014. These public prosecutors' offices submitted suggestions and remarks to the SPC, further forwarded to the working group members for additional reviewing and possible amending of the Rulebook, whose implementation initiates on January 15 2015. The Rulebook for the evaluation of complexity and difficulty of cases in public prosecutors' offices is ongoing, whereas the Draft rulebook on criteria and standards for the assessment of candidates' qualification and competence in the course of proposing for election to prosecutorial office is submitted to the DG Enlargement for obtaining an opinion, as well as to all public prosecutors offices in the Republic of Serbia and professional association. The Rulebook on Criteria and Standards for Performance Evaluation is published on the SPC Website, as well as the Manual for Interpretation and Implementation of the Rulebook that provides detailed interpretation of individual terms and procedures in order to avoid different interpretations and unequal conduct in practice.²⁰⁶

In its report, the HJC states that this issue will be considered during the preparation of a new decision that will prescribe criteria and standards for the election and advancement of judges in accordance with Measure 3.4.2.5. With regards to the second activity, the HJC states that as of July 2013, the decisions on the election of judges with rationale are published in the "Official Gazette of the RS".²⁰⁷

In its report, the SPC described in detail the 2014 election procedure of deputy public prosecutors, but failed to state that the ranking list of candidates was published, while in the case of the decision on the election of 19 candidates as permanent holders of office, as well as the National Assembly's Decision on the election of 45 candidates for first election for deputy public prosecutors and four appellate public prosecutors that are published in the "Official Gazette of the RS",²⁰⁸ failed to specify if they were published with the rationale.²⁰⁹

203 BCSP/APS Alternative Report, pages 22-23.

204 „Official Gazette of the RS“, No. 58/14.

205 BCSP/APS Alternative Report, page 24.

206 State Prosecutorial Council, *Report on the Implementation of the Strategy*, January 2015.

207 First rationales on the decisions related to election of judges are published in the "Official Gazette of the RS", No. 67/13 and 69/13 – corr.

208 „Official Gazette of the RS“, No. 50/14; „Official Gazette of the RS“, No. 55/14; „Official Gazette of the RS“, No.128/14.

209 State Prosecutorial Council, *Report on the Implementation of the Strategy*, January 2015.

In the BCSP/APS Alternative Report is stated that in December 2014, the HJC neither published the list of nominated candidates for election in courts, but failed to publish the list of candidates for judicial office, nor has presented rationales on individual candidate's election decision. Also, even though the SPC Website contains decisions on the election of deputy public prosecutors, there are no rationales on individual candidate's election relating to the election of deputy public prosecutors nominated to the National Assembly, as well as relating to the list of candidates for public prosecutors submitted to the Government. The SPC Website does not contain the ranking lists of candidates who have applied for holders of public prosecutors offices.²¹⁰

Measure 3.4.2.7. To adopt a normative framework that defines clear criteria and procedures related to responsibilities of holders of judicial and public prosecutors offices
The first activity foresees that the HJC and the SPC on a permanent basis implement the Rulebook on procedures on disciplinary proceedings and disciplinary liability, in order to establish the functional system of Disciplinary Prosecutor and Disciplinary Commission. Indicator: The number of processed holders of judicial offices.
The Agency is unable to assess the fulfilment of this activity for the reported period, in the part related to the HJC, as well as in the part related to the SPC.
The second activity foresees that the HJC and the SPC on a permanent basis prepare the analysis on rulebook implementation effects. Indicator: The risk analysis document is prepared.
The activity is fulfilled in line with the indicator for the reported period, in the part related to the HJC, as well as in the part related to the SPC. According to information at the Agency's disposal, the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.
The third activity foresees that the HJC and the SPC, following a 6-month period from the second activity's implementation, amend the rulebooks in order to precisely define serious violations of the code of ethics, as well as related to other improvements identified by the analysis on rulebook implementation effects. Indicator: The amendments to the rulebooks are adopted.
The activity is not fulfilled in line with the indicator in the part related to the HJC.
The activity is fulfilled in line with the indicator in the part related to the SPC. The Agency holds no information if the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.

210 BCSP/APS Alternative Report, page 25.

On January 23 2014, the HJC appointed new members of disciplinary bodies - Disciplinary prosecutor, Deputy disciplinary prosecutor, President, member and deputy member of the Disciplinary Commission – given that the previous members' mandates had expired. At the public meeting held on February 20 2014, the HJC adopted the Report on Disciplinary prosecutors' operations for 2013, and in September 2014, the Disciplinary prosecutor and the Disciplinary Commission submitted the H1/2014 Report on operations. These reports are published on the HJC Website. In cooperation with members of disciplinary bodies, the Professional Service Department of the HJC Administrative Office developed a working version of the Rulebook on disciplinary proceedings and the disciplinary liability of judges, harmonized with the amendments to the Law on Judges. The analysis of the rulebook's implementation preceded the Rulebook preparation, aimed at improving existing solutions given the disciplinary bodies' practice up to present in the Rulebook's implementation. The HJC established a working group that will review the working version of the Rulebook and submit the Draft to the HJC for adoption. In its report, the HJC states that the Law on Judges foresees that serious violations of provisions of the Code of Ethics represents a disciplinary violation (Article 90(1-18)), and that therefore, the definition of serious violations of the Code of Ethics are subject to legislative regulations and not the rulebook.²¹¹

The second draft of the Action Plan for Chapter 23 foresees that the analysis of the normative framework regulating causes for dismissal of judges aimed at their refinement will be conducted during Q2 and Q3/2105, as well as on the jurisdiction in disciplinary proceedings, on enacting of a decision in reference to the review of dual jurisdiction of the Disciplinary Commission, in addition to absolute statute of limitations of disciplinary violations. Thus, the BCSP/APS Alternative Report assesses that it is not suitable to amend the Rulebook on the procedure on disciplinary proceedings and disciplinary liability before drafting the law for normative framework amending, particularly having in mind frequent changes in the judicial system and the need for its stabilization, due to which frequent alterations of the legislative framework should be avoided.²¹²

On May 20 2013, the SPC adopted the Rulebook on procedures for disciplinary proceedings and disciplinary liability of public prosecutors and deputy public prosecutors, at the time of disciplinary bodies' appointment. The amendments to the Rulebook adopted on May 29 2014, are in some parts harmonized with the OSCE suggestions. In February 2014, the Disciplinary prosecutor submitted a report to the SPC containing the analysis on operations and conduct in the field of disciplinary complaints, information on the structure of disciplinary complaints, the number of persons against whom the charges are filed, as well as on the number of the Disciplinary Commission's decisions enacted on these submissions. The analysis of the Rulebook implementation effects for the period February-December 2014 is ongoing.²¹³ The SPC Code of Ethics was adopted on June 3 2014.

211 High Judicial Council, *Report on the Implementation of the Strategy*, January 2015.

212 BCSP/APS Alternative Report, page 26.

213 State Prosecutorial Council, *Report on the Implementation of the Strategy*, January 2015.

Measure 3.4.2.8. To conduct analysis of type of data that should be considered as confidential in the personal record, and harmonize the Law on the Public Prosecutor's Office and the Law on Judges with the Law on Data Secrecy and the Law on the Anti-Corruption Agency

The first activity foresees that by March 6 2014, the HJC and the SPC conduct an analysis of type of data that should be considered as confidential in the personal record and the compliance analysis of the above-mentioned laws.

The remark to this activity states that it should be implemented with the participation of the Commissioner for Information of Public Importance and Personal Data Protection and the Ministry of Justice.

Indicator: The analysis is prepared.

The activity is not fulfilled in line with the indicator, neither in the part related to the HJC, nor in the part related to the SPC.

The second activity foresees that by May 6 2014, the ministry in charge of judicial affairs prepares draft laws on amendments to the laws and submits them to the Government.

Indicator: The draft laws on amendments to the laws are submitted to the Government.

The activity is not fulfilled in line with the indicator, given that the previous conditioning activity is not fulfilled.

The third activity foresees that by July 6 2014, the Government submits the bills on amendments to the laws to the National Assembly.

Indicator: The bills on amendments to the laws are submitted to the National Assembly.

The activity is not fulfilled in line with the indicator, given that the previous conditioning activity is not fulfilled.

The fourth activity foresees that by September 6 2014, the National Assembly adopts the laws on amendments to the laws.

Indicator: The laws on amendments to the laws are adopted.

The activity is not fulfilled in line with the indicator, given that the previous conditioning activity is not fulfilled.

In cooperation with USAID, the HJC prepared an e-Database on judges, also containing data that is prescribed by the Law on the Organization of Courts, Article 73, as a content of the personal record. The Article 72(3) of this law prescribes that the personal records are deemed official secrets and that may be processed and used only for the purposes of implementation of this law and the laws governing the status of judges, in accordance with regulations governing personal data protection. On May 20 2014, the HJC determined a template of personal records of judges. A personal records application is designed, and employees of the HJC Administrative Office and courts attended training related to personal records' data processing.²¹⁴

According to the BCSP/APS Alternative Report, these activities can only be considered as automatization of the management process related to the personal records of judges, and not as the development of analysis on data that should be considered as confidential in the personal record and as harmonization of the personal records' content with the results of the analysis.²¹⁵

214 High Judicial Council, *Report on the Implementation of the Strategy*, January 2015.

215 BCSP/APS Alternative Report, page 27.

The SPC prepared an analysis of data that should be considered as confidential in the personal record, in accordance with the Law on the Public Prosecutor's Office, the Law on Data Secrecy and the Law on the Anti-Corruption Agency. The SPC submitted a letter to the Commissioner for obtaining an opinion on data that should be considered as confidential in the personal record in accordance with the Law on Data Secrecy, as well as the Law on Personal Data Protection. On July 9 2014, the Commissioner replied on its sole oversight function related to the implementation of the Law on Personal Data Protection, and has not submitted an opinion on data that should be considered as confidential in the personal record.²¹⁶ The SPC prepared the analysis of data that should be considered as confidential in the personal record, in accordance with the Law on the Public Prosecutor's Office, the Law on Data Secrecy, and the Law on the Anti-Corruption Agency. The SPC has submitted an official letter to the Commissioner seeking his opinion on the data from the personal record, which should be treated as confidential, according to the Law on Confidential Information, as well as to the Law on Personal Data Protection. On 9 July 2014, the Commissioner replied that it has the competence to control only the implementation of the Law on Personal Data Protection and did not provide an opinion about which data should be considered confidential in the personal record.²¹⁷

Measure 3.4.2.9. To establish a procedure for regularly publishing statistical data and practices of HJC and SPC disciplinary authorities referring to the number of reports, types of violations, types and number of decisions and the period in which a matter was resolved

A single activity within this measure foresees that the HJC and SPC permanently, i.e. semi-annually publish statistical data on their websites.

Indicator: Reports are being published at web portals every six months

The activity is fulfilled in accordance with the indicator for the reporting period, in both the part related to HJC, and the part related to SPC.

The Agency does not dispose of information whether the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.

The Agency notes that by the completion of a single activity within this measure, the measure itself has been fulfilled for the reporting period.

The Agency does not dispose of information whether the measure has been fulfilled in the manner and within the timeframe envisaged by the Action Plan.

Since the establishment of the HJC disciplinary authorities, the report of the disciplinary prosecutor makes an integral part of the annual report of the work of the HJC, and all annual reports are available at the HJC web page. The consideration of the new version of the Rulebook is in progress, which shall introduce the provision on the obligation of the disciplinary commission to submit reports on the work of the commission by March 31 of the current year, as well as upon the request of the HJC, which is in accordance with the current Rulebook on obligations of the disciplinary prosecutor. Annual and semi-annual reports on the work of the disciplinary prosecutor and disciplinary commission are available at the HJC web page.²¹⁸

The HJC quarterly publishes statistical data from the practices of disciplinary authorities, referring to the number of reports, types of violations, and number of decisions.²¹⁹

216 State Prosecutorial Council, *Report on the Implementation of the Strategy*, January 2015.

217 State Prosecutorial Council, *Report on the Implementation of the Strategy*, January 2015.

218 High Judicial Council, *Report on the Implementation of the Strategy*, January 2015.

219 State Prosecutorial Council, *Report on the Implementation of the Strategy*, January 2015.

The alternative report of the BCSP (Belgrade Centre for Security Policies) and APP (Association of Public Prosecutors), states that the special presentation “Decision of disciplinary authorities” on the HJC website home page offers information on only two disciplinary cases, that is, information on the HJC decisions on appeals against decisions of the Disciplinary Commission from January and April 2014, whereas the statistical data summary on the work of disciplinary authority for the period May-December 2013, was published in the Information booklet on the work of the HJC in January 2014. The data refers to the number of cases in which the disciplinary complaint was filed, the number of cases in which it was rejected, the number of cases in which action has been taken to verify the existence of elements of disciplinary proceedings and the number of cases in which the proposal was submitted to conduct disciplinary proceedings.²²⁰

Objective 3.4.3. To establish efficient and proactive actions in detecting and prosecuting criminal offenses related to corruption

The Strategy notes that, in general, the financial investigation is conducted after the criminal complaint has already been filed, which increases the risk that the property would be taken out of the country, and that, for better communication between the public prosecution and the police, the law needs to provide for the assignment of police officers to the public prosecutor’s office for a limited period of time.

For the realization of this objective, the Action Plan foresees seven measures.

Measure 3.4.3.1. To create a multidisciplinary training curriculum for conducting proactive investigations for the police, Military Security Agency, prosecution and court
The first activity foresees that HJC and RPP until September 6 2014, conduct an analysis of past experiences in the field of legality and admissibility of evidence gathered during investigation and special investigative actions.
Indicator: The analysis document is prepared and adopted
The Agency is not able to assess the fulfilment of activities in the part referring to the HJC.
The Activity is fulfilled in line with the indicator in the part related to RPP. According to the data available to the Agency, the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.
The third activity foresees that Judiciary Academy until December 6 2014, prepares a manual for the use of special investigative techniques.
Indicator: The manual is published
The Activity is not fulfilled in line with the indicator.
The fourth activity foresees that the Judiciary Academy continuously conducts a training plan and distributes instruction manuals.
Indicator: training plan executed according to the year within the Strategy validity; reports on training plan realization; curricula and lists of participants and reports on training evaluations.
The Agency is not able to assess the fulfilment of the activity.

* The second activity was not due for implementation until the end of 2014.

220 Alternative Report of the BCSP and APP, pg. 28.

In its report, the HJC has not addressed the realization of this measure.

The analysis of the past experiences in the field of legality and admissibility of evidence gathered during investigation was conducted on the basis of statistical data on reported crime, required investigations and indictments without conducting investigation, for the period 2011-2013, according to the annual reports and gathered data on the number of decision made on separation of transcripts on actions from the case file, when the Law on Criminal Proceedings proscribed that certain evidence cannot be used in criminal proceedings (for the period 2011-2013), and the number of filed, adopted and rejected complaints due to irregularities during the investigation of POOC (Prosecutor’s Office for Organized Crime) (for the period 2011-2014). The analysis of admissibility of special investigative (evidentiary) actions was conducted on the basis of the total number of applied special evidentiary actions in the period 2011-2014, and a number of persons reported for criminal offences, for which special evidentiary actions could be determined. The analysis was completed on June 27 2014.²²¹

According to the report of the Judiciary Academy, the selection of the working group for drafting of the manual is in progress, but the Judiciary Academy has no budget for preparation, printing and distribution of the manual.²²² The Agency notices that the Action Plan for this activity allocated needed resources in the amount of 5.000.000 RSD, but has no information whether the Judiciary Academy requested those funds in its budget proposal for 2014.

In 2013, the Council of Europe published a Manual on application of special investigative techniques within the scope of its “Project on criminal assets recovery in Serbia”, with the EU financial support, while during the first half of 2015, trainings on special investigative measures will be organized and training materials for participants prepared, within the IPA project which supports the implementation of the new Criminal Procedure Code.²²³

Measure 3.4.3.2. To implement and develop a proactive investigation process
The first activity foresees that by September 6 2014, RPP and MoI establish a statistical database on the initiated proactive investigations (application of special techniques and proceedings based on police and prosecution’s own initiative).
Indicator: The initiated proactive investigations have increased in comparison to the previous year
The activity is not fulfilled in line with the indicator in the part related to RPP.
The Agency is not able to assess the fulfilment of the activity in the part related to the MoI.
The second activity foresees that the RPP and MoI permanently keep records on the proactive processing of corruption offenses.
Indicator: Records are created
The Activity is not fulfilled in line with the indicator in part related to RPP.
The Agency is not able to assess the fulfilment of activity in part related to MoI.

221 Republic Public Prosecutor, Report on the implementation of the Strategy, January 2015.

222 Judiciary Academy, Report on the implementation of the Strategy, February 2015.

223 Alternative Report of the BCSP and APP, pg. 29.

In order to implement this measure, all public prosecutors offices are obliged to establish a statistical database on initiated proactive investigations and notify the RPP on measures, which have been undertaken. They were informed about it through an official letter of November 20 2013.²²⁴

The report of the MoI has not addressed the realization of this measure.

The Alternative report of the BCSP and APP states that these activities have not been implemented.²²⁵

Measure 3.4.3.3. To amend the Law on Seizure and Confiscation of the Proceeds from the Crimes so as to introduce an obligation for the MoI to submit to the prosecutor's office a fulfilled financial investigation in addition to a criminal charge
The first activity foresees that until December 6 2013, the ministry in charge of judiciary affairs develops a Draft law on amendments to the Law and submit it to the Government. Indicator: Draft laws on amendments to the Law are submitted to the Government
The activity is not fulfilled in line with the indicator.
The second activity foresees that until February 6 2014, the Government submits the proposed law on amendments to the Law to the National Assembly. Indicator: The proposed law on amendments to the Law is submitted to the National Assembly
The Activity is not fulfilled in line with the indicator, given that the previous conditional activity has not been implemented.
The third activity foresees that by March 6 2014, the National Assembly adopts the Law on amendments to the Law. Indicator: Law on amendments to the Law is adopted
The Activity is not fulfilled in line with the indicator, given that the previous conditional activity has not been implemented.

The working group for development of the Draft Law on amendments to the Law on Seizure and Confiscation of the Proceeds from Crimes has been established, but the Draft is still pending. Another Action Plan Draft for Chapter 23 envisages that this Law should be amended in accordance with the previously conducted efficiency improvement analysis, in the fourth quarter of 2015.²²⁶

224 Republic Public Prosecutor, Report on the implementation of the Strategy, January 2015.

225 Alternative Report of the BCSP and APP, pg. 29.

226 Alternative Report of the BCSP and APP, pg. 29.

Measure 3.4.3.4. To build the capacities of judicial authorities for conducting criminal proceedings
The first activity foresees that by March 6 2014, the RPP and SPC conduct a needs analysis for the increase of the number of deputy prosecutors and their specializations. Indicator: Needs analysis conducted
The Activity is fulfilled in line with the indicator in both part related to RPP and SPC. According to the Agency's data, the activity is fulfilled in the manner and within the time-frame envisaged by the Action Plan.
The second activity foresees that by December 6 2014, the RPP and SPC increase the number of deputy public prosecutors, according to the needs analysis, acting in criminal offense case procedures in the PPOC and special divisions of the higher prosecutor's offices. Indicator: The number of deputy public prosecutors in the PPOC and higher prosecutors offices corresponds to the recommendations from the needs analysis.
The Activity is fulfilled in line with the indicator, in both parts related to RPP and SPC. According to the Agency data, the activity is fulfilled in the manner and within the time-frame envisaged by the Action Plan.
The third activity foresees that by January 6 2014, Judiciary Academy develops a specialized training curriculum for deputy public prosecutors and judges on the basis of the needs analysis. The activity contains a note that in the development of the training programme, the PPORS, SPC and HJC should be consulted. Indicator: The specialized training curriculum is developed on the basis of recommendations from the needs analysis
The Agency is not able to assess the fulfilment of this activity.
The fourth activity foresees that the Judiciary Academy continually implements the specialized training curriculum. Indicator: Training curriculum executed by the year of Strategy validity; reports on training curricula implementation; curricula and lists of training participants and reports on trainings evaluation.
The Agency is not able to assess the fulfilment of this activity for the reporting period.

In order to implement this measure, a analysis of needs to increase the number of deputy prosecutors and their specializations and introduce a team of economic forensics in public prosecutor's offices was conducted in January 2014, based on which, the Republic Public Prosecutor recommended to the higher prosecution offices in Belgrade, Novi Sad, Kragujevac and Nis, which have special anti-corruption divisions to, based on the analysis, increase the number of deputies acting in corruptive offense proceedings.

In accordance with this recommendation, the mentioned public prosecutors offices have increased the number of deputy prosecutors acting in the area. The analysis found that there is a need to increase the total number of deputy public prosecutors for implementation of the Criminal Procedure Code (hereinafter referred to as CPC), that is, 58 deputies in higher public prosecutors offices and 182 deputies in basic public prosecutors offices, with an accompanying increase in the number of prosecution staff, affecting the increase of the number of deputies in higher public prosecutors offices, in which anti-corruption divisions have been established, out of which, six in the Higher public prosecutor's office in Belgrade and

two in each of the higher prosecutors offices in Novi Sad, Nis and Kragujevac. According to the reports of the public prosecutors offices acting in corruption offenses, the number of deputy public prosecutors acting in these cases has increased, in accordance with the analysis.²²⁷

According to the Judicial Academy report, this training is ongoing since 2013, in addition to which a manual for implementation of the CPC was developed. Training for trainers was conducted, lecturers were identified and a training plan for 50 seminars was prepared, starting from May 2013.²²⁸

Measure 3.4.3.5. Continuous training of judges and prosecutors in financial investigation
The first activity foresees that by March 6 2014, the Judicial Academy develops the training curriculum and training manuals. The activity contains a note that the development of the training curriculum and training manuals should involve the HJC and SPC. Indicator: The training curriculum and training manuals are developed
The Agency is not able to assess the fulfilment of the activity.
The second activity foresees that the HJC and SPC proscribe mandatory days of training for judges and prosecutors once a year. Indicator: The act providing for mandatory training days is adopted
The activity is not fulfilled in line with the indicator for the reporting period in either the part concerning the HJC, or the part concerning the SPC.
The third activity foresees that the Judicial Academy continuously implements the training curriculum and distributes training manuals. Indicator: Training curriculum executed by the year of Strategy validity; reports on training curricula implementation; curricula and lists of training participants, and reports on trainings evaluation.
The Agency is not able to assess the fulfilment of this activity for the reporting period.

The regular annual programme of the Judicial Academy envisages two-day and five-day workshops on financial investigations. Trainings have been regularly organized during 2011, 2012 and 2013, while trainings for 2014 have been planned to start from September.²²⁹ The Judicial Academy has not addressed the realization of the third activity in its report.

In its report, the HJC states that the activity would be implemented upon the submission of the training curriculum and training manuals by the Judicial Academy.²³⁰

The SPC in its report states that the Judicial Academy has not provided a response to the official memo from July 9 2014, referring to the capacity and possibilities for organization of mandatory trainings for holders of public prosecution functions.²³¹

227 State Prosecutorial Council, Report on the Implementation of the Strategy, January 2015.

228 Judiciary Academy, Report on the implementation of the Strategy, February 2015.

229 *Ibid.*

230 High Judicial Council, Report on the Implementation of the Strategy, January 2015.

231 State Prosecutorial Council, Report on the Implementation of the Strategy, January 2015.

With regards to this measure, the same questions can be raised, which the Alternative report of the BCSP and APP has raised in relation to the measure 3.4.2.4.

Measure 3.4.3.6. To change the legal framework so to enable sending MoI members to the POOC
The first activity foresees that by October 6 2013, the RPP and MoI conduct an analysis on what laws should be amended to enable sending MoI members to the POOC. Indicator: The analysis is conducted
The activity is fulfilled in line with the indicator. According to the Agency's data, the activity is fulfilled in the manner, but not within the timeframe envisaged by the Action Plan.
The second activity foresees that by December 6 2014, the ministry in charge of judiciary affairs and MoI develops a Draft law on amendments to the Law and submit it to the Government. Indicator: Draft laws on amendments to the law are submitted to the Government
The Agency is not assessing the fulfilment of this activity, given that the analysis of the first activity demonstrated that this activity is unnecessary.
The third activity foresees that by December 6 2013, the Government submits a proposed law on amendments to the law to the National Assembly. Indicator: Proposed laws on amendments to the law are submitted to the National Assembly
The Agency is not assessing the fulfilment of this activity, given that the analysis of the first activity demonstrated that this activity is unnecessary.
The fourth activity foresees that by December 6 2013, the National Assembly adopts laws on amendments to the law. Indicator: Laws on amendments to the law are adopted
The Agency is not assessing the fulfilment of this activity, given that the analysis of the first activity demonstrated that this activity is unnecessary.
Note: The Agency will consider this measure fulfilled upon conclusion of the Memorandum of Understanding between the MoI and POOC, which would provide greater guarantees in efforts to achieve the objective, for which this measure was envisaged by the Action Plan.

Because of this measure, an analysis was conducted, which revealed that the purpose of the measure could be achieved without changes of the existing regulation. At the coordination meeting with the Ministry of Justice and Public Administration, held on December 5 2013, representatives of the competent entities have reached full agreement on the deviation from the fulfilment of this measure, given that the provision of Article 9 of the Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised Crime, Corruption and Other Severe Criminal Offences provides sufficient grounds for referring MoI staff members to the POOC. It was agreed that for arrangement of all details, a Memorandum of Understanding between MoI and POOC should be concluded, whose draft would be developed by MoI. Thus, the analysis demonstrated that this measure was not necessary, although it surely contributed to greater proactivity in the area, identification of legal

grounds, enabling the fulfilment of its purpose, as well as the establishment of the needed institutional cooperation. Even though the measure, the way in which it was formulated, has not been realized, it can be said that its purpose was achieved, contributing to the removal of problems, due to which the measure was identified in the Action Plan, and defined in the Strategy, as insufficiently developed communication between the public prosecutor's office and the police, as a reason for introducing a law to enable referral of the police officers to public prosecutors offices for a limited period of time. In addition, these activities should contribute to the achievement of the corresponding Strategy objective, anticipating the development of efficient and proactive actions in the detection and prosecution of corruptive criminal offenses. Having in mind the above, the Agency will consider this measure fulfilled upon conclusion of the Memorandum of Understanding between the MoI and the POOC, which would provide greater guarantees in efforts to achieve the objective, for which this measure was envisaged by the Action Plan. For this reason, during the review of the Strategy implementation for the first half of 2014, the Agency has recommended that the MoI continues to report on the conclusion of the MoU, since it was decided that the MoI would be in charge of drafting the MoU, and that the Ministry of Justice should consider the possibilities for appropriate modifications to the Action Plan, and, that, as the authority in charge of coordination of the Strategy implementation, it should inform the Government and the National Assembly, as subsequent entities in the hierarchy, that it would not be obligated to implement the activities pertaining to this measure, for which they were designated as entities in charge.

On December 12 2013, the Normative Affairs Department of the MoI Secretariat submitted a draft MoU between MoI – Police Directorate and POOC to the Criminal Police Directorate.²³²

Measure 3.4.3.7. To harmonize the records of deposits in courts with the status of CD cases (Corpus delicti cases), especially narcotic drugs and money

The single activity within the measure foresees that presidents of courts semi-annually update and harmonize the records and status of CD cases in court deposits.

Indicator: Records in court deposits show the accurate status of CD cases

The Agency is not able to assess the fulfilment of the activity.

The reports on implementation of the Strategy and the Action Plan for 2014 were submitted by 46 courts. From their reports, it can be concluded that records have been properly kept, the status of CD cases is continuously monitored in the ongoing criminal cases, as well as criminal cases which concluded by judgment with final force and effect, while the court accounting continuously tracks money deposits.

Opinion and recommendation of the Agency: The Agency proposed to the ministry in charge of judicial affairs, to consider appropriate modifications of this measure, with the aim to change the responsible entity, which would control whether the courts are actually fulfilling this measure. The Agency has no jurisdiction, or the capacities, to check whether this activity is fulfilled in line with the indicator, that is, whether the records in court deposits show the accurate status in CD cases.

²³² Ministry of Interior, Report on the Implementation of the Strategy, January 2015.

Objective 3.4.4. To improve the substantive criminal law and harmonize it with international standards

The Strategy reports that illicit enrichment is still not adopted as a criminal offense, as defined in the UN Convention against corruption.

For the achievement of this objective, the Action Plan foresees four measures.

Measure 3.4.4.1. To amend the Criminal Code to introduce the criminal offense of Illicit enrichment

The first activity foresees that by June 6 2014, the ministry in charge of judiciary affairs develops a Draft law on amendments to the Criminal Code and submits it to the Government.

Indicator: The Draft law on amendments to the Criminal Code is submitted to the Government

The activity is not fulfilled in line with the indicator.

The second activity foresees that by September 6 2014, the Government submits a proposed law on amendments to the Criminal Code to the National Assembly.

Indicator: Submit a proposed law on amendments to the Criminal Code to the National Assembly

The activity is not fulfilled in line with the indicator, given that the previous conditioning activity is not implemented.

The third activity foresees that by December 6 2014, the National Assembly adopts the law on amendments to the Criminal Code.

Indicator: The Law on amendments to the Criminal Code is adopted

The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not implemented.

According to the report of the Ministry of Justice, this activity is ongoing and within TAIEX programme, an analysis of necessary amendments would be conducted.²³³

The UN Convention against corruption (UNCAC), ratified by Serbia in 2005, obliges state parties to consider adoption of certain criminal offenses, such as, among others, illicit enrichment. UNCAC prescribes that, depending on their constitutions and fundamental principles, each state party should consider an option of adopting legal and other measures, which would be needed to determine the illicit enrichment as a criminal offense when done on purpose, that is, determine the increase in property of public officials, for which he/she is not able to provide a reasonable explanation, given his/her actual salary.

According to the second draft of the Action Plan for Chapter 23, an analysis of legal and institutional framework for specifying the consequences of “illicit enrichment” (criminal, administrative and minor offense consequences), as well as amendments to existing regulation or adoption on new ones based on the results of analysis, are all planned for the second quarter of 2016.²³⁴

²³³ Ministry of Justice, Report on the implementation of the Strategy, January 2015.

²³⁴ Alternative report of the BCSP and APP, pg. 32.

Measure 3.4.4.2. Enhancement of corruption and economic crimes through amendments to the Criminal Code

The first activity foresees that by June 6 2014, the ministry in charge of judicial affairs, develops and submits to the Government a draft law on amendments to the Criminal Code.

The activity contains a note stating that it is necessary to bear in mind criminal offenses from the Law on Anti-corruption Agency and Law on financing political activities.

Indicator: Draft laws on amendments to the Criminal Code submitted to the Government.

Activity is not fulfilled in line with the indicator.

The second activity foresees that by September 6 2014 the Government submits Draft law on amendments to the Criminal Code to the National Assembly.

Indicator: Draft law on amendments to the Criminal Code submitted to the National Assembly

The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not implemented.

The third activity foresees that by December 6 the 2014, the National Assembly adopts Law on amendments to the Criminal Code.

Indicator: The Law on amendments to the Criminal Code adopted.

The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not implemented.

As for the previous measure, the report of the Ministry of Justice states that the activity is in progress and that analysis of the necessary changes would be conducted within the *TAIEX* programme.²³⁵

The second draft of the Action Plan for Chapter 23 plans to amend the Criminal Code with the aim to enhance corruptive and economic crimes, in line with the analysis of the needed adjustment of the Criminal Code with EU standards, in the fourth quarter of 2015.²³⁶

Activities foreseen for the realization of **measures 3.4.4.3. and 3.4.4.4.** were not been implemented by the end of 2014.

²³⁵ Ministry of Justice, Report on the implementation of the Strategy, January 2015.

²³⁶ Alternative report of the BCSP and APP, pg. 32.

Objective 3.4.5. To establish efficient horizontal and vertical cooperation and exchange of information between the police, prosecutor's office, judiciary, other public authorities and institutions, regulatory and supervisory bodies, and European and international institutions and organizations

The Strategy emphasized the need to improve cooperation with the national and European institution and organizations, as well as other international organizations.

For achievement of this objective, the Strategy foresees one measure.

Measure 3.4.5.1. To improve cooperation and coordination in anti-corruption activities between relevant institutions

The single activity foresees that by March 6 2014, the ministry in charge of judicial affairs initiates a memorandum of cooperation between the police, public prosecutor's offices, judiciary, other public authorities and institutions, which will determine the method of cooperation and focal points.

The activity contains a note that the Memorandum of cooperation would be signed between the HJC, SPC, MoI, SCC, RPP, the Agency, PPO, TA and SAI, and that it should promote proactive acting, acting upon complaints of the Agency, SAI, Tax Administration, PPO, etc.

Indicator: The memorandum on cooperation is concluded

The activity is not fulfilled in line with the indicator.

The Ministry of Justice and Public Administration, with the support of the OSCE Mission in Serbia, organized a three-day working meeting in Vrdnik, gathering representatives of all signatory parties of the Memorandum of cooperation. A high level of agreement was reached regarding the final text, but the Memorandum of cooperation still has not been signed, since the MoI has not expressed its opinion yet.²³⁷ The draft memorandum of cooperation, in addition to regular coordination meetings, foresees the establishment of the joint investigation teams, and provision of expert support to the competent prosecutor during the process of resolving particularly complex and important corruption criminal offense cases.²³⁸

²³⁷ Ministry of Justice, Report on the implementation of the Strategy, January 2015.

²³⁸ Alternative report of the BCSP and APP, pg. 33.

Objective 3.4.6. Establish a unique record system (electronic register) for criminal offenses related to corruption, in accordance with the law governing protection of personal data

The problems emphasized by the Strategy point out that the existing electronic registers on all criminal cases, acted upon by the police authorities and judiciary, are not inter-linked, nor are they being kept in the same manner, which makes it difficult to exercise proactivity and track individual criminal offense procedures, not accounting for the problems with information exchange. The Action Plan foresees three measures for the achievement of this objective.

Measure 3.4.6.1. To amend by-laws in order to establish a unique methodology for data collection, recording and statistical reporting on criminal offenses related to corruption
The first activity foresees that by March 6 2014, the ministry in charge of judicial affairs establishes a multi-sectoral working group that will determine a single methodology for data collection and statistical reporting. The activity contains a note that the working group should include representatives of the MoE, RPP, ScC, SPC, HJC, POOC, MoI. Indicator: A decision on establishing a multi-sectoral working group; methodology is developed
The activity is not fulfilled in line with the indicator.
The second activity foresees that by September 6 2014, the ministry in charge of judicial affairs defines and adopts amendments to by-laws on the basis of the conducted analysis of results of work of the multi-sectoral group. Indicator: By-laws are in effect
The activity is not fulfilled in line with the indicator, given that previous conditioning activity is not implemented..

Activities foreseen for the realization of **measures 3.4.6.2. and 3.4.6.3.** were not been implemented by the end of 2014.

A decision on establishing a working group for determining a single data collection methodology and recording and statistical reporting on criminal offenses related to corruption was adopted on July 21, and amended on September 30 2014. Members of the working group are representatives of the HJC, RPP, Ministry of Justice, Higher Court in Belgrade, Higher Public Prosecutor's Office in Belgrade, First and Second Basic Public Prosecutors Offices in Belgrade, Magistrates Court in Belgrade, Criminal Police Directorate, MoI and Statistical Office of the Republic of Serbia. Members of the working group held a three-day meeting in Palic, attended by foreign experts.²³⁹

The second draft of the Action Plan for Chapter 23 foresees that this activity would be implemented by the second quarter of 2015.

Opinion and recommendation of the Agency: The Agency notes that the working group lacks representatives of the HJC, SPC and POOC, as envisaged by the Action Plan, and recommends that the ministry in charge of judicial affairs should complete the working group membership, in order to be able to fulfil the activity in a manner envisaged by the Action Plan.

²³⁹ Ministry of Justice, Report on the implementation of the Strategy, January 2015.

Objective 3.4.7. Strengthen mechanisms for prevention of conflict of interest in the judiciary

Problems pointed out by the Strategy refer to the fact that the work of court experts is not regulated by law, which is why they often offer their court expertise working as appraisers for banks or companies, which opens a space for various abuses. The Strategy notes that it is necessary to establish better control over their work, when they are engaged by courts.

The Action Plan foresees three measures for achievement of this objective.

Measure 3.4.7.1. To establish an efficient mechanism for the control of court experts
The first activity foresees that by March 6 2014, the ministry in charge of judiciary affairs adopts a rulebook that would introduce objective criteria for the selection of court experts and ensure the even distribution of court experts to subject matters. The activity contains a note that it is necessary to introduce appropriate measures in case that the Rulebook provisions on even distribution of court experts are not applied. Indicator: Rulebook adopted
The activity is not fulfilled in line with the indicator.
The second activity foresees that by March 6 2014, the HJC introduces mandatory reporting of the court to the Ministry competent for justice on any case when judgment was reversed due to erroneous expert's report. Indicator: Stated report template; number of reports
The activity is not fulfilled in line with the indicator

The Ministry of Justice and Public Administration has conducted an analysis of the Law on Court Experts, providing a comparative legal review from surrounding countries practices, as well as instruments and standards laid out at the EU level. Conclusions of the analysis point out the need to comprehensively address the issue of removing the risks of corruption in this area, which cannot be resolved only by adopting a Rulebook, but by amending legal provisions. The ministry would undertake necessary activities for the preparation of the appropriate legal framework for improvement of regulations administering the court experts' profession. Having in mind the fact that in practice the area of court expertise is characterized by many deficiencies, the purpose of the analysis was to showcase certain solutions, which if adopted, may contribute to the more efficient work of court experts, and thus improve the quality of the work of judicial authorities. In the coming period, preparation of the appropriate legal framework will be initiated, based on the conducted analysis, which would regulate court experts professions and contain contemporary solutions and better control mechanisms over the work of court experts, e.g. through prescribing qualification testing and participation in training before being appointed as court expert. The working group for drafting amendments to the Law on Court Experts was established on October 15 2014.

The Agency notes that, even though the activity was not fulfilled following the way in which it was formulated, this modification of the Action Plan is fully in line with the measure which reads "establishing an efficient mechanism for the control of court experts", with the objective from the Strategy which reads "**strengthen mechanisms for prevention of conflict of interest in judicial professions**", as well as with the problems identified in the Strategy situation assessment. In this way, even though the activity was not fulfilled following the way in which it was formulated in the Action Plan, the mentioned analysis represents a good starting point for fulfilment of the measure and the objective, and resolving the problems pointed out in the Strategy. The Agency will consider the measure as fulfilled, once the new legal framework is adopted, and accordingly,

it recommends that the Ministry of Justice continues to report on these activities, and considers the introduction of appropriate changes to the Action Plan within this measure.

As a recommendation for further acting upon this measure, the HJC proposed to introduce special records in courts on the number of judgments, which were reversed due to erroneous expert's report.²⁴⁰

Measure 3.4.7.2. To train holders of judicial functions in the rights and obligations of court experts
The first activity foresees that by December 6 2014, the Judicial Academy develops a training curriculum. Indicator: Training curriculum developed
The activity is fulfilled in line with the indicator. According to the Agency data, the activity is fulfilled in the manner, but not within the time-frame envisaged by the Action Plan.
The second activity foresees that the Judicial Academy continuously implements the training plan. Indicator: training plan executed by year of Strategy validity; reports on training plan realization; curricula and participants list and reports on training evaluations.
The Agency is not able to assess the fulfilment of the activity.

According to the Judicial Academy's report, the training curriculum and list of lecturers have been determined and total of 8 trainings per year have been planned, whereas four trainings are dedicated to criminal and four to civil disputes in appellate courts.²⁴¹

The report of the Judicial Academy is not informing on the realization of the second activity within the measure.

Measure 3.4.7.3. To adopt a rulebook that would regulate a method of use of funds raised through the institution of criminal prosecution delay
The first activity foresees that by March 6 2014, the RPP develops the most appropriate method for the procedure of allocation of funds raised through the institution of criminal prosecution delay. Indicator: The analysis of the methodology is conducted
The Agency is not able to assess the fulfilment of the activity.
The second activity foresees that by May 6 2014, the RPP formulates and adopts the rulebook. Indicator: Rulebook adopted
The activity is not fulfilled in line with the indicator.
Even though both activities can be treated as fulfilled, since amendments to the law have been adopted instead of the Rulebook, having in mind that the measure was meant only to regulate the use of funds collected through the institution of criminal prosecution delay, the Agency notes that the measure is fulfilled. Nevertheless, the issue of the quality of legal provisions, to be elaborated in the further text, remains, as well as whether the fulfilment of the measure represents an adequate contribution to the achievement of the objective for which it was introduced in the first place, which reads as "strengthen mechanisms for prevention of conflict of interest in judicial professions".

²⁴⁰ High Judicial Council, Report on the Implementation of the Strategy, January 2015.

²⁴¹ Judiciary Academy, Report on the implementation of the Strategy, February 2015.

The working group, established within the Ministry of Justice, with participation of representatives from the basic, appellate and Republic public prosecutors offices, developed draft amendments to the Criminal Procedure Code, which was adopted instead of the rulebook. Amendments to the CPC (art. 283) were adopted in May 2014.²⁴²

Amendments to the CPC introduced centralization in the use of funds, by defining that the funds can be allocated to humanitarian organizations, funds, public institutions or other legal and physical persons, after realization of a public tender, announced by the Ministry of Justice. The Minister of Justice formed a tender commission, adopted an act which regulates implementation of the public tender, criteria for allocation of funds, structure and work methods of the commission, while the decision on resource allocation was adopted by the Government.

According to the Alternative report of the BCSP and APP, the idea of proponents to centralize the resources collected through plea bargaining, can in general be considered as justified, since it provides Government accountability, related to resource allocation, as well as in relation to the achieved purpose of the spent resources. Still, the imprecision and non-transparency of provisions open up the space for corruptive practices and misuse in resource spending. Specifically, the circle of persons who are users, defined as "other legal and physical persons" is set too broadly, whereas the implementation of the public tender, the criteria for allocation of resources and structure and method of work of the commission were decided by the Minister later on, by a separate act, while the allocation decision was adopted by the Government, without clear and pre-determined criteria. It would be more purposeful to have provisions regulating the tender issues as a part of a special law or by-law, which would comprehensively regulate all relevant aspects of collection, control and spending of resources.²⁴³

Objective 3.4.8. Provide adequate resources in the public prosecutor's office and courts for dealing with cases of corruption (capacity building)

The problem pointed out by the Strategy refers to the absence of an adequate expert with an economic and financial background in the public prosecutor's office, potentially causing difficulties in initiating and conducting financial investigations.

²⁴² „Official Gazette RS“, No. 55/14.

²⁴³ Alternative report BCSP and APP, pg. 35.

For the achievement of this objective, the Action Plan foresees two measures.

Measure 3.4.8.1. To strengthen the capacities of judicial authorities for conducting criminal proceedings
The first activity foresees that by March 6 2014, the ministry in charge of judicial affairs conducts a needs analysis. A side comment to this activity states that it is necessary to increase the number of deputy public prosecutors and judges, judicial and prosecution assistants, acting in cases of criminal offenses related to corruption in the POOC and special divisions of the higher prosecution offices. Indicator: The needs analysis is conducted
According to the interpretation of the Ministry of Justice, its role in fulfilment of this measure consists of providing consent to the Rulebook on the internal organization and organisational structure of job positions.
The activity is not fulfilled in line with the indicator in the part related to the HJC.
The activity is fulfilled in line with the indicator in the part related to the SPC. According to the Agency data, the activity is fulfilled in a manner and within a timeframe envisaged by the Action Plan.
The second activity foresees that by December 6, 2014, the ministry in charge of judicial affairs, the HJC and SPC employ new staff in accordance with the recommendations from the needs analysis. The same note was indicated as for the first activity. Indicator: The number and structure of the employees matches the recommendations from the needs analysis
According to the interpretation of the Ministry of Justice, its role in the fulfilment of this measure consists of granting approval on the Rulebook on internal organization and organisational structure of job positions.
The activity is not fulfilled in line with the indicator in the part related to HJC.
The Agency is not able to assess the fulfilment of the activity in the part related to the State Prosecutorial Council.
The third activity foresees that the RPP and HJC permanently introduce a professional training system in the public prosecutor's offices. Indicator: The number of professionally trained deputy prosecutors and assistant prosecutors
The Agency is not able to assess the fulfilment of the activity neither in the part related to the RPP, nor in the part related to the HJC.
The fourth activity foresees that by March 6 2014, the Judicial Academy develops a training curriculum for holders of judicial functions. Indicator: Training curriculum developed.
The activity is fulfilled in line with the indicator. According to the Agency's data, the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.
The fifth activity foresees that the Judicial Academy continuously implements the training curriculum for holders of judicial functions. Indicator: training plan executed by year of Strategy validity; reports on training plan realization; curricula and lists of participants and reports on training evaluations
The activity is fulfilled for the reporting period. The Agency has no information whether the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan. Remark: In accordance with the amended methodology, the Agency assesses that the activity is fulfilled for the reporting period, although the responsible entity has not delivered all data for the indicator.

* The sixth activity was not implemented by the end of 2014.

In its report, the Ministry of Justice states that the RPP has conducted a needs analysis, and that the role of the Ministry of Justice in relation to these activities refers to the approval of the Rulebook on the organization and organisational structure of job positions, in the part concerning the increase of the number of prosecution and judiciary staff.²⁴⁴

According to the HJC report, the first and second activities were not realized.²⁴⁵

The SPC has conducted a needs analysis for strengthening capacities of public prosecutor's offices based on the data submitted by basic public prosecutor's offices. The analysis concludes that 741 deputy public prosecutors are needed for the functioning of the public prosecutor's offices, which is the number of job positions envisaged by the organisational structure, while this function is currently performed by 674 persons. On January 10 2014, the HJC published a call for election of deputy public prosecutors for a total of 64 positions, two positions in the POOC, 15 in the higher public prosecutor's offices, including the public prosecutors in the appellate public prosecutor's offices in Belgrade, Kragujevac, Nis and Novi Sad.²⁴⁶

The specialization of deputy public prosecutors was completed in 2008, when the anti-corruption divisions were formed in the higher public prosecutor's offices in Belgrade, Novi Sad, Kragujevac and Nis. Anti-corruption divisions were formed in 2010, in appellate public prosecutor's offices in Belgrade, Novi Sad, Kragujevac and Nis, while contact persons were appointed in all public prosecutor's offices.²⁴⁷

According to the report of the Judicial Academy, training of trainers was delivered, lecturers have been identified, and the plan for 100 seminars was developed, whose implementation started in May 2012. To date, 74 seminars were organized and attended by 2,030 participants. A Manual for implementation of the CPC was developed, too.²⁴⁸

The Judicial Academy received support from the 2012 IPA fund for implementation of the training programme for holders of judicial functions in the implementation of the new CPC. The project was launched in February 2014, followed by the adoption of the inception report, which outlined the training curriculum. Since May 2014, trainings for holders of judicial functions have been intensively conducted, in accordance with the adopted curriculum.²⁴⁹

244 Ministry of Justice, Report on the implementation of the Strategy, January 2015.

245 High Judicial Council, Report on the Implementation of the Strategy, January 2015.

246 State Prosecutorial Council, Report on the Implementation of the Strategy, January 2015.

247 Republic Public Prosecutor, Report on the implementation of the Strategy, January 2015.

248 Judiciary Academy, Report on the implementation of the Strategy, February 2015.

249 Alternative report of the BCSP and APP, pg. 36.

Measure 3.4.8.2. To introduce a team of economic forensics in public prosecutor's offices
The first activity foresees that by March 6 2014, the RPP, SPC and ministry in charge of judicial affairs conduct the needs analysis according to the structure of cases and number of deputy public. Indicator: The needs analysis is conducted
The activity is fulfilled in line with the indicator in both parts related to the RPP and the part related to SPC. The Agency has no data whether the activity is fulfilled in the manner and within the time-frame envisaged by the Action Plan.
According to interpretation of the Ministry of Justice, its role in the fulfilment of this measure consists of providing consent to the Rulebook on the internal organization and organisational structure of job positions.
The second activity foresees that by September 6 2014, the RPP, SPC and ministry in charge of judicial affairs amend the Rulebook on the Organisational structure of Job Positions in Public Prosecutor's Offices and the Rulebook on Governance in Public Prosecutor's Offices. Indicator: Amendments to the Rulebooks are adopted
The Agency is not able to assess the fulfilment of the activity in the part related to RPP.
The activity is not fulfilled in line with the indicator in the part related to the SPC.
According to the interpretation of the Ministry of Justice, the activity was fulfilled in line with the indicator in the part related to the ministry in charge of judicial affairs. According to the Agency's data, the activity was fulfilled in the manner and within the time-frame envisaged by the Action Plan.
The fourth activity foresees that by September 6 2014, the Judicial Academy develops a training curriculum for economic forensics. Indicator: The professional training curriculum is developed on the basis of the needs analysis
The activity is fulfilled in line with the indicator. According to the Agency's data, the activity was fulfilled in the manner and within the time-frame envisaged by the Action Plan.
The fifth activity foresees that the Judicial Academy would continuously conduct the training programme for economic forensics. Indicator: training plan executed by year of Strategy validity; reports on the training plan realization; curricula and lists of participants and reports on training evaluations
The activity was not fulfilled in line with the indicator.

* The third activity was not implemented by the end of 2014.

The needs analysis concerning the introduction of a team of economic forensics in the public prosecutor's offices was conducted.²⁵⁰ According to the SPC report, the needs for forensic professionals were determined and the public prosecutor's offices that need forensic staff were identified. It is necessary that the employment of new staff is prescribed by law, to enable the recruitment process to be in line with the needs analysis recommendations. The

250 Republic Public Prosecutor, Report on the implementation of the Strategy, January 2015.

working group developed a Draft rulebook on governance in public prosecutor's offices, which was put to public hearing. Consent to the Rulebook on the internal organization and organisational structure of job positions was provided in June 2014.²⁵¹ As for the previous measure, the Ministry of Justice stated that their role in fulfilment of this measure consists of providing consent to the Rulebook on the internal organization and organisational structure of job positions.²⁵²

The report of the Judicial Academy states that eight trainings per year are planned for each appellate court, that the Judicial Academy developed curricula for the training of economic forensics, that several curricula related to money laundering were developed, and that they will be implemented upon the introduction of forensic teams in public prosecutor's offices, which still has not happened.²⁵³

Objective 3.4.9. Adopt a long-term strategy, which in a comprehensive manner improves financial investigations

The Action Plan foresees two measures in order to achieve the objective.

Measure 3.4.9.1. To adopt a strategy, which comprehensively improves the efficiency of financial investigations
The first activity foresees that by July 6 2014, the ministry in charge of judicial affairs conducts a comparative legal analysis, takes into consideration experiences from practice and defines strategic objectives for achieving more efficient financial investigations. The comment to this activity states that the working group should include the MoI, RPP, POOC, HJC, APML, TA, SAI, CSOs. Indicator: The analysis is conducted
The Agency is not able to assess the fulfilment of the activity. Remark: Opinion and recommendation of the Agency
The second activity foresees that by September 6 2014, the ministry in charge of judicial affairs develops a strategy regulating the field of financial investigations and submits it to the Government for adoption. The same comment has been made as for the first activity. Indicator: A proposal of the strategy regulating the field of financial investigations is submitted to the Government
The activity was not fulfilled in line with the indicator.
The third activity foresees that by October 6 2014, the Government adopts the strategy regulating the field of financial investigations. Indicator: The strategy regulating the field of financial investigations is adopted
The activity was not fulfilled in line with the indicator, since the previous conditioning activity was not implemented.

251 State Prosecutorial Council, Report on the Implementation of the Strategy, January 2015.

252 Ministry of Justice, Report on the implementation of the Strategy, January 2015.

253 Judiciary Academy, Report on the implementation of the Strategy, February 2015.

On September 25, the Ministry of Justice established a working group for development of the Strategy regulating the field of financial investigations.²⁵⁴ The working group gathers representatives of all relevant institutions, which may be a part of the collection of data and evidence during the financial investigation process, while expert support for the working group is provided by the OSCE Mission in Serbia and the Council of Europe. The first meeting was organized by the end of October and the first working draft was completed in December 2014. The Ministry of Justice presented the members of the multi-sectoral working group with fundamental principles on which the Strategy should be based: improvement of cooperation, including the introduction of liaison officers, enhancement of information exchange, introduction of joint investigative teams and joint groups for investigation. The working draft of the Strategy deals with the introduction of financial forensics, establishment of an efficient institutional framework and effective repressive authorities. The realization of this activity, including the second draft of the Action Plan for Chapter 23, is planned for 2016.²⁵⁵ The working group for the development of the Strategy regulating the field of financial investigations gathers representatives of the POOC, HJC, RPP, Administration for Prevention of Money Laundering, SIA, Financial Investigation Unit, SFAOC, Agency for Privatization, NBS, Anti-Corruption Agency, Bankruptcy Supervision Agency, Belgrade Stock Exchange, BRA, CRoS and RGA. The working group is tasked to design models of enhanced information sharing between authorities participating in the working group, to come up with methods for the improvement of cooperation, joint investigative teams, data exchange and analysis between state authorities and referral of officers to authorities with which the cooperation needs to be improved, as well as to analyse what needs to be improved in order to enhance the work of the public prosecutor's office, as a central authority for conducting criminal procedure.

Opinion and recommendation of the Agency: It is not clear from the report of the Ministry of Justice whether the analysis for the first activity was conducted, and if the working group is meant to conduct this analysis, the Agency reminds the responsible entity that the working group for development of the analysis, as well as the working group for the Strategy development, in addition to authorities who were already included, should also involve representatives of SAI and CSOs.

Activities from the **measure 3.4.9.2.** were not implemented by the end of 2014.

²⁵⁴ Ministry of Justice, Report on the implementation of the Strategy, January 2015.

²⁵⁵ Alternative report of the BCSP and APP, pg. 36-37.

3.5. POLICE

Within the fifth section of the Strategy – Police – two objectives are identified: Build police capacities required for investigations of criminal offenses related to corruption (**objective 3.5.1**) and strengthen integrity and internal control mechanisms for the purposes of combating corruption in the police (**objective 3.5.2**).

For achievement of the two objectives, eight measures and 31 activities have been foreseen, out of which, 25 have been subjected to a review:

1. Three activities were fulfilled in line with the indicator, more specifically:
 - one activity was fulfilled in the manner and within the timeframe envisaged by the Action Plan.
 - One activity was fulfilled within the timeframe, but not in the manner envisaged by the Action Plan for the reporting period.
 - For one of the activities, the Agency has no data whether it was fulfilled within the timeframe envisaged by the Action Plan.
2. 16 activities were not fulfilled following the indicator, whereas one of them was not fulfilled in line with the indicator for the reporting period, while three other activities were not fulfilled in line with the indicator due to failure to implement a previous conditioning activity.
3. The Agency is not able to assess the fulfilment of six activities.

According to the Alternative report of the BCSP and APP, the fact that the new Law on the Police is anticipated, has greatly slowed down the process of realization of obligations from the Action Plan. The draft law on police is available at the MoI webpage, and an official public hearing process can be expected soon.²⁵⁶ In September 2014, the Ministry of Interior established a working group for monitoring the implementation of the Action Plan and by December 2014, three meetings have been held.²⁵⁷

²⁵⁶ Please see: http://www.mup.gov.rs/cms_cir/sadrzaj.nsf/Prednacr_ZOP.h.

²⁵⁷ Alternative report of the BCSP and APP, pg. 48.

Execution of the Strategy and the Action Plan

Objective 3.5.1. Build police capacities required for investigations of criminal offenses related to corruption

For the achievement of this objective, the Action Plan foresees four measures.

<p>Measure 3.5.1.1. To establish mechanisms for basic, specialized and continuing education of police officers on anti-corruption activities</p>
<p>The first activity foresees that by March 6 2014, the MoI (Directorate for Police Education) conducts an analysis of needs for the training of police officers, with recommendations.</p> <p>The activity contains a note that the training programme should be based on a multi-disciplinary approach including specific modern investigative techniques (financial forensics, etc.) and that the measure should be performed with participation of the MoI and the Academy of Criminalistic and Police Studies.</p> <p>Indicator: The needs analysis with recommendations is conducted</p>
<p>The activity is fulfilled in line with the indicator.</p> <p>According to the Agency's data, the activity was fulfilled within the timeframe, but not in the manner envisaged by the Action Plan.</p>
<p>The second activity foresees that by July 6 2014, the MoI (Directorate for Police Education) adopts a police officers' training programme as part of the basic, specialized and continuing police training.</p> <p>The activity contains the same note as the first activity.</p> <p>Indicator: The training programme is adopted</p>
<p>The activity was not fulfilled in line with the indicator.</p>
<p>The third activity foresees that the MoI (Directorate for Police Education) continuously conducts training of police officers according to the training curriculum.</p> <p>The activity contains the same note as the first activity.</p> <p>Indicator: the training plan executed by year of Strategy validity; reports on the training plan realization; curricula and lists of participants and reports on training evaluations</p>
<p>The activity is not fulfilled in line with the indicator for the reporting period.</p>
<p>The fourth activity foresees that the Ministry of Interior performs annual evaluation of the effects of the training conducted.</p> <p>Indicator: Annual evaluation performed; results of the annual testing</p>
<p>The activity was not fulfilled in line with the indicator for the reporting period, since the previous, conditioning activity was not implemented.</p>

On October 30, in the framework of cooperation between the Ministry of Interior and the OSCE Mission in Serbia, the Project for improvement of capacities of the police in the Republic of Serbia in the fight against corruption was launched. The Project focuses on improvement of police capacities to conduct investigations of criminal offenses related to corruption, through trainings and observing the progress and development of the selected group of 25 police officers of the Criminal Police, dealing with financial crime investi-

gations related to corruption, mostly from regional police directorates, as well as from ministries headquarters. The group consists of police officers dealing with operational criminal analysis and criminalistics and intelligence work. The goal of the Project is also to occasionally include representatives of the Special Public Prosecutor's Office for the fight against organized crime and the Higher Public Prosecutor's Office, in order to improve cooperation between the police and public prosecutor's office, in line with the amended CPC. Based on the training needs analysis of police officers working in the area of the fight against corruption conducted in February 2014, by domestic and foreign experts, the programme of specialized training will be developed. Specialized training will be organized for a group of selected police officers, as a pilot initiative, and will be adjusted to the needs of the MoI and conducted for staff members from the Criminal Police Directorate, dealing with the fight against economic crime.²⁵⁸

The needs analysis was conducted on the basis of a survey of 25 police officers from the criminal police, dealing with investigations of economic crime related to corruption. The survey did not include members of the police Sector of Internal Control (SoIC), which is not in line with the idea that the training curriculum based on the needs analysis ought to be adjusted to all organizational units of the MoI dealing with corruption. Further, having in mind the SoIC plans to keep property records of police officials and conduct integrity testing, the training needs of internal affairs officers would also be taken into account. The Academy of Criminalistics and Police Studies did not participate in the realization of this activity, although the Strategy anticipated so. Regardless of the detected deficiencies, the Alternative report of the BCSP and APP concludes that the needs analysis enabled a reliable insight into the needs, in the first place, of members of the criminal police investigating economic crime. The surveyed police officers demonstrated modest knowledge in the field of accounting, financial reporting and business finance, international standards and practices in conducting financial investigations and the confiscation of property, while they were somewhat more knowledgeable in the field of basic economic crime investigations. Police officers are quite skilled in scrutinizing financial documentation, but the problems arise when analysing financial reports. In this area, the Tax Police are better skilled, while an additional problem is insufficient knowledge on the use of accounting software. This assessment corresponds to the assessment of the EC, since the last two progress reports for Serbia assessed that police capacities are modest when it comes to financial investigations. In August 2013, the Council of Europe published a report on the training needs assessment of police officers in Serbia in the field of the fight against corruption and economic crime, whose main findings significantly correlate to the findings of the needs assessment. This report was not considered during the needs analysis process. According to the report of the Council of Europe, police officers could benefit from training on forensic accounting, use of undercover investigators and other special investigative measures, seizure and search of computers, as well as on methods of protection of sensitive data assembled during investigation. The report on the needs analysis is not mentioning trainings on use of special investigative measures and protection of the data assembled during the investigation, which is being justified by the fact that police members who are implementing special investigative measures already attend international trainings. At this point, it becomes clear again that, when talking about police internal affairs, organizational units of police have different needs for training, which have not been taken into account during the needs analysis. Needs of candidates who undergo basic police training were also left unaddressed, even though the Action Plan indicates that the training curriculum would

²⁵⁸ Ministry of Interior, Report on the implementation of the Strategy, January 2015.

cover those as well. Activities following the needs analysis were not implemented. A draft training curriculum was developed and the document is under review in the CPD, who should prepare a final training curriculum draft. The draft planning document for internal affairs, which envisages the use of EU pre-accession funds, earmarked 4.2 million Euros for the improvement of police capacities to use novel financial investigation methods.

The idea of introducing property records for police officials has been under consideration for some time, as a new anti-corruption measure in the police, since police officers in high level positions are not officials as meant in article 2 of the Law on Anti-Corruption Agency, thus they are not obliged to report on their income and property. Police unions requested from the Tax Administration to check the property status of police officials, but, to the best of our knowledge, there are no reports on the subject. After the Law on Internal Affairs was amended in Montenegro last year, a Rulebook on the property records of police officers was adopted, which introduced an obligation to annually register the property of police officers, by the police internal affairs. The control of property records of 25 police officers in management positions was performed.²⁵⁹

Measure 3.5.1.2. To amend the Law on Police and the Act on the Organisational structure and Internal Organization - MoI, for the purposes of establishing efficient mechanisms for coordination of anti-corruption actors in terms of strategy, tactics and operations
The first activity foresees that by May 6 2014, the Ministry of Interior develops a Draft law on amendments to the Law and submit it to the Government. Indicator: The Draft law on amendments to the Law is submitted to the Government
The activity is not fulfilled in line with the indicator.
The second activity foresees that by July 6 2014, the Government submits a proposed law on amendments to the Law to the National Assembly. Indicator: The proposed law on amendments to the Law is submitted to the National Assembly
The activity is not fulfilled in line with the indicator, since the previous conditioning activity was not implemented.
The third activity foresees that by November 6 2014, the National Assembly adopts the Law on amendments to the Law. Indicator: The Law on amendments to the Law is adopted
Activity is not fulfilled in line with the indicator, since the previous conditioning activity was not implemented.

* The fourth and fifth activities were not realized by the end of 2014.

The draft Law on Police was developed and the MoI published a public call for participation in the public hearing on the Law on its webpage, which will last from March 26 to April 20 2015.²⁶⁰

259 Alternative report of the BCSP and APP, pgs. 49-52.

260 Public call for the participation in the preparation of the Draft law on Police, available at: http://www.mup.gov.rs/cms_cir/sadrzaj.nsf/Prednactr_ZOP.h.

Regarding the activities which should follow the adoption of the new law, that is, the adoption of the new Act on the Organisational structure of the Job Position in MoI, the Alternative report of the BCSP and APP points out that this is the right moment to change the existing secretive nature of this act, which opens up the space for different abuses and disables a transparent career growth.²⁶¹

Measure 3.5.1.3. To improve the material and technical conditions of work, and organizational and staffing structure of anti-corruption actors within the police
The first activity foresees that by November 6 2014, the MoI establishes an anti-corruption organizational unit in the Criminal Police Directorate. Indicator: The act on establishing the organizational unit is adopted
The activity is not fulfilled in line with the indicator.
The second activity foresees that by November 6 2014, the MoI establishes separate organizational units within the Criminal Police Directorate in Belgrade and the Criminal Police Division in Novi Sad, Kragujevac and Niš and determine contact persons in other RPDs. Indicator: The act on establishing the organizational unit is adopted and focal points are nominated
The activity is not fulfilled in line with the indicator.

* The third activity was not implemented by the end of 2014.

The proposal for the organizational structure of the new organizational unit within this measure, was developed in the Police Directorate – Criminal Police Directorate (CPD). Having in mind that a working group for implementation of activities foreseen by the Action Plan was established in the MoI, which should develop a plan of conduct for the Action plan, in its report the MoI proposes to extend the deadline for this activity up until the end of the second quarter of 2015.²⁶² The proposal for the organisational structure of job positions has been prepared as well. An identical measure is foreseen by the second Action Plan Draft for Chapter 23, with an addition that a special anti-corruption unit within the Criminal Police would work directly with anti-corruption divisions in the public prosecutor's offices, and that the unit, along with its local counterparts, whose work would be coordinated with anti-corruption divisions of higher public prosecutor's offices, would be established in the second quarter of 2016.²⁶³

261 Alternative report of the BCSP and APP, pgs. 52-54.

262 Ministry of Interior, Report on the implementation of the Strategy, January 2015.

263 Alternative report of the BCSP and APP, pg. 55-56.

Measure 3.5.1.4. To establish efficient mechanisms for the internal and external coordination between anti-corruption actors in terms of strategy, tactics and operations

The first activity foresees that by May 6 2014, the MoI develops a normative framework for creating, access, administration, use and changes of the single database on perpetrators of criminal offenses in the field of corruption.

Indicator: The act defining the creation, access, administration, use and changes to the single database on perpetrators of criminal offenses in the field of corruption is adopted

The activity is not fulfilled in line with the indicator.

The third activity foresees that by September 6 2014, the MoI establishes procedures for direct coordination and early warning between the police and prosecution.

Indicator: The acts regulating coordination and early warning procedures are adopted

The activity is not fulfilled in line with the indicator.

* The second activity was not implemented by the end of 2014.

Draft amendments to the Law on Police also contain amendments related to registries – databases administered by the MoI, and according to the MoI report, this measure will be fulfilled through measures, that is, the drafting of a new Law on Police. On December 12 2013, the Department for normative affairs of the Secretariat submitted a Draft memorandum of cooperation between the MoI - Police Directorate and the POOC.

Based on the codification of the criminal offenses related to corruption performed by the Ministry of Justice, starting from January 1st 2015, the CPD in cooperation with the Analytics Directorate has introduced monthly reporting by RPD-DoCP for criminal offenses related to corruption. Further, changes in the process of data entering and administering statistical registries on criminal offenses related to corruption have been introduced. The Analytical Directorate proposed establishing a working team from representatives of more organizational units, which would be working on designing the concept and structure of the database. In its report, the MoI proposed to extend the deadline for the second activity within this measure – creation of a single database of perpetrators of criminal offenses in the field of corruption, which expires on March 6 2014.²⁶⁴

264 Ministry of Interior, Report on the implementation of the Strategy, January 2015.

Objective 3.5.2. Strengthen integrity and internal control mechanisms for the purposes of combating corruption in the police sector

The needs addressed in the Strategy refer to the strengthening of the disrupted police integrity, as pointed out by the public opinion polls of citizens and police officers on corruption and police work assessment, statistical indicators on initiated criminal complaints against police officers, as well as different scandals related to the work of the MoI and the need for its professionalization, appropriate cooperation with the media and public; prevention measures influencing decreases in corruption (implementation of the integrity plan, development and realization of the prevention plans against corruption in the police and reporting on the performance assessment of those documents); as well as amendments to the Law on Police and an Act on the Organisational structure of the Job Positions, increasing the capacities of police officers to investigate corruption cases through trainings and creation of a database on perpetrators of the criminal offenses related to corruption.

For the achievement of this objective, the Action Plan foresees four measures.

Measure 3.5.2.1. Organizational integration of control of legality of actions and work of the police in the MoI Sector of Internal Control and improvement of coordination with the Internal Control Department

The first activity foresees that by March 6 2014, the MoI performs normative and operational integration of control of legality of actions of the police, other organizational units in the MoI Sector of Internal Control.

Indicator: The acts integrating the process of control of police actions are adopted

The activity is not fulfilled in line with the indicator.

The second activity foresees that by March 6 2014, the MoI increases the number of employees in the Sector of Internal Control.

Indicator: The number of employees in the Sector of Internal Control has increased 6

The activity is fulfilled in line with the indicator.

According to the Agency's data, the activity is fulfilled in the manner envisaged by the Action Plan.

The Agency has no data on whether the activity is fulfilled in line with the timeframe envisaged by the Action Plan.

The third activity foresees that by March 6 2014, the MoI provides technical equipment in the MoI Sector of Internal Control

Indicator: A report on procured equipment, a report on donations

Agency is not able to assess the fulfilment of this activity.

Draft amendments to the Law on Police refer to changes related to the scope and competence of the Police Sector of Internal Control (SoIC) and this measure will be fulfilled through amendments, that is, the drafting of the new Law on Police. In November 2014, the SoIC submitted an amended draft to the Law on Police, which should enable this sector to control not only the work of police officers, but other MoI employees, as well. In the period October 1st - December 31 2014, the Internal Auditing Department and SoIC realized activities in ongoing cases, and there was continuous cooperation and consultation regarding ongoing cases. During the reporting period, 6 police officers were transferred to this Sector from another organizational unit, while 7 SoIC proposals for transfer are in procedure. In previous reports of

the MoI, it was stated that a 1% increase in the number of employees at the SoIC in relation to the total number of employees in the MoI is not realistic, thus the MoI proposes to modify this activity, having in mind that the National Programme for the Adoption of the *acquis* (NPAA) for the period 2014-2018 foresees an increase in the number of employees in the SoIC by 20 employees per year, starting from 2015 until 2018.²⁶⁵

Acts that should integrate the procedure of internal control, which would have represented a major institutional milestone in decreasing corruption in the police, were not adopted, as envisaged by the Strategy, and that would have been to merge the Department for control of the legality of work with the SoIC. Horizontal cooperation mechanisms have not been established between internal controllers within the MoI, and it was also noted that representatives of the SoIC do not approve the integration of all police internal controllers, due to the different nature of their work.

There are four bodies of internal control within the MoI. Besides the SoIC, which should have the role of the chief controller over all employees and perform control over the legality of police work in conducting police duties and exercising police powers, there is also a Department for control of legality of work in the Belgrade Police Directorate, as well as in the Police Directorate, the Department for control of legality in the Gendarmerie, on top of the latest internal control body – the Internal Auditing Department, whose task is to check and assess public finance management in the MoI.

Currently, there are still vacant executive job positions within the SoIC. The recommendation of the SoIC from 2006, on the necessity to harmonize the internal control legal framework in the MoI still has not been implemented. The SoIC did not take part in the development of integrity plans for employees in the MoI, and it is not clear which organizational unit should assume coordination over the implementation of integrity plans: the Bureau for strategic planning within the Minister's cabinet or the SoIC. In February 2014, the Internal Auditing Department launched an initiative to establish the cooperation and coordination of work with the SoIC. A communication template was developed, in order to determine the weak spots during the implementation of the Action Plan. In this way, a partial first step was taken towards the integration of police internal controllers, but the cooperation with other controllers is still not sufficient.

One of the basic tasks of the Department for control of the legality of work is to monitor and control the legality in exercising police powers by police officers in regional police directorates, while the Department performs special control over the use of coercive instruments.

Finally, there is almost no information available to the public on the work of the Department for control of legality in the Gendarmerie. The latest amendments to the Law on the Police from December 2011, prescribe that the organization and functioning of the special police units, as well as the status of their members would be regulated through by-laws, which still have not been adopted.

The Action Plan for Chapter 23 foresees a series of anti-corruption activities concerning the police. The analysis of the SoIC work and conduct should be developed in the second quarter of 2015, together with an analysis of legal gaps, which will serve as a basis for the development and adoption of the draft amendments to the Law on Police and other by-laws necessary for the work of the SoIC in the second quarter of 2016. All these activities have been already implemented several times, in 2006, 2010 and 2012.²⁶⁶

265 Ministry of Interior, Report on the implementation of the Strategy, January 2015.

266 Alternative report BCSP and APP, pgs. 58-61.

Measure 3.5.2.2. To strengthen capacities for the execution of internal control by developing control and instruction activities

The first activity foresees that by March 6 2014, the MoI adopts guidelines on the manner and forms of conducting internal control.

Indicator: The guidelines are published and in effect

The activity is not fulfilled in line with the indicator.

The second activity foresees that by March 6 2014, the MoI adopts a Rulebook on collecting, processing and analysing of data on corruption for the purposes of risk analysis and situation assessment.

Indicator: The Rulebook is published and in effect

The activity is not fulfilled in line with the indicator.

The third activity foresees the once a year the MoI introduces an obligation to develop preventive plans of headquarter directorates, preventive plans of regional police directorates and annual reports on the implementation of preventive plans.

Indicator: Obligations to develop preventive plans and submit annual reports on their implementation are introduced

Agency is not able to assess the fulfilment of the activity.

Fourth activity foresees that once a year the MoI develops an annual report on the implementation of preventive plans of police directorates in the headquarter and regional police directorates.

Indicator: The report is published on the MoI website

Agency is not able to assess the fulfilment of the activity.

Draft amendments to the Law on Police refer to changes regarding the scope and competences of the SoIC, and this measure, according to the MoI report, would be fulfilled through amendments, that is, the drafting of a new Law on Police. The Secretariat suggested to the authorized organizational unit that the Law on Police will provide a basis for adoption of the Rulebook, which will regulate the manner and forms of conducting internal control, thus the subject matter would be regulated by the Rulebook, instead of by the instruction. Harmonization of the final draft text and form is in progress. It is also stated that the authorized organizational unit did not initiate the adoption of a new Rulebook pertaining to the second activity within this measure.²⁶⁷

The obligation to adopt a regulation, which closely regulates the manner and form for conducting police internal control, in addition to the Action Plan, also stems from the Law on Police from 2005²⁶⁸ and the Action Plan for the realization of the Strategy for Development of the MoI for 2011-2016. Even though all deadlines have been breached, the act still has not been adopted. The SoIC prepared a draft instruction in April 2013 and submitted it to the Secretariat of the MoI, suggesting that in the course of instruction development, attention should be paid to the fact that the Minister performs control over the work of the SoIC heads of departments, police officers employed in the SoIC and other police officers employed within the MoI, in charge of internal control of the police work. The same article stipulates limitations to the work of the SoIC, which affect its independence. Namely, the Minister may decide to entrust conducting a specific case to

267 Ministry of Interior, Report on the implementation of the Strategy, January 2015.

268 „Official Gazette RS“, No. 101/05, 63/09 - Decision CC and 92/11.

the internal unit, in charge of initiating a procedure, if the subject of internal control exceeds the competences of the SoIC, if it is linked with other offenses or if it is a very important case.

Regarding the activities referring to the adoption of the Rulebook on the collection, processing and analysing of data related to corruption for the purposes of the risk analysis and situation assessment, the Alternative report of the BCSP and APP states that the SoIC has prepared a draft Manual on the work of the SoIC, which should determine the work methodology of the SoIC, methods of professional development for SoIC employees, guidelines for the development of other instructions and work rules, mechanisms for prevention of illicit police conduct and methods of strengthening operational work and the establishment of international standards.²⁶⁹

Measure 3.5.2.3. To develop mechanisms for the strengthening of police officers integrity
The second activity foresees that once a year the MoI (SoICP) conducts a risk analysis of corruption in the organizational structure of the police. Indicator: The risk analysis is conducted
The activity is fulfilled in line with the indicator for the reporting period. According to the data at Agency's disposal, the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.
The third activity foresees that by June 6 2014, the MoI develops a plan for the preparation of measures for the strengthening of the integrity of employees in positions holding a risk of corruption. Indicator: The plan for the preparation of measures for the strengthening of integrity of employees in the positions holding a risk of corruption is developed
The Agency is not able to assess the fulfilment of the activity.
The fourth activity foresees that the MoI (SoICP) continuously implements measures for the strengthening of integrity of employees in the positions holding a risk of corruption. Indicator: The number of executed measures
The Agency is not able to assess the fulfilment of the activity.
The fifth activity foresees that by September 6 2014, the MoI (SoICP) establishes a test integrity mechanism. Indicator: The integrity test is applied in the work of the SoIC
The activity is not fulfilled in line with the indicator.
The sixth activity foresees that once a year the Ministry of Interior (SoICP) ensures monitoring of the implementation of the Code of Police Ethics and sanctions its violation. The remark to this activity states that the monitoring report should indicate whether the Code violations are being sanctioned. Indicator: A report on the monitoring of implementation of the Code is developed
The Agency is not able to assess the fulfilment of the activity.
The seventh activity foresees that the MoI publicly discloses quarterly reports on anti-corruption results achieved by the MoI. Indicator: Reports are published quarterly at the MoI website
The activity is not fulfilled in line with the indicator.

* The first activity was not due for realization by the end of 2014.

²⁶⁹ Alternative report of the BCSP and APP, pgs. 61-62.

Regarding the first activity, the report of the MoI states that police officers in the SoICP have been actively involved in risk assessment analysis in the police, within the Council of Europe project "Strengthening capacities of the police and judiciary in the fight against corruption" – PACS. The purpose of the risk analysis was to assess the current state in relation to possibilities and the actual existence of corruption in the police. In June 2014, the conference entitled "Risks of corruption in the police and strengthening police integrity" was held in Belgrade, where the publication "Risk analysis of the possibilities and actual extent of corruption in the police" was presented, as a result of the conducted analysis. Currently there is no methodological concept for conducting analysis of corruption, that would enable a clear overview of high-risk positions and conducting of activities in the field of prevention and education. Thus, strengthening the human and technical capacities of the SoICP, development of the methodological concept for conducting analysis of corruption and development of the central intelligence database on corruption in the SoICP for staff members of the MoI would enable the SoICP to once a year prepare a report on the risk analysis of corruption, based on which the integrity plans would be developed. For the purposes of the risk analysis, it is necessary to use data from operational information and criminal charges against corruption in the police, given the general nature of the integrity plans. The SoICP has initiated activities on the development of the Plan for conducting a risk analysis according to specific lines of work in the MoI for 2015. In November 2014, the Sector submitted the amended Draft on Amendments to the Law on Police, which expands the jurisdiction of the Sector to include conducting risk analysis of corruption.²⁷⁰

The Alternative report of the BCSP and APP gives an assessment that the SoICP currently does not have sufficient analytical capacities to regularly conduct and publish risk analysis of corruption in the police. There is no electronic database on corruption actions of the MoI employees, nor is the methodological framework for conducting these analyses is defined, during which process, international risk assessment standards (*ISO 31000:2009*, *ISO/IEC 73:2009*) should be taken into account. The Action Plan for Chapter 23 foresees the risk analysis of corruption for each job position in the MoI in the second quarter of 2015, which would enhance the police integrity assessment process and enable its transfer from an organizational level, as has been the case thus far, to an individual level.²⁷¹

In relation to the introduction of an integrity test, in its Draft Amendments to the Law on Police, the SoICP proposed to introduce the integrity test, as a new police power, for whose implementation the SoICP would take charge. If the proposed amendments are adopted, the SoICP would develop procedures and a methodology for conducting the test and would provide suggestions and comments during the by-law drafting process, which would regulate the application of the test. With the aim to provide technical conditions for the realization of the measure, the SoICP has made efforts to raise funds for purchasing technical equipment for the application of the test from international organization, having in mind that it is necessary to equip the Department for secret audio and video surveillance of the suspect with material and technical means, in line with EU standards (vehicles, IT and secret surveillance equipment, material and technical means, etc.). A project proposal for "Strengthening proactive capacities for conducting investigations related to corruption in the Sector of Internal Control of the Police" has been submitted, for a total amount of 250,000 Euros for the support within the Bilateral Programme of the Kingdom of Norway for 2014. The decision on the project's approval still has not been made.²⁷²

²⁷⁰ Ministry of Interior, Report on the implementation of the Strategy, October 2014 and January 2015.

²⁷¹ Alternative report of the BCSP and APP, pgs. 63-64.

²⁷² Ministry of Interior, Report on the implementation of the Strategy, October 2014 and January 2015.

A public hearing still has not been initiated on the consequences of the use of an integrity test, having in mind that its application may be abused in practice. The absence of a public hearing is a special issue, given that this idea has been under consideration since 2012, when the SoICP became particularly adamant to introduce this anti-corruption measure in the police. Integrity tests represent an investigative method, which is used to check corruption tendencies of police officers and, in an artificially created environment, examine the way in which police officers apply regulations in illicit circumstances. In this way, intelligence data are being collected, in order to determine whether a police officer is prone to corruption or not. This measure completely relies on a fear that the perpetrator would be discovered and punished. In New York, the police have been conducting integrity testing since 1994, where targeted tests are directed towards police officers under suspicion of corruption, whereas preventive tests were directed towards randomly selected police officers. It is necessary that all police officers are aware of the integrity test's existence. The purpose of such tests is not only to identify police members that have a tendency for corruption, but also to gather new evidence in investigation, as well as to create an environment, which increases the risk that corruption would be detected. In Romania, integrity testing in the police has been used since 2005. One of the key conditions for abuse prevention is that the unit, which conducts integrity tests in practice, bears undoubted institutional integrity and independence.

As mentioned earlier, the SoICP in Serbia is not independent in its work, given that the minister is authorized to reclude the SoICP from the case in which it is engaged and to assign it to another organizational unit. Also, the main task of the SoICP is to perform internal control over the police work, and not employees in the MoI headquarters. Thus, challenges concerning the test application refer to a possibility that the minister may prevent the conducting of an integrity test on certain police officers and that it may not be possible to apply integrity tests on all MoI employees. Also, at the moment, there are no legal grounds for the use of the materials gathered through conducting of integrity tests as evidence in court or a motive for initiating disciplinary proceedings, while material capacities of SoICP to conduct integrity tests are also lacking. In practice, this measure would be implemented by the Department for secret audio and video surveillance of the suspect in the SoICP, which currently has 8 police inspectors, while 9 positions are systematized. The Department has no technical capacities for the creation of the artificial environment necessary for application of the test, but it is able to exercise observation and documenting, surveillance of telephone communications and secret audio and video surveillance. Prior to the introduction of legal regulations for the application of integrity testing, it is necessary to remove any doubt concerning the work of the SoICP and enable its independent functioning.²⁷³

In relation to the monitoring of the application of the Code of Police Ethics and sanctioning its violation, the report of the MoI states that the SoICP has identified violations of provisions from the Code of Police Ethics²⁷⁴ during the course of their controlling activities, but the SoICP is not monitoring the application of the Code, and cannot sanction the Code violations. Police internal control can suggest accountability measures, whose application is within the mandate of the Police Directorate, while the SoICP also receives reports on a number of persons against which a disciplinary proceeding has been initiated.

In November 2014, the SoICP submitted Draft Amendments to the Law on Police, propos-

273 Alternative report of the BCSP and APP, pgs. 64-66.

274 „Official Gazette“, no. 92/06.

ing that, after the prevention control has been performed and a proposal for initiation of the disciplinary proceeding submitted, the Head of the controlled organizational unit of the Ministry should have an obligation to provide feedback to the Head of the SoICP on measures undertaken in determining the responsibility of a police officer.

The PACS Project Team held a meeting with the management of the SoICP, the Police Directorate and Directorate for Police Education, Professional Development, Specialized Training and Science, with the aim to provide technical assistance in the development of the new Code of Police Ethics, in line with European standards. The draft Action Plan for Chapter 23 foresees that by June 2015, amendments to the Code of Police Ethics are adopted.²⁷⁵

On the MoI's webpage, there are no special reports on the results of the police work in the fight against corruption, but some of the information can be found in the Information booklet on the work of the MoI. Even though the shortcomings are still present in this area, after the adoption of the Strategy for Development of the MoI for the 2011-2016, in December 2010, transparency of the police work has been improved. Laws and by-laws, strategic documents and certain reports relevant for strengthening police integrity are available at the MoI's webpage, whereas a brief report on resolving complaints in the MoI during the first six months of 2014 has been published, as well as the financial report for 2009-2012. During 2013, reports on work results of the Sector for 2009, 2010, 2011 and 2012, have been published and the 2013 Report was published in February 2014. Statistical data on the number of filed complaints against police officers by the type of criminal offense are publicly available, information about how citizens can file a complaint about police conduct are public and clear, even though they are not placed on the MoI homepage, but on the webpage of the SoICP. Still, some documents are unavailable to the public, and for instance, the only report dealing with the topic of corruption in the police – *Strategic Intelligence Analysis of Corruption* – is not available on the websites of the MoI and SoICP, though a public presentation of the main findings was organized beforehand.²⁷⁶

In relation to other measures for strengthening the integrity of police employees, the report of the MoI states that the SoICP, jointly with the ICITAP Office of the US Embassy and Criminal Police Academy, launched an initiative for the development of a training plan and conducting a series of trainings on the topic of ethics and strengthening the integrity of police officers. The Directorate has drawn up a didactic instruction with a training schedule for future trainers and two trainings were delivered during the reporting period. The training curriculum was included in the Professional Development Programme for 2014, but it is not mandatory, and the SoICP proposed to include the programme as mandatory in the Professional Development Programme for 2015. In October 2014, a seminar on the subject of strengthening the integrity of police officers in line with EU standards was held, and in December the presentation of the training curriculum of the European Police Academy in the area of ethics and integrity was organized for representatives of the MoI. In September 2013, following the SoICP initiative, and in cooperation with OSCE and the Directorate for Police Education, Professional Development, Specialized Trainings and Science, a Manual on Police Ethics for Police Officers was developed. The aim is to use the Manual in trainings of police officers and trainees in the basic police training.

275 Ministry of Interior, Report on the implementation of the Strategy, October 2014 and January 2015.

276 Alternative report of the BCSP and APP, pgs. 67-69.

Measure 3.5.2.4. To establish a personnel monitoring and development system together with the Sector for Internal Control through control of integrity of a person in his/her professional career

The first activity foresees that by March 6 2014, the Ministry of Interior adopts an act on the arrangement of the education subject matter and criteria for career advancement.

Indicator: The act is adopted and entered into force

The activity is not fulfilled in line with the indicator.

* *The second activity was not due for realization by the end of 2014.*

According to the report of the MoI, the act on the arrangement and criteria for career advancement should be adopted after the amendments to the Law, that is, adoption of the new Law on Police, given that one of the proposed amendments concerns legal arrangement for career advancement in the MoI.²⁷⁷

The issue of poor human resource management in the MoI was pointed out in the latest EC Progress Report for Serbia, as well as in the BCSP report on the integrity of the security sector. A project, whose aim was to prepare the MoI for the introduction of a modern system of human resource management ended in May 2014, and another project has started, which focuses on the introduction of a new organizational structure in human resource management and normative arrangements, that is, the development of procedures and creation of a suitable information system.²⁷⁸

²⁷⁷ Ministry of Interior, Report on the implementation of the Strategy, January 2015.

²⁷⁸ Alternative report of the BCSP and APP, pgs. 69.

3.6. SPATIAL PLANNING AND CONSTRUCTION

Within the sixth field of the Strategy – spatial planning and construction – four objectives are formulated: Register all real estate in the Republic of Serbia and real estate related data in the public electronic Real Estate Cadastre, (**objective 3.6.1.**), reduce the number of procedures and introduce a single-window system for issuing construction and other permits and consents (**objective 3.6.2.**), ensure transparency of criteria and involvement of the public in the process of consideration, amendments and adoption of spatial and urban plans at all levels of government (**objective 3.6.3.**) and ensure efficient internal and external control in the procedure of issuing construction and other permits and consents in the field of urban planning (**objective 3.6.4.**).

For the achievement of these four objectives, 19 measures and 45 activities are foreseen, out of which, 26 activities have been the subject of review.

According to the Agency's assessment, out of 26 reviewed activities:

1. Nine activities are fulfilled in line with the indicator, whereas:
 - One activity is fulfilled in the manner, but not within the timeframe envisaged by the Action Plan.
 - Five activities are fulfilled within the deadline, but not in the manner envisaged by the Action Plan.
 - The Agency has no data regarding whether three of the activities are fulfilled in line with the Action Plan.
2. Five activities are not fulfilled in line with the indicator.
3. The Agency is not able to assess the fulfilment of 12 activities.

Execution of the Strategy and the Action Plan

Objective 3.6.1. To register all real estate in the Republic of Serbia and related data in the public electronic Real Estate Cadastre

Challenges pointed out by the Strategy refer to the fact that several hundred thousand buildings were illegally constructed in Serbia during the last two decades; that the legalization procedure for illegally constructed buildings and the conversion process regulated by the Law on Planning and Construction present an especially fertile ground for the emergence and spreading of corruption having in mind that government authorities have extremely wide competencies at their disposal in the process of deciding upon the requests of clients; that different interpretations and the uneven implementation of this Law increase uncertainty and the costs of doing business; that problems are also present in relation to incomplete and out-dated real estate cadastre and utility cadastre.

The Action Plan foresees six measures for the achievement of this objective.

Measure 3.6.1.1. To provide an information desk and free legal assistance in real estate cadastre offices.
The first activity foresees that by March 6 2014, the ministry in charge of construction and urban planning amends the Organisational structure Act by introducing appropriate job positions. Indicator: The Organisational structure Act envisages job positions at the information counter
The activity is fulfilled in line with the indicator. According to the data at Agency's disposal, the activity is fulfilled in the manner, but not in the timeframe envisaged by the Action Plan.
The second activity foresees that by December 6, 2014, real estate cadastre offices employ qualified staff in accordance with the organisational structure. Indicator: Employment of qualified staff is in line with the organisational structure
The activity is not fulfilled in line with the indicator.
The third activity foresees that by September 6 2014, the RGA prepares a customers' manual and information leaflets with information on procedures and required documents. Indicator: customers' manual and information leaflets with information on procedures and required documents are available to citizens
The activity is not fulfilled in line with the indicator.
The fourth activity foresees that by September 6 2014, the RGA develops a training curriculum on customer relations for employees at the information counter. Indicator: Training curriculum is developed.
The activity is not fulfilled in line with the indicator.

* The fifth activity was not due for realization by the end of 2014.

By mistake, the Action Plan designated the ministry in charge of construction and urban planning issues, as an entity responsible for the first activity.

In reports submitted to the Agency, the RGA states that it adopted a Rulebook on internal organization and the organisational structure of job positions in mid July 2014, which the Government consented to by the end of October 2014. As many as 165 job positions have been systematized for professional and administrative jobs and 166 positions for legal and general affairs. Job descriptions for the mentioned positions, among other things, also in-

clude the provision of information and free legal aid to legal and physical persons, in relation to registration in the real estate cadastre.

Regarding the second activity, the RGA report states that systematized job positions are filled with civil servants with adequate education, professional and work experience, adding that they are trained and equipped to provide relevant information and legal aid. Still, the RGA points out that the number of employed persons did not match the number of employees prescribed by the adopted organisational structure, meaning that an insufficient number of expert staff was employed. As a reason for not employing a sufficient number of staff, the RGA specified that the Law on Budget System²⁷⁹ prohibits the employment of new persons for the purposes of filling vacant job positions.

Although the RGA did not develop specialized manuals or information leaflets, the report states that the webpage of the RGA and notice boards in real estate cadastre offices offer information to citizens on the services provided by the RGA, which, among other things, include information on the process, procedure and requested documents in applying for implementation of changes in real estate cadastre. Further, the RGA developed a guide entitled "Step by step to the registration in the real estate," which aims at providing customers with basic information on the registration of real estate and the real rights of immovable property.

The RGA has not developed a training curriculum for employees responsible for provision of information and free legal aid to legal and physical persons regarding the registration to the real estate cadastre. The report of the RGA indicates that free legal aid would be provided via admission offices, telephone and e-mail by designated officers whose job description is to provide the requested information.²⁸⁰

Measure 3.6.1.2. To introduce incentive mechanisms for the timely reporting of changes in data
The only activity foresees that by March 6 2014, the ministry in charge of construction and urban planning amends the Regulation on the fees for the use of survey and cadastre information so as to contain the stated mechanisms. Indicator: Amendments to the Regulation on the fees for the use of survey and cadastre information containing the stated mechanisms are adopted
The Agency is not able to assess the fulfilment of the activity.

The report of the Ministry of construction, transport and infrastructure does not address the realization of this activity.

Measure 3.6.1.3. To conduct a campaign for the promotion of electronic real estate cadastre, registered real estate value, required procedure and documents
The first activity foresees that by March 6 2014, the Republic Geodetic Authority develops a campaign plan, supporting materials and a media coverage plan. The Activity contains a remark that the measure is implemented in cooperation with the ministry in charge of construction and urban planning. Indicator: Campaign plan, supporting materials and media coverage plan are developed.
The activity is not fulfilled in line with the indicator.

* The second activity was not due for realization by the end of 2014.

279 „Official Gazette RS“, No. 54/09, 73/10, 101/10, 101/11, 93/12, 62/13, 63/13 and 108/13.

280 Republic Geodetic Authority, The report on the Implementation of the Strategy, January 2015.

The report states that the RGA did not develop a special campaign and media plan for the promotion of the electronic real estate cadastre. The RGA also points out that the campaign has been implemented for many years through the RGA website, and promotion in events, seminars, presentations, press conferences and the media.²⁸¹

Measure 3.6.1.4. To build the capacities of the organizational units in the Real Estate Cadastre Service as well as of the internal control within the Sector for Professional and Administrative Supervision in the Republic Geodetic Authority

The first activity foresees that by June 6 2014, the RGA develops a needs analysis.

Indicator: Needs analysis is conducted

The activity is fulfilled in line with the indicator.

The Agency does not dispose of information on whether the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.

The second activity foresees that by December 6 2014, the RGA amends the organisational structure and employs an appropriate number of qualified staff in accordance with the analysis.

Indicator: The number of employed qualified staff matches the number required by the needs analysis

The Agency is not able to assess the fulfilment of the activity.

The third activity foresees that the RGA develops and continuously implements a professional training curriculum in accordance with the analysis.

Indicator: training plan delivered by the year of Strategy validity; reports on training plan realization; curricula and lists of participants and training evaluations.

The Agency is not able to assess the fulfilment of this activity.

The RGA in its report states that it has developed a documentation base for drafting of the Rulebook on the internal organization and organisational structure of job positions, which encompassed a needs analysis referring to the strengthening of capacities of organizational units within real estate cadastre services, as well as internal controls within the competent sectors.

During 2014, the Sector for professional and administrative supervision, the Sector for legal affairs and the Sector for real estate cadastre have been performing internal control and providing professional assistance to the services of the real estate cadastre.²⁸²

Measure 3.6.1.5. To amend the Rulebook on the Geodetic-Cadastral Information System and the Rulebook on the Manner of Keeping, Inspection and Issuance of Cadastral Information

The first activity foresees that by March 6 2014, the ministry in charge of construction and urban planning adopts amendments to the Rulebook in order to enable appropriate registered access for physical entities.

Indicator: Amendments to the rulebook are adopted.

The Agency is not able to assess the fulfilment of this activity.

* The second activity was not due for realization by the end of 2014.

²⁸¹ Ibid.

²⁸² Ibid.

The report of the Ministry of construction, transport and infrastructure does not address the realization of this activity.

Measure 3.6.1.6. To adopt the Rulebook which harmonizes the manner of issuance of a cadastral certificate so that it has a form of an electronic document and contains an electronic signature

The first activity foresees that by March 6 2014, the RGA develops and adopts the Rulebook to comply with the Law on Electronic Signature and the Law on Electronic Documents.

Indicator: The Rulebook is adopted

The activity is not fulfilled in line with the indicator.

* The second activity was not due for realization by the end of 2014.

In its report, the RGA states that the Rulebook has not been adopted and explains that, provision of the Law on State Survey and Cadastre²⁸³ prescribe that on certain procedural issues, which are not regulated by this Law, provision of the Law which regulates the general administrative procedure is being applied. The Law on the General Administrative Procedure²⁸⁴ does not prescribe electronic communication between authorities and customers. Provisions of Article 54 of this Law, prescribe that a request, as a rule, is being submitted directly or in written form by post, or may be communicated verbally for the record, and may be, if the Law does not prescribe otherwise, declared by telegraph, or telefax, respectively. Provision of Article 57 of this Law prescribes that the requestor is obliged to dully sign the request. The provision of Article 1 of the Law on Electronic Signature²⁸⁵ prescribes that provision of this Law is applied to communication among authorities, communication between authorities and customers, delivery and development of the authority's decision in electronic format for administrative, judicial or other procedures before the state authority, if the Law regulating such procedure stipulates the use of an electronic signature. The provision of Article 4 (3) of the same Law, prescribes that provisions of paragraph 1 and 2 of this Article are not applied to other legal affairs and actions, for which a special law or regulation, explicitly prescribes the use of handwritten signatures in documents on paper or verification of a handwritten signature. The RGA also points out that the process of drafting amendments to the Law on State Survey and Cadastre is in progress, which will prescribe that the RGA may issue extracts from the cadastre in the form of an electronic document.²⁸⁶

²⁸³ „Official Gazette RS“, No. 72/10, 18/10 and 65/13.

²⁸⁴ „Official Gazette SRY“, No“, No. 33/97 и 31/01 and „Official Gazette RS“, No. 30/10.

²⁸⁵ „Official Gazette RS“, No. 135/04.

²⁸⁶ Republic Geodetic Authority, The report on the Implementation of the Strategy, January 2015.

Objective 3.6.2. To reduce the number of procedures and introduce a single-window system for issuing construction and other permits and consents

Issues pointed out by the Strategy refer to the fact that all processes in the field of urbanism are additionally complicated by the fact that various institutions are involved, including a special role of the local government units, who often lack the capacities, knowledge and experience to implement those processes properly.

According to the World Bank Study *Doing Business* for 2015, in the area of “Dealing with Construction Permits”, Serbia is ranked 186th out of total of 189 states, because issuing of construction permit lasts 264 days on average. The domestic procedure of issuing construction permits is rated as one of the worst in the world, given that the practice of issuing construction permits can vary from a couple of days to over a year.²⁸⁷

For the achievement of this objective, the Action Plan foresees three measures.

<p>Measure 3.6.2.1. To amend the Law on Planning and Construction so as to simplify procedures and make them match the type of a building</p>
<p>The first activity foresees that by September 6 2014, the ministry in charge of construction and urbanism develops a Draft law on amendments to the Law on Planning and Construction and submits it to the Government.</p> <p>The activity contains a side note that this measure would be adjusted to measure 3.6.2.2, which stipulates professional training until the Law comes into effect and that it should be conducted in cooperation with the ministry in charge of natural resources, mining and spatial planning.</p> <p>Indicator: The Draft law on amendments to the Law is submitted to the Government</p>
<p>The activity is fulfilled in line with the indicator.</p> <p>According to the information at the Agency’s disposal, the activity is not fulfilled in the manner envisaged by the Action Plan.</p> <p>The Agency has no data on whether the activity is fulfilled within the timeframe envisaged by the Action Plan.</p>
<p>The second activity foresees that by December 6 2014, the Government submits a Draft Law on Amendments to the Law to the National Assembly.</p> <p>Indicator: Draft Law on Amendments to the Law is submitted to the National Assembly</p>
<p>The activity is fulfilled in line with the indicator.</p> <p>According to the information at the Agency’s disposal, the activity is fulfilled within the timeframe, but not in the manner envisaged by the Action Plan.</p>
<p>The third activity foresees that by February 6 2015, the National Assembly adopts the Law on Amendments to the Law on Planning and Construction.</p> <p>Indicator: Law on Amendments to the Law is adopted</p>
<p>The activity is fulfilled in line with the indicator.</p> <p>According to the information at the Agency’s disposal, the activity is fulfilled within the timeframe, but not in the manner envisaged by the Action Plan.</p>

287 Alternative Report BCSP, pg. 36.

At the end of November 2014, the Government developed a Draft Law on Amendments to the Law on Planning and Construction and submitted it to the National Assembly, proposing its adoption in urgent procedure. The Law was adopted on December 8 2014²⁸⁸. According to the Government report, the reasons for adoption of this Law are: improvement of transparency in the area of planning and construction, introducing certainty in procedures by re-affirming the principle of legal certainty, introduction of simplified and more efficient procedures and further harmonization of legislation with the EU *acquis*. The objectives to be accomplished include: ensuring that investments are realized with respect to the plans of the wider community and sustainable development principles, enabling the swift and efficient realization of investments, protecting the interests of all actors in the process, protecting the environment and ensuring safety in stages of construction and occupancy of the building. New or reformed concepts are introduced, such as, among others, early public review of citizens, location conditions, etc. The introduction of the consolidated procedure system contributes to savings in time, enables tracking of the case in each of the stages of the procedure, whereas all expenses related to the procedure come down to real expenses of those activities for the authorities who carry out the activities. The number of procedures is reduced. Instead of the location permit, as an administrative act, location conditions are being issued, as a public document. The construction of building is enabled following the “design and construct” principle, which significantly speeds up the process, given that construction permits will be issued on the grounds of a much simpler project. The role of the construction inspection is strengthened, and at least two mandatory inspection controls of each building are prescribed, and new powers are vested in the construction inspection, aiming to fight illegal construction and construction contrary to the issued construction permit.

In addition to that, on December 25 2014, the Government provided an Opinion to the Draft Law on Amendments to the Law on Planning and Construction, submitted to the National Assembly by a parliamentary group of 123 MPs. This proposal was adopted by the National Assembly on December 29 2014.²⁸⁹ Production and storage facilities and underground floors of buildings are exempted from fees by the Law. As stated in the Government’s report, these amendments provide an incentive for economic growth and progress of Serbia in international competitiveness ranking lists, which, in return, should additionally boost competitiveness of the economy and the creation of new jobs, at the same time enhancing the environmental protection, especially energy efficiency.

Concerning the remark to the activity stating that the measure should be implemented in cooperation with the ministry in charge of natural resources, mining and spatial planning, the Government in its report points out that the Law on Ministries²⁹⁰ places spatial planning among the competences of the Ministry of Construction, Transport and Infrastructure.²⁹¹

New legal solutions, which introduced the consolidated procedure system, changed the procedure of issuing location conditions, construction permits, the certificate of registration of commencement of works and occupational permits. According to the Opinion of the Agency, procedures are not adapted to the type of building, as it was requested by the Action Plan remark.²⁹²

288 „Official Gazette RS. No. 132/14.

289 „Official Gazette RS. No. 145/14.

290 „Official Gazette RS. No. 44/14.

291 Government of the Republic of Serbia, The report on the Implementation of the Strategy, January 2015.

292 Anti-Corruption Agency, *Opinion on the Draft Law on Amendments to the Law on Planning and Construction*, August 2014, available at: <http://www.acas.rs/praksa-agencije/analize-propisa-na-rizike-od-korupcije/>.

Measure 3.6.2.2. foresees that a professional education curriculum for employees and manual with instructions on the new features of the Law on Planning and Construction are to be developed by the same deadline which is the deadline for adoption of the Law, whereas implementation of the curriculum and dissemination of manuals with instructions are to be finalized by the start of the implementation of the Law. Due to such illogicality, the Agency suggests to the ministry in charge of judicial affairs to consider amending the Action Plan, in order to make it perfectly clear what is the deadline for realization of this activity.

Activities for the fulfilment of **measure 3.6.2.3.** were not due for realization by the end of 2014.

Objective 3.6.3. To ensure transparency of criteria and involvement of the public in the process of consideration, amendments and adoption of spatial and urban plans at all levels of government

The Strategy finds that in Serbia there is a problem with the absence and non-conformity of urban plans at different levels.

For achievement of this objective, the Action Plan foresees four measures.

<p>Measure 3.6.3.1. To amend the Law on Planning and Construction so as to introduce an obligation of early notification about the commencement of development of spatial and urban plans at all levels of the government, as well as publication of a draft plan on websites</p>
<p>The first activity foresees that by September 6 2014, the ministry in charge of construction and urbanism develops a Draft Law on Amendments to the Law on Planning and Construction and submits it to the Government.</p> <p>The remark to this activity states that the measure should be implemented in cooperation with the ministry in charge of natural resources, mining and spatial planning.</p> <p>Indicator: The Draft law on Amendments to the Law is submitted to the Government</p>
<p>The activity is fulfilled in line with the indicator.</p> <p>According to information at the Agency's disposal, the activity is not fulfilled in the manner envisaged by the Action Plan.</p> <p>The Agency has no information on whether the activity is fulfilled within the timeframe envisaged by the Action Plan.</p>
<p>The second activity foresees that by December 6 2014 the Government submits a proposed Law on Amendments to the Law to the National Assembly.</p> <p>Indicator: Draft law on Amendments to the Law is submitted to the National Assembly</p>
<p>The activity is fulfilled in line with the indicator.</p> <p>According to information at the Agency's disposal, the activity is fulfilled within the timeframe, but not in the manner envisaged by the Action Plan.</p>
<p>The third activity foresees that by February 6 2015, the National Assembly adopts the Law on Amendments to the Law.</p> <p>Indicator: the Law on Amendments to the Law is adopted</p>
<p>The activity is fulfilled in line with the indicator.</p> <p>According to information at the Agency's disposal, the activity is fulfilled within the timeframe, but not in the manner envisaged by the Action Plan.</p>

The report of the Ministry of Construction, Transport and Infrastructure does not address the realization of this activity.

The Government report states that at the end of November, the Draft Law on Amendments to the Law on Planning and Construction was prepared, which was submitted to the National Assembly at the beginning of December for adoption by urgent procedure. Article 16a of the Draft Law introduces the institute of early public inspection, by which a holder of the planning document organizes consultations to inform the public about the overall objectives and purpose of the plan development, possible solutions for development of the spatial entities and urban renewal, as well as effects of planning. Early public inspection is announced seven days prior to the commencement of the inspection in the media and in electronic form at the webpage of the local government unit, along with the webpage of the bearer of the plan, lasting 15 days from the date of publication. All comments and suggestions are recorded and can influence the planning solutions. The Agency Opinion on the Draft Amendments found that it contains provisions related to early public inspection of spatial and urban plans, but which also involve certain risks of corruption, therefore not providing sufficient guarantees that the Strategy objective will be accomplished.

The Alternative report of the BCSP states that the adopted legal solution foresees the institute of early public inspection, while Article 45a prescribes that after the adoption of the decision on the development of the planning document, the bearer of the plan organizes public awareness (legal and natural persons) on the overall objectives and purpose of the development of the plan, possible solutions for the development of spatial entities, possible solutions for urban renewal, as well as the effects of planning. The BCSP emphasizes that this legal solution has its advantages, because interested citizens have a possibility to influence planning solutions in the early stages of the plan development. However, the concern remains whether the plan bearer enables the public to inspect all the data, which may be of relevance. Also, the legal solution, according to which "recorded comments and suggestions of legal and natural persons may affect planning solutions", but do not have to, creates opportunities for arbitration in the procedure of the adoption of the comments and suggestions.²⁹³

The field of planning and construction was at the centre of attention during the reporting period because of the numerous debates organized among professionals and the wider public regarding the "amendments to the urban plans, which create opportunities for implementation of the Project Belgrade Waterfront". The project, which Belgrade City authorities have made available for the review of the public, opened up many questions, and the debate engaged the media, civil society organizations, professional associations, as well as the Serbian Academy of Science and Arts. A series of questions were raised, such as whether the investors adjust to the urban plans or the plans are adjusted to investors, the issue of (non) organizing the tender for the selection of the project for an important city location, the fact that the project did not pass previous urban assessments, as well as the issue whether it is meaningful to spend the money and other resources on "organization of public inspections of urban plans and review of proposals by the commission, in which everything that does not fit to the decision made in advance, would be automatically rejected"²⁹⁴

Activities foreseen for the fulfilment of the **measure 3.6.3.2.** were not due for realization by the end of 2014.

²⁹³ Alternative report of the BCSP, pg. 39.

²⁹⁴ *Ibid*, pg. 36.

Measure 3.6.3.3. To conduct campaigns for informing the public about the importance of early inspection of plans and public hearings

The first activity foresees that by September 6 2014, the ministry in charge of construction and urbanism develops a campaign plan and a manual about modalities of citizens' participation in the development of plans at an early stage.

The activity contains a remark that the measure should be implemented in cooperation with the ministry in charge of natural resources, mining and spatial planning, as well as the local government units, and that it is desirable to include the interested CSOs.

Indicator: Campaign plan developed; Manual about modalities of citizens' participation in the development of plans at an early stage is created

The Agency is not able to assess the fulfilment of this activity.

* The second activity was not due for realization by the end of 2014.

The report of the Ministry of Construction, Transport and Infrastructure does not address the realization of this measure.

Measure 3.6.3.4. To adopt guidelines for uniform actions of local self-government units in the field of issuance of construction and other permits and consents, legalization process and land conversion

The single activity foresees that by March 6 2014, the ministry in charge of construction and urbanism develops and adopts the guidelines and forwards them to all local self-government units.

The activity contains a remark that the measure would be implemented in cooperation with the ministry in charge of natural resources, mining and spatial planning.

Indicator: Guidelines are adopted and forwarded to all local government units.

The Agency is not able to assess the fulfilment of this activity.

The report of the Ministry of Construction, Transport and Infrastructure does not address the realization of this activity.

Objective 3.6.4. To ensure efficient internal and external control in the process of issuing construction and other permits and consents in the field of urban planning

Issues pointed out by the Strategy refer to the inadequate legal framework for operations and action of inspection services (urban planning and construction inspectors), as well as incomplete independence in work and insufficient capacities, leading to a passive role of the inspectors and inability to act adequately in specific situations. Moreover, more effective control of public authority officers competent for issuing construction and other permits and consents in urban planning is required.

The Action Plan foresees six measures for the achievement of this objective.

Measure 3.6.4.1. To enable access for citizens to the web portal for case progress monitoring

The first activity foresees that by December 6 2014, the ministry in charge of construction and urban planning develops a feasibility study for the establishment of a web portal for case progress monitoring.

The activity contains a remark that the measure should be implemented similar to the courts' web portal for case progress monitoring.

Indicator: Feasibility study is developed; report on the Study

The Agency is not able to assess the fulfilment of this activity.

* The second and third activities were not due for realization until the end of 2014.

The report of the Ministry of Construction, Transport and Infrastructure does not address the realization of this activity.

Measure 3.6.4.2. foresees that professional education curriculum for employees about the electronic portal for case progress monitoring and manuals with instructions are developed by the same deadline for which purchasing of equipment and software development are envisaged, whereas the plan is to be implemented and manuals with instructions disseminated until the launch of the portal. Due to this illogicality, the Agency proposes to the ministry in charge of judicial affairs to consider amendments to the Action Plan, in order to make it perfectly clear what is the deadline for fulfilment of this activity.

Activities foreseen for the realization of the **measure 3.6.4.3.** were not due for implementation by the end of 2014.

Measure 3.6.4.4. To amend the Law on Planning and Construction so as to expand the network of inspection services

The first activity foresees that by March 6 2014, the ministry in charge of construction and urban planning conducts the needs analysis for the expansion of the seat/network of inspection services.

The activity contains a remark that the measure should be implemented in cooperation with the ministry in charge of natural resources, mining and spatial planning.

Indicator: Campaign plan is developed

The Agency is not able to assess the fulfilment of this activity.

The second activity foresees that by December 6 2014, the ministry in charge of construction and urban planning develops a Draft Law on Amendments to the Law in accordance with recommendations from the analysis, and submits it to the Government.

The same remark is added as with the first activity.

Indicator: Draft Law on Amendments to the Law is submitted to the Government

The activity is fulfilled in line with the indicator.

According to the data at the Agency's disposal, the activity was implemented within the timeframe but not in the manner envisaged by the Action Plan.

* The third and fourth activities were not due for realization by the end of 2014.

The report of the Ministry of Construction, Transport and Infrastructure does not address the realization of this activity.

The Agency Opinion on the Draft Law on Amendments to the Law on Planning and Construction emphasized that, even though suggested amendments partially refer to the rights and duties of the urban and construction inspectors, they do not address the expansion of the inspection services network.²⁹⁵ Further, as stated in the BCSP Alternative report, the Law on Planning and Construction strengthens the role of the construction inspection, but the inspection services network is not expanded.²⁹⁶

Mepa 3.6.4.5. To strengthen capacities of the inspection services
The first activity foresees that by June 6 2014, the ministry in charge of construction and urban planning conducts a needs analysis. Indicator: needs analysis is conducted
The Agency is not able to assess the fulfilment of this activity.
The second activity foresees that by December 6 2014, the ministry in charge of construction and urban planning amends the organisational structure act and employs an appropriate number of qualified staff, in line with the analysis. The activity contains a remark that the measure should be implemented in cooperation with the RGA and the ministry in charge of natural resources, mining and spatial planning. Indicator: the number and structure of employed staff is in line with the needs analysis.
The Agency is not able to assess the fulfilment of this activity.
The third activity foresees that the ministry in charge of construction and urban planning develops and continuously implements a training curriculum for employees in line with the analysis. The same remark is added as with the second activity. Indicator: the training plan is executed according to the year within the Strategy validity; reports on training plan realization; curricula and lists of participants and reports on training evaluations
The Agency is not able to assess the fulfilment of this activity.

The report of the Ministry of Construction, Transport and Infrastructure does not address the realization of this activity.

Measure 3.6.4.6. To improve the proactive approach of inspection services by envisaging a larger number of inspections in the annual plan
The first activity foresees that the ministry in charge of construction and urban planning continuously includes a larger number of inspections in the annual plan of inspection services. The activity contains a remark that the measure should be implemented in cooperation with the RGA and the ministry in charge of natural resources, mining and spatial planning. Indicator: the number of planned inspections is increased in comparison to the number of inspections planned for the previous year.
The Agency is not able to assess the fulfilment of this activity.

The report of the Ministry of Construction, Transport and Infrastructure does not address the realization of this activity.

3.7. HEALTH CARE SYSTEM

Within the seventh field of the Strategy - Health Care System - three objectives are formulated: To identify and eliminate all deficiencies in the legal framework that are conducive to corruption, and ensure their full implementation (**objective 3.7.1.**), to provide efficient mechanisms for the integrity, accountability and transparency in the adoption and implementation of decisions (**objective 3.7.2.**), to ensure a transparent information system in the health care system and participation of the public in the control of work of health care institutions, in accordance with the legal protection of personal data (**objective 3.7.3.**).

For the achievement of the three objectives, 12 measures and 33 activities are foreseen, out of which, 20 activities were reviewed.

According to the Agency's assessment, out of 20 reviewed activities:

1. Five are fulfilled in line with the indicator, whereas:
 - Four activities are fulfilled in the manner and within the timeframe envisaged by the Action Plan.
 - One activity is fulfilled in the manner but not within the timeframe envisaged by the Action Plan.
2. 10 activities are not fulfilled in line with the indicator, out of which, six activities are not fulfilled given that the previous conditioning activity was not implemented.
3. The Agency is not able to assess the fulfilment of 5 activities.

One measure was implemented.

²⁹⁵ Anti-Corruption Agency, *Opinion on the Draft Law on Amendments to the Law on Planning and Construction*, August 2014, available at: <http://www.acas.rs/praksa-agencije/analize-propisa-na-rizike-od-korupcije/>.

²⁹⁶ Alternative report of the BCHR, pg. 40.

For two years in a row, the reports of the *Health Consumer Powerhouse* (HCP) on the quality of health care services for 2012 and 2013, have graded the Serbian health care system as the worst in Europe.²⁹⁷ The HCP has paid special attention to the influence of corruption on the low position in the ranking list, marked in red colour, which should pose a sufficient enough warning sign that this area needs urgent measures.²⁹⁸

The European Health consumer Index for 2014, ranks Serbia at 33rd place, with 473 out of maximum 1,000 score points, which is progress of one position in comparison to 2013. The health care system in Serbia is characterized by low information level of patients, poor access and unfavourable treatment outcomes. Some improvements can be noted, such as improved access to the primary health care doctors and improvements in data related to efficacy. Still, all outcome indicators for Serbia remain marked in red.²⁹⁹

The 2014 EC Progress Report for Serbia makes it very clear that the field of health is especially sensitive to corruption. Also, according to the BCSP Alternative report, the main areas of the health care system, which the Strategy outlines as being sensitive to corruption, need to be expanded due to serious problems in the area, as well as the extremely negative perception of citizens about the corruption levels. The results of the undertaken measures showcased that the approach to combating corruption lacked in seriousness, therefore failing to generate positive results. The NGO Partners for Democratic Changes and the NGO Legal Scan, have conducted an analysis of judicial practices in the field of corruption, according to which, the health care system assumes fourth position in relation to the number of criminal proceedings. Hand in hand with the research of judicial practices, aiming to assess how much trust citizens place in the work of the Protector of Patient Rights and whether they would report corruption to this institution, a citizen survey was conducted in six Serbian cities. Only 38% of interviewees would report corruption to the Protector of Patient Rights, which is illustrative of a very low level of confidence in this institution.³⁰⁰

In the period April-June 2014, the Ministry of Health was undertaking activities directed towards the improvement of the situation in the area of health care services and waiting lists, including collection of data about patients, the number of health services, engaged human resources and equipment from a total of 47 health care institutions, in which waiting lists were put in place for certain areas of health services. Based on the collected data, a comprehensive analysis was developed and the data were processed and systematized, according to the predefined methodology and published at the website of the Ministry of Health, for the purposes of informing the public.³⁰¹ Results represent a starting point and a foundation for overcoming the challenges in this area that is, finding solutions, which would reduce the patient waiting lists for specific health care service.³⁰²

On September 12 2014, the Ministry of Health submitted an application for membership of the Ministry of Health of the Republic of Serbia to the *European Healthcare Fraud and Corruption Network*, which was accepted on September 23.³⁰³

297 Reports for 2012 and 2013, available at: www.healthpowerhouse.com/index.php?option=com_content&view=category&layout=blog&id=36&Itemid=5.

298 Alternative report BCHR, pg. 47.

299 European Health Consumer Index 2014, *The health care system in Serbia still needs substantial reforms*, Brussels, January 27, 2015, available at:

www.healthpowerhouse.com/index.php?option=com_content&view=category&layout=blog&id=36&Itemid=55.

300 Alternative report of the BCHR, pg. 48.

301 Please see: <http://www.zdravlje.gov.rs/showelement.php?id=7611>.

302 The Ministry of Health, the Report on the Implementation of the Strategy, July 2014.

303 The Ministry of Health, the Report on the Implementation of the Strategy, January 2015.

Execution of the Strategy and the Action Plan

Objective 3.7.1. To identify and eliminate all deficiencies in the legal framework that pose a risk of corruption and ensure its full application

The Action Plan foresees four measures for the achievement of this objective.

Measure 3.7.1.1. To amend the Law on Health Care, the Law on Health Insurance, the Law on the Chambers of Health Care Professionals and the Law on Medicines and Medical Devices to eliminate deficiencies that pose a risk of corruption

The first activity foresees that by April 6 2014, the ministry in charge of health care, conducts a risk analysis of corruption in the stated systemic laws in the field of health care with recommendations.

The activity contains a remark that it is necessary to amend the legal framework, so that the: selection of directors of health care institutions and health care workers is implemented through a public call and on the basis of predefined objective criteria; electronic information system for monitoring financial flows, particularly non-standard services and own source revenues is adopted (separate from the information system of health care services provision); financial incentive mechanisms for health care workers are further developed on the basis of work performance; legal conditions under which health care workers in public institutions can render health care services in private institutions, are precisely regulated; status of health care workers is regulated in accordance with the status of public service employees

Indicator: Risk analysis of corruption with recommendations is conducted.

The activity is fulfilled in line with the indicator.

According to the information at the Agency's disposal, the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.

The second activity foresees that by July 6 2014, the ministry in charge of health care, develops a draft law on amendments to the Law in accordance with the needs analysis and submits it to the Government.

The activity contains the same remark as the first activity.

Indicator: draft laws on amendments to the Law are submitted to the Government

The activity is not fulfilled in line with the indicator.

The third activity foresees that by September 6 2014 the Government submits draft laws on amendments to the Law to the National Assembly.

The activity contains the same remark as the first activity.

Indicator: Draft laws on amendments to the Law are submitted to the National Assembly.

The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not implemented.

The fourth activity foresees that by December 6 2014, the National Assembly adopts Draft laws on amendments to the Law.

The activity contains the same remark as the first activity.

Indicator: draft laws on amendments to the Law are adopted

The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not implemented.

By the Decision of the Minister of Health, special working groups were established for conducting risk analysis on corruption, contained in the provisions of the Law on Health Care, Law on Health Insurance, Law on the Chambers of Health Care Professionals and the Law on Medicines and Medical Devices. The risk analysis pointed towards not only the prevention of the risk of corruption but also towards the enhancement and more complete implementation of the Law, therefore other amendments were proposed as well. Risk analyses were conducted and submitted at the beginning of April 2014.³⁰⁴

The Working Group on the risk analysis of corruption in the Law on Health Care has identified weak spots sensitive to corruption in the area of employment procedures, control of health institutions during the increase of the number of staff, abuse of additional work of health care workers, organization and structure of bodies, whose work is organized within an institution, creating the necessity to prevent that the same persons are members of two or more “internal” organs, participation of Ethical Board members in charge of approving clinical trials in those trials, as well as the relationship between medical doctors and pharmaceutical companies, that is, regulation of the financing of medical doctors by pharmaceutical companies. In relation to the issue of the relationship between doctors and pharmaceutical companies, the Working Group holds an opinion that complete exclusion of financing on the part of pharmaceutical companies would contribute to the increased isolation of domestic doctors, due to the lack of resources for funding their participation at conferences and professional development courses.

The opinion of the Working Group that donations, humanitarian aid and the selection of directors are not areas sensitive to corruption, is assessed by the BCSP Alternative Report as not acceptable. The Report states that the complete procedure for the selection of directors has many flaws and that it is necessary to amend all the elements of conditions and procedures for the selection of a director. In February 2014, the NGO Legal Scan and the NGO Serbia on the Move submitted a proposal for amendments to the Law on Health Care to the Ministry of Health, proposing detailed regulations of the employment procedure of new medical doctors, and the regular publishing of the list of doctors, who have concluded contracts on additional work and medical facilities, in which they perform the additional work, at the webpage of the Ministry of Health. The BCSP Alternative Report concludes that the analysis failed to include all the points listed in the remark, so it cannot be said that the approach was comprehensive.

The Working Group on the risk analysis of corruption in the Law on Health Insurance, according to the conclusions of the BCSP Alternative Report, provided a very superficial and insufficient definition of the three basic areas sensitive to corruption, leading to the need for: more precise regulation of the scope, content and standard of health care, which would diminish the risk of arbitrary interpretation on what is contained in the non-standard services; the identification of the list of non-standard services, as the services which are not covered by mandatory health insurance; the introduction of objective criteria for the establishment of waiting lists and transparency, as well as the creation of a single database in this area.

The BCSP Alternative Report notices that the area of health insurance has a number of areas sensitive to corruption, due to the imprecision and contradiction in terms, and that violations lack proper sanctions. The proposal for the introduction of a list of non-standard services is impossible to apply, because it is difficult to account for each individual service, and even if clusters of non-standard services are to be developed, they run a risk of being

304 The Ministry of Health, the Report on the Implementation of the Strategy, April 2014.

arbitrarily and differently interpreted from one institution to another. According to the proposal of the Alternative Report, the best solution would be to identify insurance packages.

The Working Group on the risk analysis of corruption in the Law on the Chambers of Health Care Professionals is divided into subgroups, and the representatives of the Dental Association of Serbia proposed that: the director has to be employed in the Chamber, lists of supervisors for the regular and extraordinary control of the professional work should be defined based on the Chamber’s Assembly proposal, the criteria for the continuous medical education should be better regulated and the participation fee should be paid directly to the organizer’s account. The Medical Chamber representatives proposed to clarify the provision according to which, the Chamber is responsible for determining the prices of services in the private sector which are not covered by mandatory health insurance, to better regulate the insurance from professional responsibility, adjust the public procurement with the Law on Public Procurement and precisely determine the number of representatives from each individual institution from which the Minister of Health appoints the Board for calling elections for members to the Chamber’s Assembly. The Chamber of Nurses and Health Technicians of Serbia did not have any proposals, while the Chamber of Healthcare Institutions stated that it only implements the Law on Health Care, and not the Law on the Chambers of Health Care Professionals.

The BCSP Alternative report assesses that the Working Group did not devote enough attention to the key risks of corruption in the area of financing the Chamber, monitoring financial flows and competences of the director, Steering Board and the Assembly.

The Working Group for the risk analysis of corruption in the Law on Medicines and Medical Devices provided a precise proposal of the amendments to the specific provisions of the Law: amendments regarding the membership in organs of the Medicines and Medical Devices Agency; restrictions in relation to the membership in the commission for providing opinions on the quality, safety and efficacy of the medicine, established by the Minister of Health, following the proposal of Medicines and Medical Devices Agency, meaning that members of the commission cannot serve as members of the commissions of the Republic Health Insurance Fund, Republic Expert Commission or the research teams for clinical testing of medicines, as well as publishing of the Decision on the appointment of members to this commission at the webpage of the Ministry of Health; amendments related to the list of experts assessing the documentation on medicines and medical devices, as well as proposal that Medicines and the Medical Devices Agency publishes the list of experts on its webpage; more detailed regulations of supervision over the work of the Medicines and Medical Devices Agency and publishing decisions which approve conducting of clinical trials at the Agency’s website.

The BCSP Alternative Report shares the impression that working groups did not have the will to elaborate on issues, which would imply restricting the rights and posing additional obligations/duties to the persons responsible for the implementation of the law.³⁰⁵ Finally, this Report makes the following recommendations: 1) to adjust the network of healthcare institutions to the health map of the population; 2) to establish appropriate supervisory and control mechanisms over the work of the healthcare institutions; 3) to introduce a single method of appointment scheduling for the provision of services in the healthcare centres; 4) to harmonize laws and by-laws so as to be applicable in practice; 5) amend Articles 68-70 of the Rulebook on the method and procedure of exercising the rights from mandatory health care insurance; 6) to introduce improved mechanisms for oversight of the creation and update of the waiting lists; 7) to adopt an electronic information system for monitoring

305 Alternative Report of the BCHR, pg. 55-56.

financial flows, especially non-standard services and own source revenues (separate from the information system for the provision of healthcare services); 8) to further develop financial incentive mechanisms for employees based on the work performance, since there is no financial incentive system in place; 9) to regulate the position of healthcare workers, in line with the position of public servants; 10) to introduce and regulate the mechanisms for control of the commissions in the Republic Health Insurance Fund.³⁰⁶

On July 24 2014, the Government finalized the Draft Law on Amendments to the Law on Health Insurance. The rationale for amending the Law on Health Insurance was the necessity to enable healthcare workers and associates to pursue a specialization after completed internship and passed professional examinations, in order to ensure the existence of specialized expert staff for a good-quality and available healthcare in the years to come. The rationale for amending the Law on Health Insurance was the delay of the deadline for the replacement of certificates of insurance and documents for health care, by a health booklet, until December 31 2016. On August 31 2014, the National Assembly adopted a Law on Amendments to the Law on Health Care³⁰⁷ and on September 10 2014 the Law on Amendments to the Law on Health Insurance.^{308 309}

The Ministry of Health, in cooperation with the Ministry of Justice, established a working group for the fight against corruption, tasked to conduct an analysis of the entire legal framework in the field of health, with respect to the risk of corruption, and having in mind the Action Plan for Chapter 23 in the process of negotiations with the EU, the activities on amending the laws in the field of health are ongoing.³¹⁰ In cooperation with the PLAC project, a working version of the new Law on medicines and medical devices has been drafted.³¹¹

Activities foreseen for the fulfilment of **measures 3.7.1.2. and 3.7.1.3.** were not due for realization by the end of 2014.

Measure 3.7.1.4. To ratify the European Charter of Patients' Rights from 2002
The first activity foresees that by March 6 2014, the ministry in charge of health develops and submits a Draft Law on the Ratification of the European Charter of Patients' Rights from 2002. Indicator: The Draft Law is submitted to the Government
The activity is not fulfilled in line with the indicator.
The second activity foresees that by May 6 2014, the Government submits a Draft Law on the Ratification to the National Assembly. Indicator: Draft Law submitted to the National Assembly
The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not implemented.
The third activity foresees that by July 6 2014, the National Assembly passes the Law. Indicator: The Law is passed
The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not implemented.

306 *Ibid*, pg. 49-53.

307 „Official Gazette RS“, no. 94/14.

308 „Official Gazette RS“, no. 99/14.

309 The Government of the Republic of Serbia, Report on the Implementation of the Strategy, January 2015.

310 The Ministry of Health, the Report on the Implementation of the Strategy, January 2015.

311 The Ministry of Health, the Report on the Implementation of the Strategy, October 2014.

The Draft Law on Ratification of the European Charter of Patients' Rights was developed, but it was withdrawn from further procedure, after the Ministry of Foreign Affairs, on July 22 2014, gave the opinion that, according to its form and content, it is not subject to the procedure of ratification of international treaties. The Ministry of Health in its report emphasizes that the Republic of Serbia passed the Law on Patients' rights,³¹² which fully encompasses this subject and is in line with the respective Charter.³¹³ The report of the Government states that the Law on Patients' Rights accepted 12 articles of the Charter.³¹⁴

The BCSP Alternative Report notices that the Ministry of Foreign Affairs gave an opinion in line with Article 14 (1), that the Charter is not subject to ratification, but that their reply did not mention Paragraph 2 of this Article, which foresees that international treaties, which do not belong to the treaties from Paragraph 1, are not subject to ratification, and that information about those treaties is being submitted by the Government to the relevant parliamentary committee. According to the conclusion of the BCSP Report, the Ministry of Health needs to request again the opinion of the Ministry of Foreign Affairs about actions regarding the Charter in line with the Article 14 (2) of the Law on Conclusion and Execution of International Treaties.³¹⁵

Objective 3.7.2. To establish efficient mechanisms for integrity, accountability and transparency in the adoption and implementation of decisions

For the achievement of this objective, the Action Plan foresees six measures.

Measure 3.7.2.1. To improve cooperation and coordination of anti-corruption activities between relevant institutions in the health care system
The only activity foresees that by December 6 2014, the ministry in charge of health care initiates the conclusion of a memorandum of cooperation between the ministries competent for health care, justice, internal affairs, the Health and Family Committee of the National Assembly, RPP, SAI and the Agency. Indicator: Memorandum of cooperation is signed
The activity is fulfilled in line with the indicator. According to the information at the Agency's disposal, the activity is fulfilled in the manner but not within the timeframe envisaged by the Action Plan.
The Agency notices that by the realization of the only activity within the measure, the measure itself is fulfilled.

The Memorandum of cooperation between the Ministry of Health, Ministry of Justice, MoI, the National Assembly Health and Family Committee, RPP, SAI and the Agency was signed on June 27 2014. Among other things, the Memorandum stipulates the methods for realization of mutual coordination, obligations of the signing parties to nominate their representatives within 30 days who will hold regular, semi-annual meetings and inclusion of professional associations and chambers of healthcare workers into the continuous and compulsory mutual coordination system.³¹⁶

312 „Official Gazette RS“, no. 45/13.

313 The Ministry of Health, the Report on the Implementation of the Strategy, October 2014.

314 The Government of the Republic of Serbia, Report on the Implementation of the Strategy, January 2015.

315 Alternative Report of the BCHR, pg. 54.

316 The Ministry of Health, the Report on the Implementation of the Strategy, July 2015.

Measure 3.7.2.2. To amend the Law on Health Care and the Law on Medicines and Medical Devices so as to regulate with clear and transparent rules the field of donations of medical equipment, medicinal products and medical devices; a relation with the pharmaceutical industry, amount and treatment of gifts, as well as the conflict of interest of health care workers and associates, and persons performing functions (without the status of an official in terms of the Law on the Anti-Corruption Agency)

The first activity foresees that by September 6 2014, the ministry in charge of health care develops a draft laws on amendments to the law and submits it to the Government.

Indicator: draft laws on amendments to the law submitted to the Government

The activity is not fulfilled in line with the indicator.

The second activity foresees that by December 6 2014, the Government submits the draft laws on amendments to the law to the National Assembly.

Indicator: draft laws on amendments to the law submitted to the national Assembly

The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not implemented.

**The third activity was not due for realization by the end of 2014.*

The report of the Ministry of Health does not address this activity. According to the Government's report, these laws were not submitted to the Government procedure.³¹⁷

The Law on Medicines and Medical Devices is not regulating the field of donation, while Article 120 (8) mentions the traffic of medicines from humanitarian aid. The Draft Law on the Amendments to the Law on Medicines and Medical Devices is under preparation.³¹⁸

Measure 3.7.2.3. To amend the Law on Donations and Humanitarian Aid, so as to regulate with clear and transparent rules the field of donations of medical equipment, medicinal products and medical devices, introduce obligations in terms of donations in the health care system for the purposes of establishing a committee that will assess justification, costs and cost-effectiveness of donations

The first activity foresees that by September 6 2014, the ministry in charge of financial matters, develops a Draft law on amendments to the law and submits it to the Government.

The activity contains a remark that the Law should stipulate forming the commission at the level of the healthcare institution, in cooperation with the ministry in charge of healthcare.

Indicator: Draft law on amendments to the law submitted to the Government

The activity is not fulfilled in line with the indicator.

The second activity foresees that by December 6 2014, the Government submits a Draft law on amendments to the law to the National Assembly.

Indicator: Draft law on amendments to the law is submitted to the National Assembly.

The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not implemented.

** The third activity was not due for realization by the end of 2014.*

317 The Government of the Republic of Serbia, Report on the Implementation of the Strategy, January 2015.

318 Alternative Report of the BCHR, pg. 55-56.

The report of the Ministry of Finance does not address this measure.

According to the Government's report, the proponents of the draft did not submit the Draft version of the Law to the Government procedure.³¹⁹

Measure 3.7.2.4. To build inspection capacities within the Ministry competent for health care

The third activity foresees that by March 6 2014, the ministry in charge of health care develops a training curriculum for employees, in line with the needs analysis and manuals with instructions.

Indicator: Training curriculum for employees, in line with needs analysis is developed; Manuals with instructions are developed and printed

The Agency is not able to assess the fulfilment of this activity.

** The first activity was rated as fulfilled in the previous year's report.*

The second activity was not due for realization until the end of 2014.

The fourth and fifth activities were not due for realization until the end of 2014.

The needs analysis for building capacities of the healthcare inspection was conducted in October 2013. The report of the Ministry of Health does not address the realization of the third activity.³²⁰ Due to a very low number of healthcare inspectors, that is, disproportion in the number of inspectors in comparison to the number of entities subject to inspection, the number of inspection reviews within the department for inspection of medicines and medical devices and the department for narcotic drugs and precursors amounts to just 5% from the total planned number of inspections. Therefore, the issue is in the ratio between the number of healthcare inspectors (47) and the number of healthcare institutions (6,000), whereas the competences of the inspection are additionally complemented by the control of a few more laws. The employment of new inspectors is planned, first of all, persons who graduated from the Medical Faculty and are registered in the National Employment Service.³²¹

319 The Government of the Republic of Serbia, the Report on the Implementation of the Strategy, January 2015.

320 The Ministry of Health, the Report on the Implementation of the Strategy, January 2015.

321 Alternative Report of the BCHR, pg. 56.

Measure 3.7.2.5. To enhance the quality control and implementation of the programme for continuing the professional education by the Health Council
The first activity foresees that by June 6 2014, the Health Council conducts an analysis of reasons impeding the exercising of control and transparent reporting on the results. The activity contains a remark that the Health Council should check whether the accredited programme was actually implemented in the manner in which it was given approval. Indicator: needs analysis with recommendations is developed.
The Agency is not able to assess the fulfilment of this activity.
The second activity foresees that the Health Council semi-annually prepares a report with specific recommendations for overcoming deficiencies. Indicator: Semi-annual reports are prepared.
The Agency is not able to assess the fulfilment of this activity.
The third activity foresees that the ministry in charge of health care, twice a year submits reports to the Government on implementation of the report recommendations. Indicator: The report on implementation on recommendations is submitted to the Government.
The Agency is not able to assess the fulfilment of this activity.

The mandate of all the Health Council members expired on April 9 2014. The report on the work of the Working body for the accreditation of the Health Council's continuing education programmes in 2014, jointly with proposals for improvement of the accreditation process³²² and introduction of monitoring and quality assessment of the continuing education programme implementation,³²³ were submitted to the Ministry of Health on April 8 and September 15 2014. Since the expiration of their mandates, the members of the Working Body for accreditation are responsible only for the smooth functioning of the accreditation process of continuing education programmes. In its report, the Health Council suggested proposals concerning measure 3.7.2.5, as well as the letter of the members of the Working Body for Accreditation of the Health Council programme, which was dispatched to the Ministry of Health.³²⁴ The report of the Ministry of Health does not address the realization of this measure.

The BCSP Alternative report in relation to this measure, proposes to investigate the work, that is, external assessment of the Health Council, in both quality and quantity terms, assess the expertise and work of every individual member of the Health Council, as well as to implement measures which would improve the transparency of the Health Council's work.³²⁵

322 Amendments to the Rulebook on detailed conditions for implementation of continuing education for healthcare workers and associates.

323 Rulebook on detailed conditions for monitoring and assessment of the quality of performed accredited continuing education programme for healthcare workers and associates and quality evaluation procedure for performing of the accredited continuing education programme.

324 The Health Council, Report on the Implementation of the Strategy, February 2015.

325 Alternative Report of the BCHR, pg. 58.

Measure 3.7.2.8.7 Drafting and publishing the report on concluded public procurements for each healthcare institution
The only activity within this measure foresees that the ministry in charge of health care continuously develops and publishes a report after each public procurement. The activity contains a remark that the measure relates to every healthcare institution. Indicator: Published reports after each public procurement on the webpage of the ministry in charge of health care.
The Agency is not able to assess the fulfilment of this activity. Remark: Opinion and Recommendation of the Agency.

The webpage of the Ministry of Health uploaded a link where data of the healthcare institutions on all public procurement procedures conducted by healthcare institutions are published on all grounds.³²⁶ The BCSP Alternative report states that the homepage of the Ministry of Health website contains a "public procurement" section, and that this data is also published on the Public Procurement Portal. However, by searching the portal, it was noted that not all documents are being published for individual public procurement procedures, therefore it cannot be said that the measure is completely fulfilled.³²⁷

Opinion and recommendation of the Agency: The Agency has no capacities to control whether the reports of each public procurement of every healthcare institution in Serbia are published on the webpage of the Ministry of Health, and having that in mind, it cannot assess whether the activity is fulfilled in line with the indicator. Thus, the Agency proposes that the ministry in charge of judicial affairs re-formulates this measure, activity or indicator in an appropriate manner, in order to secure supervision over its implementation.

326 The Ministry of Health, the Report on the Implementation of the Strategy, January 2015.

327 Alternative report of the BCHR, pg. 58.

Objective 3.7.3. To ensure a transparent information system in the health care system and participation of the public in the control of the work of healthcare institutions, in accordance with the legal protection of personal data

The Action Plan foresees two measures for the achievement of this objective.

Measure 3.7.3.1. To adopt a new Law on Health Records to enable the use of electronic medical documents and to introduce a unified information system
The first activity foresees that by March 6 2015, the ministry in charge of health care, develops and submits the Draft Law to the Government. The activity contains a remark that the Law should be adjusted to meet international standards. Indicator: Draft Law is submitted to the Government.
The activity is fulfilled in line with the indicator. According to the information at the Agency's disposal the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.
The second activity foresees that by June 6 2014, the Government submits the Draft Law to the National Assembly. Indicator: The Draft Law is submitted to the National Assembly.
The activity is fulfilled in line with the indicator. According to the information at the Agency's disposal the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.
The third activity foresees that by August 6 2014, the National Assembly adopts the Law. Indicator: The Law is adopted by the National Assembly.
The activity is fulfilled in line with the indicator. According to the information at the Agency's disposal the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.

The Law on Health Documentation and Health Records was adopted on November 8 2014.³²⁸ Its implementation shall commence on January 1st 2016. According to the Law rationale, reasons for its adoption, include the introduction of information-communication technologies in health care practices provided to the population, as well as efforts of the Republic of Serbia to harmonize the legal system related to health with the set European and international standards, and with the documents, such as the European Charter of Patients' Rights, the UN Convention on Child's Rights and the Convention on the Protection of Persons concerning the automatic processing of personal data.

Activities foreseen for the fulfilment of the **measure 3.7.3.2.** were not due for realization until the end of 2014.

³²⁸ „Official Gazette RS“, no. 123/14.

3.8. EDUCATION AND SPORTS

Within the eighth field of the Strategy - Education and Sport - five objectives have been formulated: To amend the legal framework relating to the appointment, position and powers of directors of primary and secondary schools, as well as deans of faculties (**objective 3.8.1.**), to adopt regulations governing education inspections (**objective 3.8.2.**), to ensure the transparency of the procedures for registration, examination, grading and evaluation of knowledge in all academic institutions (**objective 3.8.3.**), to ensure that the process of accreditation and subsequent control of the fulfilment of conditions for work of public and private educational institutions is based on clear, objective, transparent and pre-determined criteria (**objective 3.8.4.**), and to establish the transparency of sports financing and the ownership structure of sports clubs and federations (**objective 3.8.5.**).

For the achievement of these five objectives, 14 measures and 40 activities are foreseen, whereas 23 activities have been reviewed.

According to the Agency's assessment, out of 23 reviewed activities:

1. Three activities are fulfilled in line with the indicator, out of which:
 - One activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan;
 - The Agency has no data whether two activities are fulfilled in line with the Action Plan.
2. 17 activities are not fulfilled in line with the indicator, out of which, four are not fulfilled in line with the indicator given that the previous conditioning activity was not implemented.
3. The Agency is not able to assess the fulfilment of three activities.

Execution of the Strategy and the Action Plan

Objective 3.8.1. To amend the legal framework for the appointment, position and powers of the directors of primary and secondary schools, as well as deans of the faculties

The issues pointed out by the Strategy refer to the insufficient transparency of a series of processes, which take place in education institutions; as well as very wide discretionary powers in decision making, especially discretionary powers of directors in relation to the employment of staff, public procurement procedures, organization of excursions, leasing of school premises, etc.

The Action Plan foresees one measure for the achievement of this objective.

Measure 3.8.1.1. To amend the Law on Primary and Secondary Education and the Law on Higher Education so as to introduce the legal obligation of appointment, periodical evaluation of work and performance of directors, deans and teachers/professors in all educational institutions, on the basis of objective, clear, precise and pre-determined criteria.

The first activity foresees that by July 6 2014, the ministry in charge of education conducts an analysis of the laws in terms of the risk of corruption.

The laws should include provisions that a director cannot be appointed to this function more than twice and the employment period at the post from which he/she was appointed will be frozen during both terms of office; discretionary powers of directors, deans and teachers/professors should be limited as much as possible with objective, precise, clear and pre-determined criteria; their discretionary decisions must be reasoned and transparent; revise and equalize the salary range; the commissions for the selection of employment of candidates should consist of the school director, representatives of school boards, employees and parents and an external expert. Minutes from the discussion should be saved in case of a complaint.

Indicator: Risk analysis of corruption is conducted

The activity is fulfilled in line with the indicator.

According to the information at the Agency's disposal, the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.

The second activity foresees that by September 6 2014, the ministry in charge of education develops draft laws on amendments to the law and submits it to the Government.

Indicator: Draft laws on amendments to the law are submitted to the Government

The activity is not fulfilled in line with the indicator.

The third activity foresees that by December 6 2014, the Government submits a proposed law on amendments to the law to the National Assembly.

The activity contains the same remark as the first activity.

Indicator: Proposed laws on amendments to the law are submitted to the National Assembly

The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not implemented.

* The fourth activity was not due for realization until the end of 2014.

The report of the Ministry of Education states that the coordination working groups for the improvement of regulations have conducted the analysis of all laws in the field of education. Namely, the Agency established coordination working groups for the improvement of the normative and institutional framework in education, which have been meeting regularly, discussing issues in the area and providing recommendations for resolving them.³²⁹ The Ministry of Education established a working group for amending the Law on the Foundations of the Education System and Upbringing, which embraced the attitude that recommendations of the Agency and measures from the Action Plan are to be adopted to the fullest extent possible. It is planned that the amendments are submitted to the Government no later than May 2015.³³⁰

The BCSP Alternative Report refers to the opinion of the Ministry of Education that prospective limitation of the director's mandate in institutions of pre-university education would not be in line with the concept of professionalization envisaged by the Serbian Strategy of Education until 2020, and accompanying documents, and would be contrary to the Labour Law, since it is impossible to secure the employment for a definite period of time for the duration of two mandates on the director's position (8 years). The issue of balancing the salary range is not within the competence of the Ministry of Education.³³¹

The Draft Law on Amendments to the Law on Higher Education, according to the Agency's opinion, did not encompass all the changes as it was envisaged by the Action Plan. Specifically, the Draft Law did not amend the provisions related to the choice of deans of faculties. Further, the Draft Law shall not affect the limitation of discretionary powers of deans. Adoption of the new Law on Higher Education was planned for 2015, which would be an opportunity, according to the report of the Ministry of Education, to regulate the area of selection, authorization and evaluation of the work of organs, operations and teaching staff of the higher education institution in a more detailed fashion compared to the existing regulations, which already contain provision on the selection and number of mandates of executive organs and work evaluation of the teaching staff.³³²

329 More details on the work of the coordination group can be found in: Anti-Corruption Agency, the Report on the Implementation of the Strategy and the Action Plan, March 31, 2014, pgs. 123-124, available at: <http://www.acas.rs/izvestaji/godisnji-izvestaji/>.

330 The Ministry of Education, Science and Technological Development, The Report on the Implementation of the Strategy, January 2015.

331 The BCHR Alternative Report, pg. 63.

332 The Ministry of Education, Science and Technological Development, The Report on the Implementation of the Strategy, January 2015.

Objective 3.8.2. To adopt regulations that regulate educational inspections

Issues pointed out by the Strategy refer to the lack of effective control due to the absence of mechanisms for reaction to different types of irregularities, as well as to the issues related to education inspections, whose work and content of decisions may be under the influence of the ministry in charge of education.

The Action Plan foresees five measures for the achievement of this objective.

Measure 3.8.2.1. To improve the legal framework in the field of education inspection
The first activity foresees that by September 6 2014, the ministry in charge of education develops a Draft law on education inspection and submits it to the Government. The activity contains a remark that a new legal framework should enable the transparent work of schools and the use of privately raised funds and determine what approved sources of school revenues are; determine a binding list of approved sources of school revenues to ensure that the economic activity of schools does not have a negative impact on the educational process; review the rules on giving lessons to teacher's/professor's own pupils/students and preparing for exams for admission to higher education institutions, from the aspect of preventing a conflict of interest and a risk of corruption and involve the Agency in part of the analysis of regulations, in terms of a risk of corruption and pay special attention to the financial control of school revenues, as it is not strong enough to be suitable and control the amount of inflow of private funds into the system. Additional oversight is recommended through proper operation of school committees in cooperation with the education inspection in order to ensure that the employees do not undermine the procedure of procurement of textbooks. Indicator: Draft Law submitted to the Government
The activity is not fulfilled in line with the indicator.
The second activity foresees that by December 6 2014, the Government submits the Draft Law to the National Assembly. Indicator: Draft Law submitted to the National Assembly
The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not fulfilled.

* *The third activity was not due for realization until the end of 2014.*

The Ministry of Education, Science and Technological Development established a working group for drafting the Law, which had previously conducted a comparative analysis of legal provisions in the neighbouring countries, including the analysis of the existing Law. The work on drafting of the Law on Inspection is in progress in the Ministry of Public Administration and Local Self-Government, regulating the field of entire inspection, and a representative of the Ministry of Education is involved in the process. Given that the Law on Education Inspection is *lex specialis* compared to the future Law on Education Inspection, the Ministry of Education is of the opinion that it would be good to wait for its adoption, and then the Law on Education Inspection should regulate only the specific details of this particular type of supervision, in order to prevent the collision of the two laws.³³³

³³³ *Ibid.*

It is the Agency's opinion that the very provisions of the Draft Law referring to its implementation, the relationship with other laws and harmonization of special laws are already colliding, which jeopardizes the achievement of the expected results. In this regard, the Agency believes that the removal of these, as well as other deficiencies and risks of corruption, would contribute to the substantial diminishing of arbitrariness, unevenness, wilfulness and other possible abuse in initiating and conducting inspections, which are some of the proclaimed objectives of this Law.³³⁴

Measure 3.8.2.2. To build inspection capacities in the field of education at all levels of the government
The first activity foresees that by April 6 2014, the ministry in charge of education conducts an analysis of the number and structure of required staff, and of other needs. Indicator: Analysis report
The activity is fulfilled in line with the indicator. According to the Agency's data, the activity is fulfilled in the manner envisaged by the Action Plan. The Agency has no information whether the activity is fulfilled according to the timeframe envisaged by the Action Plan.
The second activity foresees that by December 6 2014, the ministry in charge of education modifies organisational structure and employs an appropriate number of qualified staff in accordance with the analysis. Indicator: The number and structure of the employed staff matches the needs analysis
The activity is not fulfilled in line with the indicator.
The third activity foresees that by September 6 2014, the ministry in charge of education develops and implements a professional training programme in accordance with the analysis. Indicator: training plan executed by the year of the Strategy validity; reports on realization of the training plan; curricula and lists of participants and reports on training evaluations
The activity is not fulfilled in line with the indicator.

* *The fourth activity was not due for realization until the end of 2014.*

The Report of the Ministry of Education presented the results of the conducted analysis, which demonstrated that the number of systematized job positions for education inspectors, otherwise unfulfilled is insufficient for conducting educational inspections. The analysis assesses that the inspection work on the Republic level should be conducted by at least 36 educational inspectors, while 18 positions are systematized, whereas only 15 educational inspectors are currently performing the job.

The analysis also revealed that the number of educational inspectors at the municipal and city levels should amount to 206, whereas this job is currently performed by 174 inspectors. In the field of higher education, 5 educational inspectors are systematized for conducting inspection work, while the job is performed by 4 inspectors, even though the analysis showed that it would be necessary to engage at least 8 inspectors for conducting this work. The conclusion of the analysis is that the existing number of educational inspectors is not

³³⁴ Anti-Corruption Agency, Opinion on the Draft Law on Inspection, September 2014, available at: <http://www.acas.rs/praksa-agencije/analize-propisa-na-rizike-od-korupcije/>.

able to fulfil the demands of users (institutions, physical persons, public prosecutor's office, Ombudsman, Commissioner for information of public importance and others).

Concerning the modified organisational structure and employment of the appropriate number of qualified staff, the Ministry of Education stresses that due to the ban on hiring new employees in the public sector, the increase of the number of educational inspectors has been disabled, and that the Rulebook on the organisational structure and determination of job positions would be modified, following the abolition of the ban.

The Agency draws attention to the fact that the Government Decree on the procedure of obtaining approval for new employment and additional working engagement in budget users³³⁵ is not preventing the Ministry of Education from modifying the organisational structure of job positions in line with the needs analysis conducted earlier. This would speed up the entire activity, from the moment when conditions are in place for the additional employment of staff, in line with the new organisational structure.

The report of the Ministry of Education states that the realization of the third activity is in progress, that is, that the Draft rulebook on professional training of educational inspectors is developed and that the document is submitted for review to the Republic Legislative Secretariat.

Measure 3.8.2.3. To ensure monitoring of the implementation of the Code of Conduct for teachers/professors
The first activity foresees that by May 2014, the ministry in charge of education develops a programme for the campaign to introduce teachers/professors and pupils/students to the rules of the Code.
Indicator: Campaign plan is developed
The activity is not fulfilled in line with the indicator.
The third activity foresees that the ministry of education creates an annual report on the monitoring of the Code application.
Indicator: Annual report on monitoring of the Code application is developed
The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not implemented.

* The second activity was not due for realization until the end of 2014.

In the process of providing its opinion to the Action Plan, on the eve of its adoption, the Ministry of Education, Science and Technological Development gave a remark that the unified Code of Conduct for all levels of education does not exist, and its adoption would not be meaningful, given the differences across levels of education, the age of pupils, possible risky behaviour and similar. Further, the Ministry believes that in the field of higher education, in compliance with the existing regulations, the Code of Conduct of the teaching staff is determined by the general Act of the higher education institution, which is obliged to acquaint professors and students with its contents and to apply it in practice. During the course of the development and adoption of the new Law on higher education in 2015, existing provisions shall be reconsidered and corrected in terms of the **measure 3.8.2.3**. In the field of pre-university education, determining the Code of Conduct, that is, rules of demeanour in an

³³⁵ „Official Gazette“, no. 55/05, 71/05 – corrected, 101/07, 65/08, 16/11, 68/12-YC and 72/12.

institution (according to the Law on Foundations of the Educations System and Upbringing) is a subject to control in regular inspections. Each institution (including pre-school institutions) is obliged to adopt this act.

In its last year's report, when it comes to these activities, the Agency emphasized that precondition for their realization is the existence of the Code, which is not the case. On the other hand, the Law on Foundations of the Educations System and Upbringing,³³⁶ in Article 43 (3), prescribes that the demeanour in an institution and relations between children, employees and parents are regulated by rules of conduct of the institution, whereas Article 41-1, prescribes that the autonomy of an institution implies, among other things, the right to adopt rules of conduct in that institution. Bearing in mind all of the above, the question can be raised whether it is possible for the ministry in charge of education to realize these activities. Therefore, the Agency recommended that the ministry in charge of judicial affairs propose modifications to the Action Plan in this part, and to develop the proposal for modification, in cooperation with the ministry in charge of education.³³⁷

The activity foreseen for the fulfilment of the **measure 3.8.2.4**. was not due for realization until the end of 2014.

Measure 3.8.2.5. To improve the mechanism for complaints, requests and appeals in the Ministry competent for education
The first activity foresees that the ministry in charge of education introduces an obligation of informing the citizens about the procedures for complaints, requests and appeals through the website of the line ministry, as well as an obligation of informing any complainant about measures taken on the basis of their complaint.
Indicator: A notification on procedures for complaints and requests is published on the website of the line ministry; an obligation of informing the complainant about measures taken on the basis of their complaint is introduced
The activity is not fulfilled in line with the indicator.
The second activity foresees that the ministry in charge of education prepares a report on the most common forms of complaints and appeals with an analysis of their causes and recommendations for their elimination; as well as performs a qualitative inspection of the most common forms of a complaint and analyses their samples.
Indicator: Report is prepared
The activity is not fulfilled in line with the indicator.

Having in mind that the first activity, which is a one-off effort, was labelled as “permanent”, the Agency requested an explanation from the Ministry of Justice regarding the timeframe in which the activity should be realized. The Ministry of Justice replied that the provision “introducing an obligation” within the activity should be a continuing effort, therefore the label “permanent” implies that besides “introduction”, it is necessary to provide for the per-

³³⁶ „Official Gazette“, no. 72/09, 52/11 and 55/13.

³³⁷ Anti-Corruption Agency, the Report on the Implementation of the Strategy and the Action Plan, March 31, 2014, pg. 181, available at: <http://www.acas.rs/izvestaji/godisnji-izvestaji/>.

manent application and respect of the introduced procedure. The remark to this activity should be modified, and the activity should be realized in cooperation with the Commission for Accreditation and Quality Assessment for a part of the procedure, which relates to the higher education.³³⁸

The report of the Ministry of Education explains that the website of the Ministry enlists contacts of state secretaries, and managers of basic and specialized internal units, to whom citizens may turn to, and offers description of competences of basic internal units, for the purposes of informing the citizens about their competences. Also, the Ministry of Education believes that the Action Plan should be modified in this part, but does not offer an explanation of what an “objective inability” stands for.

The Agency assesses that, bearing in mind the defined indicator that is, the foreseen activity and substance of **measure 3.8.2.5**, the existing mechanism described by the Ministry of Education is not essentially substituting the first activity foreseen by the Action Plan.

The report of the Ministry of Education states that it lacks the necessary resources for the realization of the second activity, but does not elaborate further the type and volume of the needed resources, and recommends that the Action Plan is modified in this regard.

During discussions with the representatives of the Ministry of Education, it was communicated to the representatives of the BCHR that it is feasible to easily enhance the system, and make it more available to citizens, through simpler and easier access. Representatives of the Ministry of Education explained that citizens use the website of the Ministry, where all contacts and competences of basic internal units are published, which they may contact. The plan is to have the website upgraded by the end of December 2014, by introduction of a new section for the electronic submission of complaints.³³⁹

Objective 3.8.3. To ensure transparency in procedures of registration, taking exams, grading and evaluation of knowledge in all educational institutions

Issues pointed out by the Strategy refer to the fact that the normative framework is not fully equipped to provide for the transparent work of educational institutions and the use of so called own revenues of educational institutions; that it does not define what are eligible sources of revenue for educational institutions, while the financial control of revenue of educational institutions was not firm enough to provide for the adequate and efficient control of the inflow of own revenues into the system. The Strategy emphasizes the need to introduce the control of management of the funding sources realized through donations, sponsorships, as well as funds obtained from parents and local government units, to precisely determine internal rules and regulations in faculties, their implementation in a just and transparent manner, as well as the need to introduce academic merits of students as an exclusive and guiding principles in the process of grading, instead of protection.

338 Answers of the Ministry of Justice and Public Administration to the questions asked by the Anti-Corruption Agency, March 2014, available at: <http://www.acas.rs/pracenje-strategije/>.

339 The BCHR Alternative Report, pg. 68.

The Action Plan foresees two measures for the achievement of this objective.

Measure 3.8.3.1. To amend the Law on Primary and Secondary Education and the Law on Higher Education so that the enrolment procedure and criteria are as objective as possible

The first activity foresees that by September 6 2014, the ministry in charge of education develops a draft law on amendments to the law and submits it to the Government.

The activity contains a remark that new legal provisions should make the enrolment procedure as transparent as possible and it should not interfere with the privacy of pupils and students; control of the regularity of the procedure should last no longer than three months after completion of the enrolment procedure for the purposes of initiating appropriate actions against the persons responsible; private lessons and preparatory admission courses cannot be given by persons participating in the entrance examination process.

Indicator: Draft laws on amendments to the law are submitted to the Government

The activity is not fulfilled in line with the indicator.

The second activity foresees that by December 6 2014 the Government submits a proposed law on amendments to the law to the National Assembly.

The activity contains the same remark as the first activity.

Indicator: Proposed laws on amendments to the law are submitted to the National Assembly

The activity is not fulfilled in line with the indicator.

* The third activity was not due for implementation until the end of 2014.

The report of the Ministry of Education states that it is more useful to first adopt the amendments to the Law on the Foundations of the Education System and Upbringing, as a systemic law, and the deadline for amendments to these laws is December 2015, according to the Plan of the line Ministry. To this point, working groups for the preparation of the Draft Law on Primary and Secondary Education were established, which will consider this measure in their work, including the activities foreseen for its fulfilment.

Activities foreseen for the realization of the **measure 3.8.3.2.** were not due for realization until the end of 2014.

Objective 3.8.4. To ensure that the process of accreditation and subsequent control of fulfilment of conditions for work of public and private educational institutions is based on clear, objective, transparent and pre-determined criteria

The issues pointed out by the Strategy refer to the insufficient regulation of the issue of private higher education institutions, since appropriate standards and quality control mechanisms have not been fully prescribed, which creates room for abuse in those education systems. The Strategy further emphasizes the need for the Commission of Accreditation and Quality Control to conduct visits for the purposes of accreditation, as well as the subsequent control of acting upon complaints, as well as that bodies for accreditation of educational institutions, including the accreditation process and subsequent controls of fulfilment of work conditions of state and private educational institutions, should be under the supervision of the line ministry.

For the achievement of this objective, the Action Plan foresees one measure.

<p>Measure 3.8.4.1. To enhance the work of the Commission for Accreditation and Quality Assurance</p>
<p>The second activity foresees that the ministry in charge of education permanently amends regulations so as to introduce an obligation to include independent experts, students and employers in the accreditation process.</p> <p>The activity contains a remark that based on the positive experience of other countries the Commission for Accreditation and Quality Assurance may be transformed to the National Accrediting Agency, which will operate as a highly professional independent institution.</p> <p>Indicator: Regulations are amended</p>
<p>The activity is not fulfilled in line with the indicator.</p>
<p>The third activity foresees that CAQC continuously publishes reports on the findings of reviewers and CAQC, which are relevant for making accreditation decisions.</p> <p>The activity contains the same remark as the second activity.</p> <p>Indicator: Reports relevant for making accreditation decisions are published at the CAQC website.</p>
<p>The activity is not fulfilled in line with the indicator.</p>
<p>The fourth activity foresees that CAQC publishes work reports at least once a year.</p> <p>The activity contains the same remark as the second activity.</p> <p>Indicator: Work reports are published at the CAQC website</p>
<p>The activity is fulfilled in line with the indicator.</p> <p>According to the Agency's data, the activity is fulfilled in the manner envisaged by the Action Plan.</p> <p>The Agency has no information whether the activity is fulfilled within the timeframe envisaged by the Action Plan.</p>

* The first activity was not due for realization until the end of 2014.

Given that the first activity, which is a one-off effort, was labelled as "continuous", the Agency requested an explanation from the Ministry of Justice regarding the deadline in which the activity should be realized. The Ministry of Justice replied that this case refers to the point

that independent experts, students and employers are to be involved in the accreditation process, and that this activity should be implemented throughout the entire duration of the Strategy, that is, of the Action Plan. According to the Ministry's explanation, the timeframe was labelled as "permanent", because it is necessary that re-examinations of whether the regulations enable appropriate participation of the mentioned entities are performed during the entire period of the duration of the Strategy. The activity of amending the regulations is a one-off activity *per se*, and it will follow the analysis of possibilities for the improvement of the accreditation process, which is a medium-term objective. If the analysis shows that it is feasible to have a one-off and simultaneous amendments of regulations in order to implement this activity, the activity should be considered as implemented at the moment when regulations are amended, regardless of the label "permanent".³⁴⁰

The Commission for Accreditation is a working body of the National Council for Higher Education (the National Council). The National Council is a body elected by the National Assembly, to which it is held accountable for its work. In that regard, the Ministry of Education believes that the Action Plan did not adequately identify the entity responsible for implementation of this measure, because determination of criteria and standards for accreditation of higher education institutions is within the competences of the National Council, which adopts them, upon proposal of the CAQC.

The report of the CAQC states that amendments to the Law on Higher Education from September 2014, foresees the involvement of students and employers in the accreditation process, through sub-committees for visits to higher education institutions, where they prepare their independent reports. Also, the amendments stipulate the engagement of a foreign expert in the accreditation process, but, according to the opinion of the CAQC, the issue of financing is not resolved by the line ministry.

The CAQC further states the opinion that publishing the names of reviewers could affect their critical judgment about a study programme or higher education institution, and that publishing the name may lead to pressures on reviewers and opportunities for corruption. All of this could also affect many professors who may refuse to be reviewers any longer. Publishing the names of reviewers at any stage would, thus, jeopardize the accreditation process, which, according to their assessment, has delivered significant results to date. The Commission emphasizes the fact that, up to date, there was not a single case of corruption registered in relation to the accreditation, and that requests for publishing reviews and names of reviewers are sporadic, and come from a few of those whose accreditation was denied.

In relation to the implementation of the third activity within this measure, in 2014, the CAQC published a Report on the Work in 2013, which is available at their website.³⁴¹

Among the recommendations from the above mentioned working groups for enhancement of the normative and institutional framework in the sphere of education, there are also recommendations concerning the precise regulation of types of situations in which working permits and accreditations are no longer valid, the deadline for resolving an appeal against the decision denying the request for accreditation by the National Council for Higher Education, the deadline for nomination of representatives of the founders to the council of the higher education institution, the deadline in which the National Council determines the minimum requirements for selection to the position of teachers, as well as public disclosure

340 Responses of the Ministry of Justice and Public Administration to the questions posed by the Anti-Corruption Agency, March 2014, available at: <http://www.acas.rs/pracenje-strategije/>.

341 Commission for Accreditation and Quality Control, the Report on the Implementation of the Strategy, January 2015.

of the final report on accreditation. The Draft Law on Amendments to the Law on Higher Education did not accept a recommendation, which proposes that the identity of a reviewer and the review are to become publicly available, upon the adoption of the decision of the Commission for Accreditation and Quality Control on the accreditation request of an institution. The Agency deems that it is highly important that the information on reviewers acting upon the request for conducting an accreditation procedure, thus, performing a job of public importance, are made available to the public. Having in mind that a higher education institution, that is, its founder, has a right to appeal to the National Council, within 30 days from the date of the receipt of the Commission's decision, it is important that in acting upon the complaint, the identity of the review is publicly disclosed, in order to enable lodging of an appeal related to a possible conflict of interest.³⁴²

Objective 3.8.5. To establish transparency in sports financing and the ownership structure of sports clubs and associations

Issues pointed out by the Strategy refer to the non-transparency of financing of sports, which is stated also in the Strategy of the Development of Sports in the Republic of Serbia for the period 2009-2013; due to the fact that in spite of the adoption of the Law on Sports³⁴³ and accompanying by-laws, the issue of financing from private sources remains unregulated, contributing to endurance of the “grey/black” financing of sports; and to the unresolved ownership structure of sports clubs, that is, an ownership vacuum, which is one of the sources of corruption in sports. The Strategy stresses a need for depolitization and autonomy of sports, as well as that the Action Plan lacks elaboration of a declarative statement from the Strategy of the Development of Sports that sports should remain politically neutral, which leaves room for abuse of sports from the part of politics, with a contributing factor being membership of official and public servants in steering and supervisory boards of sports clubs and federations.

The Action Plan foresees five measures for the achievement of this objective.

Measure 3.8.5.1. To amend the Law on Sports for the purposes of determining the status of sports federations and associations, property ownership and financing from public funds at the national and local level
The first activity foresees that by September 6 2014, the ministry in charge of youth and sports develops a Draft law on amendments to the Law and submits it to the Government. Indicator: Draft law on amendments to the Law is submitted to the Government
The activity is not fulfilled in line with the indicator.
The second activity foresees that by December 6 2014, the Government submits a Draft law on amendments to the Law to the National Assembly. Indicator: Draft law on amendments to the Law is submitted to the National Assembly
The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not implemented.

* The third activity was not due for realization until the end of 2014.

342 Anti-Corruption Agency, *Opinion on the risk assessment to corruption in provisions of the Draft Law on amendments to the Law on Higher Education*, July 2014, available at: <http://www.acas.rs/praksa-agencije/analize-propisa-na-rizike-od-korupcije/>.

343 „Official Gazette RS”, no. 24/11 and 99/11 - other laws.

The report submitted to the Agency by the Ministry of Youth and Sports states only that within the framework for realization of the first activity, several consultative meetings were held with members of the working group for the development of the Draft Law on Sports and that a working version of the document was prepared.

According to the interpretation of the Ministry of Justice, the fulfilment of **measure 3.8.5.2.** is conditioned by the fulfilment of the measure 3.8.5.1.³⁴⁴

Measure 3.8.5.3. To categorize and rank sports organizations at the national level and at the level of the autonomous provinces and local self-governments on the basis of clear criteria
The first activity foresees that by September 6 2014, the autonomous provinces develop and adopt amendments to the Rulebook on the categorization of sports organizations at the level of the autonomous provinces, adhering to the national categorization. Indicator: The Rulebook on the categorization of sports organizations is adopted in the autonomous provinces
The Agency is not able to assess the fulfilment of the activity.
The second activity foresees that by September 6 2014, local self-government units develop and adopt amendments to the Rulebook on the categorization of sports organizations at the level of local self-governments, adhering to the national categorization. Indicator: The Rulebooks on the categorization of sports organizations are adopted at the level of local self-government units
The activity is not fulfilled in line with the indicator.

* The third, fourth and fifth activities were not due for realization until the end of 2014.

The Provincial Secretariat for Youth and Sports does not address the realization of this measure in its report.

Out of total of 100 local self-government units which have submitted their reports for 2014 to the Agency, 28% have adopted a Rulebook on categorization of sports organizations, 53% have not adopted it, while in 19% of the cases, the Agency was unable to determine from the report whether the Rulebook has been adopted.

Measure 3.8.5.4. To develop a Rulebook on the allocation of funds for sports in public companies on the basis of clear criteria, and to abolish discretionary rights of directors of public companies to allocate companies' funds to sports organizations without criteria
The only activity foresees that by September 6 2014, the ministry in charge of youth and sports develops and adopts the Rulebook on the allocation of funds in public companies for financing programmes in the field of sports. The activity contains a remark that the development of the Rulebook should involve the Olympic Committee of Serbia, the Sports Association of Serbia, the Institute for Sports and Sports Medicine and representatives of public enterprises. Indicator: The Rulebook on the allocation of funds in public companies for financing programmes in the field of sports is adopted and effective
The Agency is not able to assess the fulfilment of the activity.

344 Responses of the Ministry of Justice and Public Administration to the questions posed by the Anti-Corruption Agency, March 2014.

The report of the Ministry of Youth and Sports does not address this activity.

Measure 3.8.5.5. To amend the legal framework regulating the profession of sports managers in terms of conflict of interest in carrying out activities and financial flows in this field

The first activity foresees that by September 6 2014, the ministry in charge of youth and sports, develops and adopts amendments to the Rulebook on the Nomenclature of Sports Professions so as to introduce provisions on the prohibition of a conflict of interest in performing the profession of sports manager.

Indicator: The Rulebook is adopted and effective

The Agency is not able to assess the fulfilment of the activity.

* The second activity was not due for realization until the end of 2014.

The report of the Ministry of Youth and Sports does not address this activity.

3.9. MEDIA

Within the ninth field of the Strategy - Media - one objective is formulated: transparent ownership, media funding and editorial policy (**objective 3.9.1.**).

For the achievement of this objective, four measures and 11 activities are foreseen, out of which, eight have been reviewed.

According to the Agency's assessment, out of the eight reviewed activities:

1. Four are fulfilled in line with the indicator, whereas:
 - One activity is fulfilled within the timeframe, but not in the manner envisaged by the Action Plan.
 - Three activities are fulfilled in the manner but not within the timeframe envisaged by the Action Plan.
2. Three activities are not fulfilled in line with the indicator, whereas two are not fulfilled in line with the indicator given that the previous conditioning activity was not implemented.
3. The Agency was unable to assess the fulfilment of one activity.

On February 20 2015, the Anti-Corruption Council (the Council) submitted to the Government of the Republic of Serbia the "Report on the ownership structure and control over media in Serbia".³⁴⁵ This is a second analysis of the media situation, after the 2011 report,³⁴⁶ which, even though it did not cause much interest among the leading media, emphasized the issues, which cannot be avoided when discussing freedom of the media in Serbia today. The second analysis was conducted because of the general perception of the public and rel-

345 Anti-Corruption Council, "Report on the ownership structure and control over media in Serbia", February 20, 2015, available at: www.antikorupcija-savet.gov.rs.

346 Anti-Corruption Council, "Report on pressures and control over media in Serbia", September 19, 2011, available at: www.antikorupcija-savet.gov.rs.

evant international institutions that a strong control of the media is still present in Serbia. The power relations at the political scene have drastically shifted in comparison to 2011, which led to personal changes in almost all institutions of the executive power, as well as in the majority of the media. New political circumstances in society and the executive power caused changes of editors and drastically affected redefining of previous editorial policies of all major media. On the other hand, these changes have not significantly affected the resolution of systemic issues, such as the non-transparent ownership structure of media and the economic influence on their editorial policy through different models of non-transparent media financing, to which the Council was pointing out earlier. Although the Government undertook concrete efforts to initiate the implementation of the Media Strategy from 2011, and improve the legal framework for functioning of the media in line with EU standards, followed by the adoption of the Law on Public Information and Media, the Law on Electronic Media, and Law on Public Media Services in August 2014, the Council indicates that legislative actions by themselves are not and will not be sufficient without demonstrating the maximum level of political will and commitment to their full implementation. The Council notes that in the last two and a half years, there was no visible readiness of political parties to renounce their influence over the ownership, or editorial policy of the media, be it official or unofficial influence.³⁴⁷

The Council has identified and separated five systemic problems that have been paralyzing the public information system in the Republic of Serbia, namely:

1. Non-transparency of media ownership;
2. Non-transparency of financing, economic influence through budget, tax reliefs and other indirect forms of public funding;
3. Problems in media privatisation and uncertain status of public services;
4. Censorship and self-censorship;
5. Tabloidization.

Censorship, self-censorship and tabloidization are generated by insufficiently transparent media ownership, non-transparent sources and flows of financing and a high level of parallelism between media outlets, political structures and big business. The Council indicates that this "iron triangle" creates a media ambiance, in which political elites, first and foremost political parties, are the generators of the mentioned behavioural patterns, which largely influence the editorial policy of the media, even when media owners are well-known. According to the Council's opinion, very often media contents are not the products of free, objective or investigative journalism, the majority of the media do not serve the function of increasing the information level of citizens, and specific examples from the report confirm the public perception that the control role has reversed, so instead of having the media control of the Government, the Government controls the media.³⁴⁸

The Anti-corruption Council, based on data obtained from the Serbian Business Registers Agency, which manages the media register as a unified, electronic media database in the Republic of Serbia, found that as of June 30th 2014, 1319 media were registered (711 print media, 237 radio-stations, 208 internet media, 130 TV stations, 20 news service agencies and 13 uncategorized registered media).

347 Anti-Corruption Council, "Report on the ownership structure and control over media in Serbia", February 20, 2015, pg. 6, available at: www.antikorupcija-savet.gov.rs.

348 *Ibid*, pg. 7-8.

The Council's report notes that the media register managed by SBRA in the period 2009-2014, does not fulfil the primary need for putting this register in order, that due to the poor legal framework the register did not reflect a realistic picture of the Serbian media scene, therefore all the data on the registered media in the SBRA database should be taken with reservations. For instance, certain media, which are providing public information services, are not registered at all, while on the other hand, there are some media which ceased their printing or programme broadcasting activities, or they do not exist in reality, but still remain registered. The information in the registry is not being updated after the broadcasting licenses have been revoked or renewed by the Regulatory Authority for Electronic Media (former Republic Radio-Diffusion Agency: RDA), so publicly available information from RDA and SBRA registers are often in discrepancy.³⁴⁹

The new Law on Public Information and Media sets the ground for broadening the types of data, which the register should contain and for the first time it will disclose the data on legal and physical persons, who, directly or indirectly participate with more than 5% of the share in the initial capital of the publisher. Still, according to the Council's opinion, it so happens in practice that shareholders with less than 5% of shares perform effective control over the editorial policy, and sources of financing of more media at the same time. The new Law is not tackling the key issue of non-transparency of the ownership structure of media, in which legal persons from off-shore zones have a share, and if the ultimate media owner is unknown, the entire effort of implementing media reforms becomes pointless.³⁵⁰

Contrary to the 2011 report, which analysed the transparency of the ownership structure of 30 media outlets, and found that 18 outlets had non-transparent ownership, this time the Council analysed a sample of 50 media outlets, including 9 web-portals and websites who provide public information services. In addition to that, the Council analysed the ownership structure of internet providers SBB and ICOM and CINS and BIRN web-portals, who play an important role in the field of public information, although they are not media in the traditional sense. The Council found that 23 media outlets have fully transparent ownership, 27 have non-transparent, partially transparent or controversial ownership, meaning that it is officially transparent, but there is a perception in the public that some other figure is the owner of the particular media outlet. In more than half of the most influential media in Serbia, the ultimate owner, or one of the owners, is a company registered abroad - legal persons from Cyprus, Netherlands, British Virgin Islands, Cayman Islands, Luxembourg, Austria, Russia, Germany and Switzerland.³⁵¹ It is almost impossible to detect the real owner, since they mostly hide behind multiple companies registered in isolated "haven" destinations, notorious for possibilities of the establishment of "shell" and "front" companies, where law firms and consultancy businesses appear as owners on behalf of their clients, who are in fact the real owners. The companies are mostly registered to addresses of these businesses, which, in addition to performing a function of the owners also assume the daily operations for their clients.³⁵²

The Council also mentions the issue of a provision from the new Law on Public Information, which prescribes that one owner cannot own electronic media, whose total audience share is above 35%, since the methodology and accuracy of data of television audience measurement in Serbia have been disputed for a long time by experts and actors from the media.³⁵³

349 *Ibid*, pg. 9.

350 *Ibid*, pg. 10.

351 *Ibid*, pg. 11.

352 *Ibid*, pg. 12.

353 *Ibid*, pg. 16.

In the last several years, internet portals and various websites have significantly influenced the shaping of public opinion in Serbia through sharing information and news. Such news is also published on social media and cover pages of print media and becomes topics of debates in society. A number of these web-portals and websites have not been registered in the SBRA database so far, which is a precondition on which depends whether the rights and obligations from the Law on Public Information are applied to their contents. It is not rare that news contents published on the web-portals can be linked to their ownership structure, advertising revenue, even sponsorship or a donation.³⁵⁴

In spite of significant criticism of the expert public, the Law on Public Media Services from 2014, temporarily abolished television subscriptions, which to a certain extent contributed to the financing of the Radio Television of Serbia operations (RTS). The abolition of subscription represents the fulfilment of the pre-election promise of the political party leader and was not a result of the expert debate on improvement of the model of financing of RTS. In this way, the business sustainability of RTS is made even more dependent on the guaranteed financial inflow of funds from the budget of the Republic of Serbia, which is managed by the politicians.³⁵⁵ Political influence on the editorial policy of RTS, which is reflected through budget financing, is equally present with the commercial financing of the public service, where marketing agencies play an especially prominent role, since they are directly allied to the centres of political and financial power. Based on the analysis of business relations of RTS and advertising agencies in the period 2011-2013, the Council found that along with a change of government and shifts in the balance of power on the political scene, noticeable is also the change in the structure of media buyers of the advertising space on programmes of RTS.³⁵⁶

In the process of business auditing of the RTS for 2012, the State Audit Institution identified substantial irregularities in the work of this media outlet. As many as 23 recommendations made by the SAI to RTS, point out the fact that RTS, as a public broadcasting service of citizens, does not have mechanisms of control of intended use of funds in place, no established financial management system, no internal audit function, no property register and no reconciled accounts receivable and accounts payable.³⁵⁷

According to the Council's report, most of the print and electronic media in Serbia, with the majority of public or state capital, are under the direct control of political parties. One of the forms of unofficial influence is keeping the media in the position of continued dependence on public sources of financing, while the second form of direct political influence on the media which have not been privatized, is manifested through their managing bodies, where public competitions for positions in the media are being implemented, but are staged and their outcome is known in advance. The management control through the organs of the founders often implies also control over the editorial policy, while the managing bodies of the non-privatized media do not consist of journalists, but representatives of political parties.³⁵⁸

According to the new Law on Public Information and Media, by June 1st 2015, the process of privatization is to be completed for the media directly or indirectly founded by the Republic of Serbia, the Autonomous Province or local self-government unit, institution, company or other legal entity, which is fully or partially publicly owned or which is fully or partially fi-

354 *Ibid*, pg. 68.

355 *Ibid*, pg. 76.

356 *Ibid*, pg. 77-78.

357 *Ibid*, pg. 81.

358 *Ibid*, pg. 89.

nanced from public funds. Only the media outlets, in which the Republic of Serbia achieves public interest in the field of public information, are exempted from privatization - public broadcasters at the national and provincial level, the institution for public information of the population in the territory of the Autonomous Province of Kosovo and Metohija and media founded by the national minority councils.

Privatization shall be carried out using two models: sale of the capital and transfer of shares to the employees, free of charge, in case that the capital does not get sold by July 1st 2015. The entire privatization process shall be coordinated by the Privatization Agency, and the obligation of the future buyers of media is to provide continuity in production of media contents five years from the date of conclusion of the privatization agreement.³⁵⁹ Until November 2014, 84 media were enlisted for privatization, for which the Privatization Agency has published a public call for submission of letters of interest.³⁶⁰ From the sample of 67 companies, which will also be subject to privatization, the Council has determined a high level of debt.³⁶¹ The Council also stresses that there is a potential risk that in the process of drafting the public call, criteria for buyers would be adjusted to direct political influence, which would have a particularly adverse effect on the privatization of certain media of higher social and national importance, such as *Politika*, *Studio B*, *Tanjug* and *Dnevnik*.³⁶² The Council deems that during the privatization process, the competent government authorities should pay special attention to investigating the origin of the money of potential buyers and making sure that the privatization process is transparent.³⁶³

According to the Council's assessment, the need of the state and the government to exercise strong control over media through different models of financing and to influence media reporting, did not change much in comparison to 2011, and in the last three years political parties continued to abuse their influence and public resources, which they manage with the purpose to discipline media, editors and journalists, and this disguised or direct control of media, has been continuously exercised at all levels of government. The main issues in relation to financing the media from public funds are connected to four areas:

1. Financing media services and advertising of government institutions, public and other state-owned enterprises;
2. Subsidies and budget appropriations;
3. Financing media projects;
4. Providing tax incentives as a form of financing.³⁶⁴

Concerning the pressure of advertisers on the media, it is noticeable that the volume and continuity in cooperation between advertisers and specific media depends on the editorial policy course. Estimates of the Nielsen Agency are confirming the relevance of this pressure, whereby the advertising market in Serbia in the period 2011-2012, reached an annual value of around 174 million Euros, and in 2013, around 155 million Euros.³⁶⁵ The same model, which was presented in the 2011 report, when the Council emphasized that public relations agencies, marketing and production agencies, owned mostly by political party activists or

359 *Ibid*, pg. 96.

360 *Ibid*.

361 *Ibid*, pg. 97.

362 *Ibid*.

363 *Ibid*, pg. 98.

364 *Ibid*, pg. 103.

365 *Ibid*, pg. 103-104.

persons connected to them occupy a special place in the relations between government institutions and media, continued to be applied, except that the agencies have changed and a bigger focus has been placed on commercial advertisers. A prominent role is still played by the advertisers under government control, such as public enterprises and banks with a stake of state-owned capital.³⁶⁶

One of the most direct forms of political control over the media in Serbia is exemplified during election campaigns, by the time slots in electronic media bought by political parties and advertising space in print media.³⁶⁷

The Council also stresses that it is not possible to determine for a fact how much money the media obtained from the budget of the Republic during 2014, since no centralized data records existed so far, while the Law, which regulates the budget of the Ministry of Culture and Information, presents only the lump sum intended for media, without an expenditure structure. Some subsidies are being paid from the position of continuing or current budget reserves, based on the decisions of the Government of Serbia and often this data is not available.³⁶⁸

In the period 2011-2014, local self-governments have been using similar instruments for media funding as the authorities from the Republic and Provincial levels. They finance the media through subsidies, direct negotiations, public competitions and public procurement, and all these models lead to discrimination of the media and enable the politicians to buy off political influence with the money from local government.³⁶⁹ In the process of analysing the linkages between the ownership structure and methods of media funding, the Council found that in practice there are concrete examples of associations between politicians, media, which are directly or indirectly in their ownership, and the local self-government budget.³⁷⁰

In the process of analysing the risks which political influence may have in the process of considering and deciding on projects to be financed from the budget of the Republic and AP Vojvodina, the Council found that the structure of commissions established upon the decision of the Minister of Culture or Secretary of the Province is of crucial importance. In the case of competitions of the Ministry of Culture, this risk is somewhat lower, but not necessarily annulled.³⁷¹

Another way for political control of the media is through preferential treatment in tax collection or delayed collection of the tax debt, and the practice shows that, the more media owners are close to the politicians in power, the wider the range of options to enjoy various benefits and avoid or prolong fulfilling their obligations towards the state.³⁷² After the analysis of data received from the Tax Administration, it is still unclear which criteria are being applied in the blockade of certain legal persons, given that some have been blocked for much lower amounts, while others were not although their debt level was much higher, and criteria for debt rescheduling and regular debt servicing are also unclear. The Council believes that media owners, which at the same time belong to the group of tax debtors and the richest business people, for years have been delaying regulation of their tax liabilities without any grounds, thanks to their close ties with politicians and the government.³⁷³

366 *Ibid*, pg. 112.

367 *Ibid*, pg. 114.

368 *Ibid*, pg. 120-121.

369 *Ibid*, pg. 125.

370 *Ibid*.

371 *Ibid*, pg. 137.

372 *Ibid*, pg. 143.

373 *Ibid*, pg. 145.

The report also addressed the work of the RRA and the Republic Agency for Electronic Communications (RATEL), as well as independent authorities with regulatory competences, due to which they achieve enormous profits and accumulate large power, while there is very little oversight of their work. This results in numerous controversial situations and decisions, which are damaging to the participants in the markets, which are supposed to be regulated by those authorities. The RRA, for instance, has a history of disputable decisions in relation to assigning national broadcasting licenses, incorrect assessment of capacities of certain TV stations for fulfilment of their obligations, due to which they were closed down, as well as turning a blind eye on media concentration. Some decisions of the RRA, such as a binding instruction issued to RTS to broadcast sessions of the National Assembly were processed by the Supreme Court of Serbia and most of them were disputed.³⁷⁴ The same as in 2011, the RRA is still characterized by a weak penal policy and reports on the work of the RRA for the past three years indicate business related problems. In August 2014, in accordance with the Law on Electronic Media, The RRA changed its name to Regulatory Authority of Electronic Media. RATEL is a regulatory authority in the field of electronic communications of the Republic of Serbia, which controls the work of fixed and mobile telephony operators, cable operators, internet providers, assigns radio-frequencies and issues work licenses to operators of electronic communications. Its' work has been criticized for years by the European Commission in the annual progress reports for 2013 and 2014. Even though the RRA and RATEL were expected to cooperate together on the implementation of laws, the two agencies were often unable to work efficiently and used to transfer their responsibilities to one another.³⁷⁵

The Press Council of Serbia, an independent, self-regulatory authority, established in 2009, with the aim to follow up on the Code of Journalists of Serbia in print and *on-line* media and resolve complaints in relation to contents of print media, is not sufficiently visible in the public, but it is, according to the Council's view, very important from the perspective of protection of public interest, integrity and professional standards in times of chronic tabloidization which is consuming the media. The Council points out that decisions of the Press Council are often inconsistent, and that in deciding on individual complaints, the members of this authority are often unable to mutually adjust their views. Thus, the Press Council needs to determine clear and transparent criteria for deciding on received complaints, to re-define the work method, to more precisely define the requirements for selection of members, so as to avoid accumulation of positions and disable the blockages in decision-making.³⁷⁶

The Council points out a particularly alarming fact that in the previous period, the media scene in Serbia was additionally devastated by the extreme spread of tabloidization and relativisation of serious social and political issues. The Council stresses that in some of the media, mostly those under the financial and editorial control of the Government, thematic campaigns are run on a daily basis and they are based on 1) made up information, mostly followed by imaginative conspiracy theories, 2) anonymous sources, and 3) classified information from police, prosecutors and judicial cases. Such practice crashes the fundamental principles of a public information system, while its social detriment is manifold. Especially, 1) the public is being deceived by placing untruths or half-truths, which ultimately leads to channelling or manipulation of public opinion; 2) the intensity of the media content on a daily basis is so high, that readers are being deprived of every possibility to differentiate the truth from the untruth; 3) direct pressure is being made on the government institutions and legal proceedings conducted by those institutions; 4) Systematic violations of the presump-

374 *Ibid*, pg. 154.

375 *Ibid*, pg. 154-155.

376 *Ibid*, pg. 160.

tion of innocence or disclosure of confidential information causes disintegration of the legal security, trust of citizens and stability of state institutions; 5) systematic campaigns against institutions and individuals serve to wage media wars, which ruin their careers or reputation in line with political interests, while the media is completely instrumentalized. The Council notes that the active creators of the tabloidization process in Serbia are at the same time media controllers and censors, and that different interest groups participate in the process, including business or criminal circles, politicians, owners and editors of certain media, who are in the position of mutual dependence. The Council states that almost all daily newspapers, with the exception of *Danas* and *Politika*, display unambiguous dominance of banal and vulgar texts, and texts which are in no way fulfilling their primary media function, which is to inform the public on all issues relevant for the public. Aspirations for higher circulation or bigger sales revenues is the most common cause for this trend of media quality degradation, but other motives cannot be ignored, such as mutual political showdowns, which are supposed to result in either a drop or increase of public trust in social and political institutions, and the actors who are the topic of the writings.³⁷⁷

The Council believes that public perception about the existence of censorship is rightfully based on indisputable facts, because the previous period was marked by the cancellation of some shows, whose authors have been renowned in the public as persons whose questions and method of hosting the show could seriously affect the exposure of truth related to certain issues which are unpleasant for the politicians. According to the Council's report, it is not the duty of the public to determine who performs censorship, be it media owners, editors or journalists, but it should request that authorities provide conditions for truthful information, while the politicians, instead of denying the existence of censorship, should determine why the perception about the existence of censorship appear in the first place and take appropriate measures to prevent censorship.³⁷⁸

Due to the conspicuous absence of diversity of opinion and any kind of criticism toward the authorities in power, according to the Council's impression, even a short glimpse on the most influential media reveals that their editors-in-chief are political parties and representatives of the current government. On the other hand, journalists who are worrying about their own livelihood and shunning away from confrontation, consciously give up on reporting truthful and timely information to the public, which is the result of self-censorship, whose more pronounced and dangerous form is present with the editors of a number of print and electronic media.³⁷⁹

At the end of the report, the Council formulates a series of specific recommendations with the aim to overcome the issues, which have been presented in detail.³⁸⁰

The European Commission's 2014 Progress Report for Serbia states that the adoption of the package of three media laws in August 2014 represents a significant positive development in continuing the harmonization of the legal framework with the EU *acquis*. Still, there are concerns that conditions for the full exercise of freedom of expression in Serbia have deteriorated, that there is a growing tendency of self-censorship, which in combination with the inappropriate influence on editorial policy and series of interventions against websites, damages media freedom and adversely affects the development of professional and investigative journalism. The report notes that media campaigns based on anonymous leaked sources,

377 *Ibid*, pg. 161.

378 *Ibid*, pg. 164.

379 *Ibid*, pg. 165.

380 *Ibid*, pg. 167-169.

which are quoting details of investigations, announcing arrests and citing documents from investigations, violate the laws on protection of personal data and question the presumption of innocence.³⁸¹

The Alternative report of the TS, states that the Strategy did not envisage how to resolve the issue of absence of public disclosure of information about other channels of hidden influences on the editorial policy of the media, which had been addressed by the Media Strategy from 2011 and Resolution of the European Parliament, referenced by the Strategy. These influences are primarily those, which can be exercised through commercial or allegedly commercial funding, through charitable legal affairs and “friendly loans”. The Strategy does not deal with other possible types of discrimination of media by the authorities in power, except through arbitrary awarding of state aid, other forms of endangering journalists and media who wish to accomplish their social role in the fight against corruption, such as threats to journalists, nor does it deal with the issues of media instrumentalization of the issues of corruption and anti-corruption, for example, by publishing information about ongoing investigations. Even though the description of the situation in the Action Plan mentions the role of the RRA, the measures pertaining to the work of this institution are not elaborated.³⁸²

Due to the economic crisis and strengthening of the market share of the new media (internet, cable TV operators), the exposure of media to influences of commercial and charity sponsors grew even bigger than in previous years. Discrimination of media is manifested through direct violations of provisions of the Law on Free Access to Information of Public Importance, and the requested data are being denied primarily to the media who demonstrate a critical attitude toward the government at a certain level.

According to the NUNS report, in 2014, 12 physical and 10 verbal attacks on media members were registered, whereby representatives of NUNS believe that the number of actual cases is much higher, but unreported. There has been a wide discussion on pressures on media and journalists in relation to topics on which they should report and the level of critical judgment toward the authorities, including one session of the parliamentary committee on culture and information, whose conclusions were general.³⁸³

When it comes to the impression about the existence of self-censorship, the Alternative report of the TS states that the media almost completely lost the ability to fight the pressures, which are discouraging them from the legitimate exercise of the right to freedom of expression. This is primarily the consequence of the deteriorating economic position that was assessed as “collapsed” by the Media Strategy in 2011 and their financial dependence from the government, which is even deeper than before. It can be concluded that pressures on media in Serbia today do not have to be stronger than in previous years, and that discouraging the legitimate exercise of the right to freedom of expression does not have to be more forceful to be leading to effects resembling the effects of self-censorship.³⁸⁴

During the past years, all relevant reports on the situation in the media (TS, Assessment of the social integrity system, 2011, Report of the Council, assessments of the presidents of the most relevant journalist associations) agree that investigative journalism is underdeveloped in Serbia and that censorship exists together with a high level of self-censorship. This explains why such a small number of corruption cases in the Serbian media have been discov-

ered through the investigative work of journalists, whether through obtaining documents, which pointed out suspicious cases, or through quoting statements of witnesses or victims of corruption or participants in the chain of corruption. Generally speaking, much has been published on corruption.³⁸⁵

Cases, which appear in the media, can be divided into several categories:

1. Newly discovered cases, or presented suspicions of corruption, based on documents, which are the rarest and it often happens that many years go by before the information on initiated investigations and filing the indictment gets published (usually after a change of government or the “climate”) or sometimes the reaction is completely lacking.³⁸⁶
2. Newly discovered cases, or presented suspicions of corruption, based on testimonies or claims of other persons, which are also not frequent and mostly consist of transmitting the allegations of whistleblowers, reports of independent state authorities, the Council, claims of trade unions, non-governmental organizations or workers who have suffered damage, politicians from the “opposite rows”, former “insiders”, etc. The period for reaction or absence of reaction to these cases is the same as for the previous category.
3. Cases, or presented suspicions of corruption, based on the information from investigations, is a frequent case, when media found out that the police, or less often, some other authority, investigates a case, that the “arrest is being prepared” or transmit details from investigations or pre-investigation proceedings. In a number of cases, it turns out that the announced activity actually did happen.
4. Statements of the police, prosecutor’s office, courts, which is the “favourite” method or reporting for the majority of media, where they transmit press releases of the competent authorities and do not demonstrate an interest to follow up on the cases until their conclusion. It often so happens that the media interest for following up of the whole chain - from the arrest, filling the indictment, commencement of the trial, to the final judgment - drastically falls short.

Bearing in mind all of the above, providing any kind of statistics on the conduct of government authorities based on the information published in the media is a futile job and most certainly would not show the real state of affairs.³⁸⁷

381 Alternative report of the TS, pg. 129.

382 *Ibid*, pg. 30.

383 *Ibid*, pg. 131.

384 *Ibid*, pg. 132.

385 *Ibid*, pg. 133.

386 *Ibid*.

387 *Ibid*, pg. 134.

Execution of the Strategy and the Action Plan

Objective 3.9.1. Transparent ownership, media financing and editorial policy

Issues pointed out by the Strategy refer to the concentration of ownership and lack of transparency in the ownership structure of the media, which makes it difficult for the public to know who are the owners of media and based on that knowledge form an opinion about the value of information, opinions and ideas aired or disseminated by those media, and even wider, in the light of identity and motives of their owners and those who stand behind them; this makes the work of the RRA difficult, too, which is responsible for application of provisions relating to monitoring of prohibited media concentration, especially in the process of issuing broadcasting licenses to radio and TV stations; it practically prevents the determination of the ownership structure in public media through the Media Register, since the Law does not detail the information which has to be put on record, or the method of management of the register; the lack of transparency is also observed in the process of issuing licenses by the RRA, as well in the process of making decisions on allocation of funds from the licenses; there are no clearly set criteria and procedures for awarding state aid through public competition, causing the unfair position of the participants in the competition, while the state lacks consolidated records of the funds that have been spent, and the exact volume and structure of the aid is impossible to determine; there is no efficient monitoring of the realization of the aid, assessment of its effects and appropriate reporting on this subject. The Strategy states that media laws in Serbia should be harmonized with European legal acts, first of all with the Audio-visual Media Services Directive, and that it is necessary to adopt regulations, which are lacking in this field.

The Action Plan foresees four measures for the achievement of this objective.

Measure 3.9.1.1. To harmonize regulations regulating media concentration and the publicity of ownership with EU rules to ensure transparency of the information on the final owner and majority owner, at all levels of the government

The first activity foresees that by March 6 2014, the ministry in charge of public information develops a Draft law regulating the field of public information and submits it to the Government.

The activity contains a remark that the working group should include the representatives of the ministries in charge of judicial affairs, trade, finance and economy, as well as the Anti-Corruption Agency; regarding public media services, it is necessary to regulate transparency in terms of the information about major sponsors and advertisers.

Indicator: The draft law is submitted to the Government.

The activity is fulfilled in line with the indicator.

According to the data at the Agency's disposal, the activity is not fulfilled in the manner not within the timeframe envisaged by the Action Plan.

The second activity foresees that by March 6 2014, the ministry in charge of public information, develops a Draft law regulating the field of electronic media (harmonize it with the Audio-visual Media Services Directive) and submits it to the Government.

The activity contains the same remark as the first activity.

Indicator: The Draft law is submitted to the Government

The activity is fulfilled in line with the indicator.

According to the data at the Agency's disposal, the activity is not fulfilled in the manner nor within the timeframe envisaged by the Action Plan.

The third activity foresees that by June 6 2014, the Government submits the draft laws to the National Assembly.

Indicator: Draft laws are submitted to the National Assembly.

The activity is fulfilled in line with the indicator.

According to the data at the Agency's disposal, the activity is not fulfilled in the manner nor within the timeframe envisaged by the Action Plan.

The fourth activity foresees that by September 6 2014, the National Assembly adopt the laws.

Indicator: Laws are adopted

The activity is fulfilled in line with the indicator.

According to the data at the Agency's disposal, the activity is fulfilled within the timeframe, but not in the manner envisaged by the Action Plan.

On June 27 2014, the Government agreed on the Draft Laws on Public Information and Media, Law on Electronic Media and Law on Public Media Services, in compliance with the requirements of the Action Plan.³⁸⁸ On August 2nd 2014, the National Assembly of the Republic of Serbia adopted the laws.³⁸⁹ According to the report of the Ministry of Culture and Information, the activity was not realized within the deadline due to the new procedure

³⁸⁸ The Government of the Republic of Serbia, the Report on the Implementation of the Strategy, January 2015.

³⁸⁹ „Official Gazette“, no. 83/14.

according to which the stated draft laws were sent to Brussels for the provision of opinion, and only after that the regular procedure for submitting the draft laws to the Government was conducted.³⁹⁰

In spite of the fact that the measure is fulfilled in the envisaged manner, there are a lot of other issues, which could have been resolved with these two laws, but have not been, which is presented in detail in amendments of the TS, which were not accepted. The biggest concern is the absence of any kind of rules on the publicity of media sponsors (except those coming from the public sector), which prevents the public to gain an insight into this potential channel of influence on the editorial policy. To be more illustrative, the public will receive full information on who is the owner of the 5% of the initial capital of a media publisher, which can amount to only 100 dinars, but will stay unaware of who is financing the same media with 100 million dinars per year, through commercial or encumbered legal transactions. The other relevant issues are related to the allocation of budget funds for co-financing of media programmes. In that regard, the new Law on Media represents a major step forward in comparison to the earlier situation, but the norms have had to be more precise in order to narrow down the space for discretionary decision making on the amount of funds to be allocated, financing priorities and deciding on who would be awarded with the funds from the budget.³⁹¹

Activities foreseen for the achievement of **measure 3.9.1.2.** were not due for realization until the end of 2014.

<p>Measure 3.9.1.3. To amend the Law on Public Enterprises so as to prohibit any form of direct funding of the media by any public company and other organizations supported from public funds, however, advertising is permitted under conditions and in the manner envisaged by the Law on Advertising</p>
<p>The first activity foresees that by June 6 2014, the ministry in charge of finance, develops a Draft law on amendments to the law and submits it to the Government.</p>
<p>The activity is not fulfilled in line with the indicator.</p>
<p>The second activity foresees that by September 6 2014, the Governments submits the Draft Law on Amendments to the Law to the National Assembly.</p> <p>Indicator: Draft Law on Amendments to the Law is submitted to the National Assembly.</p>
<p>The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not fulfilled.</p>
<p>The third activity foresees that by December 6 2014, the National Assembly adopts the Draft Law on Amendments to the Law.</p> <p>Indicator: Draft Law on Amendments to the Law is adopted.</p>
<p>The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not fulfilled.</p>

The Action Plan named the Ministry of Finance by mistake as the entity responsible for the development of the Draft Law on Public Enterprises, given that the field of public enter-

390 Ministry of Culture and Information, the Report on the Implementation of the Strategy, February 2015.
391 Alternative Report of TS, pgs. 138-139, 143-144.

prises falls into the competence of the Ministry of Economy. The Plan for 2015 of the Ministry of Economy, foresees the development of amendments to the Law on Public Enterprises.³⁹² By February 3rd 2015, the Draft Law on Advertising is planned to be in public hearing. The Alternative report of TS emphasizes that this measure cannot be achieved only through the amendments of the Law on Public Enterprises, because it also includes the prohibition of financing of media by “other organizations, which are financed from public revenues”. It is, therefore, required to identify all laws which need to be amended, and at the same time pay special attention to the provisions of the Law on Advertising or prescribe some special rules within that Law, which would prevent hidden financing of media by the public sector, now disguised in the form of purely commercial business transactions.³⁹³

Measure 3.9.1.4. To harmonize provisions of national regulations allowing funding of specific media from the state budget, at all levels of the government, with the EU *acquis communautaire*

The only activity within the measure foresees that by December 6 2014, the ministry in charge of public information commences implementation of the Action Plan for the implementation of the Media Strategy, which covers the field of state aid to the media, and its harmonization with the EU *acquis communautaire*.

The activity contains a remark that provisions, which allow for financing of certain media from the government budget should be aligned with the EU *acquis communautaire*, since it is state aid. By signing the Interim Trade Agreement, Serbia took over the responsibility to harmonize the method of granting state aid with EU regulations.

Indicator: Relevant activities referred to in the Action Plan of the Media Strategy are conducted; a report on the implementation of the Media Strategy is submitted

The Agency is not able to assess the fulfilment of this activity.

The Rulebook on co-financing or projects for the achievement of the public interest in the area of public information, which regulates the method of co-financing of projects for the achievement of the public interest in the field of public information on all government levels (Republic, Provincial and local)³⁹⁴ was adopted on November 19 2014.³⁹⁵

The Alternative Report of TS states that the claim of the Ministry of Culture and Information, that laws pertaining to the measure 3.9.1.1. fully align with the provisions related to the financing of media and method of allocation of state aid with the Media Strategy and EU *acquis communautaire*, is not completely grounded.³⁹⁶

392 Ministry of Economy, Report on the Implementation of the Strategy, January 2015.

393 Alternative report of the TS, pg. 144-145.

394 „Official Gazette“, no. 126/14.

395 Ministry of Culture and Information, Report on the Implementation of the Strategy, February 2015.

396 Alternative report of the TS, pg. 146-147.

PREVENTION OF CORRUPTION

This chapter of the Strategy contains ten objectives in relation to the area of priority action, as well as to other areas where corruption might emerge: to conduct a risk analysis of corruption in the public authorities in the process of the creation of legislation (**objective 4.1.**), to implement a system of employment and advancement in public authorities on the basis of criteria and merits (**objective 4.2.**), to provide transparency in the work of public authorities (**objective 4.3.**), to conduct continuous education on corruption and methods to fight corruption (**objective 4.4.**), to create conditions for more proactive participation of civil society organizations in the fight against corruption (**objective 4.5.**), to create conditions for more proactive participation of the private sector in the fight against corruption (**objective 4.6.**), to monitor the implementation of the recommendations adopted by the National Assembly with regards to reports of the independent state authorities (**objective 4.7.**), to expand and further specify the competences and enhance the human resource capacities and work conditions of the Anti-Corruption Agency, the Ombudsman, The Commissioner for Information of Public Importance and Personal Data Protection and the State Audit Institution (**objective 4.8.**), to establish efficient and effective protection of whistleblowers (persons who report suspicions of corruption) (**objective 4.9.**) and to establish a system for the prevention of the conflict of interest of public sector employees (**objective 4.10.**).

For the achievement of the 10 objectives, 38 measures and 103 activities were foreseen, out of which, 44 activities were reviewed.

According to the Agency's assessment, out of the 44 reviewed activities:

1. 18 activities are fulfilled in line with the indicator, whereas:
 - Ten activities are fulfilled in the manner and within the timeframe envisaged by the Action Plan.
 - One activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan for the reporting period.
 - Four activities are fulfilled in the manner, but not within the time frame envisaged by the Action Plan.
 - One activity is fulfilled within the timeframe, but not in the manner envisaged by the Action Plan for the reporting period.
 - The Agency has no data whether two of the activities are fulfilled in line with the Action Plan.
2. Twenty activities are not fulfilled in line with the indicator, out of which, one activity is not fulfilled in line with the indicator for the reporting period, while five activities are not fulfilled in line with the indicator, given that the previous conditioning activity was not implemented.
3. The Agency is not able to assess the fulfilment of six activities.

One measure is fulfilled.

Execution of the Strategy and the Action Plan

Objective 4.1. To conduct a risk analysis of corruption in the process of the creation of legislation

Issues pointed out by the Strategy refer to the fact that the existing legislative procedure does not contain an obligation that during the process of the creation of legislation all effects that this legislation might have on corruption have to be considered, nor is there an obligation to submit legislative bills for the opinion with regards to such analysis in the offices of the Government and the National Assembly; that the risk analysis of corruption can be performed within the public authorities, who propose the legislation, but there are no guarantees that the public authority would actually perform the analysis, therefore it is necessary to prescribe an obligation to all creators of legislation to conduct a risk analysis of corruption during the process, based on the methodology developed by the Anti-Corruption Agency. The result of the analysis should be presented in the rationale of the proposed legislation, and the proponents of the legislation should have an obligation to obtain the Agency's opinion on risks of corruption prior to the submission to the authority responsible of the adoption.

The Action Plan foresees six measures for the fulfilment of this objective.

Measure 4.1.1. To amend the Law on the Anti-Corruption Agency so as to authorize the Agency to prescribe a methodology for the risk analysis of corruption contained in legislation, and bind the proposing authorities to implement it

The first activity foresees that by September 6 2014, the ministry in charge of judicial affairs develops and submits a Draft law on Amendments to the Law to the Government.

The activity contains a remark that this provision should encompass the authorities of the territorial autonomy and local self-government units and public administration authorities, when they enact legislation in compliance with the Law on Public Administration, as well as organizations entrusted by the law to exercise public/regulatory powers.

Indicator: Draft law on Amendments to the Law is submitted to the Government

The activity is not fulfilled in line with the indicator.

The second activity foresees that by December 6 2014, the Government submits Draft law on Amendments to the Law to the National Assembly.

Indicator: Draft law on Amendments to the Law is submitted to the National Assembly

The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not fulfilled.

* The third activity was not due for realization until the end of 2014.

The Agency developed a Model of the new Law on the Agency, which incorporated the solutions from the Strategy and the Action Plan, and in July 2014, it was submitted to the Ministry of Justice, to every member of the parliament and the Government, in a form of an initiative. On January 29 2015, the Ministry of Justice established a working group for preparation of the working version of the Law on the Agency, which included several representatives of the Agency, whose work commenced on February 23, 2015.

The Model contains a provision, which authorizes the Agency to determine and publish the methodology for corruption risk assessments in legislation, and the proponents are obliged

to apply this methodology during the development of legislation.³⁹⁷

Activities foreseen for the fulfilment of the **measure 4.1.2.** were not due for realization until the end of 2014.

According to the interpretation of the Ministry of Justice, the deadline for the fulfilment of **measure 4.1.3.** was set at the adoption of the methodology for the corruption risk assessment in legislation and guidelines for its application from **measure 4.1.2.**, whose fulfilment deadline has not yet been due, while the deadline for the fulfilment of the **measure 4.1.4.** was set at the fulfilment of **measure 4.1.3.**

Activities foreseen for the fulfilment of the **measures 4.1.5 и 4.1.6.** were not due for realization until the end of 2014.

Objective 4.2. To establish a system of employment and promotion in public authorities on the basis of criteria and merits

Issues pointed out by the Strategy refer to the fact that employment and promotion are still prone to political influence; candidates in the selection process are not being put in equal positions; managers still have too many discretionary powers during the selection of the candidates from the lists proposed by the selection committees upon finalized competitions; there are no criteria for employment for a definite period of time, but instead the contracts are being concluded without internal or public competition; The Strategy further states the need to harmonize the working and legal status of employees in the public service; adoption of provisions which would regulate the issue of salaries and social security rights in a unified manner; special attention should be given to criteria for the selection, appointment or nomination to the management positions, prevention of conflict of interest and the method for evaluation of their performance.

The Action Plan foresees six measures for the achievement of this objective.

Activities foreseen for the fulfilment of **measures 4.2.1. and 4.2.2.** were not due for realization until the end of 2014.

According to the interpretation of the Ministry of Justice, the deadline for the fulfilment of the **measure 4.2.3.** was set at the fulfilment of the **measure 4.2.2.**

³⁹⁷ More details on the activities of the Agency in the field of the legislative analysis during 2014 can be found in the description of the measure 3.1.3.3.

Measure 4.2.4. To strengthen the capacities of the Central Registry of Compulsory Social Insurance (CRCSI) to ensure efficient control of the calculation and collection of contributions for compulsory social insurance

The first activity foresees that by March 6 2014, the CRCSI conducts a needs analysis.

Indicator: Needs analysis is conducted.

The activity is fulfilled in line with the indicator.

According to information at the Agency's disposal, the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.

The third activity foresees that the CRCSI develops and continuously implements the training curriculum of employees in line with the analysis.

Indicator: General remark no. 7 (footnote 32)

The activity is fulfilled for the reporting period.

The Agency has no information whether the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.

Remark: In line with the amended methodology, the Agency assesses that the activity is fulfilled for the reporting period, even though the responsible entity has not submitted all the information pertaining to the indicator.

* The second and fourth activities were not due for realization until the end of 2014.

The CRCSI notified the Agency that it has conducted the needs analysis with the remark that the Tax Administration had modified it on its own accord.

The reports of the CRCSI did not address this activity, except in their first report, which informed the Agency that the second activity within this measure had not been realized. However, according to the information from the Alternative Report of the BCSP, after the CRCSI Portal has become operational, a successful training was conducted for employees, Portal users and employers who are users of the Portal, and the trainings will be continued after amending and implementation of the part in relation to the exchange of data with the Tax Administration has taken place. Written instructions for employees and employers have been developed as well.³⁹⁸

In spite of the fact that the deadline for the third activity within this measure is still open, the CRCSI informed the Agency that it had already procured the equipment, in line with the needs analysis.

Measure 4.2.5. To improve a database on filed single electronic applications for compulsory social insurance which is regularly updated

The first activity foresees that by March 6 2014, the CRCSI conducts a needs analysis to establish technical connection with competent authorities and organizations (BRA, Labour Inspectorate, RFPDI, RHIF and NES).

Indicator: Needs analysis is conducted

The activity is fulfilled in line with the indicator.

According to the information at the Agency's disposal, the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.

* The second activity was not due for realization until the end of 2014.

³⁹⁸ Alternative Report of the BCHR, pg. 84.

The Report of the CRCSI states that the needs analysis was conducted, and the second activity within this measure - establishment of the technical connections with other competent authorities - was almost entirely realized.

Measure 4.2.6. To conduct a campaign to inform the parties filing a single electronic application for compulsory social insurance, as well as the insured party, on the importance and availability of the data and Single Database of the CRCSI

The first activity foresees that by March 6 2014, the CRCSI develops a campaign plan.

The activity contains a remark that it should be realized in cooperation with the ministry in charge of labour and social policy.

Indicator: The campaign plan is developed

The activity is fulfilled in line with the indicator.

The Agency has no data whether the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.

* The second activity was not due for realization until the end of 2014.

The report of the CRCSI states that the campaign plan was developed in the manner and within the timeframe envisaged by the Action Plan. However, the report contains no information whether the remark from the Action Plan was respected, which envisages that the activities on the development of the campaign plan are conducted in cooperation with the ministry in charge of labour and social policy.

The Alternative report of the BCSP states that using the available funds, CRCSI has created promotional flyers which were put on disposal in the buildings of compulsory social insurance organizations, and that numerous trainings targeting the payers-employers have been held, in relation to the use of the CRCSI Portal dedicated to submission of e-applications.³⁹⁹

Objective 4.3. To ensure the transparency of the work of public authorities

Needs addressed by the Strategy indicate that the Law on Free Access to Information of Public Importance⁴⁰⁰ ought to be improved and the transparency of work of public authorities made available to all citizens equally; authorizations and resources at the disposal of the Commissioner for Information of Public Importance and Personal Data Protection ought to be expanded, especially when it comes to the issue of competences to initiate misdemeanour proceedings; achieving work transparency and acting upon the requests of the Commissioner ought to be regulated in more detail by the internal acts of public authorities, instructions of the Commissioner for the development and publishing of the Information Booklet ought to be fully respected and the enforcement of the final decisions of the Commissioner in all cases ought to be provided.

The Action Plan foresees four measures for the achievement of this objective.

³⁹⁹ *Ibid.*

⁴⁰⁰ „Official Gazette”, no. 120/04, 54/07, 104/09 and 36/10.

Measure 4.3.1. To amend the Law on Free Access to Information of Public Importance so as to increase the number of public authorities and public authorization holders to which the obligation of publishing the information booklet refers to; to authorize the Commissioner for Information of Public Importance and Personal Data Protection to initiate misdemeanour proceedings against a responsible person who fails to act according to the Commissioner's decision or measure, or does not inform the public and the nominating/selecting/appointing authority about the failure to act according to the Commissioner's decisions and measures
The first activity foresees that by March 6 2014, the ministry in charge of public administration develops and submits the Draft Law on Amendments to the Law to the Government. Indicator: Draft Law on Amendments to the Law is submitted to the Government
The activity is not fulfilled in line with the indicator.
The second activity foresees that by June 6 2014, the Government submits the Draft Law on Amendments to the Law to the National Assembly. Indicator: Draft Law on Amendments to the Law is submitted to the National Assembly.
The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not implemented.
The third activity foresees that by September 6 2014, the National Assembly adopt the Law on Amendments to the Law. Indicator: the Law on Amendments to the Law is adopted.
The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not implemented.

The Ministry of Public Administration and Local Self-Government did not inform about this activity, while the first quarterly report for 2014, of the former Ministry of Justice and Public Administration stated that, due to reasons of expediency and the preparation of a single Law on Amendments to the Law on Free Access to Information of Public Importance, this measure would be realized through the implementation of **measure 4.8.2.** (or after the development of the plan concerning the recommendations of the analyses, which is in progress). Namely, the Commissioner has fulfilled his obligation from **measure 4.8.1.** which refers to the formulation of the needs analysis with recommendations for amendments to the Law. The stated analysis proposed to amend the Law in a greater extent than it was previously envisaged by the respective **measure 4.3.1.** so it was decided that all amendments are to be encompassed in a single act.⁴⁰¹

⁴⁰¹ The Ministry of Justice and Public Administration, the Report on the Implementation of the Strategy, April 2014.

Measure 4.3.2. To strengthen capacities of the Commissioner for Information of Public Importance and Personal Data Protection
The first activity foresees that by March 6 2014, the Commissioner conducts a needs analysis with recommendations. Indicator: Needs analysis with recommendations is conducted.
The activity is fulfilled in line with the indicator. According to the data at the Agency's disposal, the activity is fulfilled in the manner but not within the timeframe envisaged by the Action Plan.
The second activity foresees that by December 6 2014, the Commissioner employs new staff in accordance with recommendations from the needs analysis. Indicator: The number and structure of qualified staff matches recommendations from the needs analysis
The activity is not fulfilled in line with the indicator.
The third activity foresees that by May 6 2014, the Commissioner develops a professional training programme in accordance with recommendations from the needs analysis. Indicator: Professional training programme in accordance with recommendations from the needs analysis is developed
The activity is fulfilled in line with the indicator. According to data at the Agency's disposal, the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.
The fourth activity foresees that the Commissioner permanently implements a professional training programme. Indicator: training plan executed according to the year within the Strategy validity; reports on training plan realization; curricula and lists of participants and reports on training evaluations
The activity is not fulfilled in line with the indicator.
The fifth activity foresees that by December 6 2014, the Commissioner procures equipment/office space in accordance with recommendations from the needs analysis. Indicator: equipment/space in accordance with recommendations from the needs analysis are procured; The report on procured office space/equipment is delivered;
The activity is not fulfilled in line with the indicator.

The Commissioner conducted the needs analysis relevant to this measure on March 11 2014. By the Conclusion of the Government Commission for housing issues and allocation of official buildings and business premises from August 2nd 2013, the Commissioner for Information of Public Importance and Personal Data Protection was granted with the office space in King Alexander Boulevard No.15 of 1.086 m², which satisfies the needs of the Commissioner's Office and which the Commissioner started to use on October 14 2013. The staffing plan, in line with recommendations of the needs analysis was prepared on May 5 2014. The activities for the realization of different programmes are in progress. The planned professional training programme requires substantial financial means, which have been planned for by the project, which has to be decided by the donors in the coming period. On December 1st 2014, the Commissioner received from the Committee on Administrative, Budgetary,

Mandate and Immunity Issues of the National Assembly a Conclusion on the approval of the recruitment of new persons for 7 job positions, whose employment still falls short of the Commissioner's staffing plan for 2013, which foresees 69 staff members, while the staffing plan for 2014, foresees 73 staff members. Due to the limit set out by the Instruction for the preparation of the budget of the Republic of Serbia for 2015, with forecasts for 2016 and 2017, the Commissioner has planned to hire 83 staff members in 2015, instead of the full number of employees (94 persons), as envisaged by the Rulebook on Internal Organization and the Organisational structure of Job Positions. This number of employees can be hired following the certain dynamics during the calendar year. In the Financial Plan Proposal for 2015, with the forecasts for 2016 and 2017, the Commissioner requested additional funds from the Ministry of Finance for capacity building, and on December 4 2014, the Commissioner repeated his request for the equipment, which was expressed in the needs analysis from March 2014. This act specifies that the Commissioner needs technical, telecommunication and server related equipment, of a total value of RSD 7.000.000,00 including VAT.⁴⁰²

The Action Plan for Chapter 23 delayed the provision of necessary financial and human resources of the Commissioner until the beginning of 2016. Since its establishment, the Commissioner has been working with an incomparably smaller number of staff members than was envisaged and required in the first place, which is in complete imbalance with the increasing number of citizens' complaints.⁴⁰³

Measure 4.3.3. To develop an internal act with instructions on procedures for the conduct of public authorities and publish it on the website

The only activity within the measure foresees that by December 6 2014, the ministry in charge of public administration develops internal acts with instructions, distributes them to all employees and publishes the act on the website.

The measure refers to internal procedures of actions, i.e. conducting activities within the authority itself.

Indicator: The internal act with instructions is developed, distributed to all employees in public authorities and published on the website.

The Agency is not able to assess the fulfilment of the activity.

The report of the Ministry of Public Administration and Local Self-Government does not address this measure.

Measure 4.3.4. To adopt by-laws necessary for the full implementation of the Law on Classified Information

The only activity within this measure foresees that by July 6 2014, the Government adopts by-laws on the official identification card, detailed criteria for determining the degree of secrecy "classified" and "for internal use".

Indicator: By-laws on the official identification card are adopted; detailed criteria for determining the degree of secrecy "classified" and "internal".

The activity is not fulfilled in line with the indicator.

402 Commissioner for Information of Public Importance and Personal Data Protection, The Report on the Implementation of the Strategy, January 2015.

403 Alternative report of the BCHR, pg. 86.

The Law on Classified Information⁴⁰⁴ stipulates that within six months from the date of the enforcement of the Law, the Government is to further regulate the method and procedure for marking the secrecy of data (Article 13(3)), method and procedure for determining the fulfilment of criteria for the delivery of classified data to other legal and physical persons *Article 64 (3), questionnaire templates for security check ups (Article 61 (2)), contents, form and method of delivery of certificates (Article 61 (2)), contents, form and method of management of the data records and deadline for the preservation of data (Article 83).⁴⁰⁵

Certain segments of the activity have been realized, whereas the realization of the activities in other ministries, specialized organizations and Government departments, is in progress.

The Government adopted the following regulations:⁴⁰⁶

- Regulation on detailed criteria for determining the degree of secrecy for the classification "TOP SECRET" and "STRICTLY CONFIDENTIAL"⁴⁰⁷
- The Regulation on detailed criteria for determining the degree of secrecy for the classification "CONFIDENTIAL" and "FOR INTERNAL USE" in the Security Information Agency;⁴⁰⁸
- The Regulation on detailed criteria for determining the degree of secrecy for the classification "CONFIDENTIAL" and "FOR INTERNAL USE" in the Office of the Council on National Security and Protection of Classified Data;⁴⁰⁹
- The Regulation on detailed criteria for determining the degree of secrecy for the classification "CONFIDENTIAL" and "FOR INTERNAL USE" in the Ministry of Interior⁴¹⁰ and
- The Regulation on detailed criteria for determining the degree of secrecy for the classification "CONFIDENTIAL" and "FOR INTERNAL USE" in the Ministry of Defence.⁴¹¹

404 „Official Gazette RS“, no. 104/09.

405 Alternative report of the BCHR, pg. 87.

406 The Government of the Republic of Serbia, The Report on the Implementation of the Strategy, January 2015.

407 „Official Gazette RS“, no. 46/13.

408 „Official Gazette RS“, no. 70/13.

409 „Official Gazette RS“, no. 86/13.

410 „Official Gazette RS“, no. 105/13.

411 „Official Gazette RS“, no. 66/14.

Objective 4.4. To ensure continuing education about corruption and anti-corruption methods

The needs pointed out by the Strategy refer to the introduction of continuing education, with a special focus on the issues of ethics, integrity, recognition of conflict of interest, rights of whistleblowers, etc.; establishment and advancement of international cooperation and knowledge transfer in this area; as well as to ensure awareness raising campaigns on the adverse affects of corruption, promotion of ethical behaviour, trainings and professional development, which will raise intolerance on corruption among the public.

The Action Plan foresees three measures for the fulfilment of this objective.

Measure 4.4.1. To introduce anti-corruption regulations and practice in the state qualifying examination programme

The only activity within this measure foresees that by March 6 2014, the Government adopts amendments to the Regulation on State Qualifying Examination in order to introduce anti-corruption regulations and practices in the examination programme.

Indicator: Amendments to the Regulation are adopted.

The activity is fulfilled in line with the indicator.

According to the data at the Agency's disposal, the activity is not fulfilled either in the manner or within the timeframe envisaged by the Action Plan.

At its 38th session held on August 5 2014, the Government adopted a Regulation on Amendments to the Regulation on the Programme and Method of Passing the State Qualifying Examination.⁴¹² The content of the established programme for civil servants with university education within the State Qualifying Examination Programme for the examination subject *Constitutional Order* and programme for civil servants with secondary education for the examination subject *Fundamentals of the public Administration System and Constitutional Order* were amended, in terms of determining the examination questions in relation to the regulations, which govern the anti-corruption field.⁴¹³

However, the amendments to the Regulation specify the introduction of examination questions exclusively in relation to the Law on the Anti-Corruption Agency, but not the rest of the anti-corruption regulations and practices.

412 „Official Gazette RS“, no. 84/14.

413 The Government of the Republic of Serbia, The Report on the Implementation of the Strategy, January 2015.

Measure 4.4.2. To amend the Law on Civil Servants in order to ensure that the High Civil Service Council monitors implementation of the Code of Ethics, collect information, and conduct analysis

The first activity foresees that by June 6 2014, the ministry in charge of public administration develops and submits the Draft Law on Amendments to the Law to the Government.

Indicator: Draft Law on Amendments to the Law is submitted to the Government

The activity is fulfilled in line with the indicator.

According to the data at the Agency's disposal, the activity is fulfilled in the manner envisaged by the Action Plan. The Agency has no data whether the activity is fulfilled within the timeframe envisaged by the Action Plan..

The second activity foresees that by September 6 2014, the Government submits the Draft Law on Amendments to the Law to the National Assembly.

Indicator: Draft Law on Amendments to the Law to the Government is submitted to the National Assembly.

The activity is fulfilled in line with the indicator.

According to the data at the Agency's disposal, the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.

The third activity foresees that by December 6 2014, the National Assembly adopts the Law on Amendments to the Law.

Indicator: Law on Amendments to the Law is adopted.

The activity is fulfilled in line with the indicator.

According to the data at the Agency's disposal, the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.

The Ministry of Public Administration and Local Self-Government developed a Draft Law on Civil Servants, which requires that the High Civil Service Council monitors the implementation of the Code of Conduct of civil servants, collects information about it and prepares analysis, and submits the Draft to the Government for consideration. The Government approved the Draft Law on August 5, and amendments of the Law were adopted by the National Assembly in September 2014.⁴¹⁴ The new article 164a of the Law foresees that the Code of Conduct regulates the rules of ethical conduct of civil servants and the method of monitoring its implementation, whereas the public authorities and Government institutions are obliged to submit to the High Civil Service Council the data and information necessary for monitoring of the implementation of the Code and improvement of the rules of ethical conduct of civil servants.

414 “ Official Gazette RS“, no. 99/14.

Measure 4.4.3. To amend the Law on the Anti-Corruption Agency in order to impose an obligation for the officials and employees in the public sector to attend trainings in the field of anti-corruption, ethics and integrity
The first activity foresees that by June 6 2014, the ministry in charge of judicial affairs develops and submits the Draft Law on amendments to the Law to the Government. Indicator: Draft Law on amendments to the Law is submitted to the Government.
The activity is not fulfilled in line with the indicator.
The second activity foresees that by September 6 2014, the Government submits the Draft Law on amendments to the Law to the National Assembly. Indicator: the Draft Law on amendments to the Law is submitted to the National Assembly
The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not implemented.
The third activity foresees that by December 6 2014, the National Assembly adopts the Law on amendments to the Law. Indicator: Law on amendments to the Law is adopted.
The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not implemented.
The fourth activity foresees that by March 6 2014, the agency prepares a professional training curriculum. Indicator: Professional training curriculum is developed.
The activity is not fulfilled in line with the indicator.

Remark: Please see the description of the measure 4.1.1.

The professional training curriculum on the subject of ethics and integrity in the public sector was adopted by the Agency on August 13 2014.⁴¹⁵ A five-day training of trainers, entitled “Ethics and Integrity in the Public Sector” was developed, and, in addition, the manual for trainers from the field of ethics and integrity in the public sector was prepared.⁴¹⁶ Tests for the assessment of knowledge and skills of participants, to be filled out before and after the trainings, were prepared. Finally, four trainings of trainers in the duration of five days were delivered, which were attended by 51 participants.⁴¹⁷

During 2014, a number of trainings were delivered within the Memorandum on Cooperation with the Personnel Management Service of the Republic of Serbia and Human Resources Management Service of the AP Vojvodina. The Agency held five trainings, entitled “Ethics in Public Administration”, attended by 75 participants.

⁴¹⁵ This basic curriculum implies six-hour training, which consists of four sessions, 90 minutes each: “The role and values of civil servants - Code of Ethics”, “Risky situations for emergence of corruption in the work environment”, “The role of the Code of Ethics in resolving ethical dilemmas” and “Responsibility for ethical conduct”.

⁴¹⁶ The Manual is developed thanks to the support of the OSCE Mission in Serbia, who financed the engagement of experts, development of the training curriculum for trainers and delivery of six pilot trainings in Belgrade.

⁴¹⁷ The first training was organized in Belgrade (September 18-19, and 22-24)/ Three trainings were delivered in the following cities: Novi Sad (October 20-24, 2014), Nis (November 24-28, 2014) and Kragujevac (December 8-12, 2014) thanks to the support of UNDP, who financed the organization of trainings and engagement of the expert.

At this moment, the Agency does not have official information on whether other authorities organize and deliver trainings on ethics and integrity, and it does not have mechanisms for monitoring the implementation of trainings in other authorities, since the authorities are not obliged to provide reports to the Agency. A model of the new Law on the Anti-Corruption Agency, foresees that public authorities and organizations, territorial autonomy authorities and local self-government units, public services and public enterprises are required to submit a report on the implementation of the training curriculum, upon request of the Agency, within 15 days from the date of receipt of the request. Furthermore, it is envisaged that the Agency prepares programmes and guidelines for conducting trainings, performs professional training of trainers and monitors training implementation.

Opinion and Recommendation of the Agency: Even though, according to the opinion of the Ministry of Justice, the activity of adoption of the training curriculum on the basis of the amendments to the Law on the Anti-Corruption Agency should have been realized even before the new Law was adopted, which the Agency had accomplished, there are some key issues concerning this activity which remain open. Namely, for the Agency to be able to prepare the training curriculum, the final formulation of this obligation would have to be well-established in the Law on the Anti-Corruption Agency, the contact with all interested parties should be established at least to some extent, and the insight into their capacities needs to be gained. Due to these reasons, the training curriculum still has not been adopted.

Objective 4.5. Create conditions for more active participation of civil society organizations in anti-corruption activities

Issues pointed out by the Strategy refer to the enhancement of the institutional and legal framework for support to CSOs; to the need for availability of state support to all beneficiaries, who enclose a statement on the absence of conflict of interest and an internal act on their anti-corruption policy, such as a Code of Ethics, as well as book keeping records on revenues and budget management, when applying for awarding of grants. The Strategy announces the development of the strategic framework, with criteria for the assessment of the purpose and quality of the proposed and implemented projects by civil society organizations, on the basis of which administrative and financial support shall be provided.

The Action Plan foresees five measures for the fulfilment of this objective.

Mepa 4.5.1. To amend the Regulation on incentive funds for programmes or matching funds for the financing of programmes of public interest implemented by CSOs, in order to introduce an obligation for all beneficiaries to enclose a statement, when applying for the allocation of public funds, on the absence of conflict of interest and an internal act on their anti-corruption policy
The only activity within this measure foresees that by September 6 2014, the Government adopts amendments to the Regulation. The activity contains a remark that the internal document implies all kinds of laws dealing with the anti-corruption policy, including the Code of Ethics. Indicator: Regulation is adopted
The activity is not fulfilled in line with the indicator.

The Government report states that the Ministry of Public Administration and Local Self-Government need to submit to the Government procedure, as a proponent of the act, the Draft Regulation on Amendments to the Regulation on incentive funds for programmes or matching funds for the financing of programmes of public interest implemented by CSOs, according to the Action Plan requirements. Thus, the Government report recommends that the Action Plan should appoint the Ministry of Public Administration and Local Self-Government as the responsible entity for the Government.⁴¹⁸

The report of the Ministry of Public Administration and Local Self-Government does not address this measure.

Measure 4.5.2. To amend the Law on Public Administration in order to establish clear standards of cooperation of public authorities with civil society in accordance with standards of the Council of Europe and the UN Convention Against Corruption (UNCAC)

The first activity foresees that by September 6 2014, the ministry in charge of public administration develops the Draft Law on Amendments to the Law and submits it to the Government.

The activity contains a remark that the amendments refer to the consultation process and public participation in the adoption of regulations and acts.

Indicator: Draft Law on Amendments to the Law is submitted to the Government.

The activity is not fulfilled in line with the indicator.

The second activity foresees that by December 6 2014, the Government submits the Draft Law on Amendments to the Law to the National Assembly.

Indicator: Draft Law on Amendments to the Law is submitted to the National Assembly.

The activity is not fulfilled in line with the indicator.

* The third activity was not due for realization until the end of 2014.

Neither the Ministry of Public Administration and Local Self-Government, or the Government, address this measure in their reports.

At the session held on August 5 2014, the Government adopted the Draft Law on Amendments to the Law on Public Administration, without public hearings, and the cooperation of the public authorities with civil society was not the subject of the amendments.

Measure 4.5.3. To develop a methodology for the monitoring of implementation of the programmes/projects financed from budget funds, particularly monitoring their implementation in the field and monitoring the expenditures for the prevention of improper use of budgetary funds

The first activity foresees that the Ministry of Finance permanently adopts the methodology.

Indicator: Methodology is adopted

The Agency is not able to assess the fulfilment of the activity.

The second activity foresees that the Ministry of Finance permanently monitors the realization of programmes/projects, on the basis of the adopted methodology.

Indicator: An annual report on the monitoring of the implementation of programmes/projects

The Agency is not able to assess the fulfilment of the activity.

⁴¹⁸ The Government of the Republic of Serbia, The Report on the Implementation of the Strategy, January 2015.

The report of the Ministry of Finance does not address this measure.

Measure 4.5.4. To amend the Regulation on incentive funds for programmes or matching funds for the financing of programmes of public interest implemented by CSOs, in order to improve the framework referring to criteria, terms, scope, method and procedure for the allocation of funds

The only activity foresees that by September 6 2014, the Government adopts the amendments to the Regulation.

The activity contains a remark that it should be realized in cooperation with the Office for Cooperation with Civil Society and that discretionary rights of the committee members who decide on the allocation of funds to CSOs should be limited, the selection of members, as well as that the issue of responsibility and control of executed appropriations should be regulated.

Indicator: Amendments to the Regulation are adopted.

The activity is not fulfilled in line with the indicator.

The Government report states that the Ministry of Public Administration and Local Self-Government need to submit to the Government procedure, as a proponent of the act, the Draft Regulation on Amendments to the Regulation. Thus, the Government report recommends that the Action Plan should appoint the Ministry of Public Administration and Local Self-Government as the responsible entity for the Government.⁴¹⁹ The report of the Ministry of Public Administration and Local Self-Government does not address this measure.

This Regulation has not been amended in line with the Action Plan. More precisely, after the adoption in 2012, the Regulation on incentive funds for programmes or matching funds for the financing of programmes of public interest implemented by CSOs was amended in October 2013, when it was prescribed that competent authorities determine *ex officio* whether the organization is registered with the competent authority and whether its objectives are being achieved in the programme area according to statutory provisions. Namely, according to the initial decision, the organization was required to provide evidence that it had been registered with the competent authority and that its objectives are being achieved in the programme area according to statutory provisions.

⁴¹⁹ Government of the Republic of Serbia, Report on the Implementation of the Strategy, January 2015.

Measure 4.5.5. The Anti-Corruption Agency carries out public competitions for the allocation of funds to CSOs for projects in the field of anti-corruption for initiatives at the national and local level as well as for media initiatives in the field of anti-corruption
The first activity foresees that the Agency by March 6 2014, develops the Rulebook on allocation of funds to CSOs. Indicator: Rulebook on allocation of funds to CSOs is developed
The Activity is fulfilled in line with the indicator. According to the data available to the Agency, the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.
The second activity foresees that the ministry in charge of finance permanently, at the annual level ensures additional funds for allocation to CSOs in the annual budget of the Agency. The column "required resources" of the activity foresees that a minimum of RSD 6.000.000 per year is allocated for this purpose. Indicator: Annual budget of the Agency ensures funds for allocation to CSOs
The Activity is fulfilled in line with the indicator. According to the data available to the Agency, the activity was fulfilled in the manner but not within the timeframe envisaged by the Action Plan.
The third activity foresees that the Agency, permanently, at the annual level, organizes public calls for awarding of funds to CSOs at the national and local levels, including for media projects. Indicator: At least one public call per calendar year is organized.
The Activity is fulfilled in line with the indicator. According to the data available to the Agency, the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.

On March 3 2014, the Agency adopted a Rulebook on the implementation of the public call for awarding of grants to civil society organizations for the realization of programmes and projects in the field of anti-corruption.⁴²⁰ The Rulebook contains provisions, which regulate the conditions for participation in the public call, criteria for the selection of programmes and projects for grant awarding and stages in the procedure of the public call, including monitoring and evaluation of the selected programmes and projects. The Rulebook was amended on two occasions, in November 2014, and January 2015, mostly due to the needs, which have been identified on the basis of the initial experience in the Rulebook's implementation.

Within a public call for awarding of funds to CSOs, organized in April 2014, the Agency awarded grants in the amount of RSD 997.250,00 to the organization Bureau for Social Research (BiRODI) for the project "Cities against accumulation of functions", implemented in the City of Nis, for a duration of 6 months, with the starting date of September 1st 2014. The 2015 budget proposal of the Agency suggested to allocate RSD 6.000.000,00, as donations to civil society organizations. The amount of RSD 3.658.000,00 was approved.

The public call was organized and funds have been disbursed for the development of alterna-

⁴²⁰ The Rulebook is available at: <http://www.acas.rs/zakoni-i-drugi-propisi/ostali-propisi/pravilnici/>.

tive reports on the implementation of the Strategy for 2014, from the project "Support to strengthening mechanisms for prevention of corruption and the institutional development of the Anti-Corruption Agency", financed by the Embassy of the Kingdom of Norway. Three grants, each in the amount of RSD 1.150.000, have been awarded to civil society organizations based on the public call, which was organized in mid 2014. The projects last until February 2015.

Measure 4.5.6. The Anti-Corruption Agency establishes a continuous coordination and training system for CSOs
The first activity foresees that the Agency permanently organizes regular, semi-annual meetings with CSOs. Indicator: Two coordination meetings are held, by the year of the Strategy validity.
The activity is fulfilled in line with the indicator. According to the Agency's data, the activity is fulfilled in the manner and within the timeframe envisaged by the Action Plan.
The second activity foresees that by June 6 th 2014, the Agency develops the training curriculum for CSOs Indicator: Training curriculum is developed.
The activity is not fulfilled in line with the indicator.
The third activity foresees that the Anti-Corruption Agency permanently conducts the training curricula for CSOs. Indicator: Indicators on implementation of the training curricula
The activity is not fulfilled in line with the indicator for the reporting period.

During 2014, two coordination meetings were held with representatives of civil society organizations. The first meeting was organized on May 20 2014, when the gathered CSO representatives were presented with the concept of the competition for alternative reporting and the role of CSOs in monitoring of the implementation of the National Anti-Corruption Strategy. Representatives of 20 CSOs were present at the meeting. The second coordination meeting was organized on November 19 2014, in cooperation with the Government's Office for Cooperation with Civil Society. Topics of the meeting included: participation of CSOs in the process of the creation or monitoring of public policies and inclusion of CSOs in the process of the creation and monitoring of the anti-corruption plans. Twenty-four representatives from 20 CSOs were present.

It is important to mention at this point that the Agency and civil society are equal partners in the field of anti-corruption, thus the Agency considers that no public authority, including the Agency, should not be the coordinator of activities undertaken by civil society organizations in the field of anti-corruption, since this undermines the relations of equality of the partners who are equivalent in the process. Regardless of the formulation of the activity, which is inadequate in the Agency's opinion, the Agency considers the meetings organized with civil society organizations exclusively as consultations, with the purpose to exchange experiences and views in the respective field. The Agency is of the opinion that public authorities should not interfere in any way in the sphere of work and operations of civil society, since it would jeopardize its autonomy. Due to this reason, the Agency recommends to the ministry in charge of judicial affairs to re-phrase the Action Plan in this part, so as to read that the Agency conducts regular consultations with civil society organizations in the field of anti-corruption.

The training curriculum for civil society organizations was adopted on August 13 2014. It is a two-day programme, whose aim is to raise awareness and increase the competences of CSOs in the prevention of corruption. On February 18th and 19th 2014, in the premises of the Youth Office of the municipality of Zvezdara, the training was organized for 17 representatives from 9 civil society organizations on the topic “Mechanisms for prevention of corruption”, in the organization of the Initiative for Democratic Society.

Having in mind the number of employees in the organizational unit of the Agency, which deals with education and cooperation with civil society, and that the priority target group in the field of education are civil servants, the Agency currently has no capacities to organize regular trainings for civil society organizations, hence the training curriculum was not developed. During the year, in accordance with the Agency’s guidelines for cooperation with civil society, general support was provided to 9 project proposals submitted for funding to different donors by civil society organizations. The document on cooperation was signed for six project proposals. The cooperation was accomplished with only one organization, which received the funding for its project proposal. The organization’s name is Partners for Democratic Changes, and the project is entitled “Active Citizens Against Corruption”. The cooperation consisted of participation of the Agency’s representatives in six round tables, which were organized in six cities and municipalities across Serbia.

Objective 4.6. To create conditions for more active participation of the private sector in anti-corruption activities

The Strategy announces the creation of a stimulating framework for the financial support of the private sector in anti-corruption projects of the civil sector, as well as the support and promotion provided by the Serbian Chamber of Commerce to good practices of companies who have adopted integrity plans, rules of the Code of Business Ethics, the Code of Corporate Governance of the International Chamber of Commerce for anti-corruption, as well as the rules of the Declaration on Anti-Corruption (Global Compact in Serbia). The needs emphasized by the Strategy in this field refer to the enhancement of mutual cooperation between the state and the private sector; and elimination of risks of corruption which impede the establishment of a business friendly environment in the Republic of Serbia, grey economy, lack of transparency in taxation, complicated and bureaucratic procedures and inappropriate inspection of doing business.

The Action Plan foresees two measures for the achievement of this objective.

Measure 4.6.1. To amend the Law on Income Tax of Legal Persons so that anti-corruption is stated as one of the purposes/activities for which companies providing financial support to the civil society are granted with special tax relief
The first activity foresees that by December 6 2014, the ministry in charge of finance, develops and submits the Draft Law on Amendments to the Law to the Government. Indicator: Draft Law on Amendments to the Law is submitted to the Government
The Agency is not able to assess the fulfilment of the activity.

* The second and third activities were not due for realization until the end of 2014.

The Ministry of Finance has not addressed this measure in their report. During 2014, no such amendments to the Law on Income Tax of Legal Persons were made.

Measure 4.6.2. The Serbian Chamber of Commerce enacts and publishes anti-corruption standards and practices such as: the Code of Business Ethics, the Code of Corporate Governance, promotion of ICC anti-corruption standards, rules of the Declaration on Anti-Corruption of the Global Compact in Serbia, as well as the companies which adopted anti-corruption plans or integrity plans
The second activity foresees that the Serbian Chamber of Commerce permanently organizes meetings and seminars in the field of anti-corruption in cooperation with institutions of the Republic of Serbia and promotes companies’ good practices in the field of anti-corruption. Indicator: number of organizes meetings and seminars in a calendar year; indicators for organization of trainings
The activity is fulfilled in line with the indicator. According to the data at the Agency’s disposal, the activity is fulfilled in the manner and within the timeframe envisaged by the Strategy.

During 2014, the Serbian Chamber of Commerce organized 9 events, which were directly or indirectly dealing with the topic of anti-corruption in companies.

- March 18 2014 – “Anti-Corruption challenges of the public procurement system and competitiveness policy.”⁴²¹
- March 28 2014 – “Corporate Governance - How to become an efficient Board member.”⁴²²
- March 28 2014 – public hearing on the working version of the Law on Protection of Whistleblowers in cooperation with the Ministry of Justice and Public Administration.
- May 29 and September 25 2014 – two round tables “Anti-Corruption - this is how we do it” in cooperation with the Global Compact in Serbia - working group for anti-corruption.
- June 19 2014 – seminar “Application of the Law on Prevention of Money Laundering and Financing of Terrorism” in the organization of the Serbian Chamber of Commerce, Association of the accounting agencies, jointly with the Directorate for Prevention of Money Laundering.

⁴²¹ Seminar was organized by the SCC, in cooperation with the project Enhancement of Competitiveness in Serbia, financed by the EU, and implemented by the German Agency for International Cooperation (GIZ). The seminar addressed the following topics: relevance of public procurement and competitiveness for an efficient economy, prevention of potential corruption in public procurement, according to the Law on Public Procurement, rights of competitors in case of violation of rules, competence of the Commission for protection of competitiveness in the public procurement system and dualism of sanctions, pecuniary and criminal sanctions for violation of competitiveness in case of fraudulent and adjusted bids.

⁴²² The training discussed the following topics: introduction to the corporate governance, role of the Board in company’s strategic leadership, role of independent directors from the corporate governance perspective, corporate financing and role of the board members in supervising risk management. This event represents a continuation of support to the promotion of corporate governance enhancement in RS, within the project, implemented by the SCC and International Financial Corporation (IFC).

- September 24 2014 – public hearing on the Draft Law on Inspection in cooperation with the Ministry of Public Administration and Local Self-Government and the US-AID Business Enabling Project.
- December 12 2014 – course “Mechanisms for prevention of corruption and conflict of interest” organized by the Olof Palme International Centre, in cooperation with the Global Compact in Serbia and the SCC, with expert support of the TMC Academy and Faculty for Security Innovation Centre;
- December 22 2014 – seminar “Integrity plans and introduction of the codes of ethics in companies, as mechanisms for prevention of corruption,” in cooperation with the Agency.

The Serbian Chamber of Commerce in its report emphasizes that is not possible to agree on the organization of anti-corruption seminars with competent authorities of the Republic of Serbia, due to the inability of the responsible representatives of institutions to commit themselves in advance for participation in seminars on an annual basis. Hence, the SCC is not able to deliver pre-determined plans for organization of anti-corruption seminars (trainings, round tables, workshops).⁴²³

Objective 4.7. To ensure that the National Assembly monitors the implementation of conclusions, i.e. recommendations it made regarding reports of independent public authorities

The Action Plan foresees two measures for the achievement of this objective, which were not due for realization until the end of 2014.

Objective 4.8. To extend and specify competences and enhance human resource capacities and working conditions of the Anti-Corruption Agency, Ombudsman, Commissioner for Information of Public Importance and Personal Data Protection and State Audit Institution

The Action Plan foresees two measures for the achievement of this objective.

Measure 4.8.1. To conduct a needs analysis of the Anti-Corruption Agency, the Ombudsman, the Commissioner for Information of Public Importance and Personal Data Protection and the State Audit Institution in terms of extending and/or specifying competences, enhancing human resource capacities and work conditions

The third activity foresees that by March 6 2014, the Government provides written explanations for the rejection of recommendations, which are unacceptable to the Government.

Indicator: Explanations for rejection of recommendations, which are unacceptable to the Government, are submitted in a written form to the Agency, Ombudsman, Commissioner and SAI.

The activity is not fulfilled in line with the indicator.

* The first and second activities were assessed as completed in the last year’s report.

⁴²³ Serbian Chamber of Commerce, The Report on the Implementation of the Strategy, January 2015.

The **measure 4.8.1.** foresees the obligation that by November 6 the Agency, the Ombudsman, the Commissioner for Information of Public Importance and Personal Data Protection and the State Audit Institution, develop their needs analysis in terms of the expansion and/or specification of competences, enhancement of human resource capacities and work conditions, and to submit them by December 6 2013, to the Government, ministry in charge of judicial affairs and public administration and the ministry in charge of finance. These four responsible entities have submitted their needs analyses to the stated institutions within the designated deadline. This year’s Government report states the same information as last year’s, that during December 2013 and January 2014, the analyses were dispatched to competent authorities for further procedure.

Measure 4.8.2. To implement recommendations from the needs analyses which are submitted to the Government

The first activity foresees that by May 6 2014, the ministry in charge of judicial affairs and public administration, Committee of the National Assembly for constitutional and legislative matters and the Ombudsman develop a plan for implementation of recommendations from the analyses referring to expansion and specification of competences.

The activity contains a remark that the plan would designate a public authority, which would be responsible for the implementation of the plan.

Indicator: Plan for implementation of recommendations from the analyses referring to expansion and specification of competences is developed

The Agency is not able to assess the fulfilment of the activity.

The second activity foresees that by May 6 2014, the ministry in charge of finance, develops a Plan for implementation of recommendations referring to strengthening capacities and provision of work conditions.

The activity contains a remark that the plan would designate a public authority, which would be responsible for the implementation of the plan.

Indicator: Plan for implementation of recommendations referring to strengthening capacities and provision of work conditions

The Agency is not able to assess the fulfilment of the activity.

* The fulfilment of the third, fourth, fifth and sixth activities are conditioned by the realization of the first and second activity.

The report of the Ombudsman states that the Ministry of Public Administration and Local Self-Government has established a working group for the development of the Draft amendments to the Law on the Ombudsman. It further informs that the building in Karadjordjeva Street, no. 46 has changed its purpose and function, without the prior consent of the Ombudsman, whereas a new facility, which would permanently resolve the issue of accommodation, has not yet been identified. Changed circumstances and increased workload require an increase in the number of employees, so it was estimated that the needs for the extension of the operational segment of the Expert Service of the Ombudsman require the employment of 20 new staff members in the coming two years. The proposal for the new organisational structure was submitted to the National Assembly.⁴²⁴

⁴²⁴ Ombudsman, The Report on the Implementation of the Strategy, January 2015.

Office of the Commissioner has no knowledge of whether the plans foreseen by this measure have been adopted and what is the timeframe for the realization of activities.⁴²⁵

The realization of this measure has not been addressed either by the Ministry of Finance, not the Ministry of Justice.

The second quarterly report of the National Assembly stated that the participation of the Committee for constitutional and legislative matters in the realization of the activity was not sufficiently clear and asked from clarification from the Ministry of Justice.

The third quarterly report of the National Assembly states that the Ministry of Justice explained that the role of the National Assembly in the realization of this measure is to provide consent to the plan, which would be developed by the Ministry of Justice. This plan was submitted in July 2014 and the report informs that the Committee will conduct activities in order to implement this measure in the forthcoming period.

The fourth quarterly report of the National Assembly did not address this measure.

Objective 4.9. Establish efficient and effective protection of whistleblowers (persons who report suspicions of corruption and suspected corruption)

The Action Plan foresees four measures for the achievement of this objective.

<p>Measure 4.9.1. To adopt the Law on the Protection of Whistleblowers (persons who report suspicion of corruption or make disclosures in the public interest)</p>
<p>The first activity foresees that by December 6 2013, the ministry in charge of judicial affairs and public administration develops and submits a Draft law on Amendments to the Law to the Government.</p> <p>The activity contains a remark that the experiences of the Agency need to be taken into account.</p> <p>Indicator: Draft law on amendments to the Law is submitted to the Government</p>
<p>The activity is fulfilled in line with the indicator.</p> <p>According to the data at the Agency's disposal, the activity is completed in the manner, but not within the timeframe envisaged by the Action Plan.</p>
<p>The second activity foresees that by February 6 2014, the Government submits the Draft law on Amendments to the Law to the National Assembly.</p> <p>Indicator: Draft law on Amendments to the Law is submitted to the National Assembly.</p>
<p>The activity is fulfilled in line with the indicator.</p> <p>According to the Agency's data, the activity is fulfilled in the manner, but not in the timeframe envisaged by the Action Plan.</p> <p>Remark: The Government completed the activity within the envisaged two month timeframe, but due to delays by the responsible entity, it cannot be held responsible for the non-fulfilment of this obligation envisaged by the Action Plan.</p>
<p>The third activity foresees that by April 6 2014, the National Assembly adopts the Law on Amendments to the Law.</p> <p>Indicator: Law on Amendments to the Law is adopted.</p>
<p>The activity is fulfilled in line with the indicator.</p> <p>According to the Agency's data, the activity is fulfilled in the manner, but not in the timeframe envisaged by the Action Plan.</p> <p>Remark: The National Assembly completed the activity within the envisaged two month timeframe, but due to delays caused by the first responsible entity, it cannot be held responsible for the non-fulfilment of this obligation within the timeframe envisaged by the Action Plan.</p>
<p>The Agency concludes that by completion of all activities within this measure, the measure is fulfilled.</p>

On September 30 2013, the Ministry of Justice and Public Administration established a working group for preparation of the working version of the Draft Law on Protection of Whistleblowers, consisted of representatives of the Ministry of Justice and Public Administration, the Faculty of Law in Belgrade, the Criminalistics Police Academy, courts and prosecutor's offices, the Court of Honour of the Serbian Chamber of Commerce, Pistaljka Portal, the Police Directorate for the City of Belgrade, the Confederation of autonomous trade

⁴²⁵ Commissioner for Information of Public Importance and Personal Data Protection, The Report on the Implementation of the Strategy, January 2015.

unions of Serbia, the Labour Inspectorate and the Serbian Employers Association.⁴²⁶

After the public hearings were completed, the final draft of the text was finalized. Public hearings took place in Belgrade and other major cities. According to the report of the Ministry of Justice, calling extraordinary parliamentary elections and time, which was needed to establish a new government, were the reasons due for which the activity had not been completed within the timeframe. The mentioned period of time was used to extend the public hearing process, which generated a huge number of comments, based on which, the first working version had been upgraded.⁴²⁷

In the second half of June 2014, the Ministry of Justice published a new version of the Draft Law, which was prepared, as it had been emphasized, after reviewing of all received suggestions. After the public hearing process was completed, on September 17 2014, the Ministry of Justice, referring to Article 46 of the Government's Rules of Procedure, submitted the final Draft Law on Protection of Whistleblowers to the Agency for provision of opinion.

The Agency deems that the adoption of this Law is important for the creation of the regulatory and institutional framework for the protection of whistleblowers, which is one of the most important anti-corruption mechanisms.

The adopted Law partially accepted the comments collected during the public hearing process, referring of the right of protection of whistleblowers, types of whistleblowing (internal, external, or alerting the public), as well as interim and final provisions. However, the Law contains certain deficiencies and weaknesses, which may, according to the Agency's view, jeopardize the achievement of the proclaimed objective - establishment of the efficient and effective protection of whistleblowers. In addition to that, the Law mostly governs the process related issues, which remain, in certain segments, insufficiently regulated.

More specifically, according to the Agency's view, the provisions, which are insufficiently precisely regulated, refer to the right of the protection of whistleblowers, time sequencing of different types of whistleblowing, alerting the public and whistleblowing in cases when information contains secret data. Furthermore, the procedure of internal whistleblowing should have been regulated in more detail, to enable refuting of legality of an individual act of the employer by a lawsuit for protection due to whistleblowing, foresee the procedure for the protection and temporary protection before another institution, besides the court, amend the provisions referring to supervision over the implementation of the Law and amend the interim and final provisions.

According to the Law, a person who performs a relevant disclosure in the public interest has no right to receive a reward. According to the Agency's view, the adoption of provisions which are present in the comparative law should have been considered, stipulating the right to reward in a situation when whistleblowing has led to acquiring of public revenues which otherwise would not have been acquired, and that the amount of the reward should be defined as a certain percentage and its maximum amount prescribed.

On October 2nd, the Government approved the Draft Law on Protection of Whistleblowers, which was adopted by the National Assembly on November 25 2014.⁴²⁸ According to its final provision, the Law came into force on the eighth day from the date of publishing in the "Of-

ficial Gazette RS", whereas its implementation shall commence six months from the date of entry into force, in June 2015.

Activities foreseen for the fulfilment of the **measures 4.9.2., 4.9.3. and 4.9.4.** were not due for implementation until the end of 2014.

Objective 4.10. To establish a system for the prevention of conflict of interest of employees in the public sector

The Action Plan foresees three measures for the achievement of this objective, which were not due for realization until the end of 2014.

426 Anti-Corruption Agency, The Report on the Implementation of the Strategy and the Action Plan, March 31, 2014, pgs. 123-124, available at: <http://www.acas.rs/izvestaji/godisnji-izvestaji/>.

427 Ministry of Justice, The Report on the Implementation of the Strategy, January 2015.

428 „Official Gazette“, no. 128/14.

IMPLEMENTATION AND SUPERVISION OVER THE IMPLEMENTATION OF THE STRATEGY

This chapter of the Strategy defines one objective: to establish a system for implementation, coordination and supervision over the implementation of the Strategy (**objective 5.**).

For the achievement of this objective, five measures and 11 activities are foreseen and seven activities have been reviewed.

According to the Agency's assessment, out of the seven reviewed activities:

1. Four activities are not fulfilled in line with the indicator, whereas two activities are not fulfilled in line with the indicator, given that the previous conditioning activity was not implemented.
2. The Agency is not able to assess the fulfilment of three activities.

Execution of the Strategy and the Action Plan

Objective 5. To establish a system for implementation, coordination and supervision over the implementation of the Strategy

The Strategy foresees that the ministry in charge of judicial affairs serves as the coordinator for the Government, in charge of mutual communication, exchange of experiences and information on actions undertaken with a view to implement the Strategy and the Action Plan. With that end in mind, the ministry should establish a suitable organizational unit, which would take charge of the coordination of the implementation of the Strategy and serve as a contact point for cooperation with public authorities and public authorization holders and international organizations. Each of the entities committed to the Strategy, should appoint a contact person who would be monitoring the implementation of activities within their competences or scope of work of that committing entity. The Strategy further foresees that the ministry jointly with the Anti-Corruption Council organizes regular quarterly meetings, where contact persons from the ministries would exchange experiences related to the implementation of the document and it is expected that this method would facilitate the establishment, organization and simplification of regular mutual communication, exchange of information and coordination.

The Action Plan foresees five measures for the achievement of this objective.

Mepa 5.1. To establish an organizational unit within the Ministry competent for justice and public administration, which will be responsible for the coordination of implementation of the Strategy and which will be a focal point for cooperation with other public authorization holders and international organizations
The first activity foresees that by November 6 2013, the ministry in charge of judicial affairs and public administration conducts a needs analysis. Indicator: Needs analysis is conducted
The Agency is not able to assess the fulfilment of the activity.
The third activity foresees that by December 6 2014, the ministry in charge of judicial affairs and public administration engages an appropriate number of expert staff in line with the analysis. Indicator: the number and structure of employed staff matches the needs analysis.
The Agency is not able to assess the fulfilment of the activity.
The fifth activity foresees that by December 6 2014, the ministry in charge of judicial affairs and public administration procures technical and other equipment in line with the needs analysis. Indicator: Report on procured technical and other equipment is submitted.
The Agency is not able to assess the fulfilment of the activity.

* The second and fourth activities are assessed as fulfilled in last year's report.

It can be concluded from the report of the Ministry of Justice that these activities are completed within the designated timeframe. Furthermore, it needs to be emphasized that the responsible entity was mistakenly appointed for all activities within the measure, including the title of the measure, as the ministry in charge of judicial affairs and public administration, since at the time of the adoption of the Action Plan, the ministry of justice was covering the public administration sector as well, thus this is clearly an oversight.

At the beginning of August, the Government established a Coordination body for the implementation of the Action Plan to administer the Strategy, at the highest level, within the Government itself. As a reason for the establishment of such a body, the Minister of Justice stated the "unsatisfying results in the realization of the Action Plan", and during the opening session he emphasized that "by establishing this body, coordination has been elevated to the highest level", and that it was "accomplished in consultations with representatives of the EC." According to the Decision, the Coordination body consists of the Prime Minister, who governs its work, the minister in charge of judicial affairs, the ministry in charge of finance and a member of the Council. It is foreseen that the Coordination body meets at least once every six months, and if the need arises, other members of the Government and directors of public authorities may participate in its work. A special role is given to the state secretaries in the Ministry of Justice and Ministry of Finance, who coordinate the work of authorities competent for the implementation of the Action Plan, with intermediary support of persons who are appointed as contact points within these authorities. The State Secretary from the Ministry of Justice holds meetings with these persons once every three months, and if needed, organizes bilateral meetings. Competent authorities inform the Coordination body about the realization of the measures from the Action Plan, through the Ministry of Justice and the Senate, and the Body may propose to the Government to adopt decisions related to the implementation of the Ac-

tion Plan. The Agency expressed its opinion that, in this way, another parallel mechanism for monitoring of the implementation of the Strategy is being created, in addition to the coordination performed by the Ministry of Justice, as per the Strategy, and monitoring of results of implementation of the Strategy, performed by the Council.

According to the alternative report of the BCSP and APP, the manner in which the Coordination body was established, essentially represents a deviation from recommendations from the EC Screening Report Serbia for Chapter 23, which requires clarification of the roles of coordination and cooperation between different actors competent for the implementation and monitoring of the Action Plan, as well as clarification of competences and enhancement of the efficiency of the Strategy.⁴²⁹

Measure 5.2. is assessed as fulfilled in last year's report.

The Strategy further states that the supervision over the implementation of the Strategy and the Action Plan is within the competences of the Agency, as an autonomous and independent public authority, and then it sets out the details of the new supervisory system.

Measure 5.3. To amend the Law on the Anti-Corruption Agency in order to submit a report on the implementation of the Strategy to the National Assembly separately from the annual report and determine a timeframe for this, change the obligation to submit quarterly reports into an obligation to submit semi-annual reports, introduce an obligation to enclose evidence to the report and an obligation for responsible entities to respond to the Agency's invitation to attend meetings which are open for the public, treat as a violation the acts of non-submission of a report and non-responsiveness of responsible entities to the Agency's invitation, introduce a possibility for the Agency to provide its opinion on the execution of activities to the obliged entity it refers to, as well as to the body which has selected, nominated or appointed its director, whereas the obliged entity must discuss this opinion within 60 days and inform the Agency and the public about the conclusions.
The first activity foresees that by December 6 2013, the ministry in charge of judicial affairs and public administration develops and submits the Draft Law on Amendments to the Law to the Government. Indicator: Draft Law on Amendments to the Law is submitted to the Government
The activity is not fulfilled in line with the indicator.
The second activity foresees that by January 6 2014, the Government submits a Draft Law on Amendments to the Law to the National Assembly. Indicator: Draft Law on Amendments to the Law is submitted to the National Assembly
The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not implemented.
The third activity foresees that by March 6 2014, the National Assembly adopts the Law on Amendments to the Law. Indicator: Law on Amendments to the Law is adopted
The activity is not fulfilled in line with the indicator, given that the previous conditioning activity was not implemented.

⁴²⁹ The Alternative report of the BCSP and APP, pg. 80-81.

The Agency developed a Model of the new Law on the Anti-Corruption Agency, which incorporated the provisions from the Strategy and the Action Plan, and in July 2014, it submitted it in a form of an initiative for the adoption of the new Law, to the Ministry of Justice and distributed it to every member of the parliament and the Government. On January 29 2015, the Ministry of Justice established a working group for preparation of a working version of the Law on the Anti-Corruption Agency, which gathers several representatives of the Agency, among others, and which commenced its work on February 23 2015.

Amendments to the Law on the Anti-Corruption Agency, which should enable improvements in the field of supervision over the implementation of the Strategy were not adopted in 2014, even though the National Assembly, in its conclusions for adoption of the Report on the work of the Agency and Report on the implementation of the Strategy for 2013, expressed expectations that the Government would propose the amendments to the Law on the Anti-Corruption Agency to the National Assembly, as soon as possible, in order to adjust the legal framework for the work of the Agency to the needs identified in its work to date, including the supervisory role, which it would assume over the implementation of the Strategy and the Action Plan. On the other hand, the second draft of the Action Plan for Chapter 23,⁴³⁰ the adoption of amendments to the Law, which refer to the supervisory mechanisms over the Strategy, was planned for the last quarter of 2014, through the measure 2.1.4.2. In addition to postponing the deadline for the adoption of amendments to the Law, the Action Plan for Chapter 23 deviates from the mechanism determined by the Strategy and the **measure 5.3.** from the Action Plan, by leaving out the meetings to which the Agency can invite responsible entities and the public, and replacing them with the authorization of the Agency to invite job holders to deliver necessary information, and if needs be, provide additional oral information in relation to the information they have delivered. It is also unclear why the feedback mechanism for the responsibility of the job holder to whom the Agency delivers the opinion on non-execution or unsatisfying execution of the Strategy and the Action Plan, is left out as well, by not mentioning their obligation to discuss this opinion and inform the Agency and the public about the conclusions, as it was envisaged by the Strategy and the Action Plan.

Opinion and Recommendation of the Agency: This is not the only obligation from the Action Plan, whose due date for realization has been postponed by the second draft of the Action Plan for Chapter 23. This can raise concerns, in terms of responsible entities, clarity of deadlines in which they are obliged to undertake specific measure, and in terms of the Agency, in relation to the way in which it should treat future reports of responsible entities who would naturally be referring to this fact, as a reason for not implementing a particular obligation from the Action Plan within a designated timeframe. Hence, the relation between this document and the Action plan for the Implementation of the National Anti-Corruption Strategy in the Republic of Serbia for the period 2013-2018 needs to be clearly defined in the process of adoption of the Action Plan for Chapter 23, and timely and appropriate reviews of the Action Plan for Implementation of the Strategy conducted.

The Strategy further states that, after the submission of the annual reports of the Agency on the implementation of the Strategy from 2005, a mechanism for the further action of the National Assembly remained unclear, thus it is necessary to regulate the procedure for execution of conclusions adopted in regards to the review of the Agency's reports in the Rules of Procedure, with a possibility to undertake measures, in case that conclusions were not executed without justifiable reasons.

430 Second draft of the Action Plan for Chapter 23 is available at: <http://www.mpravde.gov.rs/tekst/7715/drugi-nacr-akcionog-plana-za-poglavlje-23.php>.

Measure 5.4. To amend the Law on the National Assembly so as to introduce an obligation of the Government to submit to the National Assembly, at least one a year, a report on the execution of conclusions of the National Assembly enacted as a result of reviewing the Agency's reports, within 6 months from the adoption of conclusions by the National Assembly, with the obligation to review the Government's report at the session of the National Assembly.

The only activity within the measure foresees that by March 6 2014, the National Assembly develops and adopts the Draft Law on amendments to the Law.

Indicator: Draft Law on amendments to the Law is adopted.

The activity is not fulfilled in line with the indicator.

With regards to this measure, the report of the National Assembly refers to the responses of the Ministry of Justice in relation to concerns from the Action Plan,⁴³¹ which states that for justifiable reasons, this timeframe may be extended for 20 months at the most, thus expiring in May 2015. The National Assembly did not state what are the justifiable reasons, due to which the measure still has not been completed.⁴³²

The National Assembly's conclusion on the adoption of the Annual Work Report of the Agency for 2013, and Report on the Implementation of the Strategy and Action Plan for 2013, binds the Government to submit a report on the execution of conclusions to the National Assembly within six months. The deadline for submission of the report to the National Assembly expired at the end of December 2014.⁴³³

The activity foreseen for the fulfilment of the **measure 5.5** was not due for realization until the end of 2014.

431 Responses of the Ministry of Justice and Public Administration to the questions raised by the Anti-Corruption Agency, March 2014, available at: <http://www.acas.rs/pracenje-strategije/>.

432 National Assembly, the Report on the Implementation of the Strategy, January 2015.

433 Alternative Report of the BCSP and APP, pg. 84.

RECOMMENDATIONS

In addition to the accomplishment of the Strategy objectives, imposing appropriate commitments to the realization and accountability for realization of objectives, which rests solely on public authorities, the Strategy also provides certain recommendations, which refer not just to the public authorities, but to the private and civil sectors, as well.

The recommendations are not binding, and no responsibility of public authorities is prescribed for not fulfilling the recommendations, especially of the entities from the private and civil sectors. Hence, the Strategy recommends: (1) to journalist associations to (a) enhance the Code of Ethics of Serbian Journalists, in the part which refers to presents and conflict of interest, as well as the application of the Code and acquainting the journalists with its provisions; (6) improve the education of journalists in the field of anti-corruption, with the aim to avoid journalistic sensationalism and further raise public awareness on the dangers and harmful effects of corruption, including the necessity of prevention; (2) to media publishers and providers of audio-visual media services, to adopt the acts which define procedures for handling presents and issues of conflict of interest of journalists and editors; (3) promotion and support in anti-corruption activities, and within that (a) support of media and experts; (b) education in the field of anti-corruption; (c) introduction of an annual award for the fight against corruption “Verica Barac” in categories of citizen, public servant, member of the profession, scientist, entrepreneur and journalist; (d) encouragement to initiate specialist or professional development programmes, as well as doctoral studies, dealing with different aspects of the fight against corruption; and (e) encouraging proactive cooperation and partnerships between the holders of anti-corruption measures and civil society organizations through activities, such as the organization of round tables, printing of publications and promotion materials on the dangers and harmfulness of corruption with anti-corruption measures.

Opinion and recommendation of the Agency: The Strategy does not foresee any methodology for monitoring the implementation of recommendations. As in last year’s report, the Agency recommends to the ministry in charge of judicial affairs to precisely define who is the addressee for the third, fourth and fifth recommendation, and then to consider the possibility to make the line ministries obligated to monitor these areas, in the scope of their commitment to supervise their respective sectors and inform the Agency about it within the regular reporting on the implementation of the Strategy, in order to provide information on the execution of the recommendations from the Strategy.

OUTLINE OF THE METHODOLOGY FOR THE ASSESSMENT OF THE COMPLETION OF ACTIVITIES AND PROVISION OF OPINION ON REALIZATION OF THE ACTIVITIES			
Competence of the Agency	Activities which were due for realization by the end of 2014, according to the Action Plan (except activities which have been assessed as fulfilled by the previous report, in line with the Action Plan), activities whose timeframe is labelled by the Action Plan as “permanent,” and activities for which the reports of the responsible entities confirm to have been completed prior to the deadline envisaged by the Action Plan		
Supervision over the implementation of the Strategy and the Action Plan (Article 5-1, of the Law on the Anti-Corruption Agency) In addition to reports, each entity, which is committed to the Action Plan, shall submit evidence for statements mentioned in the report, which are in compliance with the activity indicators from the Action Plan. In execution of supervision over the implementation of the Strategy, the Anti-Corruption Agency will use exclusively the activity fulfilment indicators. Documents and other materials referred to within these indicators, are submitted to the Anti-Corruption Agency, as evidence of completed activities (Action Plan, I. INTRODUCTION) Each quarterly report contains evidence of completed activities, which is in compliance with the indicator	Assessment of completion	Assessment of completion	Assessment of completion
	Activity is completed in line with the indicator	Activity is not completed in line with the indicator	Agency is not able to assess the completion of the activity
	If the indicator is formulated as material evidence, and the responsible entity delivers that evidence (for example, if the indicator is “the report on needs analysis”, and the responsible entity has submitted the report to the Agency or has made reference to a publicly available location where the report can be found). If the indicator is formulated as an activity, and the report of the responsible entity unequivocally suggests that the activity is completed (for example, if the indicator is an “adopted rulebook”, and the responsible entity quotes the number of the Official Gazette in which the Rulebook was published or makes a reference to the publicly available location where the Rulebook can be found). For the activities related to the organization of trainings which have multiple indicators, if the responsible entity has not delivered all indicators, and the report has not provided unequivocal evidence that trainings were actually taking place, the Agency	If the report of the responsible entity concludes that the activity is not implemented, and does not offer an explanation or recommendation to modify or erase the activity. If objective circumstances are given as to the reason why the entity was not able to implement the activity, or the entity recommends that the activity is modified or erased, due to the mentioned reasons, this is indicated in the remark. If the indicator is formulated as material evidence, whereas the responsible entity has not delivered that evidence, nor mentioned in the report that the activity has been completed. If the indicator is formulated as an activity, and the report of the responsible entity or other available and verifiable sources unequivocally suggest that the activity was not completed (for instance, the campaign is implemented according to the campaign plan”, whereas the responsible entity informs that informing of citizens is a continuing activity, or if the indicator is “budget funds are allocated”, whereas the ministry in charge of	If, from the report and submitted evidence of the responsible entity it cannot be unequivocally concluded whether the activity has been completed or not. If the responsible entity has not submitted a report or has not addressed the realization of the respective activity in its report.

(Agency’s guidelines for reporting on implementation and supervision over the implementation of the Strategy and the Action Plan)	assesses that the activity is fulfilled for the reporting period, with a remark that there is no available information on the manner in which the activity was completed. For “permanent” activities it is emphasized that the activity is completed for the respective reporting period. The Agency considers that realization of these activities is due for the specific year of the Strategy validity, for which the report is being prepared.	finance, as a responsible entity, does not inform about it, but the public authority to whose budget the indicator refers to, indicates that the funds in fact have not been allocated). If the activity is not fulfilled, given that the previous conditioning activity was not implemented, this is emphasized in the assessment. This is particularly the case with activities, which foresee adoption of new laws or amendments to existing laws, where neither the Government, nor the National Assembly are in a position to fulfil the activity until the line ministry develops the draft and submits it for the adoption procedure. For “permanent” activities it is emphasized that the activity is not realized for the respective reporting period.	If, from the report and submitted evidence of the responsible entity it cannot be unequivocally concluded whether the activity has been completed or not. If the responsible entity has not submitted a report or has not addressed the realization of the respective activity in its report.
Provision of opinion in relation to the implementation of the Strategy and the Action Plan (Article 5-7, Law on Anti-Corruption Agency)	Opinion and recommendation of the Agency	Opinion and recommendation of the Agency	Opinion and recommendation of the Agency
In exceptional cases, the Agency can provide an opinion which contains an assessment of the implementation of activities within the timeframe and in the manner defined by the Action Plan and recommendations for overcoming potential shortcomings (Strategy, 5.4. Supervision over the implementation of the Strategy and the Action Plan)	According to the data at the Agency’s disposal, the activity is realized in the manner and within the timeframe envisaged by the Action Plan (for instance, a draft law is developed within the deadline, and according to the Agency’s data, the content of the draft is in compliance with the measure, activity and instructions contained in the remark to the activity. According to the data at the Agency’s disposal, the activity is realized in the manner, but not within the timeframe envisaged by the Action Plan (for instance, according to the Agency’s data, a memorandum on cooperation is	If recommendations of the Agency are needed to overcome potential shortcomings stated in the report of the responsible entity or detected by the Agency.	If recommendations of the Agency are needed to overcome potential shortcomings stated in the report of the responsible entity or detected by the Agency. If needed, recommendations of the Agency for improvement of the reporting quality.

	<p>content-wise in line with the instructions from the measure, activities and remarks to activities, but it is not signed within the deadline envisaged by the Action Plan).</p> <p>According to the data at the Agency's disposal, the activity is realized within the timeframe but not in the manner envisaged by the Action Plan (for instance, if the indicator is "the budget funds are allocated" and the responsible entity has allocated the funds within the timeframe, but not in the amount which was foreseen by the instruction from the column "required resources").</p> <p>According to the data at the Agency's disposal, the activity was not realized either in the manner, or within the timeframe envisaged by the Action Plan.</p> <p>The Agency has no data whether the activity is realized in the manner or within the timeframe envisaged by the Action Plan.</p> <p>If the responsible entity has not managed to complete the activity by the deadline envisaged by the Action Plan, due to delays of the first or previous responsible entity in the schedule, but it is in the process of realization of the activity within the allowed timeframe, the Agency emphasizes this fact in the remark.</p> <p>If necessary, recommendations of the Agency for overcoming potential shortcomings stated in the report of the responsible entity or detected by the Agency.</p>		
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Competence of the Agency	Activities which were not due for realization by the end of 2014, according to the Action Plan, but the report of the responsible entity unequivocally suggests that implementation of the activities has commenced	
Supervision over the implementation of the Strategy and the Action Plan	Assessment of realization	No assessment
	Realization of activity is in progress If the reports of the responsible entity or evidence submitted by them unequivocally suggests that the measures have been undertaken with the aim to implement the activities from the Action Plan.	Agency does not provide information from the report of the responsible entity If the report of the responsible entity states that the realization of activities is in progress, or that measures for their realization are undertaken, but without indication of specific activities or undertaken measures, the report only states that "the realization of activities is in progress" or "measures are undertaken for the realization of activities"). If the report of the responsible entity refers to the measures, which clearly have not been undertaken with the aim to implement the activities from the Action Plan (for instance, when the responsible entity states that it regularly organizes seminars within the activity of conducting campaigns).
Provision of opinion in relation to the implementation of the Strategy and the Action Plan	Opinion and recommendation of the Agency	Opinion and recommendation of the Agency
	If recommendations of the Agency are needed to overcome potential shortcomings stated in the report of the responsible entity or detected by the Agency.	If needed, recommendations of the Agency for improvement of the reporting quality.



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