

**Priorities in fight against corruption in Serbia 2016-2020**

Starting from belief that fight against corruption involves implementation of activities that depend less on particular political programs, and more from **widely accepted principles and mechanisms for fight against corruption**, taking into consideration possible ideological and other differences between political actors, National Anticorruption Strategy, evaluations of relevant international organizations and evaluations of citizens and businessmen in Serbia, Transparency – Serbia (domestic non-governmental organization and member of global anticorruption network Transparency International), invites the future Government and Parliament to include following bullets into their program of activities, and all political groups that participate the parliamentarian elections in April 2016, either to accept them as their own or to state reasons why they are opposed to stated priorities, stances and proposed activities:

1. **Keeping of legal unity and legal security:** it should not occur that the Government proposes, Assembly adopts or that the President of the Republic declares the law if they were arguably warned that such act is **in contradiction with the Constitution**; from the same reason it should not occur that the law is proposed, adopted or declared, **that disturbs the legal system** by being in collision with previously adopted laws; Government should not adopt any regulation that is contrary to the law, nor to regulate matter that can be regulated only with law by its own regulations, especially when regulations are not being published. State officials must not leave any doubts on legal nature of state affairs and on signing of contracts and agreements, especially in arrangements with potential investors.
2. **More transparency and participation in the decision making process:** it should never occur that the Government proposes the law that hasn’t passed the **public debate;** sufficient time should be left for public debate, all suggestions must be **reconsidered,** and ministry that prepares the act must **elaborate why the prepositions were accepted or rejected.** To achieve this goal, Law on State Administration, Government’s Rules on Procedure and other regulations should be amended. Parliament should terminate poor practice, that undermines Constitutional civil rights, that draft laws that were submitted as people’s initiative or by oposition parties are not considered at all - there should be a deadline in place for placing such drafts into the agenda. It is necessary to legally regulate **lobbying** and to make it public, whetherit targets executive organs or deputies. **Minutes and discussions from Government sittings should be regularly published**; with the decisions on appointing, resolving and proposing of personnel, Government should provide explanation as well; web-site of the Parliament should publish all amendments submitted and reasons why proposer accepts or denies these amendments; process of negotiations and transparency of information **related to signing of international agreements and credit arrangements**, so that the deputies and public can have perspective on **whether the potential benefits are greater than the damage that occurs due to non implementing of regulations on public procurements and public-private partnership**.
3. **Caution with regulatory and financial interventions:** Each regulatory or financial intervention of the state, especially when it influences the economy, creates increased danger of corruption. Therefore such interventions should be done only when necessary or with the implementation of measures for prevention of corruption (e. g. determining of clear criteria for awarding the assets, publishing of information on decisions, supervision over their implementation). Among other, reform of regulations for removing the procedures that burden the economy and citizens, terminating the practice of giving privileges to business entities through remission or taking over of their debts and publishing of clear calculation of potential benefits from financial incentives through state aid compared to expenses of such aid.
4. **Strategic approach to fight against corruption:** Parliament should regularly monitor implementation of the Anticorruption Strategy, on the basis of the report of the Anticorruption Agency, to initiate procedure for amending the Strategy and the Action Plan where these documents are incomplete or activities are poorly formulated and to **hold accountable leaders that failed to perform their tasks**. Besides, implementation of other significant, already adopted strategic documents should be provided (e. g. Strategy of public procurement system development, Strategy of public administration reform etc.). Action plans from the area of European integration should be used as impetus for accelerating the reforms, and not as an excuse for delay of activities or their ignoring, as it was the case, to some extent, with draft Action Plan for chapter 23 negotiations. It should not occur that the Government proceeds contrary to strategic acts that adopted or proposed itself – if they will be treated as non binding reading, intended only for showing to foreign and domestic public, it is better not to spend energy to their adoption.
5. **Public sector reform** should comprehend, among other, following measures: adoption of the Law on Ministries where division of jurisdiction is in sole function of the efficiency of work, and does not satisfy the need of coalition partners; decreasing the **number of the members of the Government**; decreasing of total number of public sector employees, that is predominantly consequence of party employment, to number that is comparable to European countries of similar size but also to possibilities of budget financing; termination of practice of **increasing of public sector** with unnecessary relocation of state affairs to public agencies and organized forms with unclear legal status; analysis of public administration needs and publishing of findings; reviewing of current job classifications and their **harmonization with actual needs** of organs for fulfilling of legal tasks and not with the existing situation; introducing of **clear and objective criteria** for employment and advancement, as well as reconsideration of expertise of currently employed; introducing of measures for resolving of conflict of interest in public services (health, education etc.), in organizations of obligatory social insurance (health and retirement fund, NSZ) and in public enterprises and control of implementation of such measures in state administration and municipalities; appointing of heads of public enterprises and public services **on the basis of competitions** and quality of proposed program of work; regular consideration of business programs of public enterprises and reports on their realization and consistent implementation of legal norms or accountability of the directors for failing to implement the program and to publish these documents; strengthening of organs that perform supervision inside the executive authority, and especially **budget inspection**.
6. **Full respecting and strengthening of the status of independent state organs in fight against corruption:** As one of its first tasks, new sitting of the Parliament should thoroughly reconsider the annual reports on work of the State Audit Institution, Ombudsman, Anticorruption Agency, Commissioner for Information of Public Importance and Protection of Personal Data and Republic Commission for Protection of Rights in Public Procurement Procedures (deadline will expire during the election campaign), to obligate the Government to resolve the problems indicated in these reports (e. g. failing to act by obligatory decisions, incomplete authorities, incomplete evidence on state property pointed out by the SAI). Among other, preposition of changes of the Law on Ombudsman and the Law on Free Access to Information that Government proposed even in 2011 should be adopted (or to formulate new ones on the basis of these prepositions), or to change the Law on Anticorruption Agency and the Law on Financing of Political Activities. Failing of the Parliament to check respecting of its conclusions from 2014, to adopt conclusions on the occasion of the report of independent organs in 2015, to hold accountable members of the Government that haven’t respected the obligatory decisions of independent organs and to elect missing members of the Board of the Anticorruption Agency reflected negatively to accomplishing of jurisdiction of independent organs and supervisory role of the Parliament.
7. Implementation of existing rules and amending them where necessary, in order to provide: complete **termination of practice of buying of media influence or wasting of public resources** through spending the money to promotional activities of public enterprises, ministries, provincial and local authorities; transparent **determining of public interest** that is accomplished through financing of media contents and **division of assets** for such intention; providing of **transparency of media ownership and other data that can indicate influence to** editorial policy (e. g. data on the biggest advertisers).
8. Providing of full implementation of the **Public Procurement Law** for reducing corruption in all three phases (planning – implementation of procedure – contract execution), through strengthening capacities of the organs that perform supervision over its implementation, greater transparency of all data on spending the budget, using of electronic public procurements, promotion of the system of protection of rights and termination of practice of implementing the largest infrastructural projects without implementing this law.
9. **Completion of judiciary reform:** It is necessary to promote practice of publishing of data about **methods for implementing criteria** for election and evaluation of judges’ work in each specific case, having in mind that recent published data on scoring the candidates show inconsistencies, to provide the candidates and the public with arguments on whether certain candidates haven’t fulfil conditions to be elected to the post, or why were chosen candidates better than the others. The Government, Parliament and politicians shouldn’t interfere into work of judiciary organs neither by preventing criminal prosecution nor by asking for it for certain individuals. Judges and public prosecutors should be held accountable for their work, as well as accountability of the members of HJC and SCP, which calls for necessary changes in regulation. Number of public prosecutors and judges that deal with cases of severe corruption should be adequate to scopes of this type of criminal.
10. **More of reported and investigated cases of corruption:** Having in mind that main corruption problem in Serbia is that only small proportion of criminal acts get reported, it is necessary to undertake measures to change this state. **Law on protection of whistleblowers** that should help accomplishing of this goal is adopted. Provisions of this law could have been much better, and according to available information, implementation of the law hasn’t resulted with significant increase of persons that shared their knowledge on corruption and other problems with authorized organs or public. For accomplishing of this goal it is also necessary to prescribe obligatory **release of criminal responsibility,** instead of facultative release of penalty, of bribe giver that couldn’t otherwise accomplish its rights in reasonable deadline and that reports the case. Second necessary measure is more **active approach** in investigating corruption by the police, prosecution and other organs. Public prosecutors should investigate whether there was corruption even before they receive criminal charge – by reading publicly available reports (e. g. report of SAI) but also on the basis of already determined patterns of behaviour (e. g. on the basis of data on abuses with construction land in one city to investigate the practice in other city that implements the same regulations). Third set of measures comprehends **amendments of criminal legislature** for more efficient discovering of corruption (e. g. introducing of „illicit enrichment“ from the article 20 of the UN Convention Against Corruption), **using of mechanisms for cross check of property and incomes** by the tax administration, specifying authorities and obligations of the Anticorruption Agency in **verification of accuracy and completeness of data on property and incomes of public officials**, wider use of **special investigative techniques**  and financial investigations in revealing corruption, in compliance with the law
11. **Clear and comprehensive plans of work, reports on work and their consideration**: Government submits annual reports on work, but they are not completely comparable to plans of work. Parliament should reconsider these reports, as well as reports on final budget account, which hasn’t been the case so far. In consideration of this report it is necessary to determine whether non financial indicators from the program budget were accomplished. Competent ministries and the Government should carefully consider plans of work and reports on work of public enterprises and other institutions and to make these results available to public. Adoption of the Law on Planned System of the Republic of Serbia and two additional regulations, created by the Republic Secretariat for Public Policy, would contribute significantly to resolving of stated problems.
12. Clear **division of jurisdiction and authorities of anticorruption state organs:** In that sense it is especially important to organize matter of authorities of Government Coordinator for fight against corruption, if there is intention to keep this concept in future, removing of **overlapping of jurisdictions** between Government coordination body and Anticorruption Agency (when it comes to prevention), or police Office for fight against organized crime and corruption and security services (when it comes to revealing of corruption).
13. Government should regularly **consider the reports and recommendations of its Anticorruption Council** and to undertake measures for resolving of problems these reports indicate to. When Council publishes its reports, Government should inform the public of how it proceeded in resolving of systemic problems (e. g. changes of regulations), resolving of individual problems (e. g. acceleration or stopping the procedure, dismissal of accountable leaders, inspection control, criminal charges) or further verification of the facts.
14. **All political parties, coalitions and civil groups** should timely submit their reports on campaign financing for parliamentarian, provincial and local elections, to support implementation of through control of these reports and implementation of legal measures against potential violators. Respecting of regulations in the election campaign should be monitored by the following organs: Anticorruption Agency (related to campaign financing and proceeding of public officials), Regulatory body for electronic media (related to disruption of equality when advertising and presenting the participants of the election in media), State Audit Institution (related to use of public resources during the campaign), public prosecution (related to abuse of public resources and bribe giving related to voting) and Fiscal Council (related to election promises that can influence the fiscal balance). We conclude with regret that Supervisory Committee of the National Assembly wasn’t established for this election as well, which was obligatory on the basis of the Law on Election of Deputies, because the Government and most of the deputy groups (except from three) haven’t proposed candidates for that body. Due to that no state organ will monitor sufficiently certain problematic phenomenon in the campaign. TS thinks that this committee should be established right after the new National Assembly is established and that legal framework for the election campaign should be amended, primarily through limiting of promotional activities of public officials during the campaign and through setting up of rules related to campaigns of third persons related to elections.
15. **Changing of the Constitution** is currently planned as part of European integrations and for strengthening of independency of judiciary (changes of composition of High Judiciary Council and State Prosecutors’ Council); However, amendment of the highest legal act is necessary for more efficient fight against corruption, among other, for narrowing of too wide immunity of criminal prosecution, decreasing the number of deputies, organizing of the status of independent state organs, setting up of barrier for violation of rules on disposing with public finances through excessive borrowing and international contracts, better organization of resolving conflict of interest and providing of firmer guarantees for transparency of authority organs’ work.

Transparency – Serbia

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