



National Integrity System Assessment

Serbia 2023



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Serbia 2023

Belgrade, February 2024

NATIONAL INTEGRITY SYSTEM ASSESSMENT – SERBIA 2023

PUBLISHER:

Transparency Serbia
Palmotićeva 31
Belgrade
Republic of Serbia
www.transparentnost.org.rs
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The National Integrity System Assessment (NIS) of Serbia is prepared by Transparency Serbia (TS), in cooperation with Transparency International Secretariat in Berlin (TI-S).

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ACKNOWLEDGEMENTS:

We would like to thank all of those who contributed to this report and in particular those who were interviewed by the research team, some of whom have asked to remain anonymous; the Research Advisory Group, whose insights and support were invaluable and our colleagues at the TI Secretariat for assistance in the project design and methodology.

PROOFREADING:

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DESIGN AND LAYOUT:

Marko Zakovski

PRINT:

Unagraf, Belgrade

PRINT RUN:

100 pcs

ISBN-978-86-84711-58-0

NOTE:

Every effort has been made to verify the accuracy of the information contained in the report. All information was believed to be correct as of 31 December 2023. Nevertheless, Transparency Serbia and Transparency International cannot accept responsibility for the consequences of its use for other purposes or in other contexts.



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LIST OF ABBREVIATIONS

ACA	Anti-Corruption Agency
APC	Agency for the Prevention of Corruption
AFR	annual financial report
BIRODI	Bureau of Social Research
CABMII	Committee On Administrative, Budgetary, Mandate And Immunity Issues
CGC	Corporate Governance Codes
CINS	Serbian Center for Investigative Journalism
CPI	Corruption Perception Index
CRTA	Center for Research, Transparency and Accountability
CSO	Civil Society Organisation
EMB	Electoral Management Body
EC	European Commission
ECSC	Election Campaign Supervisory Committee
EPS	Elektroprivreda Srbije
EU	European Union
FATF	Financial Action Task Force
FOI	Freedom Of Information
GDP	Gross Domestic Product
GONGO	Government-Organised Non-Governmental Organisation
GRECO	Group of States against Corruption
GOPAC	Global Organization of Parliamentarians Against Corruption
HCSC	High Civil Service Council
HJC	High Judicial Council
HPC	High Prosecutorial Council
HPPO	Higher Public Prosecutor's Offices
IJAS	Independent Journalists Association of Serbia
INTOSAI	International Organization of Supreme Audit Institutions
IPI	International Press Institute
IPO	Intellectual Property Office
IPTV	Internet Protocol Television
JAS	Journalists Association of Serbia
JSC	Joint-Stock Company
KRIK	Crime and Corruption Research Network
LAPC	Law on the Agency for the Prevention of Corruption
LCS	Law of Civil Servants
LEC	Local Election Commissions
LEM	Law on Electronic Media
LEMP	Law on the Election of the Members of Parliament
LFPA	Law on the Financing of Political Activities
LGBTQI+	Lesbian, Gay, Bisexual, Transgender, Queer, Intersex And Ally
LMBE	Law on the Management of Business Entities

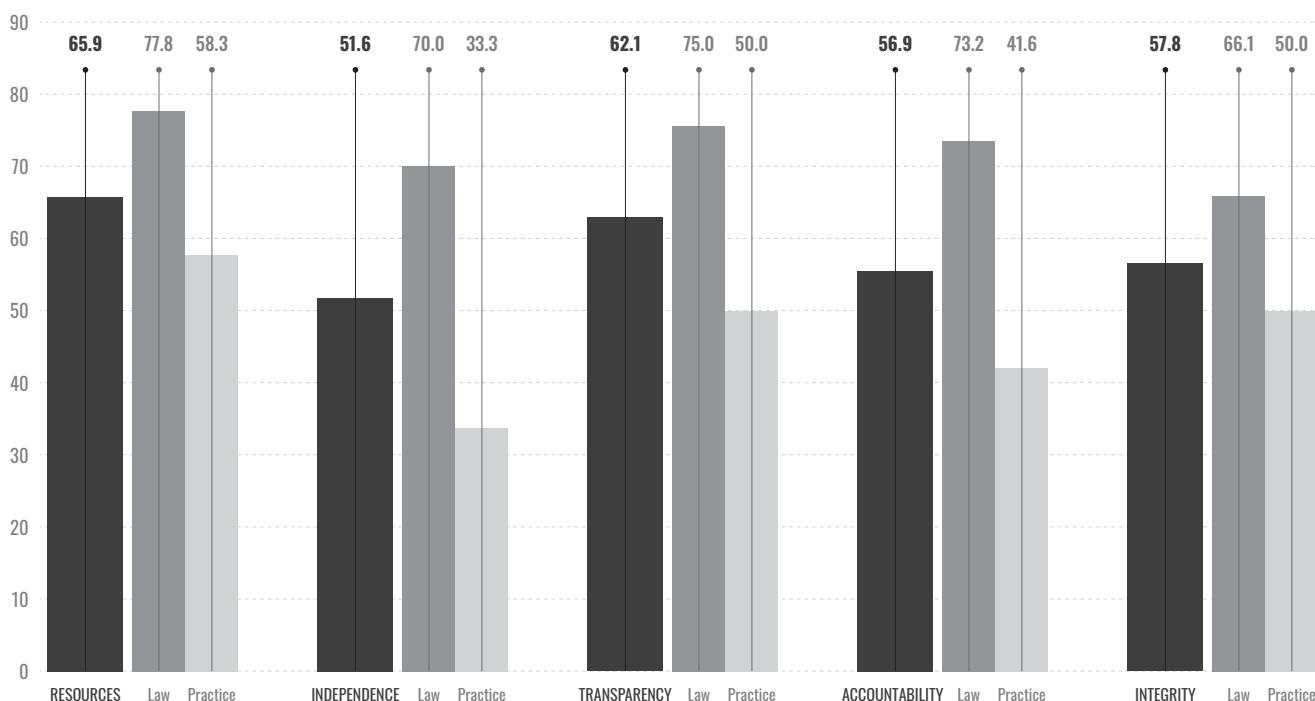
LPC	Law on the Prevention of Corruption
LPIM	Law on Public Information and the Media
LPP	Law on Public Procurement
LPW	Law on the Protection of Whistleblowers
LSA	Law on State Administration
MFRR	Media Freedom Rapid Response
MoE	Ministry of Economy
MoF	Ministry of Finance
MoJ	Ministry of Justice
MP	Member of Parliament
MPALSG	Ministry of Public Administration and Local Self-Government
NBS	National Bank of Serbia
NCEU	National Convention on the European Union Working Group
NGO	Non-Governmental Organisation
NIS	National Integrity System
ODIHR	Office for Democratic Institutions and Human Rights
OECD	Organisation for Economic Co-operation and Development
OSCE	Organization for Security and Co-operation in Europe
PAR	Public Administration Reform
PONGO	Political Party Organised NGO
PPO	Public Procurement Office
PPP	Public Procurement Portal
REC	Republic Electoral Commission
REEC	report on the expenses for the election campaign
REM	Regulatory Body for Electronic Media
RERI	Renewables and Environmental Regulatory Institute
RSF	Reporters Without Borders
SAI	State Audit Institution
SBRA	Serbian Business Register Agency
SCCI	Chamber of Commerce and Industry of Serbia
SIGMA	Support for Improvement in Governance and Management Programme
SJCE	Serbian Journalists' Code of Ethics
SLAPP	Strategic Lawsuit Against Public Participation
SME	Small and Medium-Sized Enterprises
SNS	Serbian Progressive Party
SOE	State-Owned Enterprise
SPS	Socialist Party of Serbia
TI	Transparency International
TS	Transparency Serbia
UNCAC	United Nations Convention against Corruption
USAID	United States Agency for International Development
UST	Association of Judges and Prosecutors
WPR	World Politics Review

Executive Summary

Transparency Serbia (TS) conducted this national integrity system (NIS) assessment in 2022 and 2023 to identify strengths, weaknesses and areas of progress, stagnation and backslide in comparison to previous rounds of the research implemented in 2011 (with a 2014/15 update). Serbia has not had a National Anti-Corruption Strategy since 31 December 2018, although the drafting of a new one was scheduled for 2023, to which this research can contribute. The NIS provides valuable insights into areas that a new anti-corruption strategy is expected to cover, plus goes beyond that into areas that are not in the current focus. By actively participating in the strategy drafting process in parallel with the NIS research, and through numerous advocacy initiatives submitted in the context of legislative public debates, TS has already contributed to the identification of problems and possible solutions among stakeholders even before publishing this report.

As in the previous NIS research reports, by far the greatest concern is the gap between relatively good laws, rules and institutional set-ups and actually implementing such rules and the effectiveness of the institutions.

Figure 1: Law and Practice – Average scores across all pillars



Among the various components of the NIS, the highest average score (58.9 out of 100) is recorded in the governance section, which is mostly the result of developed standards in related areas. Capacities are ranked on average 57.7, on the basis of legislative provisions to ensure institutions have the necessary resources. However, in practice, the capacities are insufficient throughout the system, with chronic discrepancies between the number of resources planned and those effectively provided to the institutions. This also includes a shortage of staff and, to a much lesser extent, equipment and training. However, it is evident that even with the current level of available resources, the effectiveness of institutions could be significantly better if all opportunities were used. Furthermore, an element that increasingly undermines the integrity system of the country is the widespread practice of appointing temporary heads of institutions, in particular to public administration and state-owned enterprises, but also to the judiciary, public prosecution and police. Fulfilment of the institutions' role in the national integrity system to fight corruption proved to be the biggest problem. Even those pillars with the best scores (such as the State Audit Institution, civil society and the Agency for the Prevention of Corruption) the research shows that even they do not achieve the highest standards of performance, which, in turn, adversely influences the effectiveness of the overall system.

Figure 2: Capacity, Governance and Role – average score for indicators across all pillars

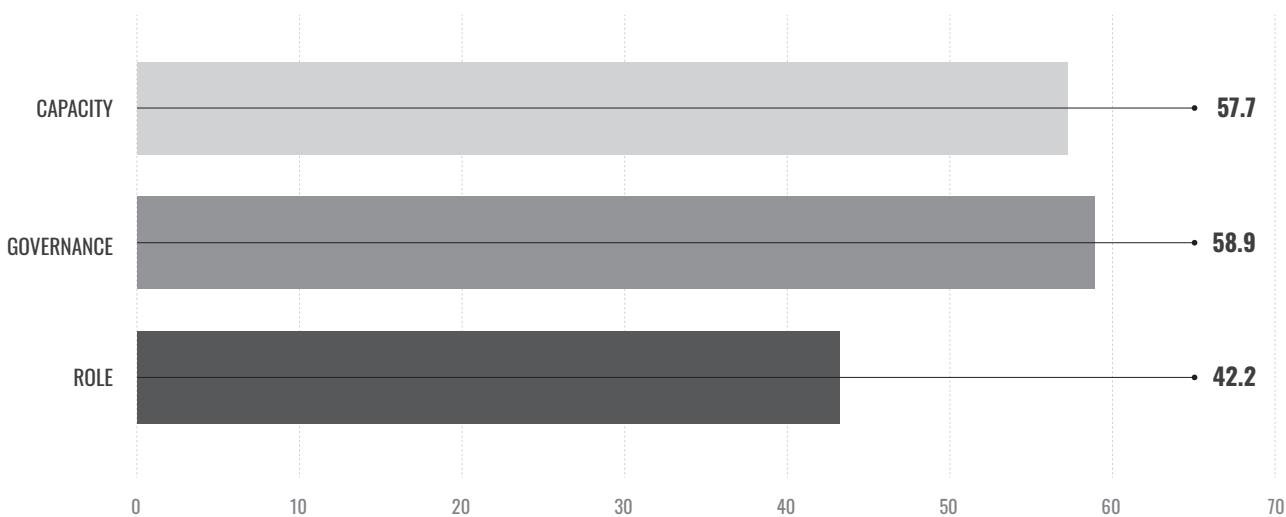
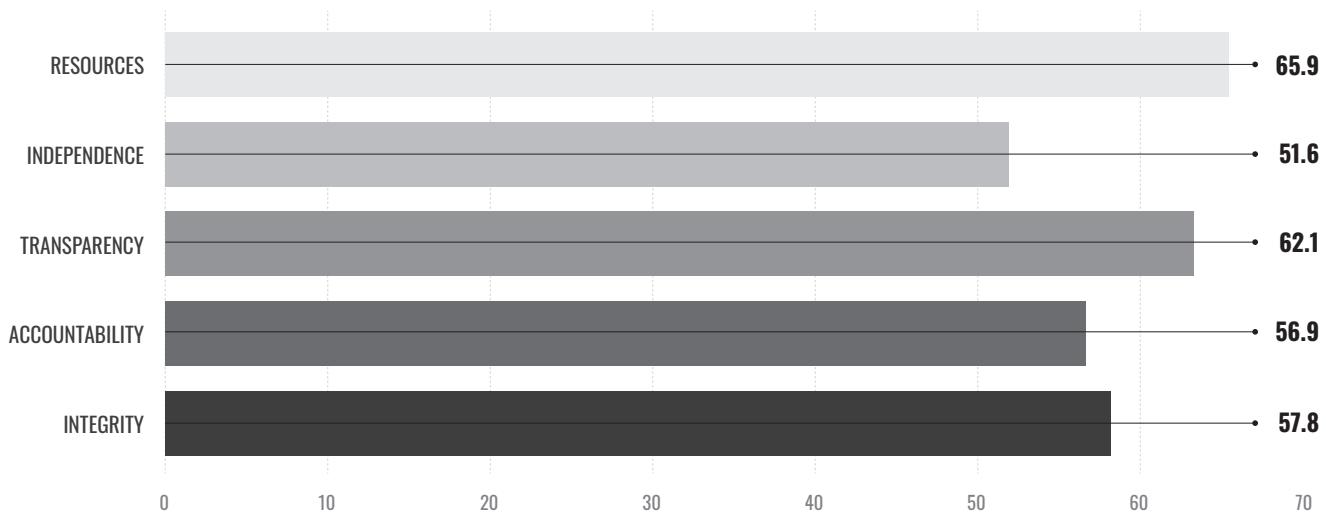


Figure 3: Average scores across all pillars



On a positive note, the greatest asset of Serbian national integrity system is its institutional set-up. Over the time, Serbia has established all institutions that a NIS should have, except for an independent electoral management body. However, the institutional framework proved to be fragile. Constitutional and legal guarantees of institutional independence and principles of checks and balance are diverted in practice by the division of real political power. The ability and willingness of most institutions to fulfil their role in curbing or prevention of corruption ultimately relies on parliament. However, parliament shows little will to protect and improve the independent work of watchdog institutions, with ruling parties' MPs subordinated to their political leaders positioned in the executive branch.

The legal framework is relatively well developed, which is another good starting point for building a more functional NIS. Still, significant improvements are needed in almost all areas. Even in cases where legislation fulfils good international standards, reforms are still necessary. In the long term, the main concern for the NIS is the fact that legislative reforms are not sufficiently driven by national stakeholders. While there is an active civil society that identifies problems in legislation and proposes solutions as well as investigative media exposing consequences of loopholes and tailor-made laws, the responsiveness of public sector stakeholders is at a rather low level. Interaction between pillars does not function smoothly either – even if weaknesses in legislation are recognised by law enforcement, the judiciary, Agency for Prevention of Corruption or other bodies, typically it takes years for the government to propose improvements. As a result, most of the legislative reforms are driven by the recommendations and criticism from the relevant international organisations, such as GRECO, ODIHR, Venice Commission and SIGMA or by EU bodies. Even then, the reforms are implemented with significant delays and only to fulfil minimal requirements that would ensure positive opinions.

Greater effectiveness could be achieved by improved inter-institutional cooperation, more open channels of communication with the civil sector, business and media, wider use of electronic communication and publishing data in an open format. Similarly, existing resources could be better used, in particular when it comes to public prosecution, by focusing on the most prominent high-level cases of suspected corruption.

Key recommendations of the Serbian NIS research are:

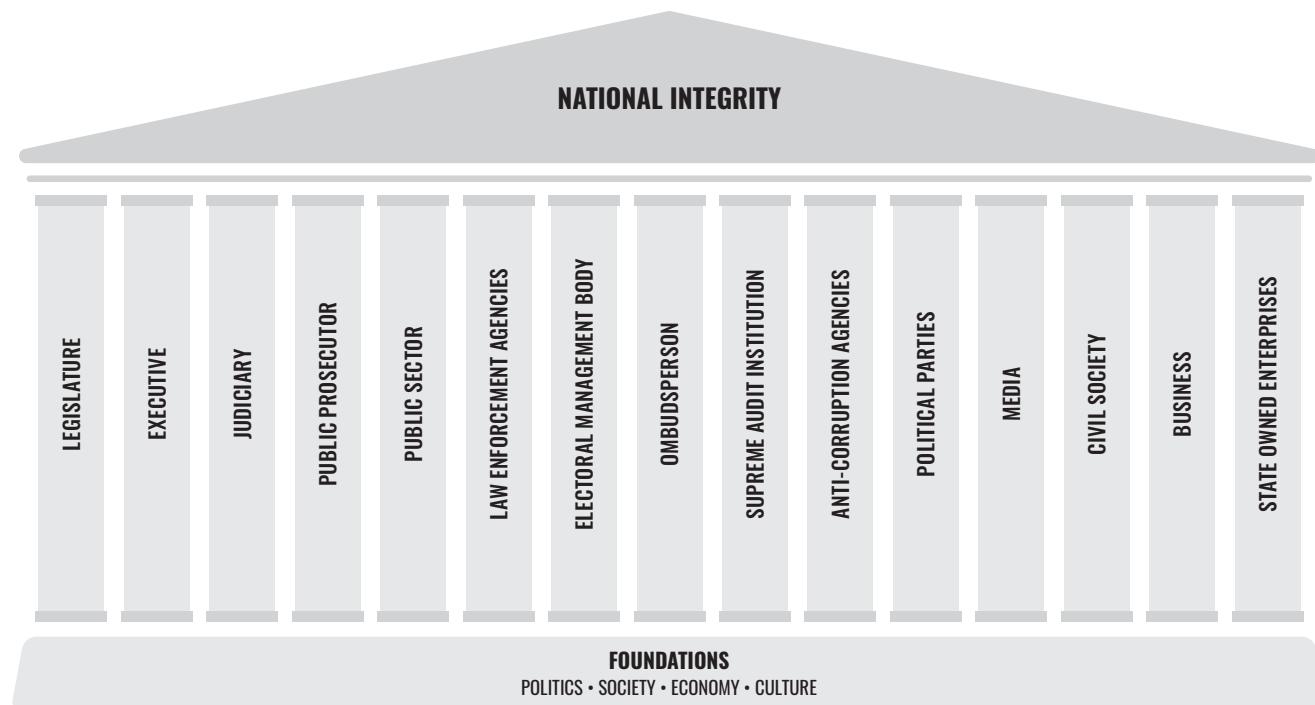
- The government should propose and parliament should adopt a new anti-corruption strategy. In addition to the measures specific for selected sectors, this strategy should address issues that could improve the system as a whole as well as cross-cutting issues, which is not sufficiently the case with the current draft strategy document. The measures envisaged should be sufficient to ensure the defined goals can be achieved (also, not the case with the current draft). Indicators of success, both on the goals and activity level should be precisely set and sufficiently ambitious (not the case with the current draft).
- Public prosecution offices should proactively investigate (even if there is no criminal charge submitted) all claims of corruption that are documented and should take a leading role in informing citizens on the suppression of corruption. To enable public prosecution to perform that role, the State Prosecutorial Council and the Ministry of Justice should ensure increasing of their capacities and initiate changes in Criminal Code, criminal procedure code, law on the organisation and powers of state bodies in suppression of organised crime, terrorism and corruption that would facilitate such investigations, in particular when it comes to high-level corruption.
- The government and parliament should stop their practice of undermining anti-corruption legislation by adopting special laws for individual projects, excluding the implementation of anti-corruption laws through state-to-state agreements and the adoption of authentic interpretations of the existing legislation.
- The government should stop its practice of illegal appointments of top civil servants in public administration and in public enterprises and ensure appointment of professional managers instead.

Introduction

The national integrity system (NIS) comprises the principal governance institutions in a country responsible for the fight against corruption. When these governance institutions function correctly, they constitute a healthy and robust national integrity system, effective in combating corruption as part of the larger struggle against the abuse of power, misconduct and misappropriation in all its forms. However, when these institutions are characterised by a lack of appropriate regulations and by unaccountable behaviour, corruption is likely to thrive, with adverse ripple effects on the societal goals of equitable growth, sustainable development and social cohesion. Therefore, strengthening the NIS promotes better governance in a country and contributes to a more just society overall.

Transparency International developed the NIS as part of its holistic approach to combating corruption. While there is no absolute blueprint for an effective anti-corruption system, there is a growing international consensus on the salient aspects that work best to prevent corruption and promote integrity. The NIS assessment evaluates the legal basis and the actual performance of institutions relevant to the overall anti-corruption system. The NIS comprises the institutions or “pillars” depicted in Figure 4, which are based on a number of foundations in terms of political, social, economic and cultural conditions.

Figure 4: Pillars of a National Integrity System



The NIS is based on a holistic approach to preventing corruption since it looks at the entire range of relevant institutions and focuses on the relationships among them. Thus, the NIS presupposes that a lack of integrity in a single institution would lead to severe flaws in the entire integrity system. Consequently, the NIS assessment does not seek to offer an in-depth evaluation of each pillar but rather puts an emphasis on covering all relevant pillars and assessing their inter-linkages.

Transparency International believes that such a holistic “system analysis” is necessary to appropriately diagnose corruption risks and develop effective strategies to counter those risks. This analysis is embedded in a participatory approach, involving the key anti-corruption agents in government, civil society, the business community and other relevant sectors to build momentum, political will and civic pressure for relevant reform initiatives.

The NIS assessment creates a sound empirical basis that adds to our understanding of strong or weak performers at a cross-country level. In addition, from a regional perspective, the results can create a sense of peer pressure for reform and an opportunity for learning from those countries in similar stages of development.

Country Profile

Foundations of the national integrity system

Governance and politics

Serbia is a parliamentary democracy with a multi-party electoral system since 1990. The people elect the president for a maximum of two five-year terms. The parliament is unicameral, with 250 deputies elected under a proportional electoral system for four years, with the whole country as a constituency. Parliament also elects the prime minister on the proposal of the president for four years. From 2000 to 2012, the political system was characterised by the rotation of power and influence within the group of political parties forming fragile coalitions. There has been one highly dominant party since 2012, particularly since 2014, although as part of coalitions. The government has the capacity to implement its policies and control the territory, excluding Kosovo and Metohija which has been, in practice, mostly excluded from the Serbian legal system since 1999.

According to the constitution, the president's role is mainly ceremonial. In practice, however, since 1990, the system resembles semi-presidential or presidential whenever the leader of the ruling party is elected to that post. Currently, political power is excessively concentrated in the hands of Aleksandar Vučić,¹ president of the republic and undisputable leader of the ruling Serbian People's Party (SNS), even after his formal resignation from this post in late May 2023. According to the World Politics Review (WPR), Serbia, two decades after the fall of Slobodan Milošević's regime, is returning to a dictatorship.²

According to the ODIHR, diverse political options are offered in elections, but several shortcomings result in an uneven playing field, favouring the incumbents.³ When it comes to positions in government, regardless of the constitutional powers of the prime minister and MPs, the current president is the one who decides.⁴ Even for most positions considered non-political, such as assistant ministers⁵ and directors of state-owned enterprises,⁶ there is no competition; instead, arbitrarily appointed acting officials occupy posts. The rule of law is insufficiently entrenched, and it has notably declined. The president effectively decides even how long the mandate of parliament should be.⁷ In most instances, the mechanism that undermines the rule of law is relevant authorities and officials (parliamentary majority, constitutional court and other independent bodies) abstaining from the full use of their powers. Freedom House rated Serbia as a transitional or hybrid regime for the fourth year.⁸ Almost a third of citizens believe there is no democracy in the country.⁹

- 1 European parliament. Briefing (EPRS – European Parliamentary Research Service), p.4, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/637944/EPBS_BRI\(2019\)637944_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/637944/EPBS_BRI(2019)637944_EN.pdf); The Guardian. 2022. "Serbia 'sliding towards autocracy' as president secures second term", <https://www.theguardian.com/global-development/2022/apr/21-serbia-sliding-towards-autocracy-as-president-secures-second-term> Democratic Erosion. 2023. "Serbia: A case of Competitive Authoritarianism", <https://www.democratic-erosion.com/2023/01/05-serbia-a-case-of-competitive-authoritarianism/>
- 2 World Politics Review. 2019. "Two Decades After the Fall of Milosevic, Dictatorship Is Returning to Serbia", <https://www.worldpoliticsreview.com/articles/27847/two-decades-after-the-fall-of-milosevic-dictatorship-is-returning-to-serbia>
- 3 OSCE. 2022. ODIHR Election Observation Mission, Presidential and Early Parliamentary Elections 3 april 2022, https://www.osce.org/files/documents/0/0/524385_0.pdf, p.3.
- 4 Istinomer. 2020. Prime Minister Ana Brnabić: „Vučićeva ustavna nadležnost da odlučuje o sastavu Vlade Srbije (Vučić's constitutional authority to decide on the composition of the Government of Serbia)", <https://www.istinomer.rs/izjava/vuciceva-ustavna-nadleznost-da-odlucuje-o-sastavu-vlade-srbije/>
- 5 Insajder, insajder.rs.2019. Država u „VD stanju": Direktori javnih preduzeća i državni službenici godinama na funkcijama vršilaca dužnosti iako zakon to zabranjuje (State in "acting director state": Directors of public companies and civil servants have been in acting positions for years, even though the law prohibits it), <https://insajder.net/arkhiva/tema/drzava-u-vd-stanju-direktori-javnih-preduzeca-i-drzavni-sluzbenici-godinama-na-funkcijama-vrsilaca-duznosti-iako-zakon-to-zabranjuje>
- 6 Transparentnost Srbija.2023. A decade of violations of the Law on Public Enterprises), <https://www.transparentnost.org.rs/en/ts-and-media/press-issues/12376-a-decade-of-violations-of-the-law-on-public-enterprises>
- 7 Nova, nova.rs. 2022. Vučić je ograničio trajanje nove Vlade Srbije: Šta se krije iza ove odluke predsednika (Vučić limited the duration of the new Government of Serbia: What is hidden behind this decision of the president), <https://nova.rs/vesti/politika/vucic-je-ogranicio-trajanje-nove-vlade-srbije-sta-se-krije-iza-ove-odluke-predsednika/>; The same happened in 2020 – Radio Slobodna Evropa. 2020. Vučić: Opet izbori 2022, Vlada ograničenog trajanja, Dačić na čelu Skupštine (Vučić: Elections again in 2022, Government of limited duration, Dačić at the head of the Assembly); Freedom House, Report 2023, Nations in Transit, <https://freedomhouse.org/country/serbia/nations-transit/2023>
- 8 Freedom House. Report 2023, Nations in Transit, <https://freedomhouse.org/country/serbia/nations-transit/2023>
- 9 Belgrade Centre for Security Policy. 2021. BCBP, Research: There is no democracy in Serbia, and it is not even desirable.

Serbia's position on the Rule of Law Index of the World Justice Project fell two places to 83 out of 180 in 2022.¹⁰ Serbia scores poorly in constraints of government powers, declining significantly from 0.50 in 2015 to 0.37 in 2022.¹¹ Serbia has not had an anti-corruption strategy for several years. With a growing number of unsolved corruption cases, the country fell below the hundredth place (101) on Transparency International's Corruption Perception Index in 2022.¹²

Society and culture

The constitution and legislation guarantee human and civil rights. Every person has a right to judicial protection.¹³ The constitution also guarantees minority rights, individual and collective, and prohibits any discrimination.¹⁴ However, some minorities, such as the Roma and LGBTQI+ communities, still face prejudice and discrimination.¹⁵

Despite the laws guaranteeing the rights to the free action of civil society and the media (including freedom of expression, association and assembly), the ruling party has steadily eroded political rights and civil liberties, exerting pressure on independent media, political opposition and civil society organisations (CSOs).¹⁶ Since 2019, CIVICUS has assigned Serbia the rating of an obstructed society.¹⁷

Corrupt practices provide space for wide clientelistic networks in Serbia.¹⁸

Serbian citizens generally do not trust institutions, especially the judiciary and laws.¹⁹ Two-thirds of citizens think that there is a lot or very much corruption in Serbia (65%).²⁰ 63% believe that human rights are not respected.²¹

At the same time, Serbia has become a deeply polarised society in recent years²² with mainly political divisions: government or opposition, Kosovo* or Europe, and East or West.²³

Economy

The Serbian economy recovered well after a mild 2020 recession (caused by the pandemic), but several domestic and international factors caused an economic slowdown in 2022.²⁴

According to preliminary estimates from the Serbian Statistical Office, real GDP growth in 2022 was 2.3%.²⁵ In 2021, real economic growth was 7.4%,²⁶ and GDP per capita was €7,697.²⁷

Serbia has pronounced economic and social inequalities.²⁸ The poor population is increasing, and allocations for social assistance are decreasing. According to available data, about 450,000 people (6.9% of the population) live in

10 World Justice Project (WJP). 2022. Rule of Law Index 2022, Section: Serbia overall score, 2022, <https://worldjusticeproject.org/rule-of-law-index/country/2022/Serbia/>

11 World Justice Project. 2022. Report 2022, Section: constraints on government power.

12 Transparency International. Corruption Perception Index 2022, <https://www.transparency.org/en/cpi/2022/index/srb>

13 Constitution of the Republic of Serbia, Article 22.

14 Ibid, Article 21.

15 BTI Transformation Index. Serbia Country Report 2022, under the rule of law section, paragraph 12, <https://bti-project.org/en/reports/country-report/SRB#post2>

16 Freedom House. Freedom in the World, 2023, Overview.

17 CIVICUS. Monitor Report, Tracking Civic Space, <https://monitor.civicus.org/country/serbia/>

18 Bertelsmann Transformation Index (BTI): <https://bti-project.org/en/reports/country-dashboard/SRB>

19 <https://www.paragraf.rs/dnevne-vesti/260314/260314-stampa6.html>; Danas, Demostat, Research 2021, <https://www.danas.rs/vesti/politika/demostat/samo-15-odsto-gradjana-srbije-veruje-sudstvu/>

20 CRTA. 2021. Research: Citizens' opinion on corruption, CRTA, 2021 – <https://crt.rs/istrazivanje-mislijenje-gradjana-srbije-o-korupciji/>

21 Research by the Belgrade Centre for Human Rights in cooperation with the United Nations Human Rights Team in Serbia and Ipsos Strategic Marketing. 2019, <https://www.glasamerike.net/a/vi%C5%A1te-od-60-odsto-gra%C4%91ana-srbije-misli-da-se-ljudska-prava-ne-po%C5%8Ctuju/5198656.html>

22 Vladimir Kostić, President of the Serbian Academy of Sciences and Arts, interview for NIN, 2019; Zdravko Ponoš, candidate for president of Serbia in the 2022 elections, <https://www.danas.rs/vesti/politika/izbori22/ponos-srbija-duboko-podeljeno-drustvo-nadam-se-da-ce-ovi-izbori-doneti-normalnost/>; BBC. 2018. Crossing Divides: Europe "more split" than decade ago, <https://www.bbc.com/news/world-europe-43760959>

23 TALAS. "All our Divisions – Political and Psychological Roots of Polarization in Serbia", interview with assistant professor of the Faculty of Political Sciences Dušan Spasojević and social psychologist Prof. Dr Zoran Pavlović, <https://talas.rs/2020/05/11/sve-nase-podele/>

24 World Bank. Country Overview 2021, <https://www.worldbank.org/en/country/serbia/overview>

25 National Bank of Serbia (NBS). 2023. Macroeconomic Developments in Serbia, https://www.nbs.rs/export/sites/NBS_site/documents-eng/finansijska-stabilnost/presentation_invest.pdf

26 Ibid; World Bank. Doing Business, data for 2021, <https://data.worldbank.org/country/serbia?view=chart>

27 Statistical Office of the Republic of Serbia. Statistical Calendar of the Republic of Serbia 2022.

28 Center for Democracy Foundation. Announcement on World Day of Social Justice 2022.

absolute poverty, and about two million citizens (29.8%) are at risk of poverty and social exclusion.²⁹ Unemployment is at 8.9%.³⁰

The constitution guarantees the right to social protection based on social justice, humanity and respect for human dignity.³¹ However, the network of social welfare institutions is insufficient to meet all needs. The entire population has access to electricity, and 95% uses at least essential drinking water services. On the other hand, 4% of the urban population lives in slums.³²

According to data from the National Bank of Serbia (May 2022),³³ the service sectors, construction and mining are the main growth drivers. A negative result is expected from the energy sector due to lower electricity and coal production. The energy crisis in Europe due to the war in Ukraine and the fact that Serbia has not sanctioned Moscow or aligned itself with Brussels on sanctions against Moscow³⁴ – something expected from EU candidate states, of which Serbia is one – adds to the energy uncertainty.

Corruption and anti-corruption

Serbia continued its multi-year decline on Transparency International's Corruption Perception Index (CPI). In 2022, Serbia ranked 101 among the 180 observed countries.³⁵ With a score of 36 on a scale from 0 to 100, the country fell to a historic low on the CPI, mainly due to the continued weakening of the rule of law³⁶ (in particular, corruption and judicial inefficiency and the enforcement of fair competition),³⁷ growing autocracy,³⁸ a judiciary heavily influenced by political players, severely undermining progress in organised crime cases, including those pointing to high-level officials' involvement.³⁹

Until the latest CPI report, it was believed there was stagnation in the fight against corruption in Serbia; however, the situation became more complex. The reasons are many: from the neglect of anti-corruption provisions in many regulations, the state of affairs in state administration and public enterprises where there is still a practice of permanent retention of incumbents, to the fact that the most lucrative jobs are still awarded to the immediate beneficiary instead of tenders.⁴⁰

According to the World Bank's Worldwide Governance Indicators, Serbia's percentile rank in the control of corruption is 36.06, the lowest among the observed indicators and Serbia's lowest rank in the last 20 years.⁴¹

Corruption is an elaborate system in Serbia, from top to bottom, effective at undercutting institutions and the rule of law and costly to the tune of at least 1.6% of the gross domestic product (GDP) per year, according to the fiscal council.⁴² But, behind this percentage hides economic cancer that, in the long term, comprehensively erodes both the economy and society.⁴³

29 Center for Democracy Foundation. Announcement on World Day of Social Justice 2022.

30 NBS. Macroeconomic developments in Serbia, p.13.

31 The constitution, art. 69.

32 World Bank, Doing Business, Serbia 2021.

33 National Bank of Serbia (NBS). 2022. Report on Inflation, https://www.nbs.rs/export/sites/NBS_site/documents/publikacije/ioi/izvestaji/ioi_05_2022.pdf

34 CNN. 2022. Serbia's gas deal with Putin has created a fresh headache for Europe, <https://edition.cnn.com/2022/06/01/europe/serbia-russian-gas-eu-analysis-intl-cmd/index.html>

35 Transparency International. Corruption Perception Index 2022, <https://www.transparency.org/en/cpi/2022/index/srb>

36 European Commission. Serbia 2022, Communication on EU Enlargement policy, p.8, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Serbia%20Report%202022.pdf>

37 Transparency International. Corruption Perception Index 2022.

38 Transparency International. Corruption Perception Index 2022; V-Dem Institute. Democracy Report 2022: Autocratization Changing Nature?, pp.11, 22, 24, 25, https://v-dem.net/media/publications/dr_2022.pdf

39 Transparency International. 2023. CPI 2022 for Eastern Europe & Central Asia: Growing security risks and authoritarianism threaten progress against corruption, section: advances of – and against – autocratic rule, <https://www.transparency.org/en/news/cpi-2022-eastern-europe-central-asia-growing-security-risks-authoritarianism-threaten-progress-corruption>

40 Transparency Serbia. 2023. Programme Director Nemanja Nenadić at the presentation of the CPI 2022. Glas Amerike (VOA), <https://www.glasamerike.net/a/srbija-korupcija-transparentnost-pod-percepциja-lista/6941393.html>

41 World Bank. Worldwide Governance Indicators 2021: Serbia, <https://info.worldbank.org/governance/wgi/Home/Reports>

42 Biznis I Finansije. 2022. (Corruption and economic growth in Serbia: The incapables expel the capables), <https://bif.rs/2022/04/korupcija-i-privredni-rast-u-srbiji-nesposobni-proteruju-sposobne/> ; Radio Slobodna Evropa. 2022. „Corruption is suffocating Serbian GDP”, <https://www.slobodnaevropa.org/a/srbija-korupcija-ekonomija/30240133.html> ; Head of the delegation of the European Union in Serbia, Emanuele Joffre, said at the round table on the proposal of the strategy that according to conservative projections from May, corruption costs the EU economy about €120 billion per year; Danas. 2023. <https://www.danas.rs/vesti/drustvo/ministarka-pravde-rizicne-oblasti-za-korupciju-su-privatizacija-gradjevinarstvo-privredna-drustva-ali-i-javne-nabavke/>

43 Biznis I Finansije. 2022.

The “I-to-you, you-to-me” – economy creates a special kind of “parasitic” businessperson who monopolises the economy by not producing new values. Such “entrepreneurs” cheaply buy failing giants, usually from the metal, textile or electrical industries, and end their business ambitions by liquidating assets and laying off workers.⁴⁴ Companies involved in corruption withdraw their profits to private accounts.⁴⁵ Corruption also destroys investment in public companies, which, due to bringing party cadres into management positions, perform poorly and reduce profits, and even more often produce losses that citizens pay for through taxes.⁴⁶

According to the annual report of the Republic Public Prosecutor’s Office for 2022,⁴⁷ the special departments had an 11% drop in newly received criminal reports for corruption offences compared to 2021.⁴⁸ For example, there were 54 convictions for the criminal offence of abuse of position (62 in 2021); for abuse in public procurement, there were 12 convictions (9 in 2021); for money laundering, there were 69 convictions (38 in 2021); for abuse of official position, 114 convictions (121 in 2021), and 24 for accepting bribes (39 in 2021).⁴⁹

The statistics of the Prosecutor’s Office for Organised Crime are different because they are based on the number of people.⁵⁰ This prosecutor’s office had 90 newly received criminal charges for corrupt criminal acts in 2022 (109 in 2021), and it had 122 charges in operation (117 in 2021). The prosecution conducted 30 proactive investigations (28 in 2021), and 17 persons were charged after the investigation in 2022 (18 in 2021). According to these applications, the courts issued 30 convictions (27 in 2021), of which 25 were prison sentences (21 in 2021) and 5 were conditional sentences (6 in 2021).⁵¹

The term “high-level corruption” in Serbia is considered in the context of corruption cases under the Prosecutor’s Office for Organised Crime jurisdiction and, in that sense, is used in the European Commission’s country reports.⁵² In the latest report, the EC states that the number of indictments and first-instance convictions in high-level corruption cases has increased slightly.⁵³

Unlike previous governments, the current Serbian government, which came into power in October 2022, does not prioritise the fight against corruption in its plan. The prime minister, in her exposé,⁵⁴ when it comes to the fight against corruption, only highlights the law enforcement’s results from the previous period and does not provide any information about planned future measures.⁵⁵

When the last anti-corruption strategy (2013-2018) expired, Serbia waited five years to start work on a new one⁵⁶ despite many repetitive calls from the European Commission to draft and adopt it.⁵⁷ The Ministry of Justice (MoJ) established the working group for the new strategy (2023-2028) in February 2023.⁵⁸ According to analysis,

44 Ibid, Dejan Šoškić, professor at the faculty of economics in Belgrade, analysis of the consequences of corruption in Serbia.

45 Ibid.

46 Ibid.

47 Republic Public Prosecutor’s Office. Annual report of public prosecutors on the combat of crime and the protection of constitutionality and legality in 2022, <http://www.rjt.gov.rs/docs/rad-javnih-tuzilastava-na-suzbijanju-kriminaliteta-i-zastiti-ustavnosti-2022.pdf>

48 Investigations were conducted against 203 individuals (266 in 2021), and proactive investigations were conducted against 66 individuals (96 in 2021). In 2022, a total of 431 persons were charged (579 in 2021), out of which 161 after the investigation (232 in 2021). At the end of 2022, there were 6,336 pending criminal charges for corrupt crimes (there were 6,760 pending charges at the beginning of 2022).

49 It means that even if one person is accused of several criminal acts, only the one for whom the most severe punishment is threatened is shown. That is why the frequency of committing specific criminal acts remains hidden behind the main punishment.

50 It means that even if one person is accused of several criminal acts, only the one for whom the most severe punishment is threatened is shown. That is why the frequency of committing specific criminal acts remains hidden behind the main punishment.

51 Republic Public Prosecutor’s Office. Annual report, 2022.

52 Transparency Serbia. 2021. Grand Corruption and Tailored-made Laws in Serbia, p.7, https://transparentnost.org.rs/images/dokumenti_uz_vesti/Grand_Corruption_and_Tailor-made_Laws_in_Serbia.pdf; for example, European Commission. Serbia 2022, *Communication on EU enlargement policy*, pp.5, 6, etc.

53 European Commission. Serbia 2022, *Communication on EU Enlargement policy*, p.5.

54 Programme of Republic of Serbia Government, presented to the Parliament on 25 October 2022, p.60, 61, https://media.srbija.gov.rs/medsrp/dokumenti/ana-brnabic-ekspozicija-1022_cvr.pdf

55 However, the action plan for implementing the government’s programme, adopted on 23 February 2023, outlines some specific activities. It is envisaged that the number of detected criminal offences with the element of corruption will steadily increase to 820 in 2026 over that period (compared to 702 as a 2022 baseline); Republic of Serbia, Secretariat for Public Policies: *Action plan for implementation of the programme of the government of Serbia for 2023-2026*, <https://rsjp.gov.rs/wp-content/uploads/APSPV-2023-2026-1.pdf>; However, it is worth noting that the last available report on the implementation of (previous) government plans (2021) indicates a much higher number of such criminal offences detected (1,336).

56 Danas. 2023. Pet godina nakon što je istekla Nacionalna strategija za borbu protiv korupcije počeo rad na pisiju nove (*Five years after the national strategy for the fight against corruption expired, work began on writing a new one*), <https://www.danas.rs/vesti/drustvo/pet-godina-nakon-sto-je-istekla-nacionalna-strategija-za-borbu-protiv-korupcije-poceo-rad-na-pisiju-nove/>

57 European Commission. Serbia 2022, *Communication on EU enlargement policy*, p.6.

58 The working group is chaired by state secretary in the Ministry of Justice. Ten members come from the judiciary, nine are from NGOs or the private sector, while other members represent other line ministries, the government of Serbia and independent state bodies. Unlike 10 years ago, when the previous strategy was drafted, the Agency for Prevention of Corruption is not part of the actual working group but only an observer. The observers of international organisations and several donor projects also attend sessions. The observer role of GIZ and the EU delegation is officially recognised in the rules of procedure of the working group; PrEUgovor. May 2023. Alarm Report on the progress of Serbia in cluster 1, p.57.

the working group pointed out that the sectors particularly vulnerable to corruption are healthcare, education, taxation, customs, police, local self-government, public sector affairs management, infrastructure and spatial planning, political financing, privatisation, public procurement, lobbying and whistleblower protection.⁵⁹ The group accepted state-owned enterprises (SOEs) as a separate risk sector and included transparency as a cross-cutting issue. Risks from distributing public funds to the media and CSOs as a topic in relevant sectors are also included.⁶⁰ In the proposal for the strategy for the fight against corruption until 2028, privatisation, construction, companies and public procurement are listed as risk areas for corruption.⁶¹

According to the minister of justice, the new strategy envisages the progress of the normative framework, the strengthening of the institutional framework, the improvement of transparency and the raising of awareness about corruption.⁶² The minister also said the government's goal is "zero tolerance towards corruption".⁶³

Many experts are sceptical that the presented document will do anything to improve the situation.⁶⁴ They assess that the statement by the minister of justice about the "zero tolerance towards corruption" goal is particularly "inappropriate, irritating and offensive to the common sense of the citizens of Serbia"⁶⁵ and that corruption in Serbia is so widespread that even the fight against corruption is corrupt.⁶⁶ The director of the Bureau of Social Research (BIRODI) Zoran Gavrilović thinks that by financing the creation of a new strategy to fight corruption – in which there is no change in the current situation in Serbia – the EU supports the corruption.⁶⁷

The citizens of Serbia believe that corruption is common in all institutions and that they live in a society where no part of public life is immune to corruption.⁶⁸ Nevertheless, as the most corrupt institutions in Serbia, citizens single out the judiciary, healthcare and the police.⁶⁹

Two-thirds of citizens (65%) think that there is a lot or very much corruption in Serbia.⁷⁰ Citizens state that its most prevalent form is employment in the civil service through "contacts", which three-quarters of citizens think happens often or very often.⁷¹ Also, about 60% of citizens believe that decision-making is usually done for party interests and the rigging of public procurement for a specific company to get the job.⁷²

According to citizens, the state is not efficient enough in the fight against corruption and exerts pressure on people and organisations that point to corruption (43% think that the state is little or very little effective).⁷³

In the last several years, international organisations have had various initiatives for legislative development that influence the fight against corruption. The recommendations of the European Commission, GRECO (judiciary, Law on the Agency for the Prevention of Corruption, lobbying, code of conduct for MPs),⁷⁴ ODIHR (elections, political

59 PrEUgovor. 2023. Alarm Report. Ministry of Justice, Minutes from the first session of the Working group, p.57.

60 Ibid.

61 Danas. 2023. Minister of Justice Maja Popović at the round table on the proposal of the strategy (risky areas for corruption are privatisation, construction, companies and public procurement), <https://www.danas.rs/vesti/drustvo/ministarka-pravde-rizicne-oblasti-za-korupciju-su-privatizacija-gradjevinarstvo-privredna-drustva-ali-i-javne-nabavke/>

62 Ibid.

63 Ministry of Justice. News, *A round table on the proposal of the national strategy for the fight against corruption for the period 2023-2028 was held*, <https://www.mpravde.gov.rs/sr/vest/40540/odrzan-okrugli-sto-o-predlogu-nacionalne-strategije-za-borbu-protiv-korupcije-za-period-20232028-godine.php>

64 021.021.rs. 2023. Stručnjaci: Nova strategija za borbu protiv korupcije se baš i neće boriti protiv korupcije (*Experts are sceptical that the presented document will do anything to improve the situation on the ground*), <https://www.021.rs/story/Info/Srbija/350885/Strucnjaci-Nova-strategija-za-borbu-protiv-korupcije-se-bas-i-nece-boriti-protiv-korupcije.html>

65 Former minister and first Commissioner for Information of Public Importance of the Republic of Serbia Rodoljub Šabić in a statement for Danas. 2023. Šabić: Nova strategija protiv korupcije neiskrena i licemerna (Šabić: *The new anti-corruption strategy is dishonest and hypocritical*), <https://www.danas.rs/vesti/drustvo/sabic-nova-strategija-protiv-korupcije-neiskrena-i-licemerna/>

66 Danas. 2023. Bez političke volje, svi dokumenti su besmisleni (Without political will, all documents are meaningless), the statement of Siniša Janković, founder of the association "Institute for Corruption Research – Kareja" and a member of the Working group for drafting the National Strategy for the fight against corruption, <https://www.danas.rs/vesti/drustvo/korupcija-u-srbiji-nacionalna-strategija/>

67 BETA News Agency. 2023. Gavrilović: Finansiranjem izrade nove strategije za borbu protiv korupcije, EU podržava korupciju (By financing the creation of a new strategy for the fight against corruption, the EU supports corruption), <https://beta.rs/content/189097-gavrilovic-finansiranjem-izrade-nove-strategije-za-borbu-protiv-korupcije-eu-podrzava-korupciju>

68 CRTA. The opinion of citizens of Serbia on corruption 2001, p.12, <https://crt.rs/mislijenje-gradjana-srbije-o-korupciji/>

69 Ibid.

70 Ibid.

71 Ibid.

72 Ibid.

73 Citizens – Citizens who monitor the work of the Agency for the Prevention of Corruption similarly rate the effectiveness of this institution; among them, 37% rate its work as very bad or bad, and 33% give an average rating. Almost two-thirds of citizens (62%) believe that the state exerts pressure on individuals, media or organisations that point to cases of corruption involving members of the government.

74 GRECO. 2022. *Fourth Evaluation Round*, Corruption prevention in respect of members of parliament, judges and prosecutors, Strasbourg, <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680a5ff19>; GRECO. 2023. *Fifth Round of Evaluation*, <https://www.coe.int/en/web/greco/-/serbia-publication-of-5th-round-evaluation-repo-1>

parties),⁷⁵ Venice Commission (judiciary)⁷⁶ and SIGMA (Law on information, ombudsperson)⁷⁷ played a significant role in promoting integrity, transparency, accountability and good governance. Their influence was valuable in constitutional reform in the field of justice, Law on Lobbying, amendments to legislation, such as the new Law on the Agency for the Prevention of Corruption, financing political activities, amendments to the Law on Free Access to Information, Law on Determining the Origin of Property and Special Tax, repeal of the Law on Special Procedures for the Implementation of the Project of Construction and Reconstruction of Line Infrastructure, adoption of the code of conduct for deputies.

As for business, there has been almost no public campaign against corruption initiated by or with the involvement of the private sector. Some companies are only indirectly involved in anti-corruption initiatives, although many have stated their commitment to them in their codes of ethics.⁷⁸ Some initiatives involving business representatives include public procurement, inspections, tax-related issues and controversial initiatives regarding the so-called law on conversion.⁷⁹

The civil sector has consistently promoted anti-corruption reform in Serbia. The key actors are Transparency Serbia (predominantly in the judiciary, elections and media),⁸⁰ the National Convention on the European Union Working Group (NCEU),⁸¹ the Center for Research, Transparency and Accountability (CRTA) (elections),⁸² the Bureau of Social Research – BIRODI (media),⁸³ Renewables and Environmental Regulatory Institute – RERI (urbanism).⁸⁴

75 ODIHR. 2022. *Republic of Serbia, Presidential and Early Parliamentary Elections 3 APRIL 2022*, ODIHR Election Observation Mission Final Report, Warsaw, https://www.osce.org/files/f/documents/0/0/524385_0.pdf

76 Venice commission. 2022. *Serbia – Joint Opinion of the Venice Commission and the OSCE/ODIHR on the constitutional and legal framework governing the functioning of democratic institutions in Serbia – Electoral law and electoral administration, approved by the Council for Democratic Elections at its 75th meeting (Venice, 15 December 2022) and adopted by the Venice Commission at its 133rd Plenary Session*, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2022\)046-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2022)046-e)

77 SIGMA. 2021. *The Principles of Public Administration, Serbia*, <https://www.sigmapublications.org/publications/monitoring-report-executive-summary-2021-serbia.pdf>

78 See chapter on business.

79 The Law on Amendments to the Law on Planning and Construction. More in the chapter on business.

80 One of the latest examples of TS's continuous efforts in fighting for anti-corruption reforms is that the Ministry of Justice included TS proposals from the public consultation in the draft of the law on prevention of corruption; NOVA S. 2023. Minister of Justice Maja Popović's Press Release, "Popović pointed out that the Law on the Prevention of Corruption is being amended and supplemented following the recommendations from the fifth evaluation round of the Group of States of the Council of Europe Against Corruption (GRECO), as well as in accordance with the comments of the organisation Transparency Serbia that were made during public consultations on the draft law on amendments to the Law on the Management of State-Owned Enterprises", <https://ninfo.rs/vesti/ministarstvo-demantuje-tepic-netacno-da-se-izmenama-zakona-legalizuje-korupcija/>; For more TS initiatives, please refer to <https://www.transparentnost.org.rs/en/initiatives-and-analysis>

81 NCEU. As a part of the National Convention on the European Union (NCEU), a platform for cooperation and consultation between civil society and representatives of governmental bodies in the context of Serbia's accession into the European Union, CEP has been successfully leading four working groups (WG) which cover Negotiation Chapter 1 – Free movement of goods; Negotiation Chapter 3 – Right of establishment and freedom to provide services and negotiation; Chapter 4 – Free movement of capital; Negotiation Chapter 9 – Financial services; and Negotiation Chapter 28 – Consumer and health protection. In addition, CEP also leads an intersectoral working group on the political criteria, <https://cep.org.rs/en/partnerships/national-convention-on-the-european-union/>

82 CRTA, By creating public policy proposals, advocating for the principles of responsible behaviour by the government and state institutions, and educating citizens on their political rights, CRTA has been observing elections, both nationally and locally since 2016, and coordinating the work of the Citizens on Watch network.

83 BIRODI – <https://www.birodi.rs/>

84 RERI – Promote energy transition and the access to justice in the field of environmental protection, as a basic human right – <https://reri.org.rs/en/>



NIS Pillars

1. Legislature

Summary

OVERALL PILLAR SCORE: 44.4/100

DIMENSION	INDICATOR	LAW	PRACTICE
CAPACITY  62.5/100	RESOURCES	100	50
	INDEPENDENCE	100	0
GOVERNANCE  45.8/100	TRANSPARENCY	75	50
	ACCOUNTABILITY	25	25
	INTEGRITY	75	25
	GENDER REPRESENTATION	50	
ROLE  25/100	EXECUTIVE OVERSIGHT	25	
	LEGAL REFORMS	25	

The National Assembly is Serbia's highest representative body and the bearer of constitutional and legislative power.⁸⁵ It adopts and amends the constitution, laws and other general acts, state budget and financial plans and ratifies international agreements. It elects and scrutinises the government, and decides on its dismissal, and elects and dismisses the heads of the other state bodies.⁸⁶

The Assembly has 250 MPs elected according to the proportional model with a 3% electoral threshold. Legislation ensures the representation of genders and national minorities.⁸⁷ The current convocation of the parliament was constituted on 1 August 2022, with 16 parliamentary groups. However, the president of Serbia, Aleksandar Vučić dissolved the parliament and called snap elections for 17 December 2023.⁸⁸

Parliament's work is regulated to provide sufficient resources to carry out its duties effectively. Parliament independently determines and disposes of its budget, which is an integral part of the national budget. However, even though legal provisions provide a proper framework, in practice, parliament's work is influenced mainly by the interests of the parliamentary majority. Parliamentary professionals face long working hours, poor working conditions and salaries much below the national average. The parliamentary service is burdened by a high turnover of employees, which is reflected in the work of MPs who are provided with insufficient assistance.

⁸⁵ The Constitution of The Republic of Serbia. Official Gazette of the RS no. 98/2006 and 115/2021, article 98, https://www.paragraf.rs/propisi/ustav_republike_srbije.html

⁸⁶ Law on the National Assembly. Official Gazette of the RS no.9/2010, Article 15, para 2, point 1-7 and para 3. The National Assembly elects the judges of the constitutional court, presidents of courts, the public prosecutor, the governor of the national bank, the ombudsman, the Commissioner for Information of Public Importance and the protection of personal data, the director and members of the Council of the Agency for the Prevention of Corruption. https://www.paragraf.rs/propisi/zakon_o_narodnoj_skupstini.html

⁸⁷ The Law on the Election of Members of Parliament. Official Gazette 14/2022, Article 73: the election list must hold at least 40% of representatives of less represented communities and other gender; and article 140: the natural threshold for electoral lists of parties of national minorities shall participate in the distribution of mandates even if it did not pass the 3% threshold, where their mandates will be calculated under exclusive formula. www.paragraf.rs/propisi/zakon_o_izboru_narodnih_poslanika.html

⁸⁸ N1 Belgrade. 2023. "Vučić announced extraordinary parliamentary elections for 17 December", <https://n1info.rs/vesti/vucic-raspisao-vanredne-parlamentarne-izbore-za-17-decembar/>

Even though parliament is the supreme legislative authority and an independent institution in line with the constitution, in practice, the legislature is strongly influenced by the president of the republic and the executive. The opposition in parliament is treated unfairly by the speaker and the ruling majority, often violating the rules of procedure.

The work of parliament is somewhat transparent. Rules of procedure do not impose obligations but rather suggestions what should be disclosed; therefore, the public is deprived of some important documents from the work of committees, amendments, government opinions, and so on. However, plenary sessions are broadcast on the national public broadcast channel and committee sessions are on the parliamentary website. Recently, parliament narrowed the space for the media and the public to monitor its work. The media are subjected to quarterly renewals of credentials, and the information booklet is not regularly updated.

Accountability mechanisms for the legislature are limited. The work of parliament can be scrutinised through the constitutional review that has only had limited results; in the final instance, parliament decides whether it will discuss the opinions of the constitutional court. In addition to weak provisions that allow the constitutional court only limited review of the alignment of legislation with the constitution, the legislature and its members cannot be held accountable for their actions in practice as they enjoy immunity as per the constitution that can be terminated only by parliamentarians. Public hearings, which have been increasing in recent years, should be organised for issues of the utmost public interest and host all relevant stakeholders.

Parliament has a code of conduct for MPs; however, the ruling majority ignores it, plus it has significant loopholes and was adopted in an urgent procedure without public consultation. The authorised committee does not act upon complaints from citizens. The code of conduct should be amended to better regulate conflicts of interest and complaints procedures. MPs do not report contacts with lobbyists.

Scrutiny of the government's work is regulated, but in practice, the parliamentary majority attempts to avoid these mechanisms. Questioning the work of the minister of finance – interpellation – contrary to regulation, remains on hold before the relevant committee. Parliamentary questions were avoided in the first six months of convocation (2022-2023) because the speaker, from the ruling majority, scheduled sessions to avoid holding them on the last Thursday of the month when parliamentary questions should occur. The ministries should submit quarterly reports on their work to the relevant committees; however, this obligation is not fully respected in practice, and some reports that reach the parliament are never included in the “committees” agendas.

Gender representation is ensured by quota on electoral lists; however, in practice, the number of female MPs decreases once they are confirmed with mandates as some resign or remain inactive in parliament, respecting this provision only formally.

The fight against corruption is low on the list of parliament's priorities and it only adopts anti-corruption laws initiated and prepared by the government without proper discussion or proposing of amendments. This issue is in no way systemically dealt with in parliament. In the past decade, parliament did not ratify a single international convention or protocol related to anti-corruption.

Capacity

1.1.1. Resources (law)

To what extent are there provisions that provide the legislature with adequate financial, human and infrastructure resources to effectively carry out its duties?



There are provisions to provide the legislature with the opportunity to ensure adequate resources for its work.

Parliament independently determines and disposes funds for its work, and the parliamentary budget is an integral part of the state budget.⁸⁹ Legislation stipulates that the government cannot suspend, postpone or limit the execution of the parliamentary budget without the consent of the Assembly's speaker. The secretary-general orders the use of the parliamentary budget funds and prepares the parliamentary budget proposal. The competent committee as a second instance determines the budget proposal and submits it to the ministry responsible for finance for an opinion.

Regardless of the ministry's opinion, the committee can independently approve the parliamentary budget, which the ministry responsible for finance includes without changes in the draft budget and the government approves without changes in the draft law on the budget. Therefore, the Assembly has much more financial independence than most of the other budget beneficiaries because the government does not have the authority to stop, postpone or limit budget allocations to the Assembly during the fiscal year without the prior consent of the Assembly's speaker.

Furthermore, MPs can influence the parliamentary budget further when the state budget, of which the parliamentary budget is an integral part of, enters parliamentary procedure and they can propose amendments.⁹⁰ The execution of the parliamentary budget is controlled according to the regulations on budget inspection and state audit. The internal auditor carries out an internal control of the execution of the parliamentary budget in the National Assembly.

The number and the structure of parliamentary employees are regulated through the decision on the organisation and work of the National Assembly⁹¹ and the corresponding rulebook on internal organisation and systematisation of posts in the service of the National Assembly.⁹²

1.1.2. Resources (practice)

To what extent does the legislature have adequate resources to carry out its duties in practice?



The parliamentary budget is insufficient for the efficient functioning of the legislature. Salaries for MPs and the professional services are low, while MPs lack sufficient staff to carry out their duties effectively.

The budget of the National Assembly for 2023 is RSD 2,853 billion (about €24.3 million).⁹³ In 2022, the Assembly returned RSD 522 million (€4.46 million) to the state budget.⁹⁴ These assets remained unspent because the parliament did not convene between February and August 2022, as it was the time of parliamentary elections

89 The Law on the National Assembly. Official Gazette of the RS no.9/2010, Articles 64-67, https://www.paragraf.rs/propisi/zakon_o_narodnoj_skupstini.html

90 Parliamentary Rules of Procedure. Official Gazette 20/2012, article 171-178, www.paragraf.rs/propisi/poslovnik-narodne-skupstine-republike-srbije.html

91 The decision on the organisation and work of the National Assembly, adopted on 18 April 2018. www.parlament.gov.rs/upload/documents/activities/23-May-2018%20ODLUKA.pdf

92 Rulebook on internal organisation and systematisation of posts in the service of the National Assembly, adopted on 15 March 2019.

93 The Law on the Budget of the Republic of Serbia for 2023. Official Gazette 138/2022, article 8, www.parlament.gov.rs/upload/archive/files/cir/pdf/zakoni/13_saziv/2503-22.pdf. In 2021, it was RSD 2.266 billion (about €20 million), of which 96% was implemented, and in 2020 it was RSD 3.207 billion (about €27 million), of which 86% was used.

94 Twelfth sitting of the committee on administrative, budgetary, mandate and immunity issues, www.parlament.gov.rs/12_sednica_Odbora_za_administrativno-bud%C5%BEetska_i_mandatno-imunitetska_pitanja_45754_941.html, The Law on the Final Budget Account for 2021. Official Gazette 138/2022, article 4, www.mfin.gov.rs/sr/propisi/1/zakon-o-zavrnom-raunu-budzeta-republike-srbije-za-2021-godinu-slubeni-glasnik-rs-br-1382022-1, in 2021 the parliamentary budget was RSD 2.266 billion (around €20 million). The Law on the Final Budget Account for 2020. Official Gazette 1114/2021, article 4, www.parlament.gov.rs/upload/archive/files/cir/pdf/zakoni/2021/1954-21%20za%20sajt.pdf, the parliamentary budget in 2020 was RSD 3.207 billion (around €27 million).

for the new term.⁹⁵ According to statements from current opposition MPs, the parliamentary budget is insufficient to carry out the work properly and is not being increased because the ruling majority is opposed, saying it is to save money.⁹⁶ An MP's salary is roughly RSD 90,000 (€750) and the salary of a parliamentary service employee with a university degree is around RSD 60,000 (€480), which is way below the national average of RSD 86,000 (€700).⁹⁷ Combined with unstable and usually long working hours that accompany parliamentary sittings,⁹⁸ the parliamentary professional service experiences a constant outflow of staff, affecting the work of parliamentary committees and parliamentary groups.

Table 1: Annual budget

Year	Total parliamentary budget (RSD)	Total parliamentary budget (EUR)	Increase in % per year	Total republic budget (EUR)	Increase in % per year	% of parliamentary budget in the republic budget
2023	2,853,101,000	24,178,822	-34	15,621,730,924	22	0.15
2022	4,297,325,000	36,418,008	91	12,854,673,441	2	0.28
2021	2,254,927,000	19,109,551	-32	12,614,005,559	13	0.15

The National Assembly service systematised 214 posts with 510 employees: five are civil servants in appointed positions, 384 in executive job positions and 121 deputies.⁹⁹ In 2023, it employed around 420 servants.¹⁰⁰

Providing enough space for work has been an issue for years. The Assembly uses two buildings about 300 metres apart. Most parliamentary services are organised in one building (with 160 offices), and the MPs' offices are in another (100 offices). The Assembly has a total of 6,600 square metres of office space.¹⁰¹ According to MPs from the opposition ranks, MPs are not provided with sufficient office space for the work of parliamentary groups, stating that only their professional associates are provided with computers for work, while MPs use their personal laptops.¹⁰²

A parliamentary group with at least 15 members has the right to only two expert associates who should do all the work necessary for the parliamentarians to prepare for the session, which, according to the MPs is insufficient.¹⁰³ According to a former MP, they were forced to choose only one or two legislative proposals per sitting. This had been common practice for some years because there was not enough time or professional help for him to devote time to all the topics on the agenda.¹⁰⁴

There was no organised induction training for MPs of the convocation, which was constituted on 1 August 2022, although this has been the case in the last years, but this is especially problematic for first-time MPs who make more than 50% of this cohort.¹⁰⁵

95 Even in previous years, the parliamentary budget remained unspent. The Law on the Final Budget Account for 2021. Official Gazette 138/2022, article 4, <https://www.mfin.gov.rs/sr/propisi-1/zakon-o-zavrnom-raunu-budzeta-republike-srbije-za-2021-godinu-slubeni-glasnik-rs-br-1382022-1>, in 2021 the parliamentary budget was RSD 2.266 billion (around €20 million). The Law on the Final Budget Account for 2020. Official Gazette 114/2021, article 4, www.parlament.gov.rs/upload/archive/files/cir/pdf/zakoni/2021/1954-21%20za%20sajt.pdf, the parliamentary budget in 2020 was RSD 3.207 billion (around €27 million).

96 Interview with MPs Borko Stefanović (United – SSP, PSG, Overturn, Sloga) and Dragana Rakic (Democratic Party), both from the ranks of opposition parties and parliamentary groups, 26 January 2023.

97 Average salary in April 2023, Statistical Office of the Republic of Serbia, www.stat.gov.rs/en-US/oblasti/trziste-rada/zarade

98 In thirteenth convocation the sittings were rarely held and therefore their duration was often prolonged over regular working hours, lasting sometimes up to 14-16 hours, Open Parliament, parliamentary transcripts, <https://otvoreniparlament.rs/transkript?page=5>

99 Rulebook on internal organisation and systematisation of posts in the service of the National Assembly, adopted on 15 March 2019, article 12 www.parlament.gov.rs/upload/documents/activities/20_March_2019.%20PRAVILNIK%20LAT.docx

100 Interview with MP Borko Stefanović, 26 January 2023.

101 Parliamentary information booklet, pp. 79-80, www.parlament.gov.rs/upload/documents/informator_files/Informator%202022-2.doc

102 Interview with the deputy speaker of the parliament Zoran Lutovac, member of the Democratic Party, 1 March 2023.

103 Interview with MPs Borko Stefanović (United – SSP, PSG, Overturn, Sloga) and Dragana Rakic (Democratic Party), both from the ranks of opposition parties and parliamentary groups, 26 January 2023.

104 Interview with Natasa Vučković, MP from 2006 to 2020, 26 January 2023.

105 <https://otvoreniparlament.rs/uploads/aktuelno/OP%20CRTA%20-%20Overview%20of%20the%20work%20of%20the%20Parliament%20-%20August-December%202022.pdf>

1.1.3. Independence (law)

To what extent is the legislature independent and free from subordination to external actors by law?



There are comprehensive laws aimed to ensure the independence of the legislature.

According to the constitution and the Law on the National Assembly, the Assembly is an independent institution. The president of the republic can dissolve the Assembly on a “reasoned proposal of the government”.¹⁰⁶ The government cannot propose the dissolution of the Assembly if it has raised the issue of confidence in the government. Parliament can also be dissolved if it fails to elect a government within 90 days of its constitution. The Assembly cannot be dissolved during war or a state of emergency.¹⁰⁷

The Assembly has two regular sessions annually, one starting in March and the other in October, lasting no more than 90 days.¹⁰⁸ It also meets in extraordinary sessions at the request of at least one-third of the MPs or at the government’s request, with a previously determined agenda.¹⁰⁹ The Assembly always determines its agenda during regular sessions. The speaker and MPs are entitled to a salary if they are not employed elsewhere, in which case they receive the difference between their salary and the MP’s salary.¹¹⁰

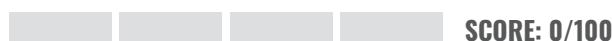
Parliamentary groups propose candidates for members and deputy members of the committees, in proportion to the number of MPs in the parliamentary group in relation to the total number of MPs. The speaker submits a proposal to the Assembly to decide on the election of members and deputy members of committees based on proposals from parliamentary groups. At the first session, the committee elects, among its members, the chairman and deputy chairman of the board.¹¹¹

According to the rules of procedure (RP), MPs are entitled to request information and explanations from the speaker, the chairperson of the Assembly’s committees, and ministers and officials in other state authorities and organisations. Also, an authorised representative of a parliamentary group can request information at the sitting of the Assembly for up to five minutes on Tuesdays and Thursdays immediately after the session’s opening.¹¹²

MPs enjoy immunity and cannot be held responsible for views expressed or voting during parliamentary duties. An MP who invokes immunity may not be detained nor prosecuted in cases where a prison sentence may be pronounced without the prior approval of the Assembly.¹¹³

1.1.4. Independence (practice)

To what extent is the legislature free from subordination to external actors in practice?



In practice, the legislature is strongly influenced by the Serbian president and the executive branch.

According to many of those interviewed, the National Assembly functions merely as a “rubber stamp” for the government’s decisions.¹¹⁴ The laws adopted by parliament are practically identical to the government’s proposals.¹¹⁵ In the first five months of the parliamentary term, the Assembly voted on 86 acts, and no member of the ruling

¹⁰⁶ The Constitution of the Republic of Serbia. Official Gazette 98/2006 and 115/2021, Article 109, www.paragraf.rs/propisi/ustav_republike_srbije.html

¹⁰⁷ Ibid.

¹⁰⁸ The Law on the National Assembly. Official Gazette 9/2010, Article 48, para 1 and 2; Constitution, Article 106 www.paragraf.rs/propisi/zakon_o_narodnoj_skupstini.html

¹⁰⁹ Law on the National Assembly. Official Gazette 9/2010, Article 48, para 3, www.paragraf.rs/propisi/zakon_o_narodnoj_skupstini.html

¹¹⁰ Law on the National Assembly. Official Gazette 9/2010, Articles 42 and, 43, www.paragraf.rs/propisi/zakon_o_narodnoj_skupstini.html

¹¹¹ The Rules of Procedure of the National Assembly. Official Gazette 20/2012, Article 23-25, [www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html)

¹¹² The Rules of Procedure of the National Assembly. Official Gazette 20/2012, Articles 287, para 1 and 2, [www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html)

¹¹³ The Constitution of the Republic of Serbia. Official Gazette 98/2006 and 115/2021, article 103, www.paragraf.rs/propisi/ustav_republike_srbije.html

¹¹⁴ Interviews with MPs Brorkoo Stefanović (United – SSP, PSG, Overturn, Sloga) and Radomir Lazović (Green – left club, Don’t let Belgrade d(r)own, We have to), 6 March 2023, both from opposition parties, and journalists Suzana Trninić, TV Insider and Mirjana Nikolić, portal Istinomer, 20 March 2023.

¹¹⁵ Parliamentary Insider, Issue 20. Open Parliament, p.10, https://otvoreniparlament.rs/uploads/istrzivanja/Open%20Parliament%20Newsletter%20-%20_PARLIAMENTARY%20INSIDER%20Issue%2020.pdf

majority voted against them, which shows the absolute discipline among MPs of the ruling party, while voting results among opposition parties are more diverse, they have a high rate of absence from the voting sessions.¹¹⁶ The speaker convened all sessions in less than a week even though the rules of procedure envisage such possibility only for urgent issues.¹¹⁷ Five sessions were called with only 24 hours notice, denying MPs the opportunity to amend the agenda of the sitting since the deadline for submitting amendments is up to 24 hours before the start of the session.¹¹⁸

Opposition MPs point out that, in one case, none of 640 proposed amendments, was adopted, while all the laws that had been adopted were proposed by the government.¹¹⁹ According to another MP, the agenda had excessive items, making impossible any meaningful discussion. Another example of bad practice is integrating the debate and all agendas into just one session.¹²⁰

During the parliamentary term 2020-2022, there were no opposition members in the parliament due to an election boycott, so the government's proposals passed without discussion.¹²¹ In these two years, 267 laws were adopted.¹²²

According to an opposition MP, under the rules of procedure, MPs have limited time for debate. Similarly, there is no such provision for government representatives, thus leaving space for the representatives of the executive branch to abuse the parliamentary rostrum, which is followed by insults, humiliation and contempt at the expense of the opposition MPs, to which the speaker, a member of the ruling majority, does not react.¹²³ A journalist interviewed for this report noted that opposition MPs regularly accuse the government and the president of Serbia of interfering in the work of the parliament and completely marginalising the legislative power, but the speaker, on such occasions, does not allow them to address the plenary, takes away their floor or turns off the microphone during their speech.¹²⁴

Governance

1.2.1. Transparency (law)

To what extent are there provisions to ensure that the public can obtain relevant and timely information on the activities and decision-making processes of the legislature?



SCORE: 75/100

For the most part, provisions are in place so the public can obtain relevant information on the organisation and functioning of the legislature. However, the rules of procedure only suggest and do not oblige the publication of amendments to laws submitted by MPs and committee session documents.

Transparency of parliament's work is ensured by live broadcasting of plenary sessions on the public broadcaster Radio Television Serbia (channel 2) and on parliament's website (plenary and committee sessions), press conferences, official announcements, public inspection of the documentation and archive of the National Assembly, and review of stenographic notes and minutes of the sessions.¹²⁵

¹¹⁶ Open Parliament Research. 2023. How do parliamentary groups vote? Pp.1-3. <https://otvoreniparlament.rs/aktuelno/507>

¹¹⁷ The Rules of Procedure of the National Assembly. Official Gazette 20/2012, article 86, para 1 and 2, [www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html)

¹¹⁸ The Rules of Procedure of the National Assembly. Official Gazette 20/2012, article 92, para 2 and 4, [www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html)

¹¹⁹ Interviews with MPs Borko Stefanović (United – SSP, PSG, Overturn, Sloga) and Radomir Lazović (left club, Don't let Belgrade d(r)own, We have to), 6 March 2023, both from opposition parties. "The most prominent example of such malpractice is the discussion of the Law on the Budget of the Republic of Serbia for 2023 that was scheduled along with 34 other unrelated agenda points, furthermore the discussion on all 35 agenda points was integrated, leaving the discussion on the budget with less time than usual."

¹²⁰ Interviews with MPs Branko Stefanović (United – SSP, PSG, Overturn, Sloga) and Radomir Lazović (Green – left club, Don't let Belgrade d(r)own, We have to), 6 March 2023, both from opposition parties, and journalists Suzana Trninić, TV Insider and Mirjana Nikolić, portal Istinomer, 20 March 2023.

¹²¹ Interview with Nataša Vučković, former MP from 2006 to 2020, 26 January 2023.

¹²² Open Parliament. 2022. The annual state of play report of the National Assembly for 2021, p.9, <https://otvoreniparlament.rs/uploads/istrzivanja/Open%20Parliament%20-%20Annual%20State%20of%20Play%20Report%20of%20the%20National%20Assembly%20for%202021%20-%20May%202022.pdf>

¹²³ Interview with MP Borko Stefanović (United – SSP, PSG, Overturn, Sloga), 6 March 2023.

¹²⁴ Interview with journalist Suzana Trninić, TV Insider, 20 March 2023.

¹²⁵ The Law on the National Assembly. Official Gazette 9/2010, article 11, para 1 www.paragraf.rs/propisi/zakon_o_narodnoj_skupstini.html

According to the law, observers of domestic and international associations, organisations, interested citizens and mass media can follow parliament's activities from special seats.¹²⁶ The rules of procedure require recording all sessions plus those of two parliamentary committees: the committee on constitutional and legislative issues and the committee on administrative, budgetary, mandate and immunity issues. Sessions of other committees may be recorded at the request of committee members. These audio recordings are an integral part of committee meeting minutes.¹²⁷

Parliamentary sessions can be closed to the public in cases determined by law if the government, the committee or at least 20 deputies propose it. In that case, the proposal must be explained and decided upon without discussion.¹²⁸ The public is informed about the meeting's draft agenda, date, time and place. Committee meetings are also public unless the committee members decide otherwise. Information from closed sessions cannot be given without the parliament's or working body's special approval.¹²⁹

The law proscribes the power of MPs to hold meetings with citizens, but this obligation is not specified.¹³⁰ Citizens can submit petitions and proposals to the Assembly, in line with the regulation and following the instructions on the website of the National Assembly.¹³¹ Under the regulation, a committee should consider these initiatives and petitions, but their further obligations are not regulated in any way.¹³²

Data about reporting on the assets and income of MPs and other officials in the Assembly is published under the Law on Prevention of Corruption¹³³ on the Agency for the Prevention of Corruption's website. The Law on Prevention of Corruption states that part of the declaration (income from public sources, data on real estate, vehicles, shares) has to be available to the public.¹³⁴

1.2.2. Transparency (practice)

To what extent can the public obtain relevant and timely information on the activities and decision-making processes of the legislature in practice?

 SCORE: 50/100

Aside from the broadcasting of session minutes and decisions, not much information is available to the public; it has become complicated for the media to follow the activities and decision-making processes of the legislature.

According to regional research by Partners Serbia, the Serbian parliament meets only 51.9% of the openness criteria, set by this NGO.¹³⁵ The parliamentary website contains information about the composition of committees and MPs' contacts but not their complete biographies. The annual work programme and reports are not published either.¹³⁶ The budget lists only totals instead of precise allocations of budget funds.¹³⁷ According to a journalist interviewed for this report, parliament does not publish amendments to laws submitted by the MPs on its website, representing one of the biggest obstacles to monitoring the legislative process by journalists and the interested public.¹³⁸ Citizens can pose

126 Law on the National Assembly. Official Gazette 9/2010, article 11, para 6, www.paragraf.rs/propisi/zakon_o_narodnoj_skupstini.html. The Rules of Procedure of the National Assembly. Official Gazette 20/2012, article 81, para 4 and 5, [www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html)

127 The Rules of Procedure of the National Assembly. Official Gazette 20/2012, article 81, para 4 and 5, [www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html)

128 The Rules of Procedure of the National Assembly. Official Gazette 20/2012, article 255, para 2, [www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html)

129 The Rules of Procedure of the National Assembly. Official Gazette 20/2012, article 256, [www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html)

130 Law on the National Assembly. Official Gazette 9/2010, article 15, para 4 www.paragraf.rs/propisi/zakon_o_narodnoj_skupstini.html

131 National Assembly, Initiatives, petitions, petitions and proposals, <http://www.parlament.gov.rs/gradjani/pitajte/inicijative,-peticije,-predstavke-i-predlozi.1098.html>

132 The Rules of Procedure of the National Assembly. Official Gazette 20/2012, article 44, para 1, point 8, [www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html)

133 The Law on Prevention of Corruption. Official Gazette 35/2019, 88/2019, 11/2021 – authentic interpretation, 94/2021 i 14/2022, www.paragraf.rs/propisi/zakon-o-sprecavanju-korupcije.html

134 The Law on Prevention of Corruption. Official Gazette 35/2019, 88/2019, 11/2021 – authentic interpretation, 94/2021 i 14/2022, article 73, [https://www.paragraf.rs/propisi/zakon-o-sprecavanju-korupcije.html](http://www.paragraf.rs/propisi/zakon-o-sprecavanju-korupcije.html)

135 Partners Serbia. 2022. Openness of the Parliaments in Serbia and in the Region, p.13, www.partners-serbia.org/public/news/otvorenost-parlamenta.pdf

136 Separate annual reports of specific parliamentary committees and opinions of various expert bodies, such as the European Commission and the Venice Commission, are not published on the Assembly's website.

137 For example, the amount for maintenance is stated in the budget, but not the precise amount that will be spent in corresponding year, nor whether it was spent or not; interview with MP Borko Stefanović (United – SSP, PSG, Overturn, Sloga), 6 March 2023.

138 Interview with Mirjana Nikolic, portal Istinomer, 20 March 2023.

questions and submit petitions on parliament's website, but these initiatives remain unnoticed because they are not published on the website.¹³⁹

Apart from the information booklet (not updated regularly), citizens have no information about how to exercise their right to free access to information on parliament's website.¹⁴⁰ The Assembly did not respond to Transparency Serbia's requests regarding this research.

During a panel on the parliament's transparency organised by Partners Serbia, it was assessed that "there is a little bit of everything on paper but of poor quality".¹⁴¹ Opposition MPs often cannot get all the information they need to perform their duties, and due to the obstruction of the parliamentary secretariat, they cannot submit amendments to the proposed agenda of parliamentary sessions on time.¹⁴²

The right to close committee sessions to the public is used excessively, according to statements from a journalist, because almost all topics related to Kosovo* and security issues are declared "secret". During the last three convocations, media representatives no longer obtained permanent annual accreditations but only periodical passes that had to be renewed every three months.¹⁴³

Only the speaker of parliament issues permission by invitation exclusively to organised groups to monitoring sessions live from the gallery.¹⁴⁴ MPs have the right to address the media in the parliament hall.¹⁴⁵

1.2.3. Accountability (law)

To what extent are there provisions to ensure that the legislature has to report on and be answerable for its actions?



SCORE: 25/100

Accountability mechanisms for the legislature are limited to constitutional review and public hearings. There are only weak provisions that allow the limited potential of the constitutional court to review legislation to ensure it aligns with the constitution.

The constitutional court (CC) is competent to review the work of the National Assembly. Any institution of central, provincial or local government, a group of 25 deputies or the CC itself can initiate a proceeding to review the constitutionality of a law. Every citizen can also initiate such a review, but the CC has no obligation to start the procedure based on such an initiative.¹⁴⁶ The CC can determine that specific law provisions or an entire act are unconstitutional and can suspend its application, but it has no right to change it.¹⁴⁷ The CC can review laws that have been adopted but not published¹⁴⁸ and laws that are no longer in force if the procedure is instituted within six months of expiration.¹⁴⁹ No other specified legal methods exist for appeals against the Assembly's decisions or MPs' activities.¹⁵⁰

Parliament is not obliged to proceed with the opinion of the constitutional court. According to the rules of procedure, parliament can consider the CC's notifications on the situation and problems in assessing constitutionality and legality, opinions and indications of the CC on the need to adopt and amend laws and take other measures to

139 "The Commission for Petitions and Appeals should respond to petitions, but information on its activities is nowhere to be found. Questions received through the website are forwarded to MPs and committees, but no one tracks their number and whether they have been answered or not; from an interview with MP Borko Stefanović (United – SSP, PSG, Overturn, Sloga), 6 March 2023.

140 Parliament does not publish data on the number and type of requested information. In recent years every answer to request for free access to information is delayed for the 40 days legal deadline, envisaged only for extensive answers, and even with the prolongation, parliament selectively answers requests, which violates the Law on Free Access to Information; from an interview with Miša Bojović, Open Parliament – Crti, 8 February 2023.

141 Business, Monthly magazine. 2022. How to strengthen the role of the parliament and increase the transparency of work – <https://magazinbiznis.rs/kako-objacati-ulogu-parlamenta-i-povecati-transparentnost-rada/>

142 Interview with the Deputy Speaker of the Parliament Zoran Lutovac, member of the Democratic Party, 1 February 2023.

143 Interview with journalist Mirjana Nikolić, portal Istinomer, 20 March 2023.

144 "Most often, they are representatives of the diplomatic corps, groups of students, and when the relevant issue is on the agenda representatives of Serbs from Kosovo"; interview with MP Borko Stefanović (United – SSP, PSG, Overturn, Sloga), 6 March 2023.

145 The Rules of Procedure of the National Assembly. Official Gazette 20/2012, article 261, para 2, [www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html)

146 The Constitution of the Republic of Serbia. Official Gazette 98/2006 and 115/2021, article 168, para 1 and 2, www.paragraf.rs/propisi/ustav_republike_srbije.html

147 The Constitution of the Republic of Serbia. Official Gazette 98/2006 and 115/2021, article 168, para 3 and 4, www.paragraf.rs/propisi/ustav_republike_srbije.html

148 The Constitution of the Republic of Serbia. Official Gazette 98/2006 and 115/2021, article 169, [https://www.paragraf.rs/propisi/ustav_republike_srbije.html](http://www.paragraf.rs/propisi/ustav_republike_srbije.html)

149 The Constitution of the Republic of Serbia. Official Gazette 98/2006 and 115/2021, article 168, para 5, www.paragraf.rs/propisi/ustav_republike_srbije.html

150 Interview with Nataša Vučković, MP from 2006 to 2020, 26 January 2023.

protect constitutionality and legality. Parliament can end this discussion by moving to the agenda or reaching an appropriate conclusion, about which it may but is not obliged to inform the CC.¹⁵¹

Legal provisions allow committees to organise public hearings on topics of public interest and to invite experts to their meetings. The purpose of public hearings is to “obtain information or professional opinions on proposed acts that are in parliamentary procedure”, to clarify certain provisions and to monitor “the implementation of the law, i.e. implementation of the supervisory function of the National Assembly”.¹⁵² Since 2013, 97 public hearings have been organised in the National Assembly, of which 30 were in the last three years in 2020-2023.¹⁵³

There are also no complaint mechanisms against decisions/actions by the legislature or its individual members.

1.2.4. Accountability (practice)

To what extent do the legislature and its members report on and answer for their actions in practice?



SCORE: 25/100

The high workload of the constitutional court, lack of transparency in reports of public hearings and misuse of MP immunity show that there is little accountability of MPs in practice.

The CC checks the accountability of the Assembly’s legislative function through the evaluation of the constitutionality of laws and other acts. In practice, this is not enough, primarily due to the CC’s excessive workload¹⁵⁴ and the tendency of the CC to confirm parliamentary decisions, even if they seem disputable. In 2022, the constitutional court made five decisions on the unconstitutionality of certain provisions of law, that is, their inconsistency with confirmed international treaties; eight decisions to reject initiatives to initiate proceedings for constitutionality assessment; 47 rejections of proposals and initiatives for the assessment of constitutionality because it was established that there are no procedural prerequisites for conducting the procedure; and one conclusion on the suspension of the procedure. At the same time, two decisions were made to initiate the procedure to evaluate the constitutionality of the provisions of the law.¹⁵⁵

During the 12th parliamentary term, in the period 2020-2022, there were 23 public hearings organised in the parliament (21 in 2021). The committee on constitutional and legislative issues organised 10 hearings dedicated to constitutional amendments regarding the independence of the judiciary. In addition, four more hearings were organised to present draft laws, budgets, final accounts and draft strategies. The remaining seven hearings were devoted to topics from different committees. However, reports from hearings are not published regularly. The report from the public hearing on the budget were released two weeks after the adoption of the budget.¹⁵⁶

According to an opposition MP, the people’s initiative to ban the mining of lithium and boron in Serbia, signed by 38,191 citizens, although officially submitted to the parliament’s office in June 2022,¹⁵⁷ never reached either the competent committee nor the competent ministry, which according to the regulations, should occur within 30 days.¹⁵⁸

According to an opposition MP, in the previous three terms of parliament, in cases where courts or the prosecutor’s office requested an authorised committee to decide on an MP’s immunity, the immunity was always confirmed.¹⁵⁹

151 The Rules of Procedure of the National Assembly. Official Gazette 20/2012, article 282, [www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html)

152 The Rules of Procedure of the National Assembly. Official Gazette 20/2012, article 83, [www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html)

153 www.parlament.gov.rs/aktivnosti/narodna-skupstina/radna-tela/javna-slusanja.3013.html?offset=0

154 Constitutional court. 2023. In 2022, the CC received 16,075 constitutional appeals, 1,849 less than in 2021 (17,924). In 2020 CC received 13,164 constitutional appeals. In 2022, it received 21,985 submissions, which is 1,996 submissions less than in 2021, when 23,981 submissions were received. From the submissions received in 2022, 16,249 new cases were created. From an overview of the constitutional court in 2022, pp.1-2 www.ustavni.sud.rs/Storage/Global/Documents/Misc/%D0%9F%D1%80%D0%B5%D0%B3%D0%BB%D0%B5%D0%B4_2022.pdf

155 Constitutional court. 2023. Overview of the constitutional court in 2022, pp.4-5 www.ustavni.sud.rs/Storage/Global/Documents/Misc/%D0%9F%D1%80%D0%B5%D0%B3%D0%BB%D0%B5%D0%B4_2022.pdf

156 Interview with Miša Bojović, Open Parliament – Crta, 8 February 2023.

157 Balkan Green Energy News. The newly elected assembly of Serbia was given a seven-day deadline to verify the signatures of the people’s initiative against lithium. <https://balkangreenenergynews.com/rs/novoizabrana-skupstina-srbije-dobila-rok-od-sedam-dana-da-verifikuje-potpise-narodne-inicijative-protiv-litijuma/>

158 “At every session of parliament, members of the opposition demand an answer as to what is happening with the initiative, but they never received it. The officially submitted initiative simply disappeared, the signatures were lost”, from an interview with MP Borko Stefanović (United – SSP, PSG, Overturn, Sloga), 6 March 2023, a member of an opposition party.

159 Lazović interviews with MPs Borko Stefanović (United – SSP, PSG, Overturn, Sloga) and Radomir Lazović (parliamentary group Green – left club, Don’t let Belgrade d(r)own, We have to), 6 March 2023, both from opposition parties.

Although the MPs' code of conduct, adopted in 2020, makes it mandatory for MPs to elaborate their decisions and proceedings,¹⁶⁰ violation of this duty is not properly dealt with by the parliamentary administrative committee, which decided to dismiss the only complaint of a violation of this principle as unfounded in a truncated procedure in 2021.¹⁶¹

In the absence of MPs accountability to their specific constituencies, MPs tend to show loyalty to their party leadership, whose decision is crucial when preparing the electoral lists, whose name will appear on the list and in which order.¹⁶² One of the visible consequences in recent years is the competition between ruling party MPs in praising or defending President Vučić from absent enemies, resulting in numerous mentions of his name, regardless of the topic on the agenda.¹⁶³

1.2.5. Integrity Mechanisms (law)

To what extent are there mechanisms to ensure the integrity of members of the legislature?



SCORE: 75/100

A code of conduct for MPs is in place, but it has numerous loopholes regarding regulation of conflict of interest and the complaint mechanism.

Following an urgent procedure without a public hearing, the Assembly adopted the code of conduct for members of parliament on 25 December 2020¹⁶⁴ as a result of GRECO's recommendations.¹⁶⁵ The code was adopted only nine years after starting the process of adoption,¹⁶⁶ but the working group for drafting the proposal was formed on 15 December 2020, so it was drafted in only 10 days.¹⁶⁷ Civil society organisations that monitor the work of the parliament complained that the act was adopted only "pro forma" and does not sufficiently clarify issues related to conflicts of interest or envisage decision-making in a two-instance process, leaving the complaint procedure in the hands of the authorised committee instead of an independent body.¹⁶⁸ The code foresees that the authorised committee and, in part, the Agency for the Prevention of Corruption (only in the domain of conflict of interest and gifts) will supervise its implementation.¹⁶⁹ Amendments from 2021 introduced a five-person ethics commission (including three external members), but with an advisory rather than an oversight role.¹⁷⁰ One of the problems is that the authorised committee, in this case, the committee on administrative, budgetary, mandate and immunity issues, will not monitor MPs' behaviour but will only act upon submitted complaints (anonymous complaints are not allowed).¹⁷¹

A reprimand can be given for violation of this code which may be publicly displayed (30 days on the parliamentary website) or, depending on the degree of violation, a fine up to a certain percentage of the MP's salary.¹⁷²

The Agency for the Prevention of Corruption (APC) is responsible for gifts received by MPs, conflicts of interest and the declaration of MPs' assets. The Law on the Prevention of Corruption prohibits public officials from receiving

¹⁶⁰ The Code of Conduct of MPs. Official Gazette 156/20 and 93/21, Articles 6 and 20, point 1, www.parlament.gov.rs/aktivnosti/narodna-skupstina/kodeks-ponasanja-narodnih-poslanika.4498.html

¹⁶¹ By administrative committee administrators, Robert A. Sepi, Open Doors of Judiciary, www.otvorenavratapravosudja.rs/teme/ostalo/kada-administrativni-odbor-administrira

¹⁶² Nova S, Gavrilović: How can MPs control Vučić when he proposed them, <https://nova.rs/vesti/politika/gavrilovic-kako-poslanici-da-kontrolisu-vucica-kada-ih-je-on-predlozio/>

¹⁶³ Alarm Report on Progress of Serbia in Cluster 1. 2022. For example, in one randomly selected parliament session from 04 February 2022, when the topic of the discussion was a set of electoral laws, President Aleksandar Vučić was mentioned 47 times. The president of a newly established opposition party – with no representatives in the parliament but still perceived as the main opponent of the government – was mentioned in a negative context on 42 occasions, while the another presidential candidate from one of the opposition lists was mentioned even more frequently – 44 times, also in a negative context.

¹⁶⁴ www.parlament.gov.rs/aktivnosti/narodna-skupstina/kodeks-ponasanja-narodnih-poslanika.4498.html

¹⁶⁵ GRECO. 2020. Fourth round of evaluation: Second report on harmonisation of the Republic of Serbia, pp.4&5, <https://rm.coe.int/-86-26-29-2020/1680a07e4f>

¹⁶⁶ Politika. 2011. "Javno Izvinjenje kao Kazna za Poslanika." www.politika.rs/sr/clanak/202532/Javno-izvinjenje-kao-kazna-za-poslanika.

¹⁶⁷ 13th – sitting – of – the – Committee – on – Administrative, – Budgetary, – Mandate – and – Immunity – Issues, – www.parlament.gov.rs/13_sednica_Odbora_za_administrativno-bud%C5%BEetska_i_mandatno-imunitetska_pitanja.15773.941.html

¹⁶⁸ The Open Parliament demands the withdrawal of the code of conduct for MPs from the parliamentary procedure, 27 December 2020, <https://www.otvoreniparlament.rs/aktuelno/236>

¹⁶⁹ The Code of Conduct of MPs. Official Gazette 156/20 and 93/21, article 27, point 1, <http://www.parlament.gov.rs/aktivnosti/narodna-skupstina/kodeks-ponasanja-narodnih-poslanika.4498.html>

¹⁷⁰ The Code of Conduct of MPs. Official Gazette 156/20 and 93/21, articles 23 – 23z, www.parlament.gov.rs/aktivnosti/narodna-skupstina/kodeks-ponasanja-narodnih-poslanika.4498.html

¹⁷¹ The Code of Conduct of MPs. Official Gazette 156/20 and 93/21, articles 28 – 30, www.parlament.gov.rs/aktivnosti/narodna-skupstina/kodeks-ponasanja-narodnih-poslanika.4498.html

¹⁷² The Code of Conduct of MPs. Official Gazette 156/20 and 93/21, article 31, www.parlament.gov.rs/aktivnosti/narodna-skupstina/kodeks-ponasanja-narodnih-poslanika.4498.html

gifts “in relation to performing of public function”, and allows only protocol gifts.¹⁷³ The APC keeps a register of the assets and income of MPs, and information from that register is publicly available information on income from public sources, ownership of real estate and vehicles, and ownership of shares in companies.¹⁷⁴

Regarding conflicts of interest, there is no clear guidance on what constitutes a conflict of interest for an MP.¹⁷⁵ MPs are obliged by the Law on Lobbying to report lobbying contacts.¹⁷⁶ No MP has reported such contact since the law came into force on 14 August 2019.¹⁷⁷ Meanwhile, although the law describes restrictions regarding the employment of public officials after the termination of office, they do not apply to MPs.¹⁷⁸

1.2.6. Integrity Mechanisms (practice)

To what extent is the integrity of legislators ensured in practice?



SCORE: 25/100

Past practices show that integrity is scarce – if at all – assured. The code of conduct is ignored by the parliament, along with the Law on Lobbying, and the parliamentary majority is accountable only to its party leadership.

The code of conduct for MPs (which was quickly amended after adoption) did not fulfil GRECO’s recommendations to Serbia, nor were the mechanisms in the area of conflicts of interest substantially advanced (see 1.2.5). The committee on administrative, budgetary, mandate and immunity issues (CABMII) considered the first complaints submitted for violation of the code in March 2021.¹⁷⁹ It rejected all five applications, four of which the NGO CRTA submitted for hate speech¹⁸⁰ and one submitted by Transparency Serbia for failing to elaborate on a decision made in one of the committees.¹⁸¹

On 29 April 2021, CABMII issued the first and, so far, only reprimand to one of the ruling party’s MPs¹⁸² for violating the code of conduct, which prohibits using expressions, words and gestures that insult human dignity and violate the dignity of parliament. With this admonition, the committee only appeared to act upon reports.¹⁸³ As of September 2021, the committee has not discussed reports of violations of the code.

In 2020-2023, the APC conducted 70 proceedings¹⁸⁴ against current and former MPs, some of whom finished their term in office seven or ten years ago. Almost all of the conducted proceedings were related to violations of Article 68, which stipulates the obligation to declare assets and income. In the last 10 years, no MP has voted against a colleague from the same parliamentary group. According to journalists who monitor parliament, the behaviour of MPs from the ruling coalition is particularly disturbing because the parliamentary rostrum is being used for humiliation and hate speech towards opposition MPs.¹⁸⁵ Additionally, opposition MPs complain about members of the government, who, when using the parliamentary rostrum, act as if they are the superior MPs; other ruling

173 The Law on Prevention of Corruption. Official Gazette no. 35/2019, 88/2019, 11/2021 – authentic interpretation, 94/2021 and 14/2022, articles 58- 60, www.paragraf.rs/propisi/zakon-o-sprecavanju-korupcije.html; The law stipulates obligatory reporting of received gifts and allows retaining of those whose value does not exceed 10% of the average salary in the RS, which is around €70.

174 The Law on Prevention of Corruption. Official Gazette no. 35/2019, 88/2019, 11/2021 – authentic interpretation, 94/2021 and 14/2022, articles 67-76, [https://www.paragraf.rs/propisi/zakon-o-sprecavanju-korupcije.html](http://www.paragraf.rs/propisi/zakon-o-sprecavanju-korupcije.html)

175 According to the Law on the on Prevention of Corruption. Official Gazette no. 35/2019, 88/2019, 11/2021 – authentic interpretation, 94/2021 and 14/2022, articles 45-55, www.paragraf.rs/propisi/zakon-o-sprecavanju-korupcije.html. MPs are obliged to report situations of conflict of interest and to exclude themselves from the decision-making process. Similarly, there are conflict of interest provisions in the code of conduct for MPs. However, in both of these documents, it remains insufficiently clear under which situations an MP should abstain from decision-making to avoid a conflict of interest.

176 The Law on Lobbying. Official Gazette 87/2018 and 86/2019 – other law, Article 306, www.paragraf.rs/propisi/zakon-o-lobiranju-republike-srbije.html

177 The National Assembly’s response to the Transparency Serbia request on free access to information received on 25 January 2023.

178 The Law on Prevention of Corruption. Official Gazette no. 35/2019, 88/2019, 11/2021 – authentic interpretation, 94/2021 and 14/2022, articles 55, www.paragraf.rs/propisi/zakon-o-sprecavanju-korupcije.html

179 24th sitting of the committee on administrative, budgetary, mandate and immunity issues, www.parlament.gov.rs/24._sednica_Odbora_za_administrativno-bud%C5%BEetska_i_mandatno-imunitetska_pitanja.40685.941.html

180 The administrative committee rejected all complaints. Open Parliament, Crt. 2021. What is the purpose of the Code of Conduct? <https://otvoreniparlament.rs/aktuelno/293>

181 Ibid.

182 27th sitting of the committee on administrative, budgetary, mandate and immunity issues, www.parlament.gov.rs/27._sednica_Odbora_za_administrativno-bud%C5%BEetska_i_mandatno-imunitetska_pitanja.41221.941.html

183 Interview with Miša Bojović, Open Parliament – Crt. 8 February 2023.

184 The Agency’s response to the TS request for free access to information of public importance received on September 2022.

185 The MPs excessively thank the ministers for participating in the session to present the legal proposal that were drafted by their ministries and greet the Serbian President with several minutes of applause. – From the Interviews with journalists Mirjana Nikolic, portal Istiomer and Mrs Suzana Trninić TV Insider, 20 March 2023.

majority MPs allow them to do so and prevent the opposition from responding to their insults and inadequate addressing (emphasising here the role of the speaker).¹⁸⁶

No MP reported contact with lobbyists, which is obligatory according to the law,¹⁸⁷ and in an answer to a free access to information request, parliament disclosed that they hold no record of any lobbying attempts.¹⁸⁸

1.2.7. Gender representation

To what extent are women represented in the legislature?



SCORE: 50/100

Although the relevant law somewhat assures gender representation, the impact of women's representation on decision-making is limited in practice. The law imposes a quota for female MP candidates on electoral lists. However, in practice, female candidates are used by political party leaderships in most cases only to comply with the law; when given a mandate, female MPs resign in favour of their male colleagues or remain inactive in the Assembly.

According to the Law on Electoral Deputies,¹⁸⁹ the electoral list must hold at least 40% of members of the lesser represented sex.¹⁹⁰ The Law on Gender Equality, meanwhile, stipulates balanced representation to ensure the participation of women in decision-making positions.¹⁹¹

In practice, there was slightly higher than 38% of women on the parliamentary benches when the current 13th term of the parliament was constituted in August 2022. Since the resignation of 20 female MPs in 2022 and their mandates were succeeded by their male colleagues, that percentage decreased to 35%.¹⁹² According to civil society organisations (CSOs) and experts, the obligatory quota on the electoral list does not produce the desired effects when it comes to substantial gender equality since some political parties only formally comply with the law, so some female MPs either resign after receiving a mandate or remain inactive throughout their mandates (see 7.2.6).¹⁹³

The impact of women's representation on decision-making is limited. No matter how important an issue is for women, women MPs never vote contrary to the preferences of their parliamentary group. According to an opposition MP, gender issues and the importance of a certain topic are never more important than party affiliation.¹⁹⁴ Since 1990, only three women have been speaker of the National Assembly, compared to 11 men. Research shows that, from 2011 to 2020, women are more numerous in parliamentary committees for culture, social affairs, employment, health, family and education, while they are usually the minority in committees whose domain is politics, economy and security (only 5%).¹⁹⁵

The Women's Parliamentary Network was formed in parliament in 2013 due to a donor project.¹⁹⁶ It was active initially, especially in advocating for expanding the women's network to municipalities and playing an active role in ratifying the Istanbul Convention related to the fight against violence against women. According to data from the parliament's website, the Women's Parliamentary Network was last active in May 2021¹⁹⁷ but has not yet been established in the current nor previous parliamentary term.¹⁹⁸

Although the law obliges them to do so, many institutions, including parliament, still do not keep gender-disaggregated statistics; much work still needs to be done to fulfil this obligation.¹⁹⁹

186 Interview with the Deputy Speaker of the Parliament Zoran Lutovac, member of the parliamentary group Democratic party, 1 February 2023.

187 The Law on Lobbying. Official Gazette 87/2018 and 86/2019 – other law), article 306, www.paragraf.rs/propisi/zakon-o-lobiranju-republike-srbije.html

188 "Koruptivni rizici u propisima i lobiranje" – Transparentnost Srbija, https://transparentnost.org.rs/images/dokumenti_uz_vesti/Koruptivni_rizici_u_propisima_i_lobiranje.pdf

189 The Law on Electoral Deputies. Official Gazette no. 14/2022, article 73, https://www.paragraf.rs/propisi/zakon_o_izboru_narodnih_poslanika.html

190 Each subsequent group of five candidates on the list must consist of 3:2 ratio candidates of both sexes.

191 The Law on Gender Equality. Official Gazette 52/2021, Article 7, para 1, point 1, www.paragraf.rs/propisi/zakon-o-rodnoj-ravnopravnosti.html

192 Data from the list of MPs www.parlament.gov.rs/narodna-skupstina-/sastav/narodni-poslanici/aktuelni-saziv.890.html

193 Open Parliament – Crta. 2021. Marijana Savić, NGO Atina: Gender equality is not constituted on a 40% quota of female MPs.

194 Interview with MP Borko Stefanović (United – SSP, PSG, Overturn, Sloga), 6 March 2023, from the ranks of the opposition.

195 Institute of Social Sciences. 2021. "Mapping the power of members of parliament in the Serbian parliament", Dijana P. Vukomanović, p.626. http://iriss.idn.org.rs/581/I/DVukomanovic_Socioloski_pregled_55_3.pdf

196 The Women's Parliamentary Network, <https://bfpe.org/programs/zenska-parlamentarna-mreza>

197 Danas. 2022. "Opposition female MPs: There is no women's network in parliament due to Sandra Božić". www.danas.rs/vesti/politika/opozicione-poslanice-nema-zenske-mreze-u-parlamentu-zbog-sandre-bozic/

198 Ibid.

199 Interview with the president of the Academy of Women's Leadership, Mr Milos Miloš Đajić, (15 February 2023).

Role

1.3.1. Executive Oversight

To what extent does the legislature provide effective oversight of the executive?



SCORE: 25/100

Scrutiny mechanisms are in place, however, in practice, parliament does not question the government's decisions.

The constitution has detailed rules about submitting and proceeding with interpellation (scrutinising the work of a minister or the government as a whole and voting on the minister's or government's dismissal).²⁰⁰ However, interpellation has been discussed in parliament only twice (the last time in 2011).²⁰¹

Opposition MPs state that the current parliamentary term only confirms the government's affairs without performing scrutiny of its work. Scrutiny mechanisms are in place; however, they are not being implemented in practice or are used only to conceal the problem.²⁰²

The government should report to the National Assembly about its work, especially on policies, laws implementation, development plans and budget execution.²⁰³ Most of the ministries do not fulfil their obligations regarding regular quarterly reporting to parliamentary committees but are in no way held accountable by parliament for these omissions. Even when they submit reports, the competent committees frequently do not review them. According to opposition MPs, the ruling majority has sufficient MPs to decide on the committees' agendas, which largely disrupts scrutiny on the work of the executive.²⁰⁴ Additionally, parliament fails to hold the executive accountable by discussing and adopting timely conclusions on the reports and recommendations of independent bodies.²⁰⁵ These reports are discussed before relevant committees after the expiration of the deadline, thus violating the rules of procedure.²⁰⁶ The conclusions prepared by the committees later confirmed by the plenary are general and in no way impose deadlines or specific tasks on the executive.²⁰⁷

Parliament can establish inquiry committees and commissions. These do not have the right to conduct investigations or other legal activities but may request information, documents and data from government agencies and organisations or interview individuals.²⁰⁸ In the parliamentary term (2022-2023), the opposition has asked to establish 30 inquiry committees and six commissions, but these did not make the final agenda.²⁰⁹ In comparison, in the last 20 years, the Assembly has established eight inquiry committees on various issues of public interest. However, as a result of their work, only one report was ever prepared and adopted, and still this issue remains unresolved.

The Assembly adopts the republic budget and can significantly influence its content; however, in recent practice, the ruling majority in parliament accepts all government proposals without any discussion or essential amendment, including reports on the final budget account. According to civil society practitioners and experts, even though it

²⁰⁰ If at least 50 MPs can submit an interpellation, the government must respond within 30 days, and then it should be discussed at a regular or special session of the Assembly within 15 days. The Constitution of the Republic of Serbia. Official Gazette 98/2006 and 115/2021, article 129, https://www.paragraf.rs/propisi/ustav_republike_srbije.html

²⁰¹ In December 2022, 55 opposition MPs initiated an interpellation against the minister of finance; however despite the legal obligation and using the procedural loophole in the rules of procedure, this motion for interpellation was not implemented. Daily Danas: www.danas.rs/vesti/politika/opozicija-pokrenula-postupak-protiv-sinise-malog-sta-je-interpelacija/

²⁰² Interview with MP Borko Stefanović (United – SSP, PSG, Overturn, Sloga), 6 March 2023, from the ranks of the opposition and an interview Ms Nataša Vučković, MP from 2006 to 2020, on 26 January 2023.

²⁰³ The Rules of Procedure of the National Assembly. Official Gazette 20/2012, article 228 [www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html)

²⁰⁴ Interview with MP Borko Stefanović (United – SSP, PSG, Overturn, Sloga), 6 March 2023, from the ranks of the opposition, who is also the chairman of the Committee for Foreign Policy.

²⁰⁵ The role of National Assembly in the scrutiny over implantation of recommendations of independent institutions, 2022. <https://crtar.rs/uloga-narodne-skupstine-u-obezbedjivanju-postovanja-preporuka-nezavisnih-institucija-2022/>

²⁰⁶ The Rules of Procedure of the National Assembly. Official Gazette 20/2012, article 237, para 2 [www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html)

²⁰⁷ The Rules of Procedure of the National Assembly. Official Gazette 20/2012, article 237, para 2 [www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html)

²⁰⁸ The Rules of Procedure of the National Assembly. Official Gazette 20/2012, article 237, para 2, [www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html)

²⁰⁹ Open Parliament – Crtar. 2020. <https://otvoreniparlament.rs/aktuelno/221>

is in parliament's jurisdiction to elect the government, judges and heads of independent institutions, including the ombudsperson, in practice, parliament elects only the candidates of the ruling coalition.²¹⁰

According to the rules of procedure, MPs can request explanations and information from the speaker, committee presidents, ministers and other public officials every Tuesday and Thursday just after the opening of a session.²¹¹ Additionally, every last Thursday of the month, an ongoing session is interrupted for MPs questions in the presence of members of the government.²¹² In practice, MPs receive insubstantial answers that often do not contain all the required information.²¹³ Rules of procedure stipulate that regular parliamentary sessions are to be held from Tuesday to Thursday; all sessions were scheduled on other days, thus avoiding the last Thursday of the month.²¹⁴ From the establishment of this convocation from August 2022 to March 2023, none of the parliamentary question sessions were held. This practice only changed in April 2023.²¹⁵

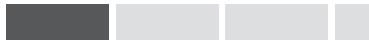
The Assembly elects the government by a majority of parliamentary votes and can dismiss it or vote no confidence in the entire government or an individual member.²¹⁶ It has not happened in practice since 2008.

Political control also does not exist, and the parliament does not question the contracts signed by the government. In the past 10 years, CSOs, media and the opposition requested information on the largest and the most obscure state deals, using the right to free access to information. Still, the government rarely disclosed such information, sometimes even years after the deals were done.²¹⁷ The Belgrade airport concession contract was never announced. In the so-called register of public contracts, only some information was known, as well as a list of annexes, from which it can be seen that only some of them are confidential.²¹⁸

On the other hand, since 2017, Transparency Serbia has been trying to get at least the information about studies that preceded the decision to give the airport concession. The ministry and the Commission for Public-Private Partnerships referred to the fact that according to the government's decision, these are strictly confidential documents and only the government can decide otherwise. The government also withheld information, and the administrative dispute in that case has been going on for 5.5 years.²¹⁹

1.3.2. Legal reforms

To what extent does the legislature prioritise anti-corruption and governance as a concern in the country?



SCORE: 25/100

The fight against corruption is not a priority of the parliament. In the last five years, parliamentarians adopted, without proper discussion, several anti-corruption laws prepared by the government and, in the past decade, they did not ratify a single international convention or protocol related to anti-corruption.

The National Anti-Corruption Strategy was adopted in 2013 and expired in September 2018. The work on a new one began in March 2023, five years later. As many as 149 activities (60%) from the National Anti-Corruption Strategy were not implemented before its expiration.²²⁰ The Agency for the Prevention of Corruption regularly submits reports

²¹⁰ Having seen the number of the requests from the opposition for establishing inquiry committees or commissions, the ruling majority submitted 21 "counterproposals", all in one day, with especially bizarre investigation requests all targeting prominent opposition leaders, https://otvoreniparlament.rs/akt?od=2022-08-01&do=2023-07-03&predlagac=&kljucnaRec=anketh&saziv=&tip=&oblast=&radnoTelo=&predlozena_aka_page=5#tab-2_tab

²¹¹ The Rules of Procedure of the National Assembly. Official Gazette 20/2012, article 278, [www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html)

²¹² The Rules of Procedure of the National Assembly. Official Gazette 20/2012, article 205, [www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html)

²¹³ Interview with MP Borko Stefanović (United – SSP, PSG, Overturn, Sloga), 6 March 2023, from the ranks of the opposition.

²¹⁴ Interview with Miša Bojović, Open Parliament – Crta, 8 February 2023.

²¹⁵ Parliamentary questions: www.parlament.gov.rs/aktivnosti/narodna-skupstina/poslanicka-pitanja/poslanicka-pitanja.991.html

²¹⁶ The Constitution of the Republic of Serbia. Official Gazette 98/2006 and 115/2021, articles 127-131, https://www.paragraf.rs/propisi/ustav_republike_srbije.html

²¹⁷ Interviews with journalists Mirjana Nikolić, portal Istinomer and Mrs Suzana Trninić, TV Insider, 20 March 2023.

²¹⁸ Announcement from Transparency Serbia, www.transparentnost.org.rs/sr/aktivnosti-2/pod-lupom/12494-ugovorne-obaveze-koncesionara-beogradskog-aerodroma

²¹⁹ Transparency Serbia requested monitoring reports from the Ministry of Finance in 2019, i.e. reports on fulfilling the obligations of private partners in the Nikola Tesla Airport and Belgrade on Water projects.

²²⁰ Annual report on monitoring the implementation of the national strategy for the fight against corruption for 2018, p.9, https://www.acas.rs/storage/page_files/Izve%C5%A1taj%20o%20sprovo%C4%91enju%20Nacionalne%20strategije%20za%20borbu%20protiv%20korupcije%20u%20Republiki%20Srbiji%20od%202013.%20do%202018.%20godine%20i%20Revidiranog%20akcionog%20plana%20za%20njeno%20sprovo%C4%91enje.pdf

to parliament with recommendations; however, the relevant committees only discuss them after delays. In recent years, they reached plenum in the final calendar days of the year, when the new reports were being prepared.²²¹

Prime Minister Ana Brnabić spoke just a few sentences about the fight against corruption in her acceptance speech before the parliament in 2022.²²² In the 2020 election exposé,²²³ this topic was not mentioned at all. In both instances, MPs did not raise the question of why the fight against corruption was not among the government's priorities. Transparency Serbia has been submitting proposals for anti-corruption priorities to the government and parliament for years but has never received any response from them.²²⁴

The national branch of the Global Organization of Parliamentarians Against Corruption (GOPAC) was established by the Assembly in May 2013²²⁵ but has not had any activities since 2021.

In the last five years, parliament adopted several anti-corruption laws (the Law on Lobbying, the Law on the Prevention of Corruption, the Law on the Financing of Political Activities and amendments to the Law on Free Access to Information of Public Importance), without proper public debate or inputs from civil society and experts, according to the statements of parliamentarians and civil society practitioners. These laws²²⁶ were adopted mostly because of obligations taken from international arrangements and based on the recommendations of foreign actors²²⁷ and not because of a genuine will to fight corruption.²²⁸ The Law on the Prevention of Corruption has been amended several times²²⁹ in the short period since its adoption, but perceived shortcomings have not yet been eliminated.

In the past 15 years, the Assembly has not ratified a single international convention or protocol,²³⁰ while conventions of the council of Europe and UNCAC were ratified in earlier years.

Interactions

The National Assembly elects and dismisses the government, which is responsible to parliament.²³¹ The government submits annual work reports to parliament, and the ministries submit quarterly reports to the competent committees.²³² These reports are occasionally discussed at the committees but not in the plenum. In practice, parliament adopts the government's proposed laws without discussion or changes through amendments and does not request reports from the government on the results of the implementation of those laws, nor does it control the work of the government.²³³

The National Assembly elects the president and members of the SAI council, and the SAI is responsible to parliament.²³⁴ SAI representatives regularly participate in the meetings of the finance committee, with which it has signed a memorandum of cooperation and has a special sub-committee for reviewing audit reports prepared by

221 Interview with Miša Bojović by Open Parliament, CRTA, 8 February 2023.

222 The exposé was 75 pages long, and the PM presented only statistical data from the police and prosecutor's offices, https://media.srbija.gov.rs/medsrp/dokumenti/ana-brnabic-ekspozite-1022_cyr.pdf

223 Programme of the government of the Republic of Serbia candidate for prime minister Ana Brnabić, <https://rsjp.gov.rs/wp-content/uploads/Ekspozite-2020.pdf>

224 Transparency Serbia. 2020. Priorities in the fight against corruption in Serbia 2020-2024 and main tasks for 2020 and 2021, www.transparentnost.org.rs/images/dokumenti_uz_vesti/Prioriteti_u_borbi_protiv_korupcije_u_Srbiji.pdf

225 The Global Organization of Parliamentarians Against Corruption is an international network of parliamentarians that has more than 50 national branches and provides support to the development of programmes in the fight against corruption. GOPAC provides support to its members in the promotion and implementation of the UN Convention against Corruption, in preventing money laundering, monitoring the work of the government and spending public finances, establishing ethics and rules of conduct for MPs, and involving society in the fight against corruption, <https://gopacsrbija.wordpress.com/> and <https://www.gopacnetwork.org/>

226 These laws include the Law on Lobbying, the Law on the Agency for the Prevention of Corruption, the Law on the Financing of Political Activities and amendments to the Law on Free Access to Information of Public Importance.

227 The process of EU accession, Council of Europe, GRECO, Venice Commission, etc.

228 Interview with Miša Bojović, Open Parliament, CRTAA, 8 February 2023.

229 The Law on the Prevention of Corruption. Official Gazette no. 35/2019, 88/2019, 11/2021 – authentic interpretation 94/2021 and 14/2022 was amended in December 2019, February 2021, September 2021 and February 2022.

230 International convention or protocol: <https://arhiva.mpravde.gov.rs/lt/articles/medjunarodne-aktivnosti-eu-integracije-i-projekti/medjunarodna-pravnapomoc/multilateralni-ugovori.html>

231 The Constitution of the Republic of Serbia. Official Gazette 98/2006 and 115/2021, article 127-133, https://www.paragraf.rs/propisi/ustav_republike_srbije.html

232 The Rules of Procedure of the National Assembly. Official Gazette 20/2012, article 228-229, [www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html)

233 Interview with MP Borko Stefanović (parliamentary group United – SSP, PSG, Overturn, Sloga), 6 March 2023, from the ranks of the opposition.

234 The Law on State Audit Institution. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 19, www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

SAI.²³⁵ However, parliament does not make adequate conclusions based on the SAI reports and recommendations. It does not control the government on the fulfilment of those recommendations and findings of the SAI.²³⁶

The National Assembly elects council members and the director of the Agency for the Prevention of Corruption, which is responsible to parliament and obliged to report annually on its work.²³⁷ Parliament is regularly late in reviewing those reports, does not review them critically, and the conclusions it adopts based on the agency's recommendations are not sufficiently substantive or of sufficient quality to improve the fight against corruption.²³⁸

Pillar Recommendations

- Parliament should be more engaged in reviewing the compliance of draft regulations with the constitution and strategic documents, discussing potential corruption risks with emphasis on interstate agreements and verifying the funds envisaged for implementing specific regulations. Concerning this, parliament should stop adopting authentic interpretations that cause instability in the legal system by amending the Law on the National Assembly and the rules of procedure.
- Parliament should endorse civil society inclusion by:
 - » organising more public hearings on the topics of the utmost public interest, in discussing corruption risks and implementation of recommendations of international organisations (such as ODIHR, GRECO);
 - » inviting civil society representatives and experts to participate in relevant committee sittings and establish more inquiry committees;
 - » reviewing and including civic initiatives in the agenda.
- Parliament should improve the transparency of its work by the timely publishing of amendments, the government's opinions on amendments, documents considered and adopted in committee sessions, budget execution documents (currently available only to MPs) and information on lobbying. Parliament should organise public calls and interviews with candidates for all posts to be elected by parliament.
- Parliament should improve the integrity of its work by:
 - » improving the regulation of conflict of interest by amending the Law on the National Assembly and Code of Conduct to ensure tailor-made rules and clear jurisdiction between the Agency for the Prevention of Corruption and the self-regulation of the National Assembly;
 - » amending the code of conduct to align with practice and presenting the code to citizens;
 - » publishing a report on the implementation of the code of conduct and timely reviewing all reported violations of the code.

²³⁵ National Assembly. 2022. "Decision on forming the Subcommittee for reviewing audit reports prepared by the State Audit Institution." www.parlament.gov.rs/upload/documents/dokumenta/05.12.2022.%20Pododbor%20FIN.pdf and www.parlament.gov.rs/narodna-skupstina-/sastav/radna-tela/pododbori.3663.html

²³⁶ Interview with Dragomir Pop Mitić, activist from the Užice Center for Human Rights and Democracy, who has been analysing the work of local governments for years, October 25 January 2023.

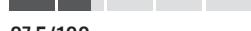
²³⁷ The Law on the Prevention of Corruption. Official Gazette no. 35/2019, 88/2019, 11/2021 – authentic interpretation 94/2021 and 14/2022, article 11, para 1 and article 11, para 1, www.paragraf.rs/propisi/zakon-o-sprecavanju-korupcije.html

²³⁸ CRTA. 2022. The role of the National Assembly in supporting recommendations of independent institutions, pg 7-9, <https://crtar.rs/uloga-narodne-skupstine-u-obezbedjivanju-postovanja-preporuka-nezavisnih-institucija-2022/>

2. Executive

Summary

OVERALL PILLAR SCORE: 50/100

DIMENSION	INDICATOR	LAW	PRACTICE
CAPACITY  58.3/100	RESOURCES	–	50
	INDEPENDENCE	75	50
GOVERNANCE  54.2/100	TRANSPARENCY	75	50
	ACCOUNTABILITY	100	25
	INTEGRITY	50	25
	GENDER REPRESENTATION	50	
ROLE  37.5/100	PUBLIC SECTOR MANAGEMENT	50	
	LEGAL SYSTEM	25	

The executive is independent, according to the constitution and laws. In practice, the decision-making process depends on the structure of the ruling coalition and the individual strength of parties, leaders and cabinet members. Real political power is in the hands of the ruling party's leaders. There is one highly dominant party whose leader has also been the president of the republic since 2017. Therefore, regardless of constitutional powers, the government does not take important policy decisions without the approval of the president. Furthermore, the president shapes and frequently even presents government policies, with the prime minister and cabinet members seconding to him.

The executive is constituted of the prime minister's office, 25 departmental ministries and 3 ministers without portfolio.²³⁹ This composition is regulated by the Law on Ministries that is amended with each new parliamentary convocation to adapt the number of ministries according to coalition agreements. The current government (October 2022-October 2023), in its second mandate, is led by the prime minister who is a member of the Serbian Progressive Party (SPP), which won 48% of mandates in the National Assembly.²⁴⁰ Out of 28 ministers, 11 are directly related to Serbian Progressive Party (either members or on the election list), 8 are non-partisan professionals, but proposed by and highly affiliated with the SPP, 5 from the ranks of the coalition partners Socialist Party of Serbia – Unified Serbia, one from the coalition partner, Party of United Pensioners of Serbia, and 3 from the minority parties that are also members of the ruling coalition.

While other state institutions have a low level of influence on the work of the executive, the level of influence of external actors is insufficiently known due to the lack of transparency in decision-making and failure to implement lobbying legislation. The government publishes some of its acts and decisions. Members of the government regularly report their assets and income, thus fulfilling formal obligations described by the law, but suspicions about their integrity and self-reporting have not been investigated. However, in practice, a significant portion of the government's activities are insufficiently transparent.

239 The Law on Ministries. Official Gazette no. 128/2020, 116/2022 i 92/2023 – other law, article 2, https://www.paragraf.rs/propisi/zakon_o_ministarstvima.html

240 National Assembly web-page, www.parlament.gov.rs/народна-скупштина/народна-скупштина-у-бројкама/народна-скупштина-у-бројкама-1734.html

There is insufficient oversight over the executive's activities in practice, with the weakest links being the parliament and the ineffective administrative court. The government's commitment to public sector professionalisation is only declarative, with relevant legal provisions being ignored and violated. The government's publicly declared commitments to fighting corruption are not yet articulated sufficiently in policy documents, and results are limited even when plans and recommendations of international organisations are fulfilled, often with significant delays.

Capacity

2.1.1. Resources (practice)

To what extent does the executive have adequate resources to effectively carry out its duties?



SCORE: 50/100

The executive has sufficient financial and human resources (ministers, advisers and officials), but the new recruitment system is not being applied effectively.

The total budget of the Republic of Serbia for 2023 is RSD 1,843.4 billion (€15.7 billion), which is RSD 326.5 billion (€2.8 billion) more than in 2022. In 2023, the ministries of interior affairs, finance, mining and energy and environmental protection received more funds than in the previous year's budget.²⁴¹

Table 2: Annual budget

Year	Total budget in RSD	Total budget in EUR ²⁴²
2023	1.843,4 billion	15.7 billion
2022	1.516,9 billion	12.9 billion
2021	1.336 billion	11.3 billion
2020	1.314,5 billion	11.7 billion
2019	1.246,2 billion	10.5 billion

The Administration for Joint Services of the Republic Bodies is in charge of maintaining buildings and equipment in all state institutions, including the government.²⁴³ The administration's total budget for 2023 is higher than it was in 2022. In 2022, the total budget was RSD 4,445,755,00 and, in 2023, the total budget was RSD 4,578,216,000.²⁴⁴

The new government formed in October 2022 has 28 ministers – four more than the previous one. The prime minister's exposé does not explain why it was necessary to increase the number of ministers.²⁴⁵ Similarly, the number of officials and advisers in the executive will also be increased.²⁴⁶ According to the European Commission 2022 progress report, political affiliation is still the key factor in personnel selection in state authorities.²⁴⁷

²⁴¹ BBC. 2022. Budget of the Republic of Serbia for 2023: Which ministers dispose with more money and where the money is spent the most. <https://www.bbc.com-serbian/lat/srbija-63972031>.

²⁴² Based on materials received from an interview conducted on 23 December 2022.

²⁴³ Official web presentation of the Administration for Joint Services of the Republic Bodies, [https://www.uzzpro.gov.rs/doc/informator/2022/Informator%20o%20radu%20cir%2031%20december%202022%20cirilica\(1\).pdf](https://www.uzzpro.gov.rs/doc/informator/2022/Informator%20o%20radu%20cir%2031%20december%202022%20cirilica(1).pdf),

²⁴⁴ Official budget for 2023: http://www.parlament.gov.rs/upload/archive/files/cir/pdf/zakoni/13_saziv/2503-22.pdf, page 213.

²⁴⁵ The opposition parties and experts in the field claim that the number of ministries increases to satisfy all the demands of both the ruling party and the coalition partners.

²⁴⁶ Coalition Preugovor. 2022. Alarm Report on Progress of Serbia in Cluster 1, p.33, <https://preugovor.org/Alarm-izvestaji/1772/Izvestaj-koalicije-prEUgovor-o-napretku-Srbije-u.shtml>.

²⁴⁷ European Commission. Serbia 2022 Report, p.17, <https://eukonvent.org/wp-content/uploads/2022/10/Serbia-Report-2022.pdf>

In 2019, a new recruitment system based on the competency model in public administration human resource management was established.²⁴⁸ The government and its ministers have not accepted the recruitment system as established by the legislation, and the provisions of the law are not abided by.²⁴⁹ Roughly half of the senior manager positions are still filled on an acting basis (see 5.1.3).²⁵⁰

2.1.2. Independence (law)

To what extent is the executive independent by law?



SCORE: 75/100

The executive has strong independence following the law, although there are provisions in place on interpellation or voting of no confidence in the government by the Parliament under certain circumstances.

A normative framework for the interrelation between the president, the government and the parliament gives the government strong independence while determining rules on cooperation, duties and accountability. The government is independent within its competencies.²⁵¹ The parliament elects the government, supervises its work and decides on the expiry of the term of office of the government and ministers.²⁵²

According to the Constitution, the president shall: represent the Republic of Serbia in the country and abroad, promulgate laws upon his decree, propose to the parliament a candidate for the prime minister, after considering the views of representatives of elected lists of candidates, propose to the parliament holders of positions, following the constitution and law, appoint and dismiss, upon his decree, ambassadors of the Republic of Serbia, upon the proposal of the government receive letters of credit and revocable letters of credit of foreign diplomatic representatives, grant amnesties and award honours, command the Army and appoint, promote and relieve officers of the Army of Serbia, and administer other affairs stipulated by the constitution.²⁵³

There are provisions to limit the independence of the executive. Firstly, there is the possibility of interpellation – at least 50 MPs can submit formal questions to the government or a particular member, which must be answered within 30 days. The parliament then discusses and votes on the answer that the government or government member gave. If the parliament does not accept the answer, it takes a vote of confidence on the government or its members. The issue which was a subject of interpellation may not be discussed again before the expiry of the 90-day deadline²⁵⁴. Also, at least 60 MPs can submit a vote of no confidence in the government. For a vote of no confidence in the government, at least 126 MPs must vote for that proposal. If the parliament fails to pass a vote of no confidence in the government or the government member, signatories of the proposal may not submit a new proposal for a vote of no confidence before the expiry of the 180-day deadline.²⁵⁵

2.1.3. Independence (practice)

To what extent is the executive independent in practice?



SCORE: 50/100

The president of Serbia continues to embody executive power, even though his role as president is more procedural. Foreign investments occasionally interfere with the decisions of the executive, with the intention to improve conditions for their companies.

248 A thorough evaluation of the new system is recommended with the main objective of the selection procedures, recruiting the candidate with the most suitable experience, knowledge, skills, and competencies for the job.

249 SIGMA, Monitoring report – The principals of public administration, 2021, page: 8, <https://www.sigmapublications.org/publications/monitoring-report-2021-serbia.pdf>

250 European Commission, Serbia 2022 Report, page 17, <https://eukonvent.org/wp-content/uploads/2022/10/Serbia-Report-2022.pdf>

251 Constitution of the Republic of Serbia. Official Gazette of the RS, No. 98/06 115/21 – Amendments I-XXIX, and 16/22), Article 112, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/ustav/2006/98/1/reg>

252 Constitution of the Republic of Serbia. Official Gazette of the RS, No. 98/06 115/21 – Amendments I-XXIX, and 16/22), Article 99, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/ustav/2006/98/1/reg>

253 The Constitution of the Republic of Serbia. Official Gazette no. 98/2006 i 115/2021), article 112, https://www.paragraf.rs/propisi/ustav_republike_srbije.html

254 Constitution of the Republic of Serbia. Official Gazette of the RS, No. 98/06 115/21 – Amendments I-XXIX, and 16/22), Article 129, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/ustav/2006/98/1/reg>

255 Constitution of the Republic of Serbia. Official Gazette of the RS, No. 98/06 115/21 – Amendments I-XXIX, and 16/22, Article 130, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/ustav/2006/98/1/reg>

After Aleksandar Vučić won the election for president of the republic in April 2017, he became the most powerful political figure in the country and does not respect the constitutional limitations to his powers (see 2.1.2). Namely, the president shapes and frequently even presents government policies, with the prime minister and cabinet members ceding to him.²⁵⁶ His interference starts with his personal management of the executive (in 2023, he offered a young man from Kosovo*, a student without qualifications, knowledge or experience, to choose a job in the government)²⁵⁷ and extends to the judiciary and even sports management. Vučić announced that €4 million would be paid to the men's and women's national handball, volleyball and water polo teams, and when asked if the footballers would receive anything, he replied that they will not.²⁵⁸ According to a professor of law, Tanasije Marinković, Vučić made at least 25 statements from 2017 to 2020 in which he violated the provision of Article 149 of the Constitution, which prohibits any influence on a judge in the exercise of their judicial function.²⁵⁹ In 2019, the European parliament pointed out that political power is in the hands of Vučić, and expressed concern that Serbia would drift towards authoritarianism.²⁶⁰

Domestic and foreign business tycoons interfere in the policy-making process and continue to influence decision-making through informal channels. One of the causes of this kind of problem lies in the fact that the Law on Lobbying does not regulate lobbying through informal contacts of lobbyists with the executive (see 2.2.5). According to analysis by the Regulatory Institute for Renewable Energy and the Environment, there is a noticeable weakening of the legal obligations for investments from China in Serbia.²⁶¹ In 2021, the European parliament adopted a resolution on forced labour in the Linglong factory and on environmental protests in Serbia, and explicitly expressed concern about the increased Chinese influence in Serbia and the Western Balkans, stating that Serbia's labour and environmental laws must also apply to Chinese companies in the country.²⁶²

Governance

2.2.1. Transparency (law)

To what extent are there regulations to ensure transparency in relevant activities of the executive?



SCORE: 75/100

While the Law on Government states that the government's work shall be public, the latest amendments to the Law on Free Access to Information of Public Importance did not bring all the necessary improvements, and a few provisions narrow the scope of the right to access information.

The Law on Government describes that its work shall be public.²⁶³ Ordinances, decisions, rules of procedure, memorandums on budget and rulings annulling and revoking the regulations of state administration authorities shall be published in the Official Gazette.²⁶⁴ Other acts may be published if determined by regulations or decided by the government.²⁶⁵

²⁵⁶ For example, RTS. 2019. Vučić and Brnabić presented a plan for the revival of Serbia by 2025, youth and roads a priority, <https://www.rts.rs/lat/vesti/politika/3790705/predstavljanje-plana-za-buducnost-srbija-2025--bice-ulozeno-14-milijardi-evra.html>

²⁵⁷ Danas. 2023. The president again tramples on the constitutional powers: Can Vučić employ in the Government of Serbia and how?, <https://www.danas.rs/vesti/drustvo/predsednik-ponovo-gazi-ustavna-ovlascenja-da-li-i-kako-vucic-moze-da-zaposljava-u-vladi-srbije/>

²⁵⁸ Mondo. 2022. Vučić: football players were not well prepared! "Why should we pay them money, they have it like chaff", <https://mondo.rs/Sport/Fudbal/a1731226/Aleksandar-Vucic-kritikovao-fudbalere-posle-Svetskog-prvenstva.html>

²⁵⁹ Danas. 2021. Marinković: Vučić violated the Constitution at least 25 times in order to influence the judges, <https://www.danas.rs/vesti/drustvo/marinkovic-vucic-najmanje-25-puta-prekrasio-ustav-da-bi-uticao-na-sudije/>

²⁶⁰ European Parliament. 2019. Briefing – Serbia at risk of authoritarianism? P.1, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/637944/EPRS_BRI\(2019\)637944_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/637944/EPRS_BRI(2019)637944_EN.pdf)

²⁶¹ "Chinese business activities increased the number of legal loopholes in the law that allowed certain concessions to highly polluting large-scale projects, such as infrastructure projects, which were mainly financed by Chinese state loans or by Chinese companies", Taken from article: Chinese investments in Serbia undermine the rule of law, <https://www.reri.org.rs/kineske-investicije-u-srbiji-narusavaju-vladavinu-prava/>

²⁶² European Parliament. 2021. Joint motion for the resolution on forced labour at Linglong factory and environmental protests in Serbia, https://www.europarl.europa.eu/doceo/document/RC-9-2021-0600_EN.html

²⁶³ The government shall be obliged to enable public insight into its work, according to a law governing free access to information of public importance and its rules of procedure.

²⁶⁴ The Law on the Government. Official Gazette of the RS, No. 55/05, 71/05 (Corrigendum), 101/07, 65/08, 16/11, 68/12 (CC), 72/12, 74/12 – CC (Corrigendum), 7/14 (CC), 44/14 and 30/18 (other law), Article 46, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2005/55/1/reg>

²⁶⁵ The Law on the Government. Official Gazette of the RS, No. 55/05, 71/05 (Corrigendum), 101/07, 65/08, 16/11, 68/12 (CC), 72/12, 74/12 – CC (Corrigendum), 7/14 (CC), 44/14 and 30/18 (other law), Article 46, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2005/55/1/reg>. Those acts, such as conclusions, can be requested through a free access to information request, provided the enquirer knows what to ask for.

Amendments to the Law on Free Access to Information of Public Importance in 2021 did not bring all the necessary improvements and contained a few provisions that narrow the scope of the right to access information. According to the new provisions, instead of the previous five, there are now seven grounds for potentially limiting the right to access information.²⁶⁶ The adoption of these provisions raised the question of their constitutionality.²⁶⁷ As a result, the protection of the right to information is not fully and efficiently guaranteed. Also, the law still states that members of the public cannot complain to the Commissioner for Information of Public Importance and personal data protection if the government rejected free access, but can only file a complaint to the administrative court. The protection of rights in administrative disputes has proven to be weaker compared to appeal proceedings before the commissioner. Even though the commissioner failed to meet the deadlines for decision-making, at least these deadlines are stipulated, which is not the case in administrative disputes.²⁶⁸

The government rules of procedure stipulate that the openness of government work shall be ensured through press conferences, internet presentations, press releases and other information and telecommunication technologies.²⁶⁹ The government media office shall be responsible for the openness. The prime minister and the head of the media office shall inform the public of the work and decisions of the government.²⁷⁰ Reporters and representatives of the public do not attend government sessions on a regular basis.²⁷¹ Speeches from participants in a session are considered strictly confidential official secrets unless the prime minister decides otherwise.²⁷²

The draft and final fiscal strategy, as well as the proposal of and adopted budget, have to be public.²⁷³

Part of the data from the register of assets and income is public on the agency's website.²⁷⁴

2.2.2. Transparency (practice)

To what extent is there transparency in relevant activities of the executive in practice?



SCORE: 50/100

Relevant information on the work of the executive is mostly publicly available, but difficult to search through. Government decisions are only partially made public.

Government session agendas are not made public before the sessions, and decisions are only partially made public. On the government website, there is a section called "documents from the government session" with folders from individual government sessions. Folders consist of documents the government adopted at those sessions, such as action plans, proposals, regulations and personnel decisions. These folders are very hard to search through, and they do not contain the agenda or minutes from the sessions. From October 2019 to March 2020, PAR Monitor analysed 56 folders and found that there were no publicly available minutes or agendas from

266 The Law on Free Access to Information of Public Importance. Official Gazette of the RS, No. 120/04, 54/07, 104/09, 36/10 and 105/21, Article 9, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2004/120/7/reg> A public authority has the possibility to deny an applicant the right to access information of public importance if it would: i) violate intellectual or industrial property rights, endanger protection of artistic, cultural and natural assets; or ii) endanger the environment or rare plant and animal species. The government explained the need to stipulate new grounds for potentially limiting the right to access information in the field of the environment with obligations from signed international conventions. When it comes to intellectual property and cultural goods, the explanatory note does not contain enough information for the justification assessment. Another provision that limits the scope of the right to access information is the introduction of the National Bank of Serbia on the list of institutions against which it is not possible to file a complaint to the commissioner but only initiate an administrative dispute. In that sense, instead of six, there are seven institutions where it is not possible to file an appeal to the commissioner.

267 Article 20, Paragraph 2 of the constitution states that "the attained level of human and minority rights may not be lowered". The right to access information represents a human right. Article 51 of the constitution states that "everyone shall have the right to access information kept by state bodies and organisations with delegated public powers, following the law".

268 Coalition prEUgovor. 2021. Alarm Report on Progress of Serbia in Cluster 1, p.73, <https://preugovor.org/Alarm-Reports/1689/Alarm-Report-on-Progress-of-Serbia-in-Cluster-1.shtml>

269 Government Rules of Procedure. Official Gazette of the RS, No. 61/06, 69/08, 88/09, 33/10, 69/10, 20/11, 37/11, 30/13, 76/14 and 8/19, Article 93, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/ministarstva%20/poslovnik/2006/61/1/reg>

270 Government Rules of Procedure. Official Gazette of the RS, No. 61/06, 69/08, 88/09, 33/10, 69/10, 20/11, 37/11, 30/13, 76/14 and 8/19, Article 94, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/ministarstva%20/poslovnik/2006/61/1/reg>. Following this provision, also, a deputy prime minister and ministers shall inform the public of government decisions falling within their competence.

271 Government Rules of Procedure. Official Gazette of the RS, No. 61/06, 69/08, 88/09, 33/10, 69/10, 20/11, 37/11, 30/13, 76/14 and 8/19, Article 96, Paragraph 1, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/ministarstva%20/poslovnik/2006/61/1/reg>

272 Government Rules of Procedure. Official Gazette of the RS, No. 61/06, 69/08, 88/09, 33/10, 69/10, 20/11, 37/11, 30/13, 76/14 and 8/19, Article 96, Paragraph 2, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/ministarstva%20/poslovnik/2006/61/1/reg>

273 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/zakoni/13_saziv/2503-22.pdf. The government adopts a publicly available draft fiscal strategy (by 15 June) and the final fiscal strategy (by 1 October). The government adopts a proposal for the budget by 1 November and delivers it to parliament, which makes the budget public.

274 The Law on the Prevention of Corruption. Official Gazette of the RS, No. 35/19, 88/19, 11/21 (Authentic Interpretation), 94/21 and 14/22, Article 73, <http://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2019/35/3/reg>

any session, and even press releases were missing on several occasions.²⁷⁵ The SIGMA's 2021 report concludes that the openness of the government's decision-making process has regressed.²⁷⁶

The annual budget is published regularly in the Official Gazette and online. During the year, the Ministry of Finance reports only the economic classification of consumption, while half-yearly reports on budget implementation are not published. Experts warn that citizens remain deprived of insight into the implementation of the budget during the year, which limits the potential for monitoring public spending and creating public pressure to achieve fiscal responsibility.²⁷⁷ Furthermore, the current system for in-year budget reporting has weaknesses as it does not show deviations in administrative expenditure headings and reports budget execution only on an economic classification basis.²⁷⁸

The government does not make documents or procedures more accessible to citizens by translating them into everyday language. An important step in this direction is the "citizen's budget", which the Ministry of Finance regularly publishes on its website.²⁷⁹

2.2.3. Accountability (law)

To what extent are there provisions to ensure that members of the executive have to report and be answerable for their actions?

 **SCORE: 100/100**

The government reports to parliament, while different institutions, such as the constitutional court, the administrative court, the State Audit Institution and the Agency for the Prevention of Corruption have competencies to oversee, monitor or control the work of the government in specific areas.

Government should be supervised by parliament.²⁸⁰ The government is liable to parliament for conducting policy, executing laws and other general acts in all areas within its competence along with the work of the public administrative authorities.²⁸¹

The constitutional court, the administrative court and the State Audit Institution have competencies to oversee, monitor or control the work of the government in specific areas. The Agency for the Prevention of Corruption oversees matters such as resolving conflicts of interest, accumulation of public offices, development and implementation of integrity plans and implementation of strategic anti-corruption documents.²⁸²

The Law on Government states that the government must submit an annual report on its work to parliament, a maximum of 60 days before submitting a draft final account. Upon the request of parliament, the government and each of its members is obliged to submit a report and data on their work.²⁸³ The government rules of procedure stipulate that the government will submit an annual report to parliament for the previous year by 1 May.²⁸⁴ The government adopts the annual government work programme²⁸⁵ by the end of December for the following year, along with an action plan with priorities, deadlines and expected results.²⁸⁶

275 Transparency of public administration reform in Serbia. Inadequate implementation of priorities, p.3, https://cep.org.rs/wp-content/uploads/2022/09/Transparentnost-reforme-javne-uprave-u-Srbiji_Nedovoljno-ostvaren-prioritet.pdf

276 SIGMA. 2021. Monitoring report – The principals of public administration, p.43, <https://www.sigmaxweb.org/publications/Monitoring-Report-2021-Serbia.pdf>

277 Miloš Đindić i dr. Nacionalni PAR Monitor Srbija. 2019. p.146, <https://cep.org.rs/wp-content/uploads/2023/01/PAR-Monitor-SRB.pdf>

278 SIGMA. 2021. Monitoring report – The principles of public administration, p.127, <https://www.sigmaxweb.org/publications/Monitoring-Report-2021-Serbia.pdf>

279 Ministry of Finances, Citizen's guide to the budget of the Republic of Serbia for 2022, https://www.mfin.gov.rs/upload/media/XhuXUy_61ced86c7e83c.pdf

280 Constitution of the Republic of Serbia. Official Gazette of the RS, No. 98/06 115/21 – Amendments I-XXIX, and 16/22, Article 99, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/ustav/2006/98/1/reg>

281 The Law on Government. Official Gazette of the RS, No. 55/05, 71/05 (Corrigendum), 101/07, 65/08, 16/11, 68/12 (CC), 72/12, 74/12 – CC (Corrigendum), 7/14 (CC), 44/14 and 30/18 (other law), Article 7, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2005/55/1/reg>

282 The Law on the Prevention of Corruption. Official Gazette of the RS, No. 35/19, 88/19, 11/21 (Authentic Interpretation), 94/21 and 14/22, <http://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2019/35/3/reg>

283 The Law on Government. Official Gazette of the RS, No. 55/05, 71/05 (Corrigendum), 101/07, 65/08, 16/11, 68/12 (CC), 72/12, 74/12 – CC (Corrigendum), 7/14 (CC), 44/14 and 30/18 (other law), Article 36, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2005/55/1/reg>. Also, following article 37 of this law, the government is obliged to take a position on the proposal of parliament that was submitted under the competence of the government.

284 Government Rules of Procedure. Official Gazette of the RS, No. 61/06, 69/08, 88/09, 33/10, 69/10, 20/11, 37/11, 30/13, 76/14 and 8/19, Article 79, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/ministarstva%20/poslovnik/2006/61/1/reg>

285 Following Article 76 of the government rules of procedure, the program sets its objectives and tasks, as well as goals, public administration bodies' duties and estimated results.

286 Government Rules of Procedure. Official Gazette of the RS, No. 61/06, 69/08, 88/09, 33/10, 69/10, 20/11, 37/11, 30/13, 76/14 and 8/19, articles 77 and 79a, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/ministarstva%20/poslovnik/2006/61/1/reg>

Government members are not obliged to elaborate their decisions when voting in government sessions.²⁸⁷ All government acts must contain explanations, while draft laws must contain analyses of their effects.²⁸⁸

Pursuant to the constitution, the prime minister and ministers enjoy immunity from prosecution as defined for MPs.²⁸⁹ Immunity results in withholding of deadlines in criminal procedures, but it does not prolong a deadline for absolute obsolescence, which means that the statute of limitations for criminal prosecution applies.²⁹⁰

2.2.4. Accountability (practice)

To what extent is there effective oversight of executive activities in practice?



SCORE: 25/100

There is insufficient oversight of the executive, with the weakest link being parliament. This is especially related to the reporting on the implementation of parliament's conclusions by the executive concerning the competencies of independent state bodies and reporting on the realisation of the budget.

Despite the obligation to submit an annual report to parliament for the previous year by 1 May, by the end of 2021, the last available annual report of the government was for 2019.²⁹¹ The government submitted the 2021 annual report to parliament in September 2022.²⁹²

Inadequate consideration of reports by independent state bodies in parliament represents one of the key problems together with an ineffective mechanism for the executive's reporting on the implementation of parliament's conclusions concerning the improvement of competencies in independent state bodies.²⁹³

In December 2022, 55 Opposition MPs proposed the interpellation concerning the minister of finance.²⁹⁴ However, parliament has still not discussed this request.²⁹⁵

After 17 years of not adopting laws on the final account of the budget, in 2019, the government submitted proposals for these laws from 2002 to 2018, which the parliament retroactively adopted.²⁹⁶ The latest Law on the Final Account of the Budget (for 2021) was adopted in December 2022.²⁹⁷ The final budget account is subject to audit by the State Audit Institution. However, the government is not being held accountable for the lack of realisation of some aspects of the budget.

In the last decade, institutional accountability of government members before parliament has in practice been fully replaced with individual accountability to their political party leadership or the president of the republic himself. Such practice has been evident on several occasions when ministers were called to resign from their post. In 2016, the

²⁸⁷ However, following article 95 of the government rules of procedure, they are obliged to publicly advocate for the decisions of the government even if they voted against them or refrained from voting.

²⁸⁸ Government Rules of Procedure. Official Gazette of the RS, No. 61/06, 69/08, 88/09, 33/10, 69/10, 20/11, 37/11, 30/13, 76/14 and 8/19, articles 39, 39a and 40, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/ministarstva%20/poslovnik/2006/61/1/reg>

²⁸⁹ Constitution of the Republic of Serbia. Official Gazette of the RS, No. 98/06 115/21 – Amendments I-XXIX, and 16/22, article 134, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/ustav/2006/98/1/reg> They may not be detained, nor may criminal or other proceedings in which a prison sentence may be imposed be conducted against them without the approval of the government. If they are caught committing a criminal offence incurring more than five years' imprisonment, they may be detained without approval.

²⁹⁰ Criminal Code. Official Gazette of the RS, No. 85/05, 88/05 (Corrigendum), 107/05 (Corrigendum), 72/09, 111/09, 121/12, 104/13, 108/14, 94/16 and 35/19, articles 103-107, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2005/85/6/reg>

²⁹¹ WeBER. 2022. Transparency across public administration reform in Serbia: An underachieved priority, p.3, https://cep.org.rs/wp-content/uploads/2022/09/Transparentnost-reforme-javne-uprave-u-Srbiji_Nedovoljno-ostvaren-prioritet.pdf

²⁹² National Assembly of the Republic of Serbia, Documents, <http://www.parlament.gov.rs/akti/izvestaji-izvestaji-1785.html>,

²⁹³ Although it was determined as a legal obligation, in the period from 2015 to 2018, parliament did not consider the annual reports of these bodies and their recommendations to the government in the plenum. For more details, the strategy for public administration reform in the Republic of Serbia for the period 2021-2030, p.173, <https://mduls.gov.rs/wp-content/uploads/PAR-Strategy-in-the-Republic-of-Serbia-for-the-period-2021%20-%2088%922030.pdf>. For more details on the problem of inconsistent practice and recommendations of parliament for the government following the annual reports of the independent state bodies, see Coalition prEUgovor. 2023. Alarm Report on Progress of Serbia in Cluster 1 – p.26, <https://preugovor.org/Alarm-Reports/1811/Alarm-Report-on-Progress-of-Serbia-in-Cluster-1.shtml>

²⁹⁴ Euronews. 2022. Part of the opposition submitted a request for the interpellation of Siniša Mali: 55 MPs are seeking a statement from the Government, <https://www.euronews.rs/srbija/politika/72450/deo-opozicije-podneo-za-interpelaciju-sinise-maloq-izjasnjavanje-vlade-trazi-55-poslanika/vest>

²⁹⁵ Danas. 2023. Orlić submitted an interpellation about Sinisa Mali, <https://www.danas.rs/vesti/politika/orlic-dostavio-interpelaciju-o-sinisi-malom/>

²⁹⁶ WeBER. 2022. Transparency across public administration reform in Serbia: An underachieved priority, p.7, https://cep.org.rs/wp-content/uploads/2022/09/Transparentnost-reforme-javne-uprave-u-Srbiji_Nedovoljno-ostvaren-prioritet.pdf

²⁹⁷ The Law on the Final Budget Account for 2021, http://www.parlament.gov.rs/upload/archive/files/cir/pdf/zakoni/13_saziv/2509-22.pdf. This could indicate that the Government has started to adhere to legal obligations in this regard.

minister of defence from the leading political party, the Serbian Progressive Party, was dismissed by the Assembly after the current president, who was prime minister at the time, requested his dismissal. This occurred due to the strong public pressure after the minister made sexist comments to a female journalist in a media appearance.²⁹⁸ That this was merely a measure to appease the public, as this party member was later appointed director of the Serbian security information agency and, since 2022, has been a minister of interior. Another, more recent case of a minister's dismissal comes from a coalition partner, Unified Serbia, whose minister of economy openly advocated for introducing sanctions to Russia, even though this was not the official stance of the government. The leader of his party requested his dismissal and stated that this request had been submitted to the government. The parliament soon voted for the minister's dismissal.²⁹⁹ In December 2022, opposition MPs initiated the procedure for the interpellation of the minister of finance because he had accused the opposition of treason.³⁰⁰ This request remains in the parliamentary procedure as it never reached the authorised committee and no discussion was ever initiated. The practice of shortening the mandate of the government and changing ministers after elections has become common since 2017, yet no information has been presented about their poor performance in the previous mandate nor other arguments on how such moves would improve governance in specific sectors.

2.2.5. Integrity (law)

To what extent are there mechanisms to ensure the integrity of members of the executive?



SCORE: 50/100

The Law on the Prevention of Corruption, with its integrity standards, does not apply to all categories of persons with top executive functions, and a comprehensive code of conduct for government members is still missing. The Law on Lobbying also has shortcomings.

The constitution, the Law on Government and the Law on the Prevention of Corruption provide provisions to strengthen the integrity of members of the executive.³⁰¹ However, the Law on the Prevention of Corruption does not apply to the prime minister's and deputy prime ministers' chiefs of cabinet and special and government advisers. This has far-reaching consequences as all integrity standards contained in the Law on the Prevention of Corruption, such as ad hoc declarations of conflicts of interest, asset and income declarations, gifts and post-employment restrictions, do not apply to these categories of persons with top executive functions. In 2016, the code of conduct for members of the government on the limits on the permissibility of commenting on court decisions and procedures was adopted. However, there is still no comprehensive code of conduct for government members that would cover integrity matters accompanied by appropriate practical guidance.³⁰²

The constitution stipulates that government members cannot become members of the national parliament, provincial and local assemblies, or executive authorities.³⁰³ The Law on the Government envisages that government members may not take another public office³⁰⁴ or perform activities which, by law, are incompatible with the duty of the government. Government members also may not create possibilities for conflict between public and private interests and must comply with rules described in the Law on the Prevention of Corruption.³⁰⁵ This law states that government members cannot perform other jobs and advise legal and natural persons on issues related to public office; they are obliged to transfer managing rights in companies they own within a 30-day deadline after taking office, and disclose ownership of more than 3% of any legal entity.³⁰⁶ Two years after the termination of office, they may not

298 RTV. 2016. Defence Minister Bratislav Gašić was dismissed, https://rtv.rs/sr_lat/politika/smenjen-ministar-odbrane-bratislav-gasic_686313.html

299 Free Europe. 2023. The minister who called for Serbia to impose sanctions on Russia was dismissed, <https://www.slobodnaevropa.org/a/rade-basta-nepoverenje-ministar/32499019.html>

300 Danas. 2022. The opposition initiated proceedings against Sinisa Mali: What is an interpellation, <https://www.danas.rs/vesti/politika/opozicija-pokrenula-postupak-protiv-sinise-malog-sta-je-interpelacija/>

301 Most of the provisions, rules, and standards of ethical conduct for public officials, including members of the executive, are stipulated in the Law on the Prevention of Corruption. Official Gazette of the RS, No. 35/19, 88/19, 11/21 (Authentic Interpretation), 94/21 and 14/22.

302 In 2016, the code of conduct for members of the government on the limits on the permissibility of commenting on court decisions and procedures was adopted. It is Kodeksi Ponašanja Članova Vlade I Narodnih Poslanika O Granicama Dozvoljenosti Komentarisanja Sudskih Odluka I Postupaka: Komentarisanjem sudskih odluka i kršenjem pretpostavke nevinosti funkcioneri ne poštuju kodekse (paragraf.rs).

303 Constitution of the Republic of Serbia. Official Gazette of the RS, No. 98/06 115/21 – Amendments I-XXIX, and 16/22, Article 126, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/ustav/2006/98/1/reg>

304 In the state authority, autonomous region, municipality, city, and City of Belgrade.

305 The Law on Government. Official Gazette of the RS, No. 55/05, 71/05 (Corrigendum), 101/07, 65/08, 16/11, 68/12 (CC), 72/12, 74/12 – CC (Corrigendum), 7/14 (CC), 44/14 and 30/18 (other law), Article 11, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2005/55/1/reg>

306 The Law on the Prevention of Corruption. Official Gazette of the RS, No. 35/19, 88/19, 11/21 (Authentic Interpretation), 94/21 and 14/22, articles 45-53, <http://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2019/35/3/reg>

establish an employment relationship or business cooperation with any national or international entity performing activities related to public office, except with the consent of the Agency for the Prevention of Corruption.³⁰⁷ This law also regulates gifts and hospitality.³⁰⁸

The Law on Lobbying (2018)³⁰⁹ aims to increase transparency in executive-lobbyist interactions, but it falls short in key areas. It only covers influencing general legal acts, not specific government decisions. There are no prohibitions or obligations for directly affected parties, and transparency is limited as reports to the Agency for the Prevention of Corruption are not required to be published. The law also overlooks “unofficial” lobbying, limiting its overall effectiveness.³¹⁰

The information on the normative framework related to whistleblowing and whistleblower protection mechanisms is available in the public sector pillar, in indicator 5.2.3. Accountability (law).

Executive authorities must declare assets and income to the Agency for the Prevention of Corruption within 30 days of taking office.³¹¹ They are also obliged to report changes in the value of their property higher than the average annual salary or when there is a change to the structure of their assets.³¹² A report must also be filed within 30 days of termination of office.³¹³

2.2.6. Integrity (practice)

To what extent is the integrity of members of the executive ensured in practice?



SCORE: 25/100

The integrity of the ministers is not questioned if they favoured by the president. In the last year, the Agency for the Prevention of Corruption found no cases of conflict of interest among members of the executive and none were initiated.

In practice, the integrity of the ministers is not questioned if they are favoured by the president. For example, the political career of the current deputy prime minister and minister of finance, Siniša Mali, has been filled with controversy. He was suspected of money laundering,³¹⁴ constantly violated obligations under the Law on the Prevention of Corruption,³¹⁵ and plagiarised his PhD thesis.³¹⁶ Despite this, since 2017, Siniša Mali has been the minister of finance in all governments. Furthermore, in 2019, the government appointed him as the president of the coordinating body for the prevention of money laundering and financing of terrorism.

According to data from the Agency for the Prevention of Corruption, in the last year, there were no cases in which this institution determined a conflict of interest among members of the executive. In this period, following Article 42 of the Law on the Prevention of Corruption, three members of the executive notified the agency regarding doubts

307 The Law on the Prevention of Corruption. Official Gazette of the RS, No. 35/19, 88/19, 11/21 (Authentic Interpretation), 94/21 and 14/22, Article 55, <http://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2019/35/3/reg>

308 Articles 57-66 of the Law on the Prevention of Corruption. Official Gazette of the RS, No. 35/19, 88/19, 11/21 (Authentic Interpretation), 94/21 and 14/22, <http://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2019/35/3/reg>

309 The implementation of the Law on Lobbying. Official Gazette of the RS, No. 86/18 and 86/19, other law, began in August 2019. The law is <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2018/87/16/reg>

310 According to the agency for prevention of corruption's 2021 annual report, 12 individual lobbyists had been registered, as well as one legal entity.

311 The Law on the Prevention of Corruption. Official Gazette of the RS, No. 35/19, 88/19, 11/21 (Authentic Interpretation), 94/21 and 14/22, Article 68, <http://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2019/35/3/reg>

312 The Law on the Prevention of Corruption. Official Gazette of the RS, No. 35/19, 88/19, 11/21 (Authentic Interpretation), 94/21 and 14/22, Article 69, <http://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2019/35/3/reg>

313 The Law on the Prevention of Corruption. Official Gazette of the RS, No. 35/19, 88/19, 11/21 (Authentic Interpretation), 94/21 and 14/22, Article 68, <http://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2019/35/3/reg>. Also, following article 69 of the law, a person whose public office has been terminated shall submit a report as of 31 December of the preceding year, two years after the termination of public office but no later than by the expiry of the time limit specified for submitting the annual tax return for determining personal income tax, provided that the assets and income have significantly changed in comparison with the preceding year.

314 In 2016, due to suspicion of money laundering, the APC sent a report on the control of assets and income of Minister Mali to the higher public prosecutor's office in Belgrade, which did not initiate an investigation, claiming that there was no evidence that Mali laundered money. The case was distributed to the basic public prosecutor's office, which dealt with whether Mali had declared all the assets. The investigation was suspended because Minister Mali paid RSD 200,000 to humanitarian causes to avoid criminal prosecution.

315 As a member of the government formed in 2017, Minister Mali was the record holder for the number of warning measures issued by the APC due to non-compliance with obligations under the Law on the Prevention of Corruption (due to the delay in sending his asset report and because he did not declare all the assets or transfer the management rights in the company at that time). See for more information <https://www.cins.rs/funkcioneri-i-dalje-najvise-najblazih-mera-za-neodgovorne-funkcionere/>

316 The Senate of the University of Belgrade cancelled his PhD degree in 2021 due to plagiarism. More details <https://www.bbc.com/serbian/lat/srbija-59757477>

concerning their conflicts of interest, and in all three cases, the agency delivered opinions that these public officials were not in any conflicts of interest. Also, in this period, the APC did not initiate any ex officio procedure against members of the executive to decide on a conflict of interest.³¹⁷ In 2019, the APC initiated ex officio proceedings against two executive members, Milan Krkobabić and Nebojša Stefanović, for conflict of interest. In the case of Milan Krkobabić, the agency recommended his dismissal as a minister without a portfolio due to his violation of conflict of interest rules in appointing his son without notifying the agency.³¹⁸ However, in the case of Nebojša Stefanović, the agency displayed a biased approach, favouring the executive, claiming no reason to initiate proceedings despite evidence of potential conflict of interest involving Stefanović's father in arms trade negotiations.³¹⁹

Regarding the implementation of the revolving door rules,³²⁰ in the last year, there were no cases in which the APC did not give consent to former members of the executive. On the other hand, there is one ongoing proceeding against a former member of the executive for violation of revolving door rules.

2.2.7. Gender representation

To what extent are women represented in the different levels of the executive (cabinet and other presidential appointments or equivalent)?



SCORE: 50/100

In the previous period, Serbia significantly improved the legal framework in terms of better gender representation. However, only around 25% of the executive are women.

Around 25% of the members of the executive are women. The third edition of the gender equality index (2021)³²¹ shows that Serbia made progress in improving gender equality. The largest increase happened in the political power index as a consequence of the increased participation of women in local assemblies, the national parliament and the government.³²² The current government has 10 women, including the prime minister.³²³

The strategy for gender equality was adopted in 2021, and its accompanying action plan in 2022. The Law on Gender Equality entered into force on 1 June 2021. Among other issues, this law stipulates that the employer must strive to ensure an equal number of men and women in management and supervisory bodies.³²⁴

With its first government in 2014, the Serbian Progressive Party established a coordination body for gender equality to coordinate the work of public authorities concerning gender equality in Serbia. The first head of the coordination body, minister Zorana Mihajlović, was very active in public promoting government efforts in this area.³²⁵

³¹⁷ Following Article 43 of the Law on the Prevention of Corruption, the agency shall initiate ex officio a procedure to decide on the existence of a conflict of interest within two years from the day of learning of actions or inactions of a public official that raised suspicion of a conflict of interest. The agency may not initiate or conclude this proceeding if five years have elapsed since the action or inaction of a public official that raised suspicion of a conflict of interest.

³¹⁸ As a positive example, in December 2019, after the ex-officio-initiated proceeding, the APC recommended the dismissal of Milan Krkobabić from the position of minister without a portfolio in charge of public enterprises. The agency determined that Minister Krkobabić violated rules on conflict of interest since he participated in the government decision by which his son Stefan Krkobabić was appointed as acting director of a public enterprise without notifying the agency. More details: <https://www.danas.rs/vesti/politika/agencija-za-borbu-protiv-korupcije-preporucila-smenu-krkobabica/>. Complete decision is available in Serbian at https://www.acas.rs/storage/decision_files/Krkobabi%C4%87%20Milan%20E2%80%93%20kona%C4%8Dna.pdf

³¹⁹ On the other hand, an example where the APC demonstrated an openly biased approach, in favour of executive representatives, was the case of former minister of interior, Nebojša Stefanović. In December 2019, following an affair that involved the state-owned arms producer Krušik and the potential conflict of interest of Minister Stefanović caused by the involvement of his father in the arms trade between Krušik and privately owned company GIM, the agency issued a public statement claiming that there was no reason to initiate a proceeding and examine a potential violation of conflict of interest rules in this case. The agency justified such a conclusion saying that the father of Minister Mali was neither the owner nor an employee of the private company GIM. However, the agency ignored already published evidence that Mali's father had participated in negotiations on behalf of the GIM. More details: <https://www.politika.rs/sr/clanak/443582/Stefanovic-nije-u-sukobu-interesa-saostila-je-Agencija-za-borbu-protiv-korupcije> and Preugovor. 2020. Alarm Report on the Progress of Serbia in Chapters 23 and 24, pp.64-66, <https://preugovor.org/Alarm-Reports/1596/Coalition-prEUgovor-Report-on-Progress-of-Serbia.shtml>

³²⁰ Rules on the revolving door have been applicable since 2010: the Law on the Anti-Corruption Agency, Article 38, and the Law on the Prevention of Corruption. Official Gazette of the RS, No. 35/19, 88/19, 11/21 (Authentic Interpretation), 94/21 and 14/22, Article 55, <http://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2019/35/3/reg>

³²¹ Gender equality index, p.10, <https://serbia.un.org/sites/default/files/2021-10/Gender%20Equality%20Index%20for%20Serbia%202021.pdf>.

³²² Improving women's political participation was one of the strategic priority areas of the previous gender equality strategy 2016-2020. Also, in 2020 amendments to the electoral laws were adopted, stipulating that from now on the lists for parliamentary and local elections must contain 40% of the lesser represented gender.

³²³ This number can be considered an improvement. More than 350 ministers have passed through the government of Serbia and only 50 were women. But this government is not the one with the highest number of women; the previous government (2020-2022) had the most female ministers (11).

³²⁴ Law on Gender Equality. Official Gazette of the Republic of Serbia, No. 52/221, article 10, <https://www.paragraf.rs/propisi/zakon-o-rodnoj-ravnopravnosti.html>

³²⁵ N1. 2018. Serbian deputy PM warns of lack of respect for gender equality, <https://n1info.rs/english/news/a442746-serbian-deputy-pm-warns-of-lack-of-respect-for-gender-equality/> and <https://cordmagazine.com/equality/zorana-mihajlovic-minister-of-mining-and-energy-ill-continue-fighting-for-gender-equality/>

On the other hand, civil society organisation data shows that femicide in cases of violence is rising and that state authorities have failed to prevent it.³²⁶ In 2022, the minister of police, Bratislav Gašić, who is known for his sexist statements about female journalists, became a new member of the coordination body.³²⁷

Role

2.3.1. Public Sector Management (law and practice)

To what extent is the executive committed to and engaged in developing a well governed public sector?



A comprehensive strategic document for public administration reform is in place, but political will is needed to resolve the main problem: the politicisation of the public service system.

The latest public administration reform strategy was adopted in 2021,³²⁸ but by 2022, it was not among the five priorities of the new government.³²⁹ This can be seen as a possible problem, bearing in mind that the prime minister chaired the public administration reform council, the governmental body that should ensure political support to strategic measures in public administration.

Serbia introduced a competence system in the public sector by establishing a quality legal basis for merit-based employment, strengthening the competitive recruitment procedure and the professional development of civil servants. Serbia fully implemented a competency model in the recruitment procedure in the civil service. Yet, possibilities for political interventions in the structure of selection panels for recruitment procedures still exist. More than 10% of civil service positions are filled temporarily without competition.³³⁰ However, this year's rule requiring competitions for temporary recruitment will come into force.

The persistence of “acting” senior managerial civil servants remains a problem,³³¹ even though the government reported to EC that it had implemented all initiated vacancy procedures for filling appointed positions in the state administration and had commenced competition procedures for all vacant positions (including appointed positions that are currently in acting status).³³² According to the latest data, 190 directors of government offices, directors of public companies and institutions are acting positions as the authorities can avoid announcing competitions for those positions.³³³ From the perspective of the management system, the trend of acting directors represents a convenient model for political officials because it is easier to exert undue influence on them, knowing that their position is easily replaceable. “When you appoint them, there is no committee that normally elects directors, which would determine whether they meet the requirements. And when you replace them, the government can replace them overnight and appoint new ones” stressed Zlatko Minić, representative of Transparency Serbia”.³³⁴

³²⁶ Coalition Preugovor. 2022. Alarm Report on Progress of Serbia in Cluster 1, p.83, available on: <https://www.preugovor.org/Alarm-izvestaji/1772/Izvestaj-koalicije-prEugovor-o-napretku-Srbije-u.ushtml>.

³²⁷ Balkan Insight. 2022. Serbian Minister Fired for Sexism Appointed to Gender Equality Body, <https://balkaninsight.com/2022/11/01/serbian-minister-fired-for-sexism-appointed-to-gender-equality-body/>

³²⁸ The Strategy for Public Administration Reform in the Republic of Serbia for the period 2021–2030, <https://mduls.gov.rs/wp-content/uploads/PAR-Strategy-in-the-Republic-of-Serbia-for-the-period-2021-E2%88%922030.pdf>

³²⁹ The Government of the Republic of Serbia. 2022. Programme of the Government of the Republic of Serbia candidate for president of the government Ana Brnabić, https://media.srbija.gov.rs/medsrp/dokumenti/ana-brnabic-ekspoze-1022_cyr.pdf

³³⁰ SIGMA. 2021. Monitoring Report: The Principles of Public Administration Serbia, pp.62-63, <https://www.sigmapublications.org/publications/Monitoring-Report-2021-Serbia.pdf>

³³¹ European Commission. Serbia 2022 Report, October 2020, p.34, <https://www.stat.gov.rs/media/358410/serbia-report-2022-1.pdf>

³³² Republic of Serbia Coordination body for the implementation of the Action plan for Chapter 23, Report on AP 23 II/2022, activity 2.2.6.2, p.1115, <https://www.mpravde.gov.rs/tekst/33945/izvestaji-o-sprovodjenju-revidiranog-akcionog-plana-za-poglavlje-23.php>

³³³ Nova. 2023. Serbia in acting state of affairs: Are the directors and workers held in the party's hand?, <https://nova.rs/emisije/srbija-u-v-d-stanju-drze-li-se-u-partijskoj-saci-i-direktori-i-radnici/>

³³⁴ N1. 2021. Why are there so many acting directors? Status, TS says – convenient for political influence, <https://n1info.rs/vesti/zasto-je-toliko-direktora-u-v-d-statusu-ts-kaze-zgodno-za-politicki-uticaj/>

2.3.2. Legal system

To what extent does the executive prioritise public accountability and the fight against corruption as a concern in the country?



SCORE: 25/100

The fight against corruption is not defined as one of the priorities in the government programme. The government's record on anti-corruption is poor.

Serbia does not currently have an anti-corruption strategy. The need for a new strategic document and effective coordination and monitoring mechanisms is emphasised by key stakeholders.³³⁵ In September 2021, the government adopted the operational plan for preventing corruption in areas of particular risk.³³⁶ Part of the operational plan contains activities for drafting the next anti-corruption strategy.³³⁷ However, although the plan envisaged that the working group for developing the strategy would start its work in the first quarter of 2022, that had not happened by February 2023. Until the end of 2018, strategic anti-corruption documents were the National Anti-Corruption Strategy for the period 2013-2018 with the accompanying action plan and the action plan for Chapter 23 (2016). The strategy and accompanying action plan, as well as deadlines for most activities from the action plan for Chapter 23, expired by December 2018. As a result, until the adoption of the revised action plan for Chapter 23 in July 2020, Serbia did not have any strategic anti-corruption document for 18 months. Implementation of the strategy and the action plan for Chapter 23 has been fraught with delays, and relevant authorities have not implemented a number of planned activities.³³⁸ According to the Agency for the Prevention of Corruption, in 2021, Serbia had completed 60% of actions (2020: 42%), which either had to be completed in 2021 or were ongoing actions.³³⁹

Interactions

The prime minister and ministers are elected by parliament and responsible to parliament. In practice, parliament does not sufficiently hold government and its members accountable. On the contrary, members of parliamentary majority do not allow initiatives of opposition MPs to be even discussed in the plenary and committees.³⁴⁰ Parliament does not use its legal powers to thoroughly review bills proposed by the executive and regularly accept only those amendments that are pre-agreed with ministries. In its conclusions related to the problems identified by independent state bodies, parliament does not request actions from the executive, but rather "encourages" government to act upon them. The president of republic is elected by the people and not parliament. The president proposes the prime minister and several other public officials. The president may temporarily prevent promulgation of a law adopted by parliament and dismiss parliament based on the government's proposal. Parliament may dismiss the president by qualified majority if it identifies a violation of the constitution. In practice, both parliament and the government operate under the influence of the president, who is also the leader of what is by far the biggest political party.³⁴¹

³³⁵ For example, see European Commission, Serbia 2022 Report, October 2022, p.34, <https://www.stat.gov.rs/media/358410/serbia-report-2022-1.pdf>, GRECO. 2022. Evaluation Report for the fifth evaluation round, [1680a7216b \(coe.int\)](https://www.coe.int/t/dg4/governance_cooperation/evaluation/reviews/serbia/1680a7216b.pdf).

³³⁶ See the operational plan: [https://www.acas.rs/storage/page_files/Operativni%20plan%20za%20spre%C4%8Davanje%20korupcije%20u%20oblastima%20od%20posebnog%20rizika%20\(1\).pdf](https://www.acas.rs/storage/page_files/Operativni%20plan%20za%20spre%C4%8Davanje%20korupcije%20u%20oblastima%20od%20posebnog%20rizika%20(1).pdf)

³³⁷ These activities are based on the lessons learned from the processes of drafting and implementing previous strategic anti-corruption documents and recommendations from the starting points for drafting the operational plan, <https://www.mpravde.gov.rs/sr/tekst/33766/polazne-osnove-za-izradu-operativnog-plana-za-sprecavanje-korupcije-u-oblastima-od-posebnog-rizika-.php>

³³⁸ Following the assessment of the Agency for the Prevention of Corruption, competent for monitoring the implementation of anti-corruption strategic documents, out of a total of 250 activities examined, 92 (37%) were implemented in compliance with the indicators, 149 (60%) were not implemented in compliance with their indicators; while for 9 (3%) the agency was not able to assess their implementation. More details are available in the report on the implementation of the national strategy for the fight against corruption in the Republic of Serbia and the revised action plan for its Implementation for 2018, March 2019, https://www.acas.rs/storage/page_files/Izveštaj_o_sprovodenju_Nacionalne_strategije_za_borbu_protiv_korupcije_u_Republiци_Srbiji_od_2013._do_2018._godine_i_Revidiranog_akcionog_plana_za_njeno_sprovodenje.pdf. On the other hand, according to the last report of the negotiation group for chapter 23, with implementation status on 31 December 2018, out of a total 152 activities in the action plan for Chapter 23, subchapter fight against corruption, 89 (more than 58%) of activities were fully implemented in compliance with the indicators. When observing the implementation of activities by parts of this subchapter, 33% (four activities) of anti-corruption measures were fully implemented; 59% (63 activities) related to the prevention of corruption were fully implemented, and 65% (22 activities) related to the repression of corruption were fully implemented.

³³⁹ European Commission. 2020. Serbia 2022 Report, p.34, <https://www.stat.gov.rs/media/358410/serbia-report-2022-1.pdf>

³⁴⁰ Danas, Orlić conveyed the interpellation against Siniša Mali, <https://www.danas.rs/vesti/politika/orlic-dostavio-interpelaciju-o-sinisi-malom/>, 7 February 2023,

³⁴¹ European Parliament. 2019. Briefing – Serbia at risk of authoritarianism?, p.4, available on: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/637944/EPRS_BRI\(2019\)637944_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/637944/EPRS_BRI(2019)637944_EN.pdf)

The government has a strong influence on the public sector, particularly on the employment of civil servants and state employees and the independence of state authorities. The government creates a strategy of employment in the public sector, and it directly appoints some of the civil servants to the highest positions, such as assistant ministers. The government dictates the salaries in the public sector with its policies. Government bodies, such as the human resources management service and the appeals commission of the government, have an important role for the work of public sector.

Government decisions cannot be appealed, only opposed in an administrative dispute procedure before the administrative court. Implementation of such decisions is not suspended in the meantime. Since the administrative court is overburdened, accountability of the government for its decisions is not ensured. The government is in charge of preparing judicial legislation and in part for the execution of the judicial budget, thus influencing indirectly the level of judicial independence and ability to perform its work. Furthermore, both government members and the president of the republic occasionally comment on judicial decisions, while the judiciary does not react accordingly to such improper influence.³⁴²

Pillar Recommendations

- The government needs to develop, in consultation with all relevant stakeholders, a new anti-corruption strategy for 2023-2028 and implement the current strategic anti-corruption documents without further delay.
- The government needs to implement further international recommendations, including those from the GRECO evaluation and the European Commission's progress reports. Most pressing in this regard are the following actions:
 - » regulating conflicts of interest among advisers to the president, prime minister and ministers and strengthening the system for controlling the reports of executive power officials;
 - » regulation on informal lobbying;
 - » enabling citizens to file a complaint with the commissioner when the government or president refuse or ignore the request for access to information;
 - » obligation to hold public hearings on all laws;
 - » limiting the immunity of members of the government for corrupt crimes, expanding the jurisdiction of the Prosecutor's Office for Organised Crime and strengthening the government's council for the fight against corruption;
 - » further improve its track record on investigations, prosecutions and final court decisions in high-level corruption cases, in particular the seizure and confiscation of criminal assets.
- The government should align and make fully comparable its four-year programme with annual work programmes and reports on their execution.
- The government should enable the public to influence the budget process and to provide explanations on the influence of planned budget expenditures in the fulfilment of legal obligations of state bodies and in the implementation of defined priorities.
- The government should prescribe standards on conflicts of interest that would apply to special advisers in the government and ministries.
- The government should introduce an obligation to publish all of its decisions, except when it is necessary to protect predominant public interest, including legal deadlines for publications.
- The government should allow the media to attend its sessions and publish transcripts of its sessions, except in areas where discussing issues that need to remain confidential. The government should publish a notice of the agenda of the sessions.

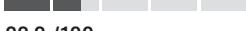
³⁴² Professor of the faculty of law Tanasije Marinković said that the President of Serbia, Aleksandar Vučić, made at least 25 statements from 2017 to 2020 in which he violated the provision of Article 149 of the constitution, which prohibits any influence on a judge in the exercise of judicial function: <https://www.danas.rs/vesti/drustvo/marinkovic-vucic-najmanje-25-puta-preksio-ustav-da-bi-uticao-na-sudije/>

- The government should publish professional biographies of candidates it proposes, and to timely publish its decisions on electing, appointing and dismissing with reasons.
- The government should introduce the practice to call for the accountability of government ministers if failure occurs as a delay in fulfilling their obligations; for example, a delay in delivering to parliament the proposed budget and final account statement, non-compliance with decisions of the Commissioner for Information of Public Importance and other agencies, non-compliance with the requests or recommendations of the ombudsperson, Agency for the Prevention of Corruption, the State Audit Institution and other bodies, failure to pass by-laws and failure to comply with the future anti-corruption strategy and action plan.
- When setting up each new government, the government should establish and publish priorities for the fight against corruption; these priorities should be in accordance with the general future anti-corruption strategy and action plan for its implementation.

3. Judiciary

Summary

OVERALL PILLAR SCORE: 58.3/100

DIMENSION	INDICATOR	LAW	PRACTICE
CAPACITY  62.5/100	RESOURCES	75	50
	INDEPENDENCE	75	50
GOVERNANCE  79.2/100	TRANSPARENCY	75	75
	ACCOUNTABILITY	100	75
	INTEGRITY	75	75
	GENDER	25	
ROLE  33.3 /100	EXECUTIVE OVERSIGHT	50	
	CORRUPTION PROSECUTION	25	
	MUTUAL LEGAL ASSISTANCE	25	

Judicial power in Serbia belongs to courts of general and special jurisdiction. Courts of general jurisdiction include basic (66), higher (25), appellate (4) courts and the supreme court (SC).³⁴³ Courts of special jurisdiction include commercial (16), commercial appellate, misdemeanour (44), misdemeanour appellate and administrative courts.³⁴⁴ The high judicial council (HJC) is an independent state body that ensures and guarantees the independence of the court, the judges, the president of the court and the jury judges. Some of its most important powers are to elect judges; decide on the termination of the office of judge; elect the president and vice-president of the council; appoint acting presidents of the supreme court and presidents of other courts; elect the president of the supreme court and presidents of other courts; decide on the termination of the office of the president of the supreme court and the president of other courts; decides on the permanent transfer, temporary assignment or assignment of a judge, among others.

The judiciary acts under legal preconditions with an adequate judicial budget. However, judges' salaries are inadequate considering the importance, responsibility and complexity of their work; they are far lower than the highest paid jobs and slightly higher than the lowest paid jobs. Also judges' salaries are not protected from inflation. The judiciary continues to operate with vacant positions and insufficient judicial assistants, thus leading to longer proceedings, despite data showing that the budget funds have not all been spent.

The constitutional amendments introduced in 2022 reduce some of the mechanisms for exercising direct political influence, but the risks still linger due to the too broadly prescribed immunity of HJC members. There are still attempts to influence and interfere in the work of the judiciary from the president of the republic, the government, MPs and politicians.

³⁴³ The Law on the Organisation of Courts. Official Gazette no. 10/2023, Article 11, www.paragraf.rs/propisi/zakon_o_uredjenju_sudova.html

³⁴⁴ Ibid.

Because of this influence, the judiciary is not independent enough to exercise control over the executive branch and request its accountability. The public has access to the most relevant court information via the Serbian justice portal, information booklets or press releases, but this lacks complete information on the selection process for judges or (non)existence of external influences. Furthermore, the scarcity of press conferences, especially those addressing cases of public interest, is the rule and not the exception. In addition, the opacity in the work of the courts is further underscored by limited information about major corruption cases, details of which are rarely disclosed to the public and require submitting freedom of information requests.

Extensive accountability provisions are in place, including requirements for judges to explain their decisions and complaint procedures with disciplinary sanctions and disciplinary procedures, and sanctions are regularly applied; however, this is done with questionable results when it comes to systemic improvement.

Gender equality among judiciary employees has been achieved, but the judiciary does not have any gender-sensitive protocols for its work and lacks gender-sensitive statistical data on the work of the judiciary and their analysis.

Court decisions in cases of grand corruption are still missing, and there is no proactive investigation of suspicions of corruption raised by the public.

Capacity

3.1.1. Resources (law)

To what extent are there laws seeking to ensure appropriate salaries and working conditions of the judiciary?



SCORE: 75/100

The law generally ensures an adequate judicial budget. However, the law does not ensure adequate salaries for judges and despite including mechanisms to protect salaries from increases in retail prices, there are no mechanisms to protect judges' salaries from inflation of all costs.

The declarative provisions on the material independence of judges in the 2023 Law on Judges stipulate that a judge has the right to a salary “in accordance with the dignity of the judicial function and responsibility”.³⁴⁵ This is different from the previous law, according to which a judge's salary must provide a “guarantee of his independence and the safety of his family”.³⁴⁶ A judge's salary is determined by multiplying coefficients provided by the Law on Judges,³⁴⁷ while the budget law determines the basis by which the coefficients are multiplied. The coefficient depends on the income level in which the judge is classified,³⁴⁸ and the income level depends on the court in which the judge works.³⁴⁹ As a result, it varies from 2.5 for judges of misdemeanour courts (first income level) to 6.0 for the president of the supreme court of cassation (sixth income level)³⁵⁰. The Law on the Budget System guarantees the adjustment of judges' salaries, as well as those of other employees in the public sector, in line with the growth rate of consumer prices in a certain period, at most, twice a year.³⁵¹

The monthly salary for an entry-level judge ranges from RSD 52,136 (about €440) to RSD 90,556 (about €762). After five years' work experience, their income will be between RSD 55,161 and RSD 93,511 per month.³⁵² These data are complementary to the data of the Republic Institute of Statistics, according to which the average net salary in

³⁴⁵ The Law on Judges. Official Gazette no. 10/2023, Article 5, www.paragraf.rs/propisi/zakon_o_sudijama.html

³⁴⁶ The previous Law on Judges. Official Gazette no. 116/2008, 58/2009 – CC decision, 104/2009, 101/2010, 8/2012 – odluka US, 121/2012, 124/2012 – CC decision, 101/2013, 111/2014 – CC decision, 117/2014, 40/2015, 63/2015 – CC decision, 106/2015, 63/2016 – CC decision, 47/2017 and 76/2021, Article 4

³⁴⁷ Ibid.

³⁴⁸ The previous Law on Judges. Official Gazette no. 116/2008, 58/2009 – CC decision, 104/2009, 101/2010, 8/2012 – CC decision, 121/2012, 124/2012 – CC decision, 101/2013, 111/2014 – CC decision, 117/2014, 40/2015, 63/2015 – CC decision, 106/2015, 63/2016 – CC decision, 47/2017 and 76/2021, Article 37. and the Law on Judges. Official Gazette no. 10/2023, Article 41, www.paragraf.rs/propisi/zakon_o_sudijama.html

³⁴⁹ Ibid, Article 38. Ibid, Article 42.

³⁵⁰ Ibid, Article 39, Ibid, Article 43.

³⁵¹ The Law on the Budget System. Official Gazette no. 54/2009, 73/2010, 101/2010, 101/2011, 93/2012, 62/2013, 63/2013 – correction, 108/2013, 142/2014, 68/2015 – other law, 103/2015, 99/2016, 113/2017, 95/2018, 31/2019, 72/2019, 149/2020, 118/2021, 138/2022 i 118/2021 – other law, Article 27e, www.paragraf.rs/propisi/zakon_o_budzetskom_sistemu.html

³⁵² Moja zarada = prikupite, podelite, uporedite plate, “Sudije, proveri svoju platu” (Judges, check your salary), 2024, <https://mojazarada.rs/poslovi-i-plate/sudije>

July 2023 for all budget users, including judges, was RSD 84,936.³⁵³ On the other hand, the lowest salary of the 20 best positions in Serbia, such as that of a technical director, is RSD 206,036, while the highest salary among the worst-paid jobs, such as a receptionist, is RSD 56,991.³⁵⁴ The material position of judges is not satisfactory given that the range of annual salaries is €9,733 to €22,856 for judges of the supreme court.³⁵⁵

The HJC independently disposes of the budget funds allocated for the work of the council and for the current expenses of the courts, except for expenses for court personnel, which includes funds for judges' salaries. The government cannot, without the consent of the HCJ, suspend, postpone or limit the implementation of the council's budget. Funds for the work and functioning of the council are provided in the budget, at the proposal of the council, provided that: if the minister of finance has objections to the submitted budget proposal, consultations are organised with the council to reach an agreement; if no agreement is reached between the minister of finance and the council, the Ministry of Finance must state the reasons why it considers the budget proposal of the council to be unacceptable.³⁵⁶ The judiciary is not required by law to have a minimum percentage of the general budget. Unfortunately, the proposal from the Society of Judges, that the judiciary has a guaranteed salary by law, which cannot be lower than the average net salary of an employee, was not adopted.³⁵⁷

The budget law for 2021 allocated funds for the courts at 1.94% of the total budget of the Republic of Serbia.³⁵⁸ Although amendments to the Law on the Budget for 2021 have nominally increased the total approved funds, they have led to a decrease in funds allocated to the courts in the total to the budget (1.76%).³⁵⁹

3.1.2. Resources (practice)

To what extent does the judiciary have adequate levels of financial resources, staffing and infrastructure to operate effectively in practice?

 SCORE: 50/100

Even though the judiciary has sufficient financial resources, it continues to operate with vacant positions and an insufficient number of judicial assistants despite data showing that not all budget funds have been spent.

Table 3: Annual budget of the Judiciary, 2019-2023

Year	Total budget in RSD received	Total budget in EUR received	Percentage increase of received budget per year	Percentage of budget spent
2023	35.5 billion	€301.3 million	6.6%	
2022	33.3 billion	€282.5 million.	15.6%,	99.28% ³⁶⁰
2021	28.8 billion	€244.2 million	4.7%	99.14/ ³⁶¹
2020	27.5 billion	€233.2 million	12.2%	98.77% ³⁶²
2019	24.5 billion	€207.6 million		97.63% ³⁶³

353 Republički zavod za statistiku, "Prosečne mesečne plate u javnom sektoru" (Average monthly earnings in the public sector), 2023, <https://data.stat.gov.rs/Home/Result/2403040104?languageCode=sr-Latn>

354 Infoplate Srbija – Uporedite svoju platu, "Plate u Srbiji" ("Salaries in Serbia"), 2024, www.infoplate.rs/plate-u-zemlji

355 Analysis Position of Judges in the Republic of Serbia, pages 17-18, www.sudije.rs/Dokumenta/Objave/2021%2012%2009%20Analiza%20polo%C5%BEaja%20sudije%20u%20RS,%20Nade%C5%BEda%20Vidi%C4%87.pdf

356 Društvo sudija Srbije, "Saopštenje povodom predstojećih izmena sudskeih zakona" ("Announcement regarding the upcoming changes to judiciary laws"), 2022, www.sudije.rs/Item/Details/988

357 Društvo sudija Srbije. 2023. "Dopis Društva sudija Srbije Ministarstvu pravde sa komentarima na pravosudne zakone" (Letter of the Association of Judges of Serbia to the Ministry of Justice with comments on judicial laws), www.sudije.rs/Item/Details/990

358 Supreme Court of Cassation. 2022. Annual report on the courts in the Republic of Serbia for 2021, p.11, www.vk.sud.rs/sites/default/files/attachments/Publikacija%20srb_0.pdf

359 Ibid.

360 [https://vss.sud.rs/sites/default/files/attachments/Извештај о раду ВСС за 2022. годину.pdf](http://vss.sud.rs/sites/default/files/attachments/Извештај о раду ВСС за 2022. годину.pdf)

361 [https://vss.sud.rs/sites/default/files/attachments/Извештај о раду ВСС за 2021. годину.pdf](http://vss.sud.rs/sites/default/files/attachments/Извештај о раду ВСС за 2021. годину.pdf)

362 [https://vss.sud.rs/sites/default/files/attachments/IZVESTAJ o radu 2020.pdf](http://vss.sud.rs/sites/default/files/attachments/IZVESTAJ o radu 2020.pdf)

363 Visoki savet sudstva. 2021. "Izveštaj o rady VSS za 2020. godinu ("Annual report on the work of HJC for 2020."), [https://vss.sud.rs/sites/default/files/attachments/IZVESTAJ 2020. za sednicu.pdf](http://vss.sud.rs/sites/default/files/attachments/IZVESTAJ 2020. za sednicu.pdf)

Of the 3,073 judicial positions determined by the HJC at the end of 2021, 2,720 positions were formally filled, but only 2,508 judges were effectively acting in the courts.³⁶⁴ This continued the trend of vacant judicial positions, as in the previous four years, although the number of vacant positions in 2021 (212) was slightly lower than in 2020 (386).³⁶⁵

At the same time, 10,697 civil servants were employed in the judiciary in 2021, which is slightly less than in 2020 (10,795).³⁶⁶ The number of judicial assistants is insufficient, taking into account the increased flow of cases and the number of judges, which has further reduced efficiency, especially in terms of drafting court decisions,³⁶⁷ leading to longer proceedings.³⁶⁸ It has further increased the scope of work performed by the employees who remain in the court system.³⁶⁹ The reduced number of employees is the result of a multi-year ban that led to a freeze on hiring new civil servants, despite the fact that financial resources for hiring new employees were approved. It is also due to inadequate space and technical conditions for work.³⁷⁰ In addition, the outflow of professional staff has increased significantly.³⁷¹

Moreover, administrative staff in the judiciary are also in an extremely poor financial position because their salaries are often below the average salary and, for certain categories of employees, even at minimum wage level.³⁷²

Currently, there are no adequate mechanisms to protect judicial salaries from inflation.³⁷³

3.1.3. Independence (law)

To what extent is the judiciary independent by law?



SCORE: 75/100

The constitution guarantees the independence of the judiciary, of judges and the permanence of judicial functions.³⁷⁴ It also prohibits influence on judges and the political activities of judges.³⁷⁵ However, the 2023 law no longer allows judges to file an objection against a decision on termination of office, except by appealing to the constitutional court, leading to a decrease of potential political influence but an increased risk of undue influence from the HJC due to the immunity of its members.

Judicial power belongs to the courts and is independent of the legislative and executive power.³⁷⁶ Court decisions are mandatory for everyone and cannot be subject to extrajudicial control.³⁷⁷ Court decisions can be reviewed only by the competent court.³⁷⁸ It is forbidden to use a public position and make public statements that influence the course and outcome of court proceedings.³⁷⁹ Any other influence on the court and pressure on participants in the procedure is prohibited.³⁸⁰ The judge is independent in acting and making decisions.³⁸¹

364 Supreme Court of Cassation. 2022. Annual report on the courts in the Republic of Serbia for 2021, p.9, www.vk.sud.rs/sites/default/files/attachments/Publikacija%20srbs_0.pdf

365 Ibid.

366 Ibid, p.10

367 Ibid, p.11

368 Human resources strategy in the judiciary for the period 2022–2026. Official Gazette no. 133/2021, p.2, Table 1. No. 4. Manifestation and existing consequences, www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/vlada/strategija/2021/133/1

369 Supreme Court of Cassation. 2022. Annual report on the courts in the Republic of Serbia for 2021, p.11, www.vk.sud.rs/sites/default/files/attachments/Publikacija%20srbs_0.pdf

370 Human resources strategy in the judiciary for the period 2022–2026. Official Gazette no. 133/2021, p.2, Table 1. No. 1. Manifestation and existing consequences, www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/vlada/strategija/2021/133/1

371 Ibid.

372 Association of Judges of Serbia. 2022. "The number of judges in Serbia, their salaries in relation to the situation in the member states of the Council of Europe and proposals for the establishment of effective material guarantees of the independence of the judiciary", p 7.

373 Interview with Omer Hadžiomerović, retired judge of the court of appeal, September 2022.

374 The Constitution of the Republic of Serbia. Official Gazette no. 98/2006 and 115/2021, Articles 142-149 www.paragraf.rs/propisi/ustav_republike_srbije.html

375 Ibid.

376 The Law on the Organisation of Courts. Official Gazette no. 10/2023, Article 3, www.paragraf.rs/propisi/zakon_o_uredjenju_sudova.html

377 Ibid.

378 Ibid.

379 The Law on the Organisation of Courts. Official Gazette no. 10/2023, Article 6, www.paragraf.rs/propisi/zakon_o_uredjenju_sudova.html

380 Ibid.

381 The previous Law on Judges. Official Gazette no. 116/2008, 58/2009 – CC decision, 104/2009, 101/2010, 8/2012 – CC decision, 121/2012, 124/2012 – CC decision, 101/2013, 111/2014 – CC decision, 117/2014, 40/2015, 63/2015 – CC decision, 106/2015, 63/2016 – CC decision, 47/2017 and 76/2021, Article 1, and the Law on Judges. Official Gazette no. 10/2023, Article 2, www.paragraf.rs/propisi/zakon_o_sudijama.html

As a result of constitutional amendments in 2022,³⁸² the permanence of the judicial function became a constitutional category.³⁸³ The previous law stipulated that a judge performs the function as a permanent judge, except when elected as a judge for the first time,³⁸⁴ while the 2023 Law on Judges explicitly states that “the function of a judge is permanent ... a judge serves in the court for which he/she was selected”.³⁸⁵

The new law no longer provides for the legal remedy that existed in the previous law, according to which a judge can file an objection against a decision on the termination of office.³⁸⁶ The decision of the HJC is final,³⁸⁷ and instead of an objection, the judge has the right to appeal to the constitutional court.³⁸⁸

The number of persons who can initiate the procedure for dismissal has been significantly reduced in the new law. According to the previous law, the procedure for dismissal can be initiated ex officio or at the proposal of the president of the court, the president of the immediately higher court, the president of the supreme court, the competent body for evaluating the work of judges and the disciplinary commission.³⁸⁹ In contrast, the new law stipulates that the procedure can be initiated only by the HJC ex officio or at the proposal of the disciplinary commission.³⁹⁰

The EU progress report for 2021 concluded that the current legal framework does not provide sufficient guarantees against potential political influence on the judiciary.³⁹¹ According to the report, the system for the selection of judicial office holders and the evaluation of the work of judges and prosecutors should be thoroughly revised after the adoption of constitutional amendments to allow the selection and career of judicial office holders to be based on merit, given that the current legal framework does not provide sufficient guarantees against potential political impact on the judiciary.³⁹²

The constitutional amendments reduce the possibilities for exercising direct political influence through the election of judges, but the risks that may occur during decision-making within the HJC increases due to the too broadly prescribed immunity of its members.³⁹³

3.1.4. Independence (practice)

To what extent does the judiciary operate without interference from the government or other actors?



SCORE: 50/100

There is still influence and interference from the president of the republic, the government, MPs, politicians and representatives of political parties in the work of the judiciary.

The strategy of judicial reform for 2020-2025 foresees the establishment of a fair and transparent system, in which the HJC is responsible for making decisions on the selection, promotion, assignment and termination of judicial office, based on the periodic professional evaluation of the work of judicial assistants and judges through the established system of monitoring and evaluating the application of criteria in practice.³⁹⁴ As a basic activity in the

382 Draft of the Ministry of Justice amendments to the Constitution of the Republic of Serbia Amendment IV, www.mpravde.gov.rs/files/amandmani%20za%20objavljenje1.pdf

383 Ibid.

384 The previous Law on Judges. Official Gazette no. 116/2008, 58/2009 – CC decision, 104/2009, 101/2010, 8/2012 – CC decision, 121/2012, 124/2012 – CC decision, 101/2013, 111/2014 – CC decision, 117/2014, 40/2015, 63/2015 – CC decision, 106/2015, 63/2016 – CC decision, 47/2017 and 76/2021, Article 2.

385 The Law on Judges. Official Gazette no. 10/2023, Article 3 and 13, www.paragraf.rs/propisi/zakon_o_sudijama.html

386 Ibid.

387 The previous Law on Judges. Official Gazette no. 116/2008, 58/2009 – CC decision, 104/2009, 101/2010, 8/2012 – CC decision, 121/2012, 124/2012 – CC decision, 101/2013, 111/2014 – CC decision, 117/2014, 40/2015, 63/2015 – CC decision, 106/2015, 63/2016 – CC decision, 47/2017 and 76/2021, article 57, and the Law on Judges. Official Gazette no. 10/2023, article 73, www.paragraf.rs/propisi/zakon_o_sudijama.html

388 The previous Law on Judges. Official Gazette no. 116/2008, 58/2009 – CC decision, 104/2009, 101/2010, 8/2012 – CC decision, 121/2012, 124/2012 – CC decision, 101/2013, 111/2014 – CC decision, 117/2014, 40/2015, 63/2015 – CC decision, 106/2015, 63/2016 – CC decision, 47/2017 and 76/2021, article 67

389 Ibid, article 64

390 The Law on Judges. Official Gazette no. 10/2023, article 70, www.paragraf.rs/propisi/zakon_o_sudijama.html

391 European Commission. 2021. 2021 Progress Report, p.22, www.mei.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/izvestaj_ek_oktobar_21.PDF

392 Ibid. p.5.

393 Transparency Serbia. 2022. Significance of amendments to the constitution in the fight against corruption, https://transparentnost.org.rs/index.php/sr_aktivnosti-2/pod-lupom/12211-znacaj-izmena-ustava-za-borbu-protiv-korupcije

394 Strategy of judicial development for the period 2020–2025. Official Gazette no. 101/2020 and 18/2022, www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/vlada/strategija/2020/101/1/reg

action plan for the implementation of the 2022-2025 strategy is the adoption of by-laws on the criteria for selection of the judge and president of the court, for their promotion and termination until the IV quarter of 2023.³⁹⁵

Until then, the rulebook on the programme and method of taking the exam, which assesses the expertise and competence of the candidate to be a first-time judge, adopted by the HCJ, should be applied. The rulebook tried to make a distinction between candidates, but in practice it turned out that this goal was not achieved since almost all candidates (and sometimes even all candidates) achieved the highest performance rating.³⁹⁶ According to a retired judge, it is not possible to adopt uniform criteria because the working conditions and the complexity of work are not the same everywhere.³⁹⁷

In 2022, the HJC made four decisions on the removal of judges, namely three decisions on the removing judges of basic courts, as well as one decision on removing a judge from the commercial court.³⁹⁸ Of these, one appeal was filed, which was rejected.³⁹⁹ That is significantly less compared to 2021, when the HJC made 10 decisions on the transfer of judges.⁴⁰⁰ Unfortunately, none of the reports on the work of the HJC contain more detailed information or explanations as to why these judges were removed. Therefore, it cannot be concluded with certainty how credible the justifications used are to remove judges from their positions. Also in 2022, the HJC did not make a single decision on the dismissal of a judge, unlike in 2021, when one judge was dismissed.⁴⁰¹

The president of Serbia frequently attacks the judiciary and judges. Judges and prosecutors in today's Serbia feel political pressure coming from television where a disgruntled president wants to overturn and change their decisions. For this, the president uses hate speech, harassment, prejudice and intimidation, in violation of his authority.⁴⁰²

Governance

3.2.1. Transparency (law)

To what extent are there provisions to ensure that the public can obtain relevant information on the activities and decision-making processes of the judiciary?



SCORE: 75/100

The legal framework enables the public to obtain relevant information about the activities and decision-making processes of the judiciary. Moreover, it requires that decisions on the appointing, transfer and removal of judges be made in writing and are published. However, the law only outlines the principle of publicity without specifying the methods and conditions for implementation. Also, there are no explicit provisions outlining the obligation to inform the public about cases of public interest, and there are no deadlines for such disclosures.

The constitution envisages the transparency of the judiciary because hearings in court are public, although the public can be excluded in compliance with the conditions in the constitution.⁴⁰³ Laws provide for the publicity of court proceedings and trials.⁴⁰⁴ Only in special cases stipulated in law can the public be excluded from the procedure, such as to protect interests of national security, public order or the interests of a child, including the privacy of the participants in the procedure.⁴⁰⁵ According to the code of criminal procedure, anyone who has a legitimate interest

395 Action plan for the implementation of the justice development strategy for the period 2020-2025 in the period from 2022 to 2025. Official Gazette no. 45/2022, Measure 1.3.41, www.vk.sud.rs/sites/default/files/attachments/akcioni_plan_strategije_razvoja_pravosudja_2020-2025_period_2022-2025_125_cyr.pdf

396 Danas, Nemanja Rilke. 2021. How the judges are being elected, www.danas.rs/dijalog/licni-stavovi/kako-se-biraju-sudije/

397 Interview with Omer Hadžiomerović, retired judge of the court of appeal, September 2022.

398 Report on the HJC for 2022, p.30, <https://vss.sud.rs/sites/default/files/attachments/Извештај%20о%20раду%20БСС%20за%202022.%20годину.pdf>

399 Report on the HJC for 2022, p.50.

400 Report on the HJC for 2021, p.28, <https://vss.sud.rs/sites/default/files/attachments/Извештај%20о%20раду%20БСС%20за%202021.%20годину.pdf>

401 Ibid.

402 European Commission. 2021. 2021 Progress Report, p.23, https://n1info.rs/ustavokrsitelj/primeri-vucicevog-krsenja-ustava-kako-predsednik-neustavno-pritiska-sudstvo; www.mei.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/izvestaj_ek_oktobar_21.PDF

403 The Constitution of the Republic of Serbia. Official Gazette no. 98/2006 and 115/2021, article 142, www.paragraf.rs/propisi/ustav_republike_srbije.html

404 The Law on the Organisation of Courts. Official Gazette no. 10/2023, article 7, www.paragraf.rs/propisi/zakon_o_uredjenju_sudova.html; The Criminal Procedure Code. Official Gazette no. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 – CC decision and 62/2021 – CC decision, article 362, www.paragraf.rs/propisi/zakonik_o_krivicnom_postupku.html; The Civil Procedure Law. Official Gazette no. 72/2011, 49/2013 – CC decision, 74/2013 – CC decision, 55/2014, 87/2018, 18/2020 and 10/2023 – other law, article 4, www.paragraf.rs/propisi/zakon_o_parnicnom_postupku.html

405 The Criminal Procedure Code. Official Gazette no. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 – CC decision and 62/2021 – CC decision, article. 363-366, www.paragraf.rs/propisi/zakonik_o_krivicnom_postupku.html; The Civil Procedure Law. Official Gazette no. 72/2011, 49/2013 – CC decision, 74/2013 – CC decision, 55/2014, 87/2018, 18/2020 and 10/2023 – other law, Art. 322, www.paragraf.rs/propisi/zakon_o_parnicnom_postupku.html

can review, copy or record certain files, except those marked as classified,⁴⁰⁶ while in civil proceedings, other persons have that right with respect to certain files.⁴⁰⁷

Every year, the supreme court has to publish an annual report, which amounts to a summarised analysis based on individual statistical reports on the work of all courts, including indicators of efficiency, success and quality.⁴⁰⁸ However, the regulations stipulate only the obligation to prepare and publish the report, but not the deadlines for its execution. The HJC is also obliged to regularly inform the public about its work through an annual report to parliament by March 15 for the previous year, and publish it on the HJC's website.⁴⁰⁹ However, there are no prescribed deadlines for the publication of the report.

The Law and the Rules of Procedure of the HJC state that sessions are open to the public, but that a session can be closed to the public if the interests of public order or the protection of confidentiality of data or privacy dictate it.⁴¹⁰

In addition, according to the rules of procedure, the transparency in the HJC is achieved by publishing information about its work, holding public sessions, publishing general acts in the Official Gazette of the RS and on its website, holding press conferences, publishing announcements and publishing the agenda of activities, agenda of sessions and conclusions on the council's website.⁴¹¹

3.2.2. Transparency (practice)

To what extent does the public have access to judicial information and activities in practice?



SCORE: 75/100

The public has access to most relevant court information via the Serbian justice portal, information booklets from the courts and press releases. However, the public has no access to complete information about the selection of judges, the (non)existence of influence on the judges or plea agreements. Moreover, the unavailability of court decisions, absence of news and announcements from courts and scarcity of press conferences underscore the persisting transparency challenges. The HJC informs the public about its activities through its website and press releases, as well as by publishing an annual report on its work, which is available for the years 2009 to 2023.⁴¹² Agendas of sessions are regularly published,⁴¹³ as well as the minutes of sessions.⁴¹⁴ The HJC also publishes some of the decisions (conclusions) from sessions, but not all; for example, none of the decisions since 2020 are available.⁴¹⁵

There are still problems with transparency in courts in terms of content, technology and graphics. Also, the HJC decisions are only available up to 2020. Unfortunately, for many years there has been a trend that most basic courts do not publish news and announcements on their websites, or very rarely do.⁴¹⁶ The situation is even worse with press conferences, which are rare.⁴¹⁷

406 The Criminal Procedure Code. Official Gazette no. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 – CC decision and 62/2021 – CC decision, Art. 250, www.paragraf.rs/propisi/zakonik_o_krivicnom_postupku.html

407 The Civil Procedure Law. Official Gazette no. 72/2011, 49/2013 – CC decision, 74/2013 – CC decision, 55/2014, 87/2018, 18/2020 and 10/2023 – other law, Art. 149, www.paragraf.rs/propisi/zakon_o_parnicnom_postupku.html

408 Supreme Court of Cassation. 2021 Annual report on the work of the courts in the Republic of Serbia, www.vk.sud.rs/sites/default/files/attachments/Publikacija%20srb_0.pdf

409 Law on HCJ; Article 19; new Law on the supreme court, Article 23, Rules of Procedure of the Supreme Court, Article 37.

410 The former Law on HCP. Official Gazette no. 116/2008, 101/2010, 88/2011 and 106/2015, article 14, The new Law on HCP. Official Gazette no. 10/2023, article 18, www.paragraf.rs/propisi/zakon_o_visokom-savetu-tuzilastva.html; the Rulebook on the work of the HPC. Official Gazette no. 63/2023, article 10, www.paragraf.rs/propisi/poslovnik_o_radu_drzavnog_veca_tuzilaca-2017.html

411 The Rules of Procedure of the Supreme Court. Official Gazette no. 37/2010, 51/2014, 41/2016, 62/2016, 74/2018, article 38, www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/pravosudje/poslovnik/2016/41/1

412 <https://vss.sud.rs/sr/извештај-о-раду/>

413 26th sitting of the High Judicial Council, Agenda, <https://vss.sud.rs/sites/default/files/attachments/Дневни%20ред%202026.%20седнице%20BCC%20од%202023%20Године.pdf>

414 26th sitting of the High Judicial Council of Minutes, <https://vss.sud.rs/sites/default/files/attachments/Записник%20са%202026.%20седнице%20BCC%20од%202023%20Године.pdf>

415 By searching the site, it was not possible to find SJC decisions made after 2020, conclusions from the fifth regular sitting of the permanent composition of the High Judicial Council, https://vss.sud.rs/sites/default/files/attachments/Закључци%20са%202025.%20седнице%20Високог%20савета%20судства_0.pdf

416 Partneri Srbija. 2023. "Analiza stanja transparentnosti i otvorenosti pravosudnih organa" (,"Analysis of the state of transparency and openness of judiciary"), www.partners-serbia.org/public/news/Analiza_stanja.pdf

417 Ibid.

In 2017, the Ministry of Justice, as part of the Central Platform for the Development of Websites of Judicial Authorities project, created adequate internet presentations (sites) for all courts in Serbia, which they did not have until then.⁴¹⁸ However, research conducted in 2020 on a sample of 30 courts (primary and higher) showed that two primary courts still did not have their own websites.⁴¹⁹ The same survey conducted in 2022 on a sample of 30% of basic courts, 30% of basic prosecutor's offices and four higher courts, showed that the majority of basic courts and prosecutor's offices do not publish news or announcements on their websites or that do so rarely.⁴²⁰ Most of the courts in the sample had published information booklets, but they are not updated regularly.⁴²¹ An analysis of their websites showed that there is no information about planned media conferences and only one news article about a media conference held in 2021 was found.⁴²²

The Serbian justice portal⁴²³ allows you to track the flow of cases in all courts with several search options (name of court, type and number of cases), from an individual case to a search for each judge and their resolved or pending cases. However, this data only allows for monitoring the course of individual cases, not statistical data that would enable a more detailed analysis of the work of the judiciary.

In 2021, the supreme court of justice received 88 freedom of information requests, of which 33 were rejected;⁴²⁴ in 2022, it received 65 requests of which 11 were rejected.⁴²⁵ In 2022, the number of complaints reported to the Commissioner for Free Access to Information against judicial authorities is 670, 7.7% of the total number.⁴²⁶

Public press conferences and public appearances are rare. Publicity of the work of the judiciary is very limited, which makes it difficult to obtain objective and timely information about its work.

3.2.3. Accountability (law)

To what extent are there provisions to ensure that the judiciary has to report and be answerable for its actions?



SCORE: 100/100

Extensive accountability provisions are in place, including requirements for judges to explain their decisions and complaints procedures with disciplinary sanctions.

Judges are obliged to explain their decisions. Written verdicts must contain an explanation.⁴²⁷ In explaining the verdict, the court must state the facts it established in the criminal proceedings and the reasons it considers them proven or unproven,⁴²⁸ that is, the factual situation it established, as well as the regulations on which it based the verdict.⁴²⁹ If the defendant is found guilty, the explanation must also state the facts that the court took into account when determining the sentence.⁴³⁰

418 In 2017, the Ministry of Justice, as part of the Central Platform for the Development of Websites of Judicial Authorities project, created adequate internet presentations (sites) for all courts in Serbia, which they did not have until then. www.pravniportal.com/internet-prezentacije-sajtovi-za-sve-sudove-u-srbiji/

419 Partners for Democratic Change Serbia. Analysis of the implementation of transparency standards in courts in the Republic of Serbia, p.17, www.rolps.org/public/documents/upload/Partneri%20Srbija_Analiza%20primene%20standarda%20transparency.pdf

420 Open Doors of Judiciary, Kristina Kalajdžić. 2022. Are the websites of courts and prosecutor offices informative enough, www.otvorenavratapravosudja.rs/teme/ostalo/da-li-su-veb-sajtovi-sudova-i-tuzilastava-dovolno-informativni

421 Ibid.

422 Ibid.

423 www.mpravde.gov.rs/sr/sekcija/27078/portal-pravosudja-srbije-.php, <https://portal.sud.rs/cr/tok-predmeta>

424 High Judicial Council. 2021 Annual Report, p.47, <https://vss.sud.rs/sites/default/files/attachments/attachments/Извештај%20о%20раду%20BCC%20за%202021.%20годину.pdf>

425 High Judicial Council. 2022 Annual Report, p.52, <https://vss.sud.rs/sites/default/files/attachments/attachments/Извештај%20о%20раду%20BCC%20за%202022.%20годину.pdf>

426 Commissioner for Free Access to Information and Protection of Personal Data. 2023. 2022 Annual Report, p.16, www.poverenik.rs/images/stories/dokumentacija-nova/izvestajiPoverenika/2022/Godi%C5%A1ni_izve%C5%A1taj_2022_-_16_03_2023.pdf

427 The Criminal Procedure Code. Official Gazette no. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 – CC decision and 62/2021 – CC decision, Art. 428, www.paragraf.rs/propisi/zakonik_o_krivicnom_postupku.html; The Civil Procedure Law. Official Gazette no. 72/2011, 49/2013 – CC decision, 74/2013 – CC decision, 55/2014, 87/2018, 18/2020 and 10/2023 – other law, Art. 355, www.paragraf.rs/propisi/zakon_o_parnicnom_postupku.html

428 The Criminal Procedure Code. Official Gazette no. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 – CC decision and 62/2021 – CC decision, Art. 428, www.paragraf.rs/propisi/zakonik_o_krivicnom_postupku.html

429 The Civil Procedure Law. Official Gazette no. 72/2011, 49/2013 – CC decision, 74/2013 – CC decision, 55/2014, 87/2018, 18/2020 and 10/2023 – other law, Art. 355, www.paragraf.rs/propisi/zakon_o_parnicnom_postupku.html

430 The Criminal Procedure Code. Official Gazette no. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 – CC decision and 62/2021 – CC decision, Art. 428, www.paragraf.rs/propisi/zakonik_o_krivicnom_postupku.html

Participants in court proceedings have the right to complain about the work of the court when they believe that the proceedings are delayed, irregular or that there is any impermissible influence on the course and outcome.⁴³¹ The president of the court is obliged to consider the complaint, to deliver it to the judge to whom it refers for a statement, and to inform the complainant, as well as the president of the immediately higher court, about its merits and the measures taken.⁴³²

Disciplinary complaints against judges can be submitted to the disciplinary prosecutor of the HCJ. Disciplinary proceedings are conducted by the disciplinary commission and are urgent and closed to the public, unless the judge against whom the proceedings are conducted does not require the proceedings to be public, while the new Law on Judges stipulates that the proceedings are conducted⁴³³ with all guarantees of a fair trial.⁴³⁴

Disciplinary sanctions may include a public reprimand, a salary reduction of up to 50% for a period of no longer than one year, and a ban on promotion for up to three years.⁴³⁵ Disciplinary sanctions are imposed in proportion to the severity of the committed disciplinary offence.⁴³⁶ If the disciplinary commission determines the responsibility of the judge for a serious disciplinary offence, it will initiate the dismissal procedure.⁴³⁷ According to the new Law on Judges, judges have a new remedy: the right to appeal to the constitutional court against a decision to terminate office,⁴³⁸ which excludes the right to file a constitutional appeal which is available to other citizens.⁴³⁹

The immunity of judges applies to the responsibility of opinions expressed and voting when making a court decision, except in the case of a judge committing a criminal.⁴⁴⁰

According to a retired judge of the court of appeal, the provisions on disciplinary responsibility are even more important since the constitutional changes, given that the unprofessional performance of the judicial function is no longer a reason for dismissal after the deletion of Article 63 of the previous Law on Judges,⁴⁴¹ which stated that a judge could be dismissed from office when there is unprofessional performance, that is, if the judge receives an “unsatisfactory” grade. As a result of this, the judicial system now has to tolerate unprofessional personnel.⁴⁴² Disciplinary sanctions are now the only way to sanction unprofessional behaviour.

3.2.4. Accountability (practice)

To what extent do members of the judiciary have to report and be answerable for their actions in practice?



SCORE: 75/100

Disciplinary procedures and sanctions, as the most important mechanisms for determining responsibilities, are regularly applied. However, the question of their efficiency and functionality is raised, given that they are used exclusively as a reactive mechanism for solving individual problems in particular cases instead of strengthening preventive mechanisms that would reduce the possibility of disciplinary violations. In addition, the outcomes of disciplinary proceedings only reinforce that situation.

The 2021 EC progress report stated that “the system for evaluating the work of judges and prosecutors should be thoroughly revised after the adoption of constitutional amendments to enable the selection and career of judicial office holders to be based on merit”.⁴⁴³ It is necessary to establish a completely objective, transparent and merit-

431 The Law on the Organisation of Courts. Official Gazette no. 10/2023, Article 8, www.paragraf.rs/propisi/zakon_o_uredjenju_sudova.html

432 The Law on the Organisation of Courts. Official Gazette no. 10/2023, Article 55, www.paragraf.rs/propisi/zakon_o_uredjenju_sudova.html

433 The new Law on Judges, Article 101, https://www.paragraf.rs/propisi/zakon_o_sudijama.html.

434 Ibid.

435 Ibid, Article 91 and Article 98.

436 Ibid.

437 The former Law on Judges. Official Gazette no. 116/2008, 58/2009 – CC decision, 104/2009, 101/2010, 8/2012 – CC decision, 121/2012, 124/2012 – CC decision, 101/2013, 111/2014 – CC decision, 117/2014, 40/2015, 63/2015 – CC decision, 106/2015, 63/2016 – CC decision, 47/2017 and 76/2021, Article 92, and the Law on Judges. Official Gazette no. 10/2023, Article 99, www.paragraf.rs/propisi/zakon_o_sudijama.html

438 The former Law on Judges. Official Gazette no. 116/2008, 58/2009 – CC decision, 104/2009, 101/2010, 8/2012 – CC decision, 121/2012, 124/2012 – CC decision, 101/2013, 111/2014 – CC decision, 117/2014, 40/2015, 63/2015 – CC decision, 106/2015, 63/2016 – CC decision, 47/2017 and 76/2021, Article 67

439 the Law on Judges. Official Gazette no. 10/2023, Article 73, www.paragraf.rs/propisi/zakon_o_sudijama.html

440 The former Law on Judges. Official Gazette no. 116/2008, 58/2009 – CC decision, 104/2009, 101/2010, 8/2012 – CC decision, 121/2012, 124/2012 – CC decision, 101/2013, 111/2014 – CC decision, 117/2014, 40/2015, 63/2015 – CC decision, 106/2015, 63/2016 – CC decision, 47/2017 and 76/2021, Article 5, and the Law on Judges. Official Gazette no. 10/2023, Article 6, www.paragraf.rs/propisi/zakon_o_sudijama.html

441 The old Law on Judges, Art. 63, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2008/116/2/reg>

442 Interview with Omer Hadžiomerović, retired judge of the Court of Appeal, September 2022

443 European Commission. 2021. 2021 Progress Report, p.5 www.mei.gov.rs/upload/documents/eu_dokumenta/qodisnji_izvestaji_ek_o_napretku/izvestaj_ek_ostobar_21.PDF

based system in accordance with European standards⁴⁴⁴ in which the professional evaluation of judges is based on quantitative and qualitative criteria.⁴⁴⁵ According to the report on the work of the disciplinary prosecutor of the supreme court, the prosecutor received 473 disciplinary reports in 2021, amounting to a total of 860 reports, including pending reports from the previous period.⁴⁴⁶ That number was significantly lower in 2022, when 312 disciplinary reports were received, which amounts to a total of 579 reports, including pending reports from the previous period.⁴⁴⁷

The majority of disciplinary reports were submitted by citizens, followed by court presidents and lawyers dissatisfied with the outcome of trials.⁴⁴⁸ In terms of who is being reported against, the situation is constantly changing. In 2021, the largest number of disciplinary reports were filed against judges who led civil proceedings and judges of misdemeanour courts.⁴⁴⁹ The largest number of disciplinary reports submitted in 2022 were against judges acting in basic courts, higher courts, misdemeanour courts, and even a third of complaints was filed against judges acting in the area of the court of appeal in Belgrade.⁴⁵⁰ The new disciplinary prosecutor submitted six proposals to the commission for conducting disciplinary proceedings in 2021,⁴⁵¹ while there were 18 proposals to conduct disciplinary proceedings in 2022.⁴⁵²

In 2021, the disciplinary commission took charge of 12 new cases, which, together with pending cases from the previous period, made a total of 15 cases.⁴⁵³ In one case, a judge was found responsible for committing a serious disciplinary offence, for which he was issued a public reprimand; in another case, a judge was found guilty of committing the offence of unjustified delay of the procedure, for which he was sanctioned in the form of a 10% salary reduction for four months.⁴⁵⁴

In 2022, the disciplinary commission took charge of 25 new cases, which, together with pending cases from the previous period, made a total of 29 cases.⁴⁵⁵ In 2021, the HJC issued one decision on dismissal⁴⁵⁶ while there were no such decisions in 2022.⁴⁵⁷ In 2021, the evaluation procedure was initiated for 1,834 judges.⁴⁵⁸ Of that number, 134 judges were newly appointed judges elected for the first time, 1,465 on permanent judgeships (regular evaluation) and 235 judges for extraordinary evaluation.⁴⁵⁹ In December 2021, a decision was made on the extraordinary evaluation of 91 judges and the initiation of regular evaluation for 70 judges. The work of 1,637 judges was evaluated with the grade "performs the judicial function extremely successfully", and the work of eight judges was evaluated with the grade "not satisfactory".⁴⁶⁰

444 Ibid, p.22.

445 Ibid, p.24.

446 Disciplinary Prosecutor of the Supreme Court. 2022. Report of work, p.1, https://vss.sud.rs/sites/default/files/document_category/Извештај%20о%20раду%20Дисциплинског%20тузиоца%20Високог%20савета%20судства%20за%202021.%20годину_0.pdf

447 Visoki savet sudstva – Disciplinski tužilac. 2023. "Izveštaj o radu Disciplinskog tužioca Visokog saveta sudstva za 2022. godinu" ("Report on work of the Disciplinary Prosecutor of the HJC for 2022."), https://vss.sud.rs/sites/default/files/document_category/ИЗВЕШТАЈ%20О%20РАДУ%20ДИСЦИПЛИНСКОГ%20ТУЖИОЦА%20ЗА%202022.%20ГОДИНУ.pdf

448 Visoki savet sudstva – Disciplinski tužilac. 2022. "Izveštaj o radu Disciplinskog tužioca Visokog saveta sudstva za 2021. godinu" ("Report on work of the Disciplinary Prosecutor of the HJC for 2021."), https://vss.sud.rs/sites/default/files/document_category/Извештај%20о%20раду%20Дисциплинског%20тузиоца%20Високог%20савета%20судства%20за%202021.%20годину_0.pdf, pg. 3.

449 Ibid.

450 Visoki savet sudstva – Disciplinski tužilac. 2023. "Izveštaj o radu Disciplinskog tužioca Visokog saveta sudstva za 2022. godinu" ("Report on work of the Disciplinary Prosecutor of the HJC for 2022."), 2023, https://vss.sud.rs/sites/default/files/document_category/ИЗВЕШТАЈ%20О%20РАДУ%20ДИСЦИПЛИНСКОГ%20ТУЖИОЦА%20ЗА%202022.%20ГОДИНУ.pdf

451 Visoki savet sudstva – Disciplinski tužilac, "Izveštaj o radu Disciplinskog tužioca Visokog saveta sudstva za 2021. godinu" ("Report on work of the Disciplinary Prosecutor of the HJC for 2021."), https://vss.sud.rs/sites/default/files/document_category/Извештај%20о%20раду%20Дисциплинског%20тузиоца%20Високог%20савета%20судства%20за%202021.%20годину_0.pdf, pg. 2.

452 Visoki savet sudstva – Disciplinski tužilac. 2022. "Izveštaj o radu Disciplinskog tužioca Visokog saveta sudstva za 2022. godinu" ("Report on work of the Disciplinary Prosecutor of the HJC for 2022."), https://vss.sud.rs/sites/default/files/document_category/Извештај%20о%20раду%20Дисциплинског%20тузиоца%20Високог%20савета%20судства%20за%202022.%20годину.pdf

453 Disciplinary Commission of the HJSC, Report on the work, February 2022, pp.1&2, https://vss.sud.rs/sites/default/files/document_category/Извештај%20о%20раду%20Дисциплинске%20комисије%20Високог%20савета%20судства%20за%202021.%20годину.pdf

454 Ibid.

455 Disciplinary Commission of the HJSC. 2023. Report on the work for 2022, https://vss.sud.rs/sites/default/files/document_category/Извештај%20о%20раду%20дисциплинске%20комисије%20ВСС%20за%202022.%20годину.pdf

456 Disciplinary Commission of the HJSC. 2022. Report on the work, pp.1&2, https://vss.sud.rs/sites/default/files/document_category/Извештај%20о%20раду%20Дисциплинске%20комисије%20Високог%20савета%20судства%20за%202021.%20годину.pdf

457 Disciplinary Commission of the HJSC, Report on the work for 2022, 2023, https://vss.sud.rs/sites/default/files/document_category/Извештај%20о%20раду%20дисциплинске%20комисије%20ВСС%20за%202022.%20годину.pdf

458 High Judicial Council, Annual Report, February 2022, p.31, <https://vss.sud.rs/sites/default/files/attachments/Извештај%20о%20раду%20ВСС%20за%202021.%20годину.pdf>, p.31.

459 Ibid.

460 Ibid.

3.2.5. Integrity mechanism (law)

To what extent are there mechanisms to ensure the integrity of members of the judiciary?



There is an extensive legal framework (the constitution, the Law on Judges, the Law on HJC, the Law on the Prevention of Corruption) that should ensure the integrity of the judiciary. However, the 2023 Law on Judges is contentious due to its omission of specific functions prohibited for judges, as outlined in the Law on the Prevention of Corruption, particularly those related to institutions and public enterprises associated with the Republic of Serbia, autonomous provinces, local self-government units or city municipalities. There is a code of ethics for judges, but it lacks clarity in defining offences and fails to specify which provisions in the code should result in disciplinary responsibility for non-compliance.

The Law on the Prevention of Corruption defines a conflict of interest for public officials (judges are considered officials) as a situation in which the official has a private interest that affects, can affect or appears to affect the performance of a public function.⁴⁶¹ The law prohibits the performance of multiple functions and obliges officials to report to the anti-corruption agency any doubts regarding a possible conflict of interest.⁴⁶² Judges must also declare their assets and income and thus make them available to the agency.⁴⁶³ Part of those reports on assets and income is required to be made public.⁴⁶⁴ The law also regulates the prohibition of accepting gifts.⁴⁶⁵

The constitution also provides for the prohibition of conflicts of interest⁴⁶⁶ as well as the political activity of judges.⁴⁶⁷ The current Law on Judges also prohibits activities that could jeopardise the judge's impartiality, as well as the judge's obligation to adhere to the code of ethics.⁴⁶⁸ The new Law on Judges contains several controversial provisions. In the new law, when listing the functions that judges cannot perform, certain provisions contained in the Law on Prevention of Corruption (which applies to judges as well as to all other public officials) are missing, including functions in institutions and public enterprises whose founder or member is the Republic of Serbia, an autonomous province, a local self-government unit or a city municipality.⁴⁶⁹ In addition, according to the new law, a judge cannot be a member of a political party nor act politically in any other way.⁴⁷⁰ An exception is that a judge can be a member of the administrative body of an institution responsible for judicial training, based on the decision of the high judicial council.⁴⁷¹ A judge is obliged to inform the HJC in writing about any service or work that may be incompatible with the function of a judge.⁴⁷²

Some mechanisms for ensuring the integrity of judiciary members also exist in procedural laws: the criminal procedure code and the civil procedure code.⁴⁷³ The Law on the Organisation of Courts stipulates that court personnel are obliged to perform their functions conscientiously and impartially and to maintain the reputation of the court.⁴⁷⁴

There are also disciplinary rules for judges and a code of ethics for judges. However, as the EC progress report noted already in 2021, they are weak in defining offences and do not "clarify which provisions in the code should imply disciplinary responsibility for their non-compliance".⁴⁷⁵ Since then there has been no visible progress on implementing these findings.

461 The Law on the Prevention of Corruption. Official Gazette no. 35/2019, 88/2019, 11/2021 – authentic interpretation, 94/2021 and 14/2022, Article 41, www.paragraf.rs/propisi/zakon-o-sprecavanju-korupcije.html

462 Ibid, art. 42 and 56.

463 Ibid, art. 68 and 69.

464 Ibid, art. 73.

465 Ibid, art. 57- 66.

466 The Constitution of the Republic of Serbia. Official Gazette no. 98/2006 and 115/2021, Article 6, www.paragraf.rs/propisi/ustav_republike_srbije.html

467 Ibid, art. 148.

468 The former Law on Judges. Official Gazette no. 116/2008, 58/2009 – CC decision, 104/2009, 101/2010, 8/2012 – CC decision, 121/2012, 124/2012 – CC decision, 101/2013, 111/2014 – CC decision, 117/2014, 40/2015, 63/2015 – CC decision, 106/2015, 63/2016 – CC decision, 47/2017 and 76/2021, Article 30

469 The Law on Judges. Official Gazette no. 10/2023, Article 31, www.paragraf.rs/propisi/zakon_o_sudijama.htm

470 Ibid.

471 Ibid.

472 Ibid.

473 The Criminal Procedure Code. Official Gazette no. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 – CC decision and 62/2021 – CC decision, Art. 37-42, www.paragraf.rs/propisi/zakonik_o_krivicnom_postupku.html; The Civil Procedure Law. Official Gazette no. 72/2011, 49/2013 – CC decision, 74/2013 – CC decision, 55/2014, 87/2018, 18/2020 and 10/2023 – other law, Art. 66-73, www.paragraf.rs/propisi/zakon_o_parnicnom_postupku.html

474 The Law on the Organisation of Courts. Official Gazette no. 10/2023, Article 69, www.paragraf.rs/propisi/zakon_o_uredjenju_sudova.html

475 European Commission. 2021. 2021 Progress Report, p.23, www.mei.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/izvestaj_ek_oktobar_21.PDF

3.2.6. Integrity mechanism (practice)

To what extent is the integrity of members of the judiciary ensured in practice?



SCORE: 75/100

Most of the mechanisms for ensuring the integrity of representatives of a judicial function in practice are in place. However, there have been individual cases of incorrect reporting in judges' asset declarations.

Judges report their assets to the anti-corruption agency.⁴⁷⁶ In 2021, the agency prepared reports on the implementation of transitional measures for Chapter 23, with the aim of establishing a system for monitoring its results and cases on a semi-annual basis in the area of conflict of interest, reporting and verification of assets and income of officials, especially judges and prosecutors.⁴⁷⁷ In one case, it was established that a judge of the appellate court violated the obligation to report a significant change in data from the property and income report, and he was given a warning measure to comply with the law in the future.⁴⁷⁸ That agency decision was the subject of a court dispute that ended with the administrative court rejecting the lawsuit.⁴⁷⁹ The annual inspection supervision plan for 2022 provided for the control of reports on assets and incomes of judges of the high court in Belgrade.⁴⁸⁰

The HJC delivered the code of ethics to all presidents of courts in the Republic of Serbia with the request that they make it available to all judges in their court in an appropriate manner.⁴⁸¹

In the period January – July 2021, the judicial academy held six seminars on “ethics, ethical code and integrity of judges”, four seminars on “disciplinary responsibility and ethics”, as well as two introductory seminars for participants in initial training on “ethics and the integrity of judicial office holders”.⁴⁸²

In 2017, the HJC adopted an integrity plan and appointed within the same decision an adviser for general affairs to monitor its implementation.⁴⁸³

3.2.7. Gender

To what extent are the judiciary's mechanisms gender-sensitive?



SCORE: 25/100

The judiciary has a designated person responsible for overseeing the implementation of gender issues in courts. However, even though there is gender equality in employment, the judiciary does not have any gender-sensitive protocols for its work and lacks gender-sensitive statistical data or analysis on the work of the judiciary.

The report on the courts in the Republic of Serbia for 2022 contains a small amount of gender-sensitive data. According to that report, far more (over 2.5 times) women hold the office of judge (1,966) than men.⁴⁸⁴

At the end of 2021, the supreme court of cassation issued a decision designating the secretary of the court as the person in charge of gender equality in that court.⁴⁸⁵ Among other things, this person is responsible for monitoring the implementation of measures and policies for achieving and improving gender equality within the scope of the

476 Agency for the Prevention of Corruption, Register of Assets, <https://publicacas.acas.rs/#/acas/obrazacZaPriavulmovineIPrihoda>

477 Agency for the Prevention of Corruption.2022. 2021 Annual Report, p.46, www.acas.rs/storage/page_files/Izveštaj%20o%20radu%20za%202021.%20Agencije%20za%20sprečavanje%20korupcije.pdf

478 Ibid, p.84

479 Ibid.

480 Agency for the Prevention of Corruption. 2022. Annual plan for the verification of reports on assets and income of public officials for 2022, www.acas.rs/lat/news/32

481 High Judicial Council. 2022. Annual report of HCJ, p.42, <https://vss.sud.rs/sites/default/files/attachments/Извештај%20о%20раду%20BCC%20за%202021.%20годину.pdf>

482 Ibid.

483 High Judicial Council. 2017. Decision on the adoption of the Integrity Plan of the High Judicial Council, <https://vss.sud.rs/sites/default/files/attachments/Odluka.pdf>

484 Supreme Court of Cassation. 2021 Annual report on the work of the courts in the Republic of Serbia, p.10, www.vk.sud.rs/sites/default/files/attachments/Publikacija%20srb_0.pdf

485 Supreme Court of Cassation. 2021. Decision on appointing the person in charge of gender equality, www.vk.sud.rs/sites/default/files/attachments/Odluka%20o%20odredjivanju%20lica%20zadu%C5%BEenog%20za%20rodnu%20ravnopravnost_0.pdf

court's work, and monitoring the situation regarding the gender structure of judges and other employees in the court, such as preparing, together with the service for personnel affairs, data, analysis and materials needed for the work of bodies for gender equality.⁴⁸⁶

According to a retired judge, interviewed for the purpose of this report, there is no gender-disaggregated data on complainants or processing time of complaints.⁴⁸⁷ In addition, there are no specific gender-sensitive guidelines for the work of judges.⁴⁸⁸ On the other hand, the judicial academy in its permanent training programme for 2022 foresees training in the application of anti-discrimination legislation.⁴⁸⁹ According to the programme, the planned duration of that training is one day and the target group is the civil departments of judges of the basic court, the higher court, the court of appeal – civil department, the misdemeanour court, the administrative court, basic public prosecutors and deputies, senior public prosecutors and deputies and appellate public prosecutors⁴⁹⁰.

Role

3.3.1. Executive oversight

To what extent does the judiciary provide effective oversight of the executive?



SCORE: 50/100

The effectiveness of judicial supervision over executive power is not ensured. First of all, the administrative court is burdened with a large number of pending cases. In addition, due to the influence of politics on the judiciary, it is not independent enough to exercise control over the executive branch and determine its accountability.

Judicial supervision over executive power occurs through two mechanisms: the administrative court decides on the legality of individual acts of bodies, including the government and ministries; and the constitutional court, which evaluates the legality of laws, by-laws and other acts adopted by the Assembly, the government and other bodies and organisations.

According to the information booklet of the administrative court, there is one president plus 51 judges out of an approved number of 63 judges, while only 173 permanent positions were filled out of the prescribed 199.⁴⁹¹

In 2022, the administrative court had 128,376 active cases.⁴⁹² Of that number, total pending cases from the previous period was 64,842, while a total number of newly received cases was 63,534.⁴⁹³ In that time, the administrative court resolved only 25,178 cases.⁴⁹⁴

The judiciary also supervises and reviews the work of the executive through the activities of the constitutional court, which assesses the constitutionality and legality of laws and regulations.⁴⁹⁵ As in previous years, the number and type of cases show a growing workload for the constitutional court, primarily with cases of constitutional appeals.⁴⁹⁶ In 2021, the constitutional court received 23,981 submissions, which is more than in 2020, when 21,473 submissions were received.⁴⁹⁷

Of the stated number, 17,924 are cases of constitutional appeals, 209 are cases from other jurisdictions of the constitutional court, and 65 are cases in which the requests of the parties are not included in the constitutional

486 Ibid.

487 Interview with Omer Hadžiomerović, retired judge of the court of appeal, September 2022.

488 Ibid.

489 Judicial Academy. 2022 programme, p.153, www.pars.rs/images/dokumenta/Stalna-obuka/program-stalne-obuke-za-2022.pdf

490 Ibid.

491 Administrative Court, Information Booklet, p.11, www.up.sud.rs/uploads/pages/1684400235~~Informator%20Mart-cir%202023-Final.pdf

492 Administrative Court. 2023. 2022 Annual Report, p.1, www.up.sud.rs/uploads/useruploads/Izvestaji-o-radu-suda/GODI%C5%A0NI-IZVE%C5%A0TAJ-2022.pdf

493 Ibid.

494 Ibid.

495 The Constitution of the Republic of Serbia. Official Gazette no. 98/2006 and 115/2021, Article 167, www.paragraf.rs/propisi/ustav_republike_srbije.html

496 Constitutional Court. 2022. 2021 overview of the work, p.1, www.ustavni.sud.rs/Storage/Global/Documents/Misc/Преглед_2021.pdf

497 Ibid, p.2.

competences of the constitutional court.⁴⁹⁸ In 2021, the constitutional court resolved 13,316 cases of constitutional appeals, of which 1,147 were decisions on the merits of a prominent violation of a guaranteed right (8.61%) and 7,816 decisions were on rejection of constitutional appeals (58.70%), while the remaining 32.69% of cases were resolved by suspending the proceedings (83) or by other procedural means (4,270).⁴⁹⁹

3.3.2. Corruption prosecution

To what extent is the judiciary committed to fighting corruption through prosecution and other activities?



Court decisions in cases of grand corruption are still lacking.⁵⁰⁰ In addition, there is no proactive investigation of publicly raised suspicions of corruption.

The case against the former director of the Serbian Railways public enterprise arose from an accusation of abuse of office and causing damage to a public company through the purchase of six diesel-electric locomotives in worth €1.2 million from Slovenian Railways and 10 diesel vehicles from a Swedish railway company. The first-instance verdict was pronounced in April 2013, but the disputed procurements were made between 2004 and 2006. It was only in July 2015 that the court of appeal ordered a repetition of the procedure and finally, in March 2019, the high court in Belgrade acquitted the accused.⁵⁰¹

Corruption is not defined as a separate offence in the Criminal Code. Amendments to the Criminal Code (Official Gazette of RS No. 94/2016) revised criminal offences against the economy and the criminal offences against official duty.⁵⁰² Also, the new Law on the Organisation and Competence of State Authorities in the Suppression of Organised Crime, Terrorism and Corruption (Official Gazette of the RS, no. 94/16 and 87/18) established four special departments for actions related to criminal acts of this type of crime before the higher courts in Belgrade, Kraljevo, Niš and Novi Sad, which act in the first instance.⁵⁰³

In 2021, the courts dealt with 2,283 cases of criminal acts of corruption (a total of 4,968 persons were accused), of which the largest number of proceedings were conducted before higher courts (1,384) and the lowest before appellate courts (420).⁵⁰⁴ Out of these, 1,226 cases were resolved in the reporting period.⁵⁰⁵

In addition to courts of general jurisdiction, courts of special jurisdiction (misdemeanour courts) act in the first instance according to the Law on the Prevention of Corruption.⁵⁰⁶ In 2021, they dealt with 47 cases and resolved 45 of them.⁵⁰⁷

The number of convictions for criminal offences related to corruption in 2021 was significantly reduced compared to previous years.⁵⁰⁸ The largest number of convictions were the criminal offence of abuse of official position (125), and only one was convicted for criminal offence violating the law by a judge, the public prosecutor and his deputy.⁵⁰⁹ Similarly, a prison sentence was imposed in the largest number of cases (26) for the criminal offence of abuse of official position and the least for violation of the law by a judge, public prosecutor and his deputy (1).⁵¹⁰

498 Ibid.

499 Ibid, p.7

500 European Western Balkan. 2019. "U Srbiji izostaje rešavanje slučajeva visoke korupcije" ("Serbia lacks resolution of cases of highj corruption"), <https://europeanwesternbalkans.rs/u-srbiji-izostaje-resavanje-slucajeva-visoke-korupcije/>

501 Transparentnost Srbija. 2021. "Korupcija na visokom nivou i zakoni krojeni po meri privatnih interesa" ("Grand corruptin and laws tailored to private interests"), https://transparentnost.org.rs/images/dokumenti_uz_vesti/Korupcija_na_visokom_nivou_i_zakoni_krojeni_po_meri_privatnih_interesa_u_Srbiji.pdf

502 Supreme Court of Cassation. 2022. 2021 annual report on the work of the courts in the Republic of Serbia, p.43, www.vk.sud.rs/sites/default/files/attachments/Publikacija%20srb_0.pdf

503 Ibid.

504 Ibid.

505 Ibid.

506 Ibid.

507 Ibid.

508 Statistical Office of the Republic of Serbia. Adult perpetrators of criminal offences in the Republic of Serbia 2021, p.2, <https://publikacije.stat.gov.rs/G2022/Pdf/G20221189.pdf>

509 Ibid, p.11.

510 Ibid.

For the criminal offence of abuse of official position, in a large number of cases, a suspended sentence (79) or house arrest (20) was imposed.⁵¹¹

In 2021, 192 orders were issued to initiate financial investigations against 305 persons, which is significantly more than in the previous year (129 orders against 264 persons), all against defendants and none against third parties (as opposed to 6 in 2020).⁵¹² The public prosecutors submitted to the court a request for temporary confiscation of property against 13 defendants and 9 third parties.⁵¹³

However, the supreme court stopped the practice of writing narrative reports. For 2022, only Excel tables were published, which cannot be used for comparison because they do not contain data structured in the way it had been done in previous years.⁵¹⁴

3.3.3. Mutual Legal Assistance

To what extent do judicial authorities cooperate with foreign law enforcement agencies to provide and receive mutual legal assistance?



SCORE: 25/100

Even though the Ministry of Justice established offices for cooperation with foreign law enforcement agencies, there are no available data on that cooperation.

The department for international legal assistance in civil matters of the Ministry of Justice performs tasks that, among other things, refer to the processing of requests from domestic and foreign courts and other domestic and foreign competent state bodies, as well as cooperation with competent foreign and domestic judicial and other bodies in civil matters.⁵¹⁵ In addition, its jurisdiction includes the application and giving of reciprocity notices, that is, the recognition and enforcement of foreign court and arbitration decisions in civil matters.⁵¹⁶

Meanwhile, the department for international legal assistance in criminal matters of the Ministry of Justice performs tasks related to acting on subpoenas from domestic and foreign courts and other competent domestic and foreign state authorities, assigning and taking over the criminal prosecution of defendants, issuing international warrants and issuing defendants and convicted persons, as well as the execution of foreign criminal judgements and the transfer of convicted persons.⁵¹⁷

However, the Ministry of Justice does not publish statistics on cases of requested and assistance and cooperation provided. Among the publicly available data,⁵¹⁸ it is not possible to find data on the authorities and states that requested and/or provided assistance in judicial matters, nor data on the time in which it was done.

511 Ibid.

512 Republic Public Prosecution. 2022. The report on the work of public prosecutor's offices to suppress crime and protect constitutionality and legality in 2021, p.124, www.rjt.gov.rs/docs/rad-javnih-tuzilastava-na-suzbijanju-kriminaliteta-i-zastiti-ustavnosti-2022.pdf

513 Ibid.

514 Supreme Court of Cassation. 2022 Annual report on the work of the courts in the Republic of Serbia, <https://www.vk.sud.rs/sr-lat/godi%C5%A1nji-izve%C5%A1taj-o-radu-sudova>

515 Ministry of Justice. International legal assistance in civil matters, www.mpravde.gov.rs/tekst/45/gradjanske-stvari.php

516 Ibid.

517 Ministry of Justice. International legal assistance in criminal matters, www.mpravde.gov.rs/tekst/46/krivicne-stvari.php

518 Report on the courts in the Republic of Serbia and information on the Ministry of Justice.

Interactions

Public prosecutors are responsible for conducting investigations and obtaining evidence of guilt. However, a large number of cases, including some of the most important ones reported in the media, do not end in convictions. The courts justify such behaviour by the absence or poor quality of the evidence obtained, while the prosecution considers that the courts are ineffective and prevent the effective fight against corruption with their policy.⁵¹⁹

The National Assembly passes laws that the courts apply, and which can improve the independence of the judiciary. In addition, the Assembly elects two members of the HJC from among prominent lawyers. The selection of the best candidates is an important condition for the efficient work of the HJC and increasing the independence of the judiciary. It is considered that some MPs use the National Assembly to influence the work of the judiciary,⁵²⁰ for example, members of the ruling majority accused the judge of the court of appeal, Miodrag Majić, of being corrupt and participating in a “conspiracy” against President Aleksandar Vučić after he publicly criticised the changes to the Criminal Code. Some lawyers, however, say that these words were actually addressed to everyone in the judiciary and that the message is clear: “do not criticise the government”.⁵²¹

The traditional media, especially national broadcasters, plays a significant role in the public’s perception of a corrupt judiciary and citizens’ low trust in the courts. This is due to the tabloidisation of the media as much as in the passivity of the judiciary, whose public press conferences and public appearances are rare. Publicity about the judiciary is very limited, which makes it difficult to obtain objective and timely information about its work.

Pillar Recommendations

- Parliament should improve the independence and responsibility of the HCJ, through the selection process of so-called prominent lawyers in such a way that they should be elected by the MPs directly and prevent that, due to MPs failure to exercise their powers, the election of these lawyers is then done by the commission.
- The HJC should adopt rules/by-laws on the independence of the judicial budget, build capacities for the implementation of the budget for the judiciary and create mechanisms for their effective application.
- The HJC should conduct a new systematisation analysis to determine the number of judges in accordance with the needs of the judicial system in order to resolve all cases within a reasonable timeframe, including current delays.
- The HJC should, following public consultation, pass a by-law on the criteria for election to the position of judge and president of the court.
- Courts should ensure a greater degree of transparency of work through holding regular press conferences and publishing data on the status of proceedings for which there is public interest, as well as through timely and complete processing of requests for access to information in accordance with the legal framework.
- The HJC and the courts should conduct an analysis of the proceedings in cases involving criminal acts related to corruption, which last an extremely long time or end with symbolic sanctions, and present to the public the reasons for such a situation.
- The ministry and the government should ensure the right to compensation for victims of corruption, in accordance with the Council of Europe’s civil law convention, which was ratified by Serbia.
- The judicial academy should improve the quality of continuous training for judges in corruption, especially regarding the prosecution of corrupt criminal acts based on publicly expressed suspicions.

519 BBC News. 2020. “Srbija i pravosude: Zašto padaju presude pred Apelacionim sudom” (Serbia and the Judiciary: Why are judgments handed down before the Court of Appeal”), <https://www.bbc.com/serbian/lat/srbija-54181568>

520 Open Parliament. 2022. Newsletter – Issue 17, Election of judges – Where is the balance between the legislative and the judiciary?, pp. 23-32, <https://otvoreniparlament.rs/istrzivanje/66>

521 BBC News. 2019. “Miodrag Majić: Šta napadi na njega pokazuju drugima” (“Miodrag Majic: What the attacks on him show to others”), <https://www.bbc.com/serbian/lat/srbija-48385140>

4. Public Prosecutor

Summary

OVERALL PILLAR SCORE: 51.4/100

DIMENSION	INDICATOR	LAW	PRACTICE
CAPACITY  50/100	RESOURCES	75	50
	INDEPENDENCE	50	25
GOVERNANCE  54.2/100	TRANSPARENCY	75	25
	ACCOUNTABILITY	75	25
	INTEGRITY	75	50
	GENDER		25
ROLE  50 / 100	CORRUPTION PROSECUTION		50

The public prosecution system of the Republic of Serbia consists of the Supreme public prosecutor's office, appellate prosecutor's offices (4), higher prosecutor's offices (25), basic public prosecutor's offices (58) and prosecutor's offices with special jurisdiction: the prosecutor's office for organised crime and the prosecutor's office for war crimes.

In contrast to the old law which stipulated that the function of the public prosecution is performed by the republic's public prosecutor and other public prosecutors, the 2023 law states that the function of public prosecution is performed by the supreme public prosecutor, the chief public prosecutor and public prosecutor. The new law renamed all positions in public prosecution: the republic's public prosecutor, who is still at the head of public prosecution, became the supreme public prosecutor; the previous public prosecutor became the chief public prosecutor; and, in an effort to strengthen and highlight their independence, deputy public prosecutors became public prosecutors.

The new Law on Public Prosecution, adopted in February 2023, within the scope of harmonisation with the constitutional amendments that were supposed to increase judicial independence, brings two very important positive changes for the independence of the public prosecutor's office, but their scope in practice cannot be assessed at this time, considering that they depend on the efficiency of its implementation.

The most important change is that the function of public prosecutor is now performed by fully fledged public prosecutors (until recently designated as deputy public prosecutors) and not only by the supreme and chief public prosecutors.

The increase in their independence is undoubtedly represented through the new title and the fact that they are no longer deputies. This represents a framework on the basis of which, if the public prosecutors do not understand it only as a linguistic change, a system can be developed in which they would be more accountable for their (in)action. Therefore, this change could provide more opportunities for public prosecutors to demonstrate their independence and proactivity in practice by investigating corruption cases; nevertheless, it significantly reduces the possibility for the illegal, irregular and ineffective work of public prosecutors.

Capacity

4.1.1. Resources (law)

To what extent are there laws to ensure appropriate salaries and working conditions of prosecutors?



SCORE: 75/100

The law generally ensures a legal framework for an adequate budget for public prosecutors. On the other hand, the law does not ensure adequate salaries for them, considering the importance, responsibility and complexity of their work, as their salaries are far lower than the highest paid jobs and slightly higher than the lowest paid jobs. Despite including mechanisms to protect salaries from increases in retail prices, there are no mechanisms to protect prosecutors' salaries from the inflation of all costs.

In contrast to the previous version of the law, which stipulated that the salary must also ensure the safety of their families,⁵²² the new 2023 law stipulates that public prosecutors' salaries should ensure only their independence and financial security.⁵²³ This salary must be in compliance with the dignity of the public prosecutor's office and its responsibilities.⁵²⁴

The basis for calculating the incomes of public prosecutors is the same as the basis for the incomes of judges.⁵²⁵ The coefficients are provided by the Law on Public Prosecution⁵²⁶ and are in correlation with the income levels in which the public prosecutor is classified (there are five levels),⁵²⁷ and the incomes of public prosecutors coincide with the incomes of judges, depending on the instance in which they perform their function.⁵²⁸ The coefficient varies from 3.0 for public prosecutors (first income level) to 6.0 for the supreme public prosecutor (fifth income level).⁵²⁹ The Law on the Budget System guarantees the adjustment of salaries of judges, and therefore public prosecutors, as well as other employees in the public sector, with a growth rate connected to the consumer price index (CPI) as a preventive mechanism against salary reductions, at most twice a year.⁵³⁰ However, the degree of inflation, as a detailed calculation of all prices of goods and services, is higher than the CPI, which is a representative sample of various goods and services used for survival (food, textiles, transport, fuel...).

The high prosecutorial council (HPC) proposes the scope and structure of budget funds necessary for the work of public prosecutor's offices for current expenses, except for staff expenses, once the opinion of the Ministry of Justice has been obtained, and distributes these funds to public prosecutor's offices.⁵³¹ The HCP, the Ministry of Justice and the Ministry of Finance supervise the funds allocated for public prosecutions.⁵³²

According to the revised action plan for Chapter 23, the 2nd quarter of 2022 was the deadline to clearly demarcate competencies in the areas of the budget and public prosecution administration between the HPC and the Ministry of Justice, with the aim of strengthening the independence of public prosecution in terms of organisation and execution of the budget.⁵³³ However, it has not yet been implemented.

522 The former Law on Public Prosecution. Official Gazette no.116/08, 104/09, 101/10, 78/11 – other law, 101/11, 38/12 – CC, 121/12, 101/13, 111/14 – CC, 117/14, 106/15 i 63/16 – CC, Article 50.

523 The Law on Public Prosecution. Official Gazette no.10/2023, article 55, https://www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

524 Ibid.

525 The former Law on Public Prosecution. Official Gazette no.116/08, 104/09, 101/10, 78/11 – other law, 101/11, 38/12 – CC, 121/12, 101/13, 111/14 – CC, 117/14, 106/15 i 63/16 – CC, Article 69-71, The Law on Public Prosecution. Official Gazette no.10/2023, article 74-76, https://www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

526 Ibid.

527 Ibid.

528 Ibid, art. 70.

529 Ibid, art. 70 and 71.

530 The Law on Budget System. Official Gazette no. 54/2009, 73/2010, 101/2010, 101/2011, 93/2012, 62/2013, 63/2013 – change, 108/2013, 142/2014, 68/2015 – other law, 103/2015, 99/2016, 113/2017, 95/2018, 31/2019, 72/2019, 149/2020, 118/2021, 138/2022 i 118/2021 – other law, Article 27e.

531 Ibid.

532 Ibid.

533 Republic of Serbia. 2020. Revised Action Plan for Chapter 23, July 2020, Activity 1.1.3.2, <https://mpravde.gov.rs/files/Revidirani%20AP23%20202207.pdf>

4.1.2. Resources (practice)

To what extent does the public prosecutor have adequate levels of financial resources, staffing, and infrastructure to operate effectively in practice?



SCORE: 50/100

The public prosecutors' offices still suffer from a lack of resources, which is an obstacle to efficiency and proper performance of its functions.

Based on the HPC's decision on the number of public prosecutors by the end of 2022, there were 711 deputy public prosecutors⁵³⁴ which represents an increase compared to 2021 when there were 703.⁵³⁵ There were 50 fewer public prosecutors,⁵³⁶ with 52 performing that function at the end of 2021.⁵³⁷ The number of deputy public prosecutors remained around the same, with 27 in 2021⁵³⁸ and 26 in 2022.⁵³⁹ Currently, 103 positions out of the systematised 814 positions are vacant in appellate, higher and basic public prosecutor's offices,⁵⁴⁰ which stopped the trend of an increased number of unfilled public prosecutor positions that had been going in previous years.⁵⁴¹ From the requests submitted by the public prosecutor's offices to the HPC, it is evident that other problems obstruct their work, primarily related to the insufficient number of assistant prosecutors and recorders, as well as the problems of the organisation of work in the prosecutor's offices operating in judicial units outside the court headquarters.⁵⁴²

The budget law for the year 2022 allocated RSD 4.1 billion (€34.76 million) for prosecution,⁵⁴³ which is a significant increase compared to funds allocated for 2021: RSD 3.97 billion (€33.68 million).⁵⁴⁴ In addition, by increasing funds from the current budget reserve of RSD 617 million⁵⁴⁵ (€5.2 million), compared to RSD 101.8 million (€863,169),⁵⁴⁶ the total approved funds amounted to RSD 4.66 billion⁵⁴⁷ (€39.52 million), compared to RSD 4.07 billion for 2021 (€34.54 million).⁵⁴⁸ The percentage of budget implementation was very high (98.84%) in 2022,⁵⁴⁹ and higher than in 2021 (98.21%).⁵⁵⁰

There is still a division of competencies between the Ministry of Justice and the HCP, especially in terms of budget planning, distribution of funds and execution, which continues to have a negative impact on the efficiency of prosecutors' offices.⁵⁵¹ At the same time, the distribution of funds is not even as it depends on the relationship the public prosecution has with the Ministry of Justice, which approves funds for office space, furniture and salaries of officials and furniture for some prosecutor's offices.⁵⁵²

534 High Prosecutorial Council. 2023. *2022 Annual Report*, p.10, <https://dvt.jt.rs/wp-content/uploads/2023/03/Izvestaj-o-radu-DVT-2022.pdf>

535 High Prosecutorial Council. 2022. *Annual report for 2021*, p. 29, <http://dvt.jt.rs/wp-content/uploads/2022/03/Izve-taj-o-radu-Dr-avnog-ve-a-tu-ilaca-za-2021.-godinu-usvojen-front-page.pdf>

536 High Prosecutorial Council. 2023. *2022 Annual Report*, p. 10, <https://dvt.jt.rs/wp-content/uploads/2023/03/Izvestaj-o-radu-DVT-2022.pdf>

537 High Prosecutorial Council. . 2022. *Annual report for 2021*, p. 29, <http://dvt.jt.rs/wp-content/uploads/2022/03/Izve-taj-o-radu-Dr-avnog-ve-a-tu-ilaca-za-2021.-godinu-usvojen-front-page.pdf>

538 High Prosecutorial Council. 2022. *Annual report for 2021*, p. 29, <http://dvt.jt.rs/wp-content/uploads/2022/03/Izve-taj-o-radu-Dr-avnog-ve-a-tu-ilaca-za-2021.-godinu-usvojen-front-page.pdf>

539 High Prosecutorial Council. 2023. *2022 Annual Report*, p.10, <https://dvt.jt.rs/wp-content/uploads/2023/03/Izvestaj-o-radu-DVT-2022.pdf>

540 Ibid.

541 Transparency Serbia. 2020. *Conditions for Business with Integrity – Report on Serbia*, p.31, www.transparentnost.org.rs/images/dokumenti_uz_vesti/BICA_SRB_ONLINE.pdf

542 *Analysis of the required number of public prosecutors in public prosecutor's offices in the Republic of Serbia*, p.17, www.dvt.jt.rs/wp-content/uploads/2016/10/ANALIZA-REALNIH-POTREBA-KONA-NA-VERZIJA.doc?lang=lat

543 High Prosecutorial Council. 2023. *2022 Annual Report*, p.27, <https://dvt.jt.rs/wp-content/uploads/2023/03/Izvestaj-o-radu-DVT-2022.pdf>

544 High Prosecutorial Council. 2022. *2021 Annual Report*, p.29, <http://dvt.jt.rs/wp-content/uploads/2022/03/Izve-taj-o-radu-Dr-avnog-ve-a-tu-ilaca-za-2021.-godinu-usvojen-front-page.pdf>

545 High Prosecutorial Council. 2023. *2022 Annual Report*, p.27, <https://dvt.jt.rs/wp-content/uploads/2023/03/Izvestaj-o-radu-DVT-2022.pdf>

546 High Prosecutorial Council. 2022. *2021 Annual Report*, p.29, <http://dvt.jt.rs/wp-content/uploads/2022/03/Izve-taj-o-radu-Dr-avnog-ve-a-tu-ilaca-za-2021.-godinu-usvojen-front-page.pdf>

547 High Prosecutorial Council. 2023. *2022 Annual Report*, p.27, <https://dvt.jt.rs/wp-content/uploads/2023/03/Izvestaj-o-radu-DVT-2022.pdf>

548 High Prosecutorial Council. 2022. *2021 Annual Report*, p.29, <http://dvt.jt.rs/wp-content/uploads/2022/03/Izve-taj-o-radu-Dr-avnog-ve-a-tu-ilaca-za-2021.-godinu-usvojen-front-page.pdf>

549 High Prosecutorial Council. 2023. *2022 Annual Report*, p.27, <https://dvt.jt.rs/wp-content/uploads/2023/03/Izvestaj-o-radu-DVT-2022.pdf>

550 Ibid.

551 European Commission. 2021. *2021 Progress Report*, p.21, www.mei.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/izvestaj_ek_oktobar_21.PDF

552 Interview with the president of the Association of Public Prosecutors and Deputy Public Prosecutors of Serbia and Deputy Appellate Public Prosecutor in Belgrade, September 2022.

4.1.3. Independence (law)

To what extent is the public prosecutor independent by law?



SCORE: 50/100

The constitution ensures prosecutorial independence, but unlike the fully “independent” judiciary, the prosecution is only “independent in exercising its powers, with the new law allowing influence on public prosecutors as long as it is not undue”. Concerns also arise as judicial reform reduces HPC members chosen by prosecutors, potentially affecting the goal of constitutional reform. Amendments limit direct political influence on prosecutors’ elections but raise corruption risks within judicial councils, while removing the constitutional ban on prosecutors’ political activity lacks clear justification. Hierarchical powers, such as the mandatory instruction of the public prosecutor, create a threat to their independence.

The constitution guarantees independence in the work of prosecutors.⁵⁵³ Unlike the judiciary, which, according to the constitution and the law, is fully “independent”, the prosecution is only “independent in exercising its powers”.⁵⁵⁴ Unlike the previous law, which prohibited any influence by the executive and legislative authorities on the work of the public prosecutor’s office and on the handling of cases,⁵⁵⁵ the new law only prohibits undue influence on all public prosecutors in the performance of functions, especially any form of threat or coercion.⁵⁵⁶

The supreme public prosecutor is elected by the National Assembly on the proposal of the HPC, while chief public prosecutors and public prosecutors are elected by the HPC. The number of public prosecutors for each public prosecution is determined by the HPC. The fact that the minister of justice and the president of the parliamentary committee for the judiciary will no longer be members of the HPC certainly contributes to reducing the risk of political corruption. Instead, they will be “prominent lawyers” elected by the National Assembly, who, even formally, may not be members of political parties, but are elected by a qualified majority of MPs. The selection of attorney at law in the HPC is still possible. The problem is that the judicial reform reduced the number of members of the HPC, who are chosen by the public prosecutors themselves (from six to five), which is directly contrary to the goals of the constitutional reform. The HPC initiates and conducts ex officio the procedure to determine the reason for the dismissal of a holder of the public prosecutor’s office due to a conviction for a criminal offence with a prison sentence of at least six months, established by a legally binding decision such that it seriously damages the reputation of the public prosecutor’s office or the public’s trust in the public prosecutor’s office. If so, the dismissal procedure is initiated by the HPC ex officio or at the proposal of the disciplinary commission.

The constitutional amendments from 2022 reduce the possibilities for exerting direct political influence on prosecutors through their election procedure, considering that the competencies of the National Assembly were revoked in the “first election” of prosecutors and in the election of “chiefs” of public prosecution offices.⁵⁵⁷ Good candidates could potentially not be elected because they do not enjoy the support of the parliamentary majority. Corruption risks existed because candidates could be removed without explanation if they were deemed unfit by the ruling party. However, removing this type of parliamentary control could lead to increased corruption risks during decision-making within the HPC themselves. Therefore, the effect of this new measure depends on how transparent and pre-determined decision-making criteria are in the HPC and how public the selection process becomes.⁵⁵⁸

However, the constitutional ban on public prosecutors’ political activity was inexplicably lifted without clear reasons.⁵⁵⁹

Appointing public prosecutors involves a public competition published by the high prosecutorial council. The competition for the chief public prosecutor is announced six months before the end of the incumbent’s term or within

553 The Constitution of the Republic of Serbia. Official Gazette no. 98/2006 and 115/2021, article 155, https://www.paragraf.rs/propisi/ustav_republike_srbije.html

554 The former Law on Public Prosecution. Official Gazette no.116/08, 104/09, 101/10, 78/11 – other law, 101/11, 38/12 – CC, 121/12, 101/13, 111/14 – CC, 117/14, 106/15 i 63/16 – CC, article 5; The Law on Public Prosecution. Official Gazette no.10/2023, article 5, https://www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

555 Ibid.

556 The Law on Public Prosecution. Official Gazette no.10/2023, article 6, https://www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

557 The old Law on Public Prosecutors, Art. 75, <https://dvt.jt.rs/wp-content/uploads/2017/02/ZAKON-O-JAVNOM-TUZILASTVU.pdf>

558 Transparency Serbia. 2022. *Significance of amendments to the Constitution for the fight against corruption*, https://transparentnost.org.rs/index.php/sr_aktivnosti-2/pod-lupom/12211-znacaj-izmena-ustava-za-borbu-protiv-korupcije; <https://www.otvorenavratapravosudja.rs/teme/ustavno-pravo/znacaj-izmena-ustava-za-borbu-protiv-korupcije>

559 Ibid.

15 days of the decision to terminate their office.⁵⁶⁰ Candidates submit applications, including their work programme.⁵⁶¹ A commission appointed by the HPC evaluates the applications, rejecting untimely or incomplete ones. Data and opinions on candidates' expertise, competence and worthiness are gathered from relevant authorities and organisations, including evaluations for current prosecutors. Candidates can inspect the documentation and opinions relevant to their selection.⁵⁶²

Before the decision, the HPC interviews candidates to assess their communication skills, readiness for the role and professional integrity.⁵⁶³ The process ensures publicity, and a ranking list of candidates is compiled based on their qualifications.⁵⁶⁴ The HPC then decides on the election of the chief public prosecutor and public prosecutor, which is explained and published in the Official Gazette of the Republic of Serbia and on the HPC's website.⁵⁶⁵ Candidates have the right to appeal to the constitutional court within 15 days of the decision's publication. The constitutional court must decide on the appeal within 30 days.⁵⁶⁶

The transparency of this process, along with the involvement of professional evaluations and the right to appeal, demonstrates efforts to ensure fairness and integrity in appointing prosecutors in Serbia. However, civil society is not directly involved in these appointment proceedings.

The supreme prosecutor and the chief public prosecutor have hierarchical powers in relation to the actions of lower chief public prosecutors and public prosecutors in a specific case.⁵⁶⁷ The immediately higher public prosecutor can issue a mandatory instruction to lower public prosecutors for handling certain cases when there is doubt about the efficiency and legality of their actions.⁵⁶⁸ The previous law stated that the public prosecutor of the republic⁵⁶⁹ can issue a mandatory instruction to any public prosecutor,⁵⁷⁰ while the new law stipulates that the supreme public prosecutor may issue such an instruction only to any chief public prosecutor.⁵⁷¹

The 2023 law stipulates that a lower public prosecutor who believes that a mandatory instruction is illegal or unfounded can file a complaint to the commission within three days from the day of receipt of the written instruction,⁵⁷² while the previous law stipulated that appeal can be submitted to the same authority that issued the instruction, within eight days from the day of receiving the instruction.⁵⁷³

The authority of each higher public prosecutor, based on the law, to intervene in individual cases creates a certain vulnerability to political influence, according to the 2021 EC progress report for Serbia.⁵⁷⁴

The strategy of judicial reform for 2020-2025 foresees further strengthening of the independence of the prosecutor's office through improved criteria and a results-based system for the election of public prosecutors and members of the HPC, criteria for promotion and evaluation of the work of prosecutors, and strengthening of professional and personnel capacities of public prosecution offices and the HPC.⁵⁷⁵ The action plan for implementation of the strategy stipulates, as a basic activity, the adoption of by-laws on criteria for selection to the public prosecutors, and for promotion and termination of the public prosecutors.⁵⁷⁶

560 The Law on Public Prosecution. Official Gazette no.10/2023, article 86, www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

561 Ibid, article 87.

562 Ibid, article 88.

563 Ibid, article 89.

564 Ibid, article 90 and 91.

565 Ibid, article 92.

566 Ibid, article 93.

567 The Constitution of the Republic of Serbia. Official Gazette no. 98/2006 and 115/2021, Article 155, www.paragraf.rs/propisi/ustav_republike_srbije.html

568 The former Law on Public Prosecution. Official Gazette no.116/08, 104/09, 101/10, 78/11 – other law, 101/11, 38/12 – CC, 121/12, 101/13, 111/14 – CC, 117/14, 106/15 i 63/16 – CC), Article 18, The Law on Public Prosecution. Official Gazette no.10/2023, article 16, www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

569 The old Law on Public Prosecutors, Art. 18 and 24, <https://dvt.jt.rs/wp-content/uploads/2017/02/ZAKON-O-JAVNOM-TUZILASTVU.pdf>

570 The Law on Public Prosecution. Official Gazette no.10/2023, article 18, www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

571 Ibid, article 16.

572 Ibid, article 18.

573 Ibid, article 18.

574 European Commission. 2021. 2021 Progress Report, p.23, https://www.mei.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku_izvestaj_ek_oktobar_21.PDF

575 Justice reform strategy for the period 2020-2025. Official Gazette no. 101/2020 and 18/2022, www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep_sgrs/vlada/strategija/2020/101/1/reg

576 Action plan for the implementation of the justice development strategy for the period 2020-2025 in the period from 2022 to 2025. Official Gazette no. 45/2022, Measure 1.3.42, (Activity 1.1.2.1. AP 23), www.vk.sud.rs/sites/default/files/attachments/akcioni_plan_strategije_razvoja_pravosudja_2020-2025_period_2022-2025_125_cyr.pdf

4.1.4. Independence (practice)

To what extent does the public prosecutor operate without interference from the government or other actors?



SCORE: 25/100

The independence of the prosecutor's office is still under threat, especially due to hierarchical powers, such as mandatory instruction of the public prosecutor. Apart from possible indirect political pressure, there is a public perception that public prosecutors have developed a strong sense of self-censorship. Public statements about recently dismissed prosecutors⁵⁷⁷ only confirm that impression.

There are serious objections to the way prosecutorial independence is manifested in practice.⁵⁷⁸ Insufficient guarantees for the realisation of the proclaimed independence are particularly evident due to the monocratic and hierarchical work of the public prosecution.⁵⁷⁹

Pressure on the prosecution is still strong.⁵⁸⁰ Government officials, including those at the highest level, and MPs continue to attack individuals.⁵⁸¹ Meanwhile, two deputies of the anti corruption department in the higher public prosecutor's office in Belgrade were dismissed⁵⁸² just six days after, on their order, six suspects were arrested for abuses in the largest state-owned company, Elektroprivreda Srbije (EPS). The embezzlement at EPS, which is suspected to be around €7 million, was investigated by officers of the Belgrade higher public prosecutor's office, one of the most important in the country, deputy prosecutors Bojana Savović and Jasmina Paunović. Then the case was taken away from them "without explanation" and they were removed from the anti-corruption department. On the same day, the public prosecution office rejected those claims. They pointed out that it was about the "transfer" of deputy prosecutors according to the regular annual plan to other departments.⁵⁸³

Governance

4.2.1. Transparency (law)

To what extent are there provisions to ensure that the public can obtain relevant information on the activities and decision-making processes of the public prosecutor?



SCORE: 75/100

Comprehensive provisions are in place which allow the public to obtain information on the organisation and functioning of the prosecution service. However, there are still shortcomings in the legal framework that regulates the transparency of the work of the public prosecutor's office, such as the absence of a precisely prescribed obligation, by law, to inform the public about the commission of corrupt criminal acts or to state in detail all that should be made publicly available on the website of HPC.

With the aim of ensuring uniform treatment, the republic public prosecutor issues instructions on the access to information of public importance.⁵⁸⁴ The prosecutor's office is obliged, like other authorities, to publish an information booklet which, among other things, includes information on competences, internal organisation, budget, procedures for submitting requests or appeals against a decision by a certain authority, regulations and decisions on the exclusion and limitation of transparency, with appropriate explanations.⁵⁸⁵

577 Radio Free Europe. 2023. *What is known about the EPS case for which the prosecutors in Serbia were allegedly dismissed*, www.slobodnaevropa.org/a/tuzilastvo-korupcija-srbija-elektroprivreda/32290502.html

578 Belgrade Centre for Human Rights. 2016. *Analysis of the constitutional position of the Public Prosecutor's Office in the Republic of Serbia with recommendations for its improvement*, p.22, <http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2016/12/Analiza-ustavnog-polozaja-book.pdf>

579 Ibid, p.23.

580 Ibid, p.23.

581 Ibid.

582 Radio Free Europe. 2023. *What is known about the EPS case for which the prosecutors in Serbia were allegedly dismissed*, <https://www.slobodnaevropa.org/a/tuzilastvo-korupcija-srbija-elektroprivreda/32290502.html>

583 Ibid.

584 The Law on Free Access to Information of Public Importance. Official Gazette no. 120/2004, 54/2007, 104/2009, 36/2010 i 105/2021, Article 39, www.paragraf.rs/propisi/zakon_o_slobodnom_pristupu_informacijama_od_javnog_znacaja.html; the Rulebook on Administration in Public Prosecutor's Offices. Official Gazette no.110/2009, 87/2010, 5/2012, 54/2017, 14/2018 and 57/2019, art. 71, [https://www.paragraf.rs/propisi/pravilnik-upravi-u-javnim-tuzilastvima.html](http://www.paragraf.rs/propisi/pravilnik-upravi-u-javnim-tuzilastvima.html)

585 The Law on Free Access to Information of Public Importance. Official Gazette no. 120/2004, 54/2007, 104/2009, 36/2010 i 105/2021, Article 39, www.paragraf.rs/propisi/zakon_o_slobodnom_pristupu_informacijama_od_javnog_znacaja.html; the Rulebook on Administration in Public Prosecutor's Offices. Official Gazette no.110/2009, 87/2010, 5/2012, 54/2017, 14/2018 and 57/2019, art. 71, [https://www.paragraf.rs/propisi/pravilnik-upravi-u-javnim-tuzilastvima.html](http://www.paragraf.rs/propisi/pravilnik-upravi-u-javnim-tuzilastvima.html)

The work of the public prosecutors has to be public, unless otherwise stipulated by law.⁵⁸⁶ Only in special cases, can the public be excluded from the procedure, to protect national security, public order or the interests of a child, that is, the privacy of participants in the procedure.⁵⁸⁷

According to the law, the public prosecutor's office has discretionary powers to inform the public about "the state of criminality and other phenomena" encountered in its work, in compliance with the rulebook on administration in public prosecutor's offices.⁵⁸⁸ Taking into account the protection of privacy of participants in proceedings or as long as it does not harm the interests of the proceedings, the public prosecutor's office also has discretionary powers to inform the public about individual cases upon which it acts.⁵⁸⁹ The rulebook does not include an explicitly prescribed time limit in which the public prosecutor's office should inform the public about its activities and results in the fight against crime.⁵⁹⁰

The sessions of the HPC are public, except where the interests of public order or the protection of data secrecy require it to be closed.⁵⁹¹ Publicity of the HPC work is achieved by publishing general acts on the HPC website and in the Official Gazette, through allowing journalists and other interested parties to follow council sessions if they are not closed to the public, by issuing official announcements, and, if necessary, by publishing records, reports and decisions via public media and in other ways.⁵⁹²

In Serbia, asset declarations of public officials, including prosecutors, are generally publicly available, but their accuracy is not officially checked. Exceptions are made for judges and prosecutors who deal with organised crime, terrorism and corruption. Their asset declarations are not publicly available until two years after prosecutors dealing with organised crime leave public office.⁵⁹³

4.2.2. Transparency (practice)

To what extent does the public have access to information on the activities and decision-making processes of the public prosecutor in practice?

 SCORE: 25/100

There is not enough transparency in the work of public prosecution. Very little information is publicly available, and there are problems with the right to free access to information of public importance.

Out of 89 prosecution offices, only 49 (55%) published information booklets, and another 9 (10%) have information booklets that have not been published.⁵⁹⁴ Based on a cursory look at the published booklets, it can be concluded that the public prosecutor's offices update the information on a relatively regular basis.⁵⁹⁵ The HPC publishes its decisions and reports on its website.⁵⁹⁶

A survey dedicated to the transparency of the courts and public prosecutor's offices (April 2022), on a sample of 30% of basic prosecutor's offices, 4 higher prosecutor's offices and the prosecutor's office for organised crime, showed that the majority of basic prosecutor's offices do not publish news about their work and announcements on

586 The Criminal Procedure Code. Official Gazette no. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 – CC decision and 62/2021 – CC decision, articles 363-366, https://www.paragraf.rs/propisi/zakonik_o_krivicnom_postupku.html; the Civil Procedure Code. Official Gazette no. 72/2011, 49/2013 – CC decision, 74/2013 – CC decision, 55/2014, 87/2018, 18/2020 i 10/2023 – other law, art. 322, https://www.paragraf.rs/propisi/zakon_o_parnicnom_postupku.html

587 The Criminal Procedure Code. Official Gazette no. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 – CC decision and 62/2021 – CC decision, articles 363-366, https://www.paragraf.rs/propisi/zakonik_o_krivicnom_postupku.html; the Civil Procedure Code. Official Gazette no. 72/2011, 49/2013 – CC decision, 74/2013 – CC decision, 55/2014, 87/2018, 18/2020 i 10/2023 – other law, art. 322, https://www.paragraf.rs/propisi/zakon_o_parnicnom_postupku.html

588 Ibid.

589 Ibid.

590 The former Law on HPC. Official Gazette no. 116/2008, 101/2010, 88/2011 and 106/2015, Article 14, The Law on HPC. Official Gazette no. 10/2023, Article 18, https://www.paragraf.rs/propisi/zakon_o-visokom-savetu-tuzilastva.html

591 The former Law on HPC. Official Gazette no. 116/2008, 101/2010, 88/2011 and 106/2015, Article 14, The Law on HPC. Official Gazette no. 10/2023, Article 18, https://www.paragraf.rs/propisi/zakon_o-visokom-savetu-tuzilastva.html

592 The Rulebook on the work of the HPC. Official Gazette no. 63/2023, Article 7, https://www.paragraf.rs/propisi/poslovnik_o_radu_drzavnog_veca_tuzilaca-2017.html

593 N1. 2023. "Srbija ne proverava imovinu sudija i tuzilaca" ("Serbia does not check the property of judges and prosecutors"), 2023, <https://n1info.rs/region/srbija-ne-proverava-imovinu-sudija-i-tuzilaca-rezultati-u-albaniji-neverovatni/>

594 Information booklets: https://bg.vi.jt.rs/informator/?language=sr_lat&thc-month=201901, <https://bg.ap.jt.rs/informator/>, https://va.vi.jt.rs/informator/?language=sr_lat, https://ob.os.jt.rs/informator/?language=sr_lat

595 Information booklets: https://bg.vi.jt.rs/informator/?language=sr_lat&thc-month=201901, <https://bg.ap.jt.rs/informator/>, https://va.vi.jt.rs/informator/?language=sr_lat, https://ob.os.jt.rs/informator/?language=sr_lat

596 Open Doors of Judiciary, Kristina Kalajdžić. 2022. *Are the websites of courts and prosecutor's offices sufficiently informative?*, <https://www.otvorenavratapravosudja.rs/teme/ostalo/da-li-su-veb-sajtovi-sudova-i-tuzilastava-dovolno-informativni>

their websites, or that they do so very rarely.⁵⁹⁷ One prosecutor's office does not have its own website at all, while 13 (72%) do not publish news or announcements on the websites they have.⁵⁹⁸ Three out of five higher prosecutor's offices, including the prosecutor's office for organised crime, did not publish news in the observed period.⁵⁹⁹ The fact that only 5 (28%) of the basic prosecutor's offices have an appointed spokesperson shows that there is no uniform policy of communicating with the public.⁶⁰⁰ Analysing the websites of the prosecutor's offices showed that no information was found about held or planned media conferences in the period from the beginning of 2022 to mid-April 2022, when the monitoring was completed.⁶⁰¹

According to data from the Commissioner for Information of Public Importance, out of total number of complaints in 2021 for failure to provide free access to information, 595 complaints (11.3%) out of 5,181 were related to courts and prosecutor's offices.⁶⁰²

According to the president of the Association of Public Prosecutors and Deputy Public Prosecutors, the level of transparency of prosecutors varies: some public prosecutor's offices are "open" while the republic's public prosecutor's office is completely closed.⁶⁰³ Sensitive cases, in his view, represent the biggest obstacle to achieving greater transparency in the work.⁶⁰⁴ The fact that there are no prescribed time limits in which the public prosecutor's office should inform the public about its activities and results in the fight against crime (see 4.2.1), including the investigations it leads, also leads to deficiency in timely communication in practice.⁶⁰⁵

4.2.3. Accountability (law)

To what extent are there provisions to ensure that the public prosecutor has to report and be answerable for its actions?



SCORE: 75/100

The legal framework represents the appropriate basis for determining the responsibility of the public prosecutor. At the same time, there are still problems when evaluating the work of public prosecutors. There is a need to evaluate them, and the criteria in the rulebook evaluating the work of public prosecutors should be described as clearly, precisely, unambiguously and objectively to allow for the selection and promotion of the best and most competent people.⁶⁰⁶

With the new 2023 Law on Public Prosecution, the HPC is the independent body for evaluating prosecutors' work and investigating complaints against them.⁶⁰⁷ In contrast to the former law which provides for the evaluation to be carried out by the immediately senior public prosecutor (along with the opinion of the collegium of the immediately higher public prosecutors)⁶⁰⁸ the new law provides for more independent accountability mechanisms.

Work evaluation of the public prosecutors, based on publicly announced, objective and unique criteria, is the basis for selection, mandatory training and dismissal.⁶⁰⁹ Evaluation of the public prosecutors' work is done once every three years⁶¹⁰ and is expressed as a grade that is entered into the prosecutor's personal file.⁶¹¹ The public prosecutor has the right to object to the HPC's evaluation within 15 days of their decision, which must be explained.⁶¹²

597 Open Doors of Judiciary, Kristina Kalajdžić. 2022. Are the websites of courts and prosecutor's offices sufficiently informative?, <https://www.otvorenavratapravosudja.rs/teme/ostalo/da-li-su-veb-sajtovi-sudova-i-tuzilastava-dovolno-informativni>

598 Ibid.

599 Ibid.

600 Ibid.

601 Ibid.

602 Commissioner for Free Access to Information and Protection of Personal Data. 2022. 2021 Annual Report, p.15, <https://www.poverenik.rs/images/stories/dokumentacija-nova/izvestajiPoverenika/2021/Izve%C5%A1ta2021CIRfinal.docx>

603 Interview with the president of the Association of Public Prosecutors and Deputy Public Prosecutors of Serbia and deputy appellate public prosecutor in Belgrade, September 2022.

604 Ibid.

605 Ibid.

606 The Law on Public Prosecution. Official Gazette no.10/2023, article 112, www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

607 The Law on Public Prosecution. Official Gazette no.10/2023, article 112, www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

608 The former Law on Public Prosecution. Official Gazette no.116/08, 104/09, 101/10, 78/11 – other law, 101/11, 38/12 - CC, 121/12, 101/13, 111/14 - CC, 117/14, 106/15 i 63/16 – CC, Article 102.

609 The former Law on Public Prosecution. Official Gazette no.116/08, 104/09, 101/10, 78/11 – other law, 101/11, 38/12 - CC, 121/12, 101/13, 111/14 - CC, 117/14, 106/15 i 63/16 – CC, Article 99; the Law on Public Prosecution. Official Gazette no.10/2023, article 109, www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

610 Ibid, Article 100.

611 The former Law on Public Prosecution. Official Gazette no.116/08, 104/09, 101/10, 78/11 – other law, 101/11, 38/12 - CC, 121/12, 101/13, 111/14 - CC, 117/14, 106/15 i 63/16 – CC, article 101; the Law on Public Prosecution. Official Gazette no.10/2023, article 111, www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

612 Ibid.

The mechanism for determining the responsibility of prosecutors consists of the disciplinary bodies of the HPC: the disciplinary prosecutor and disciplinary commission.⁶¹³ Disciplinary proceedings are conducted by the disciplinary commission on the proposal of the disciplinary prosecutor.⁶¹⁴ The proceedings are urgent and closed to the public, unless the public prosecutor in question does not require the proceedings to be public⁶¹⁵ with a note that the new law explicitly foresees that the procedure must be conducted with all the guarantees of a fair trial.⁶¹⁶

Public prosecutors cannot be held responsible for an opinion given or a decision made in connection with the exercise of their function, unless they commit a criminal offence “violation of the law by a judge or public prosecutor”.⁶¹⁷

The 2023 law gives the same reasons for which prosecutor can be suspended as the previous one:- if they have been ordered to be detained; if a procedure has been initiated to determine the reasons for their dismissal or criminal proceedings for a criminal offence for which they may be dismissed.⁶¹⁸ However, the new law stipulates the HPC as authority that can make such a decision, which can be appealed to the constitutional court,⁶¹⁹ instead of the right to object to the HPC against a decision on suspension made by the republic's public prosecutor.⁶²⁰ Public prosecutors should be dismissed if legally convicted of a criminal offence for a prison sentence of at least six months or, if in the procedure for determining the reason for dismissal, it was found that they committed a serious disciplinary offence which, according to the assessment of the HPC, seriously harms the reputation of the public prosecutor's office and the public's trust in the public prosecutor's office. Prosecutors can also be dismissed when they reach 65 years of age.⁶²¹

4.2.4. Accountability (practice)

To what extent do prosecutors report and answer for their actions in practice?

 SCORE: 25/100

In contrast to disciplinary reports, which are resolved quickly and represent an effective legal remedy, complaints and appeals to public prosecutors' managers are not, because in most cases they are rejected or rejected as unfounded, making many accountability provisions ineffective.

According to HPC data in 2021, an extraordinary evaluation of a number of deputy public prosecutors who were elected by the parliament in 2018 was carried out to decide on the election of a deputy public prosecutor for the permanent performance of the function, as well as an extraordinary evaluation of the work of a deputy public prosecutor.⁶²²

In 2021, the disciplinary prosecutor had a total of 115 cases, which is approximately the same number of cases received in the previous year (111),⁶²³ while there were 89 cases in 2022, a decrease of 22.61% and 19.82% compared to 2021 and 2020 respectively.⁶²⁴ In 2021, disciplinary charges were filed against 17 public prosecutors and 93 deputy public prosecutors,⁶²⁵ while in 2022 applications were filed against 14 public prosecutors and 82 deputy public prosecutors.⁶²⁶ In 2021 the submitters are primarily citizens, or their proxies or defence attorneys, while a total of six disciplinary reports were submitted by the direct superiors of the charged deputies.⁶²⁷ This was the

613 The former Law on Public Prosecution. Official Gazette no.116/08, 104/09, 101/10, 78/11 – other law, 101/11, 38/12 - CC, 121/12, 101/13, 111/14 - CC, 117/14, 106/15 i 63/16 – CC, article 106; the Law on Public Prosecution. Official Gazette no.10/2023), article 118, www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

614 The former Law on Public Prosecution. Official Gazette no.116/08, 104/09, 101/10, 78/11 – other law, 101/11, 38/12 - CC, 121/12, 101/13, 111/14 - CC, 117/14, 106/15 i 63/16 – CC, article 107; the Law on Public Prosecution. Official Gazette no.10/2023, article 119, www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

615 Ibid.

616 The Law on Public Prosecution. Official Gazette no.10/2023, article 119, www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

617 The Constitution of the Republic of Serbia. Official Gazette no. 98/2006 and 115/2021, article 161, www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

618 The former Law on Public Prosecution. Official Gazette no.116/08, 104/09, 101/10, 78/11 – other law, 101/11, 38/12 - CC, 121/12, 101/13, 111/14 - CC, 117/14, 106/15 i 63/16 – CC, article 58; the Law on Public Prosecution. Official Gazette no.10/2023, article 64, www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

619 The Law on Public Prosecution. Official Gazette no.10/2023, article 65-66, www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

620 The former Law on Public Prosecution, art. 59-60, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2008/116/4/reg>

621 The Law on Public Prosecution. Official Gazette no.10/2023, article 103, www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

622 Ibid, p.5.

623 Ibid, p.5.

624 High Prosecutorial Council, Report on the work of HPC for 2022, pg. 5, <https://dvt.jt.rs/wp-content/uploads/2023/03/Izvestaj-o-radu-DVT-2022.pdf>

625 High Prosecutorial Council. 2022. Report on the HPC for 2021, p.18.

626 High Prosecutorial Council. 2023. Report on the HPC for 2022, p.18.

627 High Prosecutorial Council. 2022. Report on the HPC for 2021, p.18.

same in 2022 that public prosecutors filed seven disciplinary reports against their deputies, five of which were assessed as unfounded, while one proposal for conducting a disciplinary procedure was submitted.⁶²⁸ In the same time, one deputy public prosecutor filing a disciplinary complaint report against their immediate manager, which was assessed as unfounded.⁶²⁹

The disciplinary prosecutor dismissed 91 disciplinary charges as unfounded in 2021,⁶³⁰ while 83 were rejected in 2022.⁶³¹ At the same time, in 2021, 32 disciplinary reports were resolved by joining the cases and creating an official note on the reasons for archiving them, that is, resolving them or submitting them to other competent state bodies.⁶³² In 2022, that number is lower, with only 18.⁶³³ Three charges assessed as well-founded were submitted to the disciplinary prosecutor, and disciplinary proceedings were initiated before the disciplinary commission in 2021,⁶³⁴ but only one was initiated in 2022.⁶³⁵

According to the president of the Association of Public Prosecutors and Deputy Public Prosecutors, unlike the information on the appointment of public prosecutors, which is public because the agenda of the sessions and records can be found on the official HCP website, the information on their dismissal is not public in the same way; they are not published on the website, but only in the Official Gazette.⁶³⁶ The reason for this lies in the hierarchical organisation of public prosecution and the fact that public prosecutors are not accountable to the public for their work, which is why detailed and important information about their work exists only within the public prosecution system and not outside of it (see 4.2.2).⁶³⁷

4.2.5. Integrity mechanism (law)

To what extent are there mechanisms in place to ensure the integrity of prosecutors?



SCORE: 75/100

The legal framework stipulates conditions and mechanisms that should ensure the integrity of public prosecutors. However, there is still a problem of mutual inconsistency in legal regulations, such as in the Law on Public Prosecution and the Law on the Prevention of Corruption.

The constitution stipulates that the law shall regulate which functions, jobs or private interests are incompatible with the function of supreme public prosecutor, chief public prosecutor and public prosecutor, but does not define these incompatible functions.⁶³⁸ However, it does state that members of the HPC cannot be members of a political party.⁶³⁹ The former law provided only that public prosecutors cannot be members of political parties and act politically in any other way.⁶⁴⁰ The new law stipulates that the public prosecutor is obliged to refrain from public expression of political views and participation in public debates of a political nature and to refrain from participating in the political activities of political entities.⁶⁴¹ In addition, the public prosecutor cannot hold office in bodies that make regulations or bodies of executive power, public services and bodies of provincial autonomy and local self-government units, engage in public or private paid work, or provide legal services or give legal advice for a fee.⁶⁴²

628 High Prosecutorial Council. 2023. Report on the HPC for 2022, p.18.

629 High Prosecutorial Council. 2023. Report on the HPC for 2022, p.18.

630 High Prosecutorial Council. 2022. Report on the HPC for 2021, p.19.

631 High Prosecutorial Council. 2023. Report on the HPC for 2022, p.19.

632 High Prosecutorial Council. 2022. Report on the HPC for 2021, p.20.

633 High Prosecutorial Council. 2023. Report on the HPC for 2022, p.19.

634 High Prosecutorial Council. 2022. Report on the HPC for 2021, p.20.

635 High Prosecutorial Council. 2023. Report on the HPC for 2022, p.20.

636 Interview with the president of the Association of Public Prosecutors and Deputy Public Prosecutors of Serbia and deputy appellate public prosecutor in Belgrade, September 2022.

637 Ibid.

638 Ibid, art. 161.

639 The Constitution of the Republic of Serbia. Official Gazette no. 98/2006 and 115/2021, article 163, www.paragraf.rs/propisi/ustav_republike_srbije.html

640 The former Law on Public Prosecution. Official Gazette no.116/08, 104/09, 101/10, 78/11 – other law, 101/11, 38/12 - CC, 121/12, 101/13, 111/14 - CC, 117/14, 106/15 i 63/16 – CC, article 49

641 The Law on Public Prosecution. Official Gazette no.10/2023, article 54, www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

642 The former Law on Public Prosecution. Official Gazette no.116/08, 104/09, 101/10, 78/11 – other law, 101/11, 38/12 - CC, 121/12, 101/13, 111/14 - CC, 117/14, 106/15 i 63/16 – CC, article 65; the Law on Public Prosecution. Official Gazette no.10/2023), article 71, www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

Public prosecutors are obliged to inform the immediately senior public prosecutor in writing about another function, work or private interest that may be incompatible with their function, as well as the work and private interests of their immediate family members that may be incompatible with their function.⁶⁴³ The HPC informs the public prosecutor's office, the chief public prosecutor and the immediately supreme public prosecutor about the existence of incompatibility of function, job or private interest.⁶⁴⁴

The Law on Prevention of Corruption stipulates that public officials, including public prosecutors, can perform only one public function and, in exceptional cases, other public functions with the consent of the Agency for the prevention of corruption.⁶⁴⁵ Similarly, new laws state that the HPC's ethics committee decides which function, job or private interest is contrary to the dignity and independence of public prosecutors.⁶⁴⁶

Public prosecutors are obliged to report their assets and income to the Agency for the Prevention of Corruption within 30 days of election.⁶⁴⁷ The agency has the authority to check the accuracy and completeness of the data in the report, as well as the timely delivery of the report, according to the annual check plan adopted by the director.⁶⁴⁸

In 2021, a code of ethics for public prosecutors, guidelines for its implementation, as well as amendments to the rules of procedure of the ethics committee were adopted.⁶⁴⁹ The code is quite comprehensive and stipulates that a significant violation of it constitutes a disciplinary offence.⁶⁵⁰ The code consists mainly of rewritten standards from the law with minor changes.⁶⁵¹

4.2.6. Integrity mechanism (practice)

To what extent is the integrity of members of the prosecution ensured in practice?



SCORE: 50/100

Existing mechanisms are quite effective in ensuring the ethical behaviour of public prosecutors. However, integrity plans are linked exclusively to corruption and fail to include risks related to private and professional integrity in the life and work of public prosecutors, such as post-employment restrictions.

According to data from the Agency for the Prevention of Corruption, prosecutors and deputies fulfil their duty to declare assets and income.⁶⁵² However, in 2021, the agency did not check the timeliness of public prosecutors' assets and income submissions because they were not included in the annual plan for checking, which included 200 other public officials.⁶⁵³

In 2021, the commissioner for independence acted in seven cases.⁶⁵⁴ In one case, he issued a press release after a physical attack on a holder of the public prosecutor's office, where he called on the competent institutions to take measures within their jurisdiction to ensure the safety of public prosecutors.⁶⁵⁵ In four cases, the commissioner found that there was no illegal, nor any other inappropriate influence.⁶⁵⁶

643 The former Law on Public Prosecution. Official Gazette no.116/08, 104/09, 101/10, 78/11 – other law, 101/11, 38/12 - CC, 121/12, 101/13, 111/14 - CC, 117/14, 106/15 i 63/16 – CC, article 66

644 The Law on Public Prosecution. Official Gazette no.10/2023), article 72, www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

645 The Law on Prevention of Corruption. Official Gazette no. 5/2019, 88/2019, 11/2021 – authentic interpretation, 94/2021 and 14/2022, Art. 56, www.paragraf.rs/propisi/zakon-o-sprecavanju-korupcije.html

646 The Law on Public Prosecution. Official Gazette no.10/2023, article 71, www.paragraf.rs/propisi/zakon_o_javnom_tuzilastvu.html

647 The Law on Prevention of Corruption. Official Gazette no. 5/2019, 88/2019, 11/2021 – authentic interpretation, 94/2021 and 14/2022, art. 68, www.paragraf.rs/propisi/zakon-o-sprecavanju-korupcije.html

648 Ibid, art. 75.

649 Ibid, p.8.

650 The code of ethics of public prosecutors and deputy public prosecutors of the Republic of Serbia. Official Gazette no. 42/2021, www.paragraf.rs/propisi/eticki_kodeks_javnih_tuzilaca_i_zamenika_javnih_tuzilaca_republike_srbije.html

651 Ibid.

652 The Agency for Prevention of Corruption. 2021 Annual Report, p.19, www.acas.rs/storage/page_files/Izve%C5%A1taj%20o%20radu%20za%202021.%20Agencije%20za%20spre%C4%8Davanje%20korupcije.pdf

653 The Agency for Prevention of Corruption. 2021 Annual Report, p.19, www.acas.rs/storage/page_files/Izve%C5%A1taj%20o%20radu%20za%202021.%20Agencije%20za%20spre%C4%8Davanje%20korupcije.pdf

654 High Prosecutorial Council. 2021 Annual Report, p.33, <http://dvt.jt.rs/wp-content/uploads/2022/03/Izve-taj-o-radu-Dr-avnog-ve-a-tu-ilaca-za-2021.-godinu-usvojen-front-page.pdf>

655 High Prosecutorial Council. 2021 Annual Report, p.33, <http://dvt.jt.rs/wp-content/uploads/2022/03/Izve-taj-o-radu-Dr-avnog-ve-a-tu-ilaca-za-2021.-godinu-usvojen-front-page.pdf>

656 Ibid, p.34.

The HPC continued cooperation with a joint project from the EU and the Council of Europe, "Strengthening the independence and responsibility of the judiciary, one of the goals of which is to strengthen the internal capacity to work on issues of public prosecutor's ethics".⁶⁵⁷ The HPC made a decision to entrust confidential counselling on ethical issues to the ethics committee, following the recommendations of the council of Europe, and a confidential counsellor was elected.⁶⁵⁸

In order to support public prosecutors in improving ethical standards, the guide Ethical Aspects of the Use of Social Networks was created, which contains 37 potential risks they face when using social networks, as well as practical advice for dealing with the most common challenges.⁶⁵⁹

According to the president of the Association of Public Prosecutors and Deputy Public Prosecutors, essential mechanisms of integrity have not been established because integrity plans are linked exclusively to corruption, even though there are other risks related to private and professional integrity in the life and work of public prosecutors.⁶⁶⁰ For example, in his view, an important integrity risk is the fact that there is no ban on employment in the private sector after the termination of a role in the public prosecutor's office.⁶⁶¹

4.2.7. Gender

To what extent are the prosecution's mechanisms gender-sensitive?



Even though there is gender equality in employment in the public prosecutor's office, there is no appropriate evidence and mechanisms for monitoring gender sensitivity in the complaint and investigation mechanisms of public prosecutors.

According to the report on the work of the HPC there are 22 female public prosecutors⁶⁶² (compared to 23 in 2021)⁶⁶³ and 28 male public prosecutors⁶⁶⁴ (compared to 29 in 2021).⁶⁶⁵ Unlike other types of prosecutor's offices where the number of men is higher, women are far more represented in the appellate public prosecutor's offices where in Belgrade, for example, there are 167 female and 91 male deputy public prosecutors.⁶⁶⁶

The prosecution's complaint and investigation mechanisms do not have explicit gender-sensitive protocols and guidelines. The prosecution also does not seem to produce gender-disaggregated data (such as the number of complaints filed by gender, complaints solved or disregarded by women or men). Also, the report to the public prosecutor of republic on combating crime and protecting constitutionality and legality in 2021 does not contain gender-disaggregated data on defendants or convicts. However, based on data from the statistical office's publication Adult perpetrators of criminal offences in the Republic of Serbia, 2021,⁶⁶⁷ it can be concluded that public prosecution offices keep such statistics even though they do not report them via publicly available reports.

The judicial academy's permanent training programme for 2022 foresees training in the application of anti-discrimination legislation.⁶⁶⁸ The planned duration of that training is one day, and the target group is primary public prosecutors and deputies, senior public prosecutors and deputies, appellate public prosecutors and deputies, as well as prosecutor assistants.⁶⁶⁹

657 Ibid, p.34.

658 Ibid.

659 Ibid.

660 Ibid.

661 Ibid.

662 High Prosecutorial Council. 2023. Report on the HPC for 2022, p.13, <https://dvt.jt.rs/wp-content/uploads/2023/03/Izvestaj-o-radu-DVT-2022.pdf>

663 High Prosecutorial Council. 2022. Report on the HPC for 2021, p.13, <http://dvt.jt.rs/wp-content/uploads/2022/03/Izve-taj-o-radu-Dr-avnog-ve-a-tu-ilaca-za-2021.-godinu-usvojen -front-page.pdf>

664 High Prosecutorial Council. 2023. Report on the HPC for 2022, p. 13, <https://dvt.jt.rs/wp-content/uploads/2023/03/Izvestaj-o-radu-DVT-2022.pdf>

665 High Prosecutorial Council. 2022. Report on the HPC for 2021, p. 13, <http://dvt.jt.rs/wp-content/uploads/2022/03/Izve-taj-o-radu-Dr-avnog-ve-a-tu-ilaca-za-2021.-godinu-usvojen -front-page.pdf>

666 Ibid.

667 Statistical Office of the Republic of Serbia. 2022. *Adult perpetrators of criminal offenses in the Republic of Serbia, 2021*, p.2, <https://publikacije.stat.gov.rs/G2022/Pdf/G20221189.pdf>

668 Judicial Academy. 2022 Programme, p.153, www.pars.rs/images/dokumenta/Stalna-obuka/program-stalne-obuke-za-2022.pdf

669 Ibid.

Role

4.3.1. Corruption prosecution

To what extent does the public prosecutor investigate and prosecute corruption cases in the country?



SCORE: 50/100

While the judiciary does seek to penalise offenders in corruption related cases, its efforts are limited due to a small number of special investigative techniques.

There are legal preconditions for efficient prosecution of corruption, including the possibility of using special investigative techniques, but such possibilities are not used enough, partly due to the small number of financial forensics experts.

The number of indictments and first-instance convictions in high-level corruption cases has increased slightly since 2020.⁶⁷⁰ Compared to 2021, the total number of reported criminal acts decreased in 2022 by 6.49% as well as the number of reported corrupt criminal acts, by 11.75%.⁶⁷¹ Out of the total number of rejected criminal charges, 6,878⁶⁷² (compared to 7,004 in 2021),⁶⁷³ 2,723 were charges with a corrupt element⁶⁷⁴ (compared to 2,255 in 2021).⁶⁷⁵ A similar proportion also exists for orders to suspend the investigation : of the 191 persons against whom the investigation was suspended⁶⁷⁶ (compared to 254 in 2021),⁶⁷⁷ 58⁶⁷⁸ (compared to 78 in 2021) were persons prosecuted for criminal offences with a corrupt element.⁶⁷⁹ In 2022, prosecutors concluded plea agreements with fewer people: 425⁶⁸⁰ compared to 505 in 2021,⁶⁸¹ which is 15.85% less than in 2020.⁶⁸² Of that number, the courts accepted agreements with 415 people⁶⁸³ (compared to 460 in 2021)⁶⁸⁴ and handed down convictions to them. The number of proactive investigations, although gradually increasing, is still very small: out of 155⁶⁸⁵ (compared to 171 in 2021)⁶⁸⁶ proactive investigations, only 66⁶⁸⁷ (compared to 96 in 2021) were for corrupt crimes.⁶⁸⁸

670 European Commission. 2022. 2022 Progress Report, p.5 www.mei.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/Serbia_Report_2022_SR.%5B1%5D.pdf

671 Republic Public Prosecution. 2023. The report on the work of public prosecutor's offices to suppress crime and protect constitutionality and legality in 2022, p.66, www.rjt.gov.rs/docs/Izvestaj_Republika_Srbija_Republicko_javno_tuzila%C5%Altvo_mart2023.pdf

672 Ibid.

673 Republic Public Prosecution. 2022. The report on the work of public prosecutor's offices to suppress crime and protect constitutionality and legality in 2021, p.80, www.rjt.gov.rs/docs/rad-javnih-tuzilastava-na-suzbijanju-kriminaliteta-i-zastiti-ustavnosti-2022.pdf

674 Republic Public Prosecution. 2023. The report on the work of public prosecutor's offices to suppress crime and protect constitutionality and legality in 2022, p.66, www.rjt.gov.rs/docs/Izvestaj_Republika_Srbija_Republicko_javno_tuzila%C5%Altvo_mart2023.pdf

675 Republic Public Prosecution. 2022. The report on the work of public prosecutor's offices to suppress crime and protect constitutionality and legality in 2021, p.80, www.rjt.gov.rs/docs/rad-javnih-tuzilastava-na-suzbijanju-kriminaliteta-i-zastiti-ustavnosti-2022.pdf

676 Republic Public Prosecution. 2023. The report on the work of public prosecutor's offices to suppress crime and protect constitutionality and legality in 2022, p.67, www.rjt.gov.rs/docs/Izvestaj_Republika_Srbija_Republicko_javno_tuzila%C5%Altvo_mart2023.pdf

677 Republic Public Prosecution. 2022. The report on the work of public prosecutor's offices to suppress crime and protect constitutionality and legality in 2021, p.80, www.rjt.gov.rs/docs/rad-javnih-tuzilastava-na-suzbijanju-kriminaliteta-i-zastiti-ustavnosti-2022.pdf

678 Republic Public Prosecution. 2023. The report on the work of public prosecutor's offices to suppress crime and protect constitutionality and legality in 2022, p. 67, www.rjt.gov.rs/docs/Izvestaj_Republika_Srbija_Republicko_javno_tuzila%C5%Altvo_mart2023.pdf

679 Republic Public Prosecution. 2022. The report on the work of public prosecutor's offices to suppress crime and protect constitutionality and legality in 2021, p.80, www.rjt.gov.rs/docs/rad-javnih-tuzilastava-na-suzbijanju-kriminaliteta-i-zastiti-ustavnosti-2022.pdf

680 Republic Public Prosecution. 2023. The report on the work of public prosecutor's offices to suppress crime and protect constitutionality and legality in 2022, p.67, www.rjt.gov.rs/docs/Izvestaj_Republika_Srbija_Republicko_javno_tuzila%C5%Altvo_mart2023.pdf

681 Republic Public Prosecution. 2022. The report on the work of public prosecutor's offices to suppress crime and protect constitutionality and legality in 2021, p.80, www.rjt.gov.rs/docs/Izvestaj_Republika_Srbija_Republicko_javno_tuzila%C5%Altvo_mart2023.pdf

682 Republic Public Prosecution. 2023. The report on the work of public prosecutor's offices to suppress crime and protect constitutionality and legality in 2022, p.67, www.rjt.gov.rs/docs/Izvestaj_Republika_Srbija_Republicko_javno_tuzila%C5%Altvo_mart2023.pdf

683 Ibid.

684 Ibid.

685 Republic Public Prosecution. 2023. The report on the work of public prosecutor's offices to suppress crime and protect constitutionality and legality in 2022, p.67, www.rjt.gov.rs/docs/Izvestaj_Republika_Srbija_Republicko_javno_tuzila%C5%Altvo_mart2023.pdf

686 Republic Public Prosecution. 2022. The report on the work of public prosecutor's offices to suppress crime and protect constitutionality and legality in 2021, p.80, www.rjt.gov.rs/docs/rad-javnih-tuzilastava-na-suzbijanju-kriminaliteta-i-zastiti-ustavnosti-2022.pdf

687 Republic Public Prosecution. 2023. The report on the work of public prosecutor's offices to suppress crime and protect constitutionality and legality in 2022, p.67, www.rjt.gov.rs/docs/Izvestaj_Republika_Srbija_Republicko_javno_tuzila%C5%Altvo_mart2023.pdf

688 Republic Public Prosecution. 2022. The report on the work of public prosecutor's offices to suppress crime and protect constitutionality and legality in 2021, p.80, www.rjt.gov.rs/docs/rad-javnih-tuzilastava-na-suzbijanju-kriminaliteta-i-zastiti-ustavnosti-2022.pdf

In 2021, property benefits were confiscated from 141 persons, of which 81 were prosecuted for corrupt criminal acts.⁶⁸⁹ In 2022, that number was slightly lower: property benefits were confiscated from 108 persons of which 63 were prosecuted for corrupt criminal acts.⁶⁹⁰ Despite these numbers, the EC report states that Serbia should increase the final confiscation of assets linked to these cases.⁶⁹¹

Most cases of high-level corruption, in accordance with the regulations, are processed within the prosecutor's office for organised crime, which is also responsible for the fight against corruption and for other types of serious crimes (such as terrorism and organised crime).⁶⁹² The employment of financial forensics experts is challenging because they have civil servant status where salaries are not competitive in the market.⁶⁹³ The consequence is that the special departments for combating corruption in the higher prosecutors' offices in Kraljevo, Niš, Novi Sad and Belgrade have one financial forensic expert in each of the four special departments, but the positions in Novi Sad, Niš and Kraljevo remain vacant.⁶⁹⁴

Interactions

The agency is competent to file misdemeanour and criminal charges when it finds irregularities during its work. The agency regularly asks the prosecutor's office for reports on the progress and outcome of the proceedings based on its applications and reports on them to parliament in its annual reports. The prosecutor's office is late in processing these reports, often dismissing them as unfounded. Regarding the report on illegal donations to the ruling party, for example, the public prosecutor dismissed it five years after its submission.

There are still unreasonably large differences between official data on the number of detected, accused and convicted cases of corruption and the public's perception of its prevalence. The public believes that this is due to a lack of will from the police, the public prosecutor's office and the judiciary to apply the regulations and prosecute the perpetrators of corrupt crimes. This is argued by the shifting of blame for the inefficiency of criminal prosecution between the police and the prosecution, for example, due to the failure to provide relevant evidence or making procedural errors that lead to it being impossible to use key evidence or the statute of limitations in criminal prosecution.

The SAI is legally obligated to file misdemeanour and criminal charges against those responsible for irregularities in its audit reports. In practice, the prosecutor's office is late processing those reports, and the SAI does not provide information in its annual reports on how it monitors the processing of its reports and whether and how those processes are completed. Also, the prosecutor's office does not react proactively and does not act independently based on the findings from the report on business irregularities.

689 Ibid.

690 Republic Public Prosecution. 2023. The report on the work of public prosecutor's offices to suppress crime and protect constitutionality and legality in 2022, p.84, www.rjt.gov.rs/docs/Izvestaj_Republika_Srbija_Republicko_javno_tuzila%C5%A1tvo_mart2023.pdf

691 Republic Public Prosecution. 2022. The report on the work of public prosecutor's offices to suppress crime and protect constitutionality and legality in 2021, p.80, www.rjt.gov.rs/docs/rad-javnih-tuzilastava-na-suzbijanju-kriminaliteta-i-zastiti-ustavnosti-2022.pdf

692 Transparency Serbia. 2021. High level corruption and tailor-made laws for private interests in Serbia, pp.13-15, https://transparentnost.org.rs/images/dokumenti_uz_vesti/Korupcija_na_visokom_nivou_i_zakoni_krojeni_po_meri_privatnih_interesa_u_Srbiji.pdf

693 Ibid.

694 European Commission. 2022. 2022 Progress Report, p.33, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Serbia%20Report%202022.pdf>

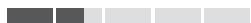
Pillar Recommendations

- Parliament should amend the legislation that regulates the work of HCP to provide more independence and responsibility for the HCP, by including that the selection process of so-called prominent lawyers happens in such a way that they are elected directly by MPs and not by the special commission after MPs fail to exercise their powers.
- The government and the HPC should provide the public prosecution with the necessary conditions for work: human resources, office space and equipment. Additionally, they should provide conditions for more financial forensic experts, including possible changes of the legal framework which would enable their employment under market conditions and not for the salaries of civil servants.
- The HPC should improve the system of accountability of prosecutors by providing a transparent system of decision-making on citizens' complaints, decision-making on prosecutors' reports due to illegal influence and evaluation of public prosecutors.
- The HPC and all prosecution offices should increase the number of prosecutors who exclusively investigate corruption cases in order to conduct proactive investigations based on publicly available data on corrupt behaviour.
- The judicial academy should provide a greater number of training sessions where competent public prosecutors can continuously improve their knowledge and skills to fight corruption.
- All prosecution offices should provide a greater degree of proactive transparency, without requiring requests for free access to information; in particular, increase the amount of information on their websites for which there is public interest or about cases for which suspicions of corruption were publicly expressed in the media available and publish clear instructions (on their websites and premises) for persons who want to report corruption: what they should do, what to expect during the procedure, when they can expect information about the course of the procedure, and so on.

5. Public Sector

Summary

OVERALL PILLAR SCORE: 45.1/100

DIMENSION	INDICATOR	LAW	PRACTICE
CAPACITY  50/100	RESOURCES	–	75
	INDEPENDENCE	75	0
GOVERNANCE  54.2/100	TRANSPARENCY	75	50
	ACCOUNTABILITY	50	25
	INTEGRITY	75	50
ROLE  31.2/100	GENDER	50	
	PUBLIC EDUCATION	25	
	COOPERATION WITH PUBLIC INSTITUTIONS, CSOS AND PRIVATE AGENCIES IN PREVENTING/ ADDRESSING CORRUPTION	25	
	REDUCE CORRUPTION RISKS BY SAFEGUARDING INTEGRITY IN PUBLIC PROCUREMENT	50	
	OVERSIGHT OF SOEs	25	

The structure of the public sector institutions and allocation of budget funds depends not only on the availability of resources but also to a certain extent political power of the head of a public body, rather than on objectively determined needs, criteria and priorities. The Law on Ministries is changed after each election, that is, the number and structure of ministries is changed, in order to redistribute political power between the coalition partners.^{695,696} The 2021-2030 public administration reform (PAR) strategy, continues on the PAR strategy from 2014, and which, among other things, aims to improve the management of human resources and capacities in the public sector. The Law on Civil Servants envisages political neutrality and procedures that should prevent political influence in their employment and promotion. However, regulations on the professionalisation of state administration have been violated with the majority of high-ranking civil servants employed in an “acting” status. Also, there are informal political influences on civil servants’ employment in lower positions.

Many job positions in the public sector are not filled according to the existing acts on the systematisation of jobs. Along with this, the hiring of employees for a fixed period, based on other contract types or transfers, is widespread and can be conducted without competition.

The legal basis for public sector transparency exists. In practice, the level of transparency is uneven among different public authorities. It depends more on the readiness of the head of public authority to be open to the public than on legal obligations.

695 After 2022 parliamentary elections, 25 ministries were formed, while, in 2020, there were 21 ministries and, after 2016 elections, there were 16.

696 Law on Ministries. Official Gazette of RS, No. 128/2020, 116/2022 and 92/2023), https://www.paragraf.rs/propisi/zakon_o_ministarstvima.html.

Mechanisms of accountability in the public sector exist. However, in practice, they have not proven to be effective. The Law on the Protection of Whistleblowers implementation did not lead to widespread use of this mechanism.

Rules for preventing conflicts of interest for civil servants and training on their implementation exist. However, compliance with these rules is not subject to systemic monitoring. In general, the public does not receive enough information about the handling of complaints for violations of the law and the code of conduct.

Institutional supervision over state-owned enterprises is ineffective and not transparent. The strategic documents and the new law envisage improvements in monitoring these enterprises.

The Public Procurement Law is aligned with EU policies and standards. However, there is a practice of contracting the most valuable projects through interstate agreements or by special laws, thus avoiding public procurement regulation.

Some state bodies have programmes to inform citizens about corruption and its reporting, but the promotion of these mechanisms is insufficient.

Legal protection of gender equality exists. The implementation of a new legal framework in this field recently started, and it is too early to assess the results.

According to a survey of citizens carried out on a national sample in 2021, two-thirds of citizens think that there is a lot or very much corruption in Serbia (65%), and a large number of citizens (43%) think that the state is little or hardly effective in the fight against corruption.⁶⁹⁷ In 2022, Serbia achieved the worst result in the most important global ranking of countries, according to the perception of corruption in the public sector.⁶⁹⁸

Capacity

5.1.1. Resources (practice)

To what extent does the public sector have adequate resources to effectively carry out its duties?



SCORE: 75/100

The public sector has adequate resources to effectively carry out its duties, with wages being competitive compared to the private sector; however there should be a fairer salary system in the public sector between lower and higher ranked positions.

According to the 2023 Law on Budget,⁶⁹⁹ allocations for public sector employees for 2023 increased compared to 2022, which is the result of a 12.5% increase in wages in the public sector. Therefore, the average salary at the state level of government in 2023 will increase by about 13% compared to 2022, while the interannual increase in total costs for employees will, however, be somewhat lower and amount to about 11%.

According to an assessment from the fiscal council,⁷⁰⁰ the salary system in the public sector is still burdened by numerous shortcomings, although the total costs for employees are projected at an appropriate level. At the end of last year, the government again postponed the introduction of a fairer salary system in the public sector,⁷⁰¹ and the problem of the number and structure of employees in the state sector has continued into 2023.⁷⁰²

Salaries in public sector are competitive with the private sector, with the average salary in the public sector being a little above the national average salary.⁷⁰³ Still, there is a big gap in salaries between the lowest ranked public servants and those in higher positions. For job positions such as those connected with IT, the public sector is not attractive to the potential employees, since the private sector can offer significantly higher salaries.

697 CRTA. 2021. *Opinions of Serbian citizens on corruption*, <https://crt.rs/misljenje-gradjana-srbije-o-korupciji/>

698 After years of stagnation, Serbia fell to 100th place and had the worse score since the same methodology has been applied (11 years); Transparency International. 2023. *Corruption Perception Index 2022*, <https://www.transparency.org/en/cpi/2022>

699 Law on Budget, <https://mfin.gov.rs/propisi/zakon-o-budzetu-republike-srbije-za-2023-godinu>

700 Fiscal Council. 2023. *Assessment of the Draft Budget Law for 2023*, December 2022, pp.31-33, https://www.fiskalnisavet.rs/doc/ocene-i-misljenja/2022/FS-Ocena_budzeta_2023_v1.pdf

701 The deadline was moved to 2025. The government has been delaying the introduction of this system for years.

702 The ban on employment has still not been lifted, and in the existing budget framework there is no room for increasing the salary fund due to new employment.

703 Statistical Office of the Republic of Serbia, January 2023, <https://publikacije.stat.gov.rs/G2023/Html/G20231077.html>

The PAR strategy sets out a specific objective for public administration to be perceived as a desirable employer.⁷⁰⁴ The PAR also recognises that public services are still being delivered ineffectively, with the key challenges in this area being the unsatisfactory quality of services provided to end users, uneven accessibility to services, the inefficient practice of public administration, as well as insufficiently available and clear information about services.⁷⁰⁵

5.1.2. Independence (law)

To what extent is the independence of the public sector safeguarded by law?



SCORE: 75/100

Independence, impartiality and political neutrality of the public sector have been stipulated in the relevant laws. However, there are some loopholes, such as: the possibility to “transfer” civil servants, which removes the need to have an open competition for a position; the discretionary powers of the appointing authority regarding the dismissal of civil servants in appointed positions; and different regulations that apply to employees in the public sector who are not civil servants.

The (LSA) stipulates expertise, impartiality and political neutrality, among others, as key principles in the work of state administration bodies. According to the law,⁷⁰⁶ civil servants are obliged to act in accordance with professional rules and in an impartial and politically neutral manner, and they cannot express or assert their political beliefs at work. Violation of the principle of impartiality and political neutrality or expression of political beliefs at work represents a grave violation of employment duties, for which the penalty of termination of employment can be imposed.⁷⁰⁷ The code of conduct for civil servants also states the principle of political neutrality.

All job positions are accessible under equal conditions to all candidates, and all civil servants have equal opportunities, according to the Law of Civil Servants (LCS). Senior positions are filled by appointment but, as with the executive job positions, an internal or public competition must be conducted.

According to the LCS, civil servants are subject to an annual work performance evaluation, and the results are used in making decisions about promotion and deployment (transfer), determination of salaries and other income and termination of employment of civil servants. The LCS states that civil servants have the right to appeal against any decision related to their rights and obligations. They are also protected by the Law on the Prevention of Harassment at Work⁷⁰⁸ and the anti-discrimination law,⁷⁰⁹ both of which provide court protection.

There are some exceptions to the general principles in the LCS, such as the possibility to “transfer” employees, which removes the necessity to have an open competition for a position.⁷¹⁰ Civil servants in appointed positions can be dismissed if their position is abolished.⁷¹¹ Also, those civil servants are subject to discretionary decisions. They can be dismissed following a decision by the appointing authority that determined there was a serious disruption in the state body’s work due to the responsibility of the appointed civil servant for not implementing work plans and strategic goals.⁷¹² Furthermore, they can be transferred to a lower position in case of a reorganisation after dismissal.⁷¹³

704 Public Administration Reform Strategy 2021-2030, Chapter IV, Article 2 para 1; <https://mduls.gov.rs/wp-content/uploads/PAR-Strategy-in-the-Republic-of-Serbia-for-the-period-2021%20%922030.pdf>

705 Public Administration Reform Strategy 2021-2030, Chapter V, Article 1 para 8; <https://mduls.gov.rs/wp-content/uploads/PAR-Strategy-in-the-Republic-of-Serbia-for-the-period-2021%20%922030.pdf>

706 Law on Civil Servants. Official Gazette of RS, No. 79/2005, 81/2005 – corrected, 83/2005 – corrected, 64/2007, 67/2007 – corrected, 116/2008, 104/2009, 99/2014, 94/2017, 95/2018, 157/2020 and 142/2022, https://www.paragraf.rs/propisi/zakon_o_drzavnim_sluzbenicima.html

707 Law on Civil Servants, Article 109 and 110.

708 Law on Prevention of Harassment at Work. Official Gazette of RS, No. 36/2010, https://www.paragraf.rs/propisi/zakon_o_sprecavanju_zlostavljanja_na_radu.html

709 Anti-Discrimination Law. Official Gazette of RS, No. 22/2009 and 52/2021 https://www.paragraf.rs/propisi/zakon_o_zabrani_diskriminacije.html

710 If the position is not filled by transfer within the same state body, the position is filled by transfer based on the agreement on taking over the unassigned civil servant; LCS, Article 49.

711 Law on Civil Servants, Article 76.

712 The Law on Civil Servants. Official Gazette of RS, No. 79/2005, 81/2005, 83/2005, 64/2007, 67/2007, 116/2008, 104/2009, 99/2014, 94/2017, 95/2018, 157/2020 and 142/2022, Article 78 Paragraph 3, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2005/79/2/reg>

713 The Law on Civil Servants. Official Gazette of RS, No. 79/2005, 81/2005, 83/2005, 64/2007, 67/2007, 116/2008, 104/2009, 99/2014, 94/2017, 95/2018, 157/2020 and 142/2022), Articles 80 and 81, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2005/79/2/reg>

Employees in the public sector who are not civil servants⁷¹⁴ fall under the scope of general labour regulations. This fact leaves more space for the expression of political interest, such that employment and promotion can be based on political affiliation instead of professional skills.

5.1.3. Independence (practice)

To what extent is the public sector free from external interference in its activities?



SCORE: 0/100

There is strong political influence in the functioning of almost all aspects of the public sector, evidenced by the discretionary powers of officials over the employment status of civil servants, frequent staff turnover, and a significant percentage of recruitment without competition.

The 2021 SIGMA monitoring report shows that the percentage of senior civil servant vacancies filled through “acting” appointments remained above 60%.⁷¹⁵

Even though competitions are required for the employment of civil servants, members of the competition commissions are appointed by the heads of public bodies, who are political officials.⁷¹⁶ In this way, the heads have indirect influence on the appointment of staff. Promotion of civil servants is also based on the subjective opinion of the superior as there are no precise criteria to guide which grades are given.

Public sector staff turnover is high.⁷¹⁷ For example, when newly appointed public officials start their mandate, they bring their “own people”, especially for decision-making positions or managing processes and/or people.⁷¹⁸ After each election, as a rule, the Law on Ministries is amended to distribute political power among the coalition partners, without explaining how this will affect the performance of the state administration.⁷¹⁹

According to the 2021 SIGMA monitoring report, there is a significant percentage of total fixed-term employment for civil servants where recruitment has been carried out without competition.⁷²⁰ This practice should have been at least partially stopped from 2023; however, the LCS was amended in late December 2022 so that the obligation stipulating open competition for fixed-term employment was postponed until 2025.

Misuse of administrative resources is reflected through constant pressure on public sector employees to vote and support the ruling party or coalition. This pressure intensifies prior to elections, as has been noted in previous ODIHR election reports.⁷²¹

714 Such as employees of public enterprises, public services and government agencies.

715 SIGMA Monitoring Report. 2021. *The Principles of Public Administration, Serbia*, p.76, <https://www.sigmapublications.org/publications/Monitoring-Report-2021-Serbia.pdf>

716 Such as ministers, but also heads of other public sector bodies like public enterprises.

717 With the arrival of Aleksandar Vulin as minister of internal affairs and the transfer of Nebojša Stefanović to the defence sector, many personnel changes, transfers, promotions and reassessments were made in the police: Politika. 2021. *Shifts, promotions and reassessments*, <https://www.politika.rs/sr/clanak/471547/Smena-unapredjenja-i-prekomande>

718 After the Belgrade local elections in 2022, a new major brought new staff to key positions in city bodies: Danas. 2022. Šapić is “getting rid” of Vesić’s crew, <https://www.danas.rs/vesti/drustvo/sapic-se-resava-veziceve-ekipe-smena-preti-i-direktorima-gsp-a/>

719 After parliamentary election in 2022, the Law on Ministries was amended so that the work of four previously existing ministries was distributed to seven new ministries.

720 This amounted to amounted to 11.7% at the end of 2020. SIGMA Monitoring Report. 2021. *The Principles of Public Administration, Serbia*, <https://www.sigmapublications.org/publications/Monitoring-Report-2021-Serbia.pdf>

721 OSCE/ODIHR. 2022. *Serbia: Presidential and Early Parliamentary Elections*; OSCE/ODIHR Election Observation Mission. 2022. Final Report, Warsaw, p.2, https://www.osce.org/files/f/documents/0/0/524385_0.pdf

Governance

5.2.1. Transparency (law)

To what extent are there provisions to ensure transparency in financial, human resource and information management of the public sector?



SCORE: 75/100

Although a solid legal framework for recording and publishing information on the work of public administration exists, there are loopholes related to the requirements and availability of all relevant data on the disclosure of personal assets, income and financial interests of public officials and employees in corruption-prone positions in public sector agencies, as well as on the verification of these data.

Legal provisions on disclosure of personal assets, income and financial interests in public sector agencies apply to top management (ministers, state secretaries, assistant ministers, directors, deputy and assistant directors of government bodies and agencies) according to the Law on the Prevention of Corruption.⁷²² It states that part of the data from the register of the assets and incomes of public officials is publicly available on the Agency for the Prevention of Corruption (APC) website.⁷²³ The APC should verify the public officials' assets and income reports according to the annual verification plan based on the APC's preliminary analysis, taking into account, particularly in the category of public officials, the amount of their salaries and funds from the budget available to the public authorities in which they hold public office.⁷²⁴ The APC should conduct extraordinary verification of the accuracy and completeness of the data from a report if it suspects that a report does not present accurate and complete data.⁷²⁵ Also, according to the Law on Determination of the Origin of Property and Special Tax, employees in the specialised organisational unit of tax administration must submit their asset declarations to the APC.⁷²⁶ The agency records and checks the data on their assets, according to the law governing its work,⁷²⁷ but it is not required to publish the results. Other civil servants must comply with conflict of interest rules but not with the duty to report their income and property.⁷²⁸

The Law on Free Access to Information of Public Importance stipulates that the public could potentially obtain all information at the disposal of public authorities (unless there is a prevailing interest).⁷²⁹ Following the 2021 amendments to the law, all public authorities were obliged to publish new and more detailed information booklets with the essential information that public authorities possess by November 2022.⁷³⁰ In 2022, the Commissioner for information on public importance and personal data protection issued the instructions for developing and publishing an information booklet on public authority work.⁷³¹ Also, several laws request public authorities to publish various types of data (such as registries, decisions) on their web pages. There are also soft rules, such as government guidelines for building web presentations for state and local government bodies.⁷³²

722 Following the Law on the Prevention of Corruption, articles 68 and 69, as public officials, they are obliged to declare assets and income to the anti-corruption agency within 30 days of taking office and to report changes in the value of their property higher than the annual average salary or when there is a change to the structure of assets. A report is also filed within 30 days of termination of office. A person whose public office has been terminated shall submit a report as of 31 December of the preceding year, two years after the termination of the public office but no later than by the expiry of the time limit specified for submitting the annual tax return for determining personal income tax, provided that the assets and income have significantly changed in comparison with the preceding year. Part of the data from the register of the assets and incomes of public officials is publicly available on the agency's website following article 73 of the Law on the Prevention of Corruption.

723 The Law on the Prevention of Corruption. Official Gazette of the RS, No. 35/19, 88/19, 11/21 (Authentic Interpretation), 94/21 and 14/22, Article 75 Paragraphs 1 and 2, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2019/35/3/reg>

724 The Law on the Prevention of Corruption. Official Gazette of the RS, No. 35/19, 88/19, 11/21 (Authentic Interpretation), 94/21 and 14/22, Article 75, Paragraphs 1 and 2, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2019/35/3/reg>

725 The Law on the Prevention of Corruption. Official Gazette of the RS, No. 35/19, 88/19, 11/21 (Authentic Interpretation), 94/21 and 14/22, Article 75, Paragraph 3, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2019/35/3/reg>

726 The Law on Determination of the Origin of Property and Special Tax, Article 22. Employees of the tax administration unit are obliged to submit complete and accurate information on their assets to the anti-corruption agency, in writing, before starting work. Data on their assets are recorded and checked by the agency, according to the law governing its work.

727 The Law on Determination of the Origin of Property and Special Tax. Official Gazette of the RS, No. 18/20 and 18/21, Article 22, Paragraph 2, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2020/18/1/reg>

728 The Law on Civil Servants, articles 25-31.

729 The Law on Free Access to Information of Public Importance, articles 8, 9 and 14.

730 The Law and Instruction states that public authorities should publish, without anyone's request, information on budgets and expenditures, public procurement, including the public procurement plan and the list of concluded procurement contracts with the values, dates of conclusion and validity periods; performed inspections and audits; paid salaries, wages and other incomes, etc.

731 Instruction for the preparation and publication of Information booklets of public authorities. Official Gazette of the RS, No 10/22), <https://www.poverenik.rs/sr-yu/podzakonski-akti.html>

732 https://arhiva.ite.gov.rs/doc/Smernice_5_0.pdf

The LCS regulates the advertisement of jobs in the civil service.⁷³³ The Public Procurement Law that entered into force in July 2020 introduced obligatory e-procurement practices and provisions on applying the transparency principle. Following this law, the improved public procurement portal was launched.⁷³⁴ Reports of the SAI also have to be published. Office management is regulated by the Law on State Administration⁷³⁵ and the regulation on office operations of state administration bodies.

5.2.2. Transparency (practice)

To what extent are the provisions on transparency in financial, human resource and information management in the public sector effectively implemented?

 SCORE: 50/100

The public can obtain mostly relevant information on the organisation and functioning of the public sector, but it can be a difficult and/or lengthy process because of a lack of responsiveness from public institutions.

In 2022, only a third of all public authorities published information booklets within the legal deadline.⁷³⁶ The commissioner has previously pointed out that information booklets most often lack data on income and expenditure, services provided, public procurements carried out, salary bands, descriptions of procedures, and types of services provided by authorities.⁷³⁷

According to the 2021 report of the commissioner, in almost 20% of cases, ministries did not act upon requests for access to information of public importance, so the applicants had to file appeals.⁷³⁸ The biggest problem is that ministries regularly fail to answer freedom of information requests, even after final decisions by the commissioner require them to do.⁷³⁹

Transparency of procurement data related to the COVID-19 pandemic remains one of the concerns identified and reported by oversight civil society organisations.⁷⁴⁰ Disclosing all information on this issue on government portals is one of the recommendations provided by the EU progress reports.⁷⁴¹ Also, the number of cases in which information on public procurement is withheld remains high.⁷⁴²

Vacancies for permanent positions in the civil service are advertised publicly.⁷⁴³ On the other hand, temporary positions (over 10% of the total number of civil service positions) are filled without competition.⁷⁴⁴ This issue should be finally resolved in 2025 when it is envisaged that a provision in the LCS requiring competition for most temporary recruitments will come into force.⁷⁴⁵

733 The Law on Civil Servants, articles 50-61. In addition to these provisions, there is also the regulation on the internal and public competition for filling posts in state bodies, adopted by the government in 2021.

734 Public Procurement Portal, <https://jnportal.ujn.gov.rs/>

735 Following article 85 of the Law on State Administration, office procedures encompass the collection, recording, keeping, classifying and archiving of materials received or produced concerning the function of state administration authorities, as well as all other issues related to the business of state administration authorities. Office procedures shall be determined by a government regulation.

736 CEMA Forum. 2022. Commissioner: Not even half of the state bodies have information booklets, and the deadline expired in the middle of the month. <https://www.cemaforum.rs/sr/vest/7517/Poverenik-:Informator-o-radu-nema-ni-polovina-drzavnih-organa,-a-rok-istekao-sredinom-meseca/>

737 Annual Report of the commissioner for information on public importance and personal data protection for 2021, 2021, <https://www.poverenik.rs/images/stories/dokumentacija-nova/izvestajiPoverenika/2021/Izvešta2021CIRfinal.pdf>

738 Annual Report of the commissioner for information on public importance and personal data protection for 2021, 2021, <https://www.poverenik.rs/images/stories/dokumentacija-nova/izvestajiPoverenika/2021/Izvešta2021CIRfinal.pdf>, p.78.

739 In the 2021 annual report, the commissioner stressed that the government had not ensured compliance with its decisions in 422 cases since 2010. Just in 2021, this happened 82 times: Annual report of the commissioner for information on public importance and personal data protection for 2021, 2021, <https://www.poverenik.rs/images/stories/dokumentacija-nova/izvestajiPoverenika/2021/Izvešta2021CIRfinal.pdf>

740 Belgrade Centre for Security Policy and Transparency Serbia. 2022. PrEUgovor Alarm: Report on The Progress of Serbia in Cluster 1, p.68 (Procurements Related to the COVID-19 Pandemic – Status Quo), <https://preugovor.org/Alarm-Reports/1747/Alarm-Report-on-Progress-of-Serbia-in-Cluster-1.shtml>

741 European Commission. 2021. Annual Report on Serbia for 2021, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2021-10/Serbia-Report-2021.pdf>

742 Transparency Serbia, Center for Applied European Studies. 2022. *Main problems of public procurement in Serbia*, p.18, : https://preugovor.org/upload/document/preugovor_policy_paper_6_sr_glavni_problemi_javnih.pdf

743 Open competitions must be announced on the public body's official website, the official website of HRMS, the e-government portal, and the national employment service.

744 SIGMA. 2021. 2021 Monitoring Report: The Principles of Public Administration Serbia, <https://www.sigmaportal.org/publications/Monitoring-Report-2021-Serbia.pdf>, p.63.

745 The Law on Amendments to the Law on Civil Servants, Official Gazette, No 142/2022. Previously, the implementation of this provision was postponed twice. Namely, following the Law on Amendments to the Law on Civil Servants, Official Gazette, No 95/2018, it was envisaged that this provision would come into force on 1 January 2021. After that, following the Law on Amendments to the Law on Civil Servants Official Gazette, No 157/2020, the implementation of this provision was postponed until 1 January 2023.

5.2.3. Accountability (law)

To what extent are there provisions to ensure that public sector employees have to report and be answerable for their actions?



Although the Law on the Protection of Whistleblowers is considered one of the most advanced whistleblowing regulations globally, there is a lack of systematic oversight of its implementation. The normative framework does not contain precise rules on handling citizens' complaints, while the lines of accountability between agencies and their parent institutions remain blurred.

The Law on the Protection of Whistleblowers (LPW) regulates whistleblowing (including in public procurement). Legal mechanisms stipulated by the law enable any person to report corruption and other irregularities in the public entity they work in or with which they interact, following the prescribed procedure.⁷⁴⁶ These persons have the right to protection after reporting a violation of the rules according to the law.⁷⁴⁷ One of the identified problems is that there is no systematic oversight of the law's implementation to assess if these rules have had an impact on increasing the number of reported corruption cases.⁷⁴⁸

Civil servants may incur criminal liability and disciplinary responsibility for violations of their duties.⁷⁴⁹ For example, they may be liable for several criminal offences, including abuse of office,⁷⁵⁰ extortion, and soliciting and accepting bribes.⁷⁵¹

The Law on State Administration contains only a general provision on handling citizens' complaints.⁷⁵² Following the LSA, state administration authorities are obliged to enable everyone to submit complaints about their work and the improper conduct of employees. They must respond to the complaint within 15 days if the person who submitted a complaint requires an answer. Also, they shall be obliged to examine the issues covered by complaints at least once every 30 days.⁷⁵³ The LSA does not stipulate the obligation of state administration bodies to regulate more closely internally the manner of dealing with complaints, nor to designate a person who will be in charge of dealing with them.

The regulations define the responsibilities of all state bodies. Ministries are responsible for steering and controlling subordinate bodies concerning legal compliance and efficiency. On the other hand, the lines of accountability between agencies and their parent institutions remain blurred, contributing to overlapping functions, fragmentation and unclear reporting lines. Despite the Law on Public Agencies, almost all of these agencies have their status regulated by special laws.⁷⁵⁴

5.2.4. Accountability (practice)

To what extent do public sector employees have to report and be answerable for their actions in practice?



Even though there are different mechanisms to report wrongdoing and submit complaints against public sector bodies, they are mostly ineffective due to the lack of systematic oversight and clear division of tasks in competent institutions.

Due to the inadequate solution provided by the LPW, monitoring the implementation of this law is not comprehensive. Namely, it is stated that monitoring will be carried out by the administrative inspectorate and the labour inspectorate, institutions whose duties are not clearly aligned within the law, which is why some cases remain completely

746 The Law on the Protection of Whistleblowers, articles 2-20.

747 The law envisages anonymous reporting, reversal of the burden of proof in the case of harmful action, the duty of public authorities to internally regulate whistleblowing procedures and to act upon received information and court protection. There are no specific rules for using this mechanism in public procurement. Following article 20, whistleblowers will not have the right to prescribed protection if they disclose confidential information to the public.

748 Apart from court cases on the protection of whistleblowers and internal whistleblowing in ministries, oversight has not been ensured. The last report on the implementation of this law was published by the Ministry of Justice in June 2022, <https://www.mpravde.gov.rs/tekst/36946/izvestaj-o-primeni-zakona-o-zastiti-uzbunjivaca-za-2021godinu.php>

749 The Law on Civil Servants, articles 107-120.

750 The Criminal Code, article 359.

751 The Criminal Code, article 367.

752 The Law on State Administration, article 81.

753 The LSA. Official Gazette of RS, No. 79/2005, 101/2007, 95/2010, 99/2014, 30/2018 (other law) and 47/2018, Article 81, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2005/79/1/reg>

754 European Commission. 2022. Serbia 2022 Report, p.17, <https://www.stat.gov.rs/media/358410-serbia-report-2022-1.pdf>

unaddressed.⁷⁵⁵ The LPW also does not stipulate the obligation to prepare any kind of report, although the MoJ does so based on the obligation stipulated in the action plan for Chapter 23 (AP23).⁷⁵⁶

According to data from MoJ reports, there has been a continual decrease in the number of whistleblowing related cases received by the courts since 2016.⁷⁵⁷ This can be explained by the fact that, in 2016, the LPW was at the initial stage of its application, and whistleblowers were encouraged to report wrongdoing. However, over time they have become discouraged, primarily because of the way in which the most famous whistleblowing cases have been handled and the way whistleblowers were treated.

Complaints about the work of a state employee can be submitted to the head of the authority in which they work, and they should be responded to within 15 days from the day of receipt of the complaint.⁷⁵⁸ If the complaint is related to the work of civil servants, it can also be submitted to the high civil service council (HCSC). According to the 2021 HCSC annual report,⁷⁵⁹ there were 138 citizen complaints filed against the work of civil servants, and only six disciplinary penalties were imposed.⁷⁶⁰

The administrative court is overloaded with work, with 103,000 unsolved cases at the beginning of 2023.⁷⁶¹ Taking into account that all judges of this court solve approximately 25,000 cases per year, this leaves citizens without sufficient legal protection against the irresponsible work of state administration.

5.2.5. Integrity mechanisms (law)

To what extent are there provisions to ensure the integrity of public sector employees?

 **SCORE: 75/100**

There are comprehensive provisions to ensure the integrity of civil servants. However, the normative framework in this field does not include rules on post-employment restrictions, while the provisions of the Public Procurement Law relevant to the management of conflicts of interest narrow the definition of conflict of interest and associated persons compared with regulations governing conflict of interest in other areas of public sector governance.

In 2018, the rules on preventing conflicts of interest in the LCS were amended and improved,⁷⁶² including a ban on accepting gifts, except occasional presents of smaller value;⁷⁶³ additional work;⁷⁶⁴ the prohibition of establishing a company or public service and conducting entrepreneurship;⁷⁶⁵ limited membership in legal entities;⁷⁶⁶ disclosing interests concerning civil servants jobs and decisions of state authority;⁷⁶⁷ managing of conflict of interest in state authorities and appointing of civil servants to state authorities competent for conflict of interest management.⁷⁶⁸ Violating these provisions is considered a grave violation of duty.⁷⁶⁹ The law stipulates that civil servants or employees are required to notify their immediate supervisor or manager if, during their work, they conclude that an act of corruption has been committed by public officials or other civil servants and employees of a state agency where they are employed.⁷⁷⁰

755 This is, for example, the case with the protection of whistleblowers who are not employed by public institutions but appear as whistleblowers who use their services. TI BiH. 2022. Protection of Whistleblowers in BiH and Serbia: Comparative analysis, p.17, <https://ti-bih.org/wp-content/uploads/2022/06/ TI-BIH-ZASTITA-ZVIZDACA-U-BIH-I-SRBIJI-WEB.pdf>

756 Revised action plan for Chapter 23.

757 289 reported cases in 2016 versus 99 reported cases in 2021, from the MoJ report on whistleblowing for 2021, <https://www.mpravde.gov.rs/sr/tekst/36946/izvestaj-o-primeni-zakona-o-zastiti-uzbunjivaca-za-2021godinu.php>

758 LSA, Article 81.

759 HCSC. 2021 Annual Report, <https://www.suk.gov.rs/tekst/78/akti-saveta.php>

760 All imposed sanctions were fines.

761 Administrative Court. 2022 Annual Report, <http://www.up.sud.rs/cirilica/izvestaji-o-radu>

762 The Law on Civil Servants, articles 25-31. According to article 31, in addition to restrictions set for public officials, civil servants in appointed positions have to comply with the provisions of the Law on Civil Servants on additional work and ban the establishment of a commercial entity and public services and conducting entrepreneurial activities.

763 The Law on Civil Servants, Article 25a.

764 The Law on Civil Servants, Article 26.

765 The Law on Civil Servants, Article 28.

766 The Law on Civil Servants, Article 29.

767 The Law on Civil Servants, Article 30.

768 The Law on Civil Servants, articles 30a and 30b.

769 The Law on Civil Servants, Article 109.

770 The Law on Civil Servants, Article 23a. According to this article, a civil servant or employee shall enjoy protection under the law from the date of the written notice.

The code of conduct for civil servants also contains rules that are important for strengthening integrity in the public sector, and such amendments and improvements were adopted in 2015,⁷⁷¹ 2018⁷⁷² and 2019.⁷⁷³ However, neither the LCS nor the code contain rules on post-employment restrictions.

The Law on the Prevention of Corruption stipulates that all public authorities shall conduct training on corruption prevention and strengthen the integrity of employees and managers.⁷⁷⁴

The Public Procurement Law includes provisions for preventing corruption and conflicts of interest.⁷⁷⁵ However, the notion of conflict of interest and associated persons in this law are not fully aligned with definitions in other relevant laws.⁷⁷⁶ The mechanism of exclusion from activities undertaken in the course of the procedure is in place: in the event of learning about the existence of a conflict of interest, the public entity's representative shall exclude themselves from the public procurement procedure.⁷⁷⁷

5.2.6. Integrity mechanisms (practice)

To what extent is the integrity of public sector employees ensured in practice?



There is a piecemeal approach to ensuring the integrity of public sector employees, including the implementation of existing rules, inquiries into alleged misbehaviour and training on integrity issues.

The perception of corruption in the public sector is still high, and the perceived level of bribery in the public sector experienced by the citizens increased in 2021.⁷⁷⁸

Despite amendments to the LCS, there is no systematic verification for preventing conflict of interest rules implementation. In its 2021 report on compliance with the code of conduct for civil servants, the HCSC stated that a low number of citizens' complaints for violations of the code were registered. The council also stressed that this number does not reflect the quality of work in the state administration and that it is necessary to further educate citizens about the existence of the code. This body does not explicitly state in its report that it is necessary to further educate employees about the provisions of the code. However, the council recommended that it would be important to consider the possibility of introducing the subject of the code of conduct into the curriculum for the civil servant state exam.⁷⁷⁹

771 It is stressed that the goal of the code is to more closely determine the standards of integrity and rules of conduct of civil servants and to inform the public about the behaviour they have the right to expect from civil servants. Also, provisions related to monitoring the implementation of the code by the high civil servants council were added.

772 For example, it is included that civil servants must not encourage parties to let them know that they expect any benefit, that is, they must not undertake any actions or procedures that would lead them to a dependent position or to the obligation to return a favour to a natural or legal person. Also, it is stipulated that the authorities are obliged to inform citizens appropriately (by publishing on the website, highlighting on the notice board, etc.) about the behaviour they have the right to expect from civil servants and about receiving complaints about the conduct of civil servants. Also, the authorities are obliged to improve the method of receiving citizen complaints and measuring citizen satisfaction methods with the services provided (through information, enabling the receipt of complaints via the website, surveying service users, etc.).

773 It is stated that civil servants may not use public gatherings in which they participate or promote political parties or even political subjects, or for a public presentation of participants in elections and their election programmes or inviting voters to vote or not vote for certain participants in elections. Also, civil servants must not use public funds entrusted to them in the performance of duties for the promotion of political parties or political subjects, which in particular means the use of official premises, vehicles and inventory for political campaign purposes.

774 The Law on the Prevention of Corruption, article 98.

775 The Public Procurement Law, articles 49 and 50. These provisions provide for the mandatory adoption of the rules on the manner of planning, conducting and executing contracts, which should be published on the website.

776 For example, the Public Procurement Law states in article 50 that rules on conflict of interest will apply in particular to the following contracting authority/entity's representatives: (1) contracting authority/entity's manager, or responsible person, or member of the administrative, executive or supervisory board of the contracting authority/entity; (2) a member of the public procurement committee, i.e. the person conducting of the public procurement procedure. With that in mind, other categories of civil servants and employees who can also have private interests in public procurement procedures are not covered by this provision. Also, in the Public Procurement Law, associated persons are defined as *specifically those who are in lineal consanguinity; collateral kinship up to the third degree; in-laws up to the second degree of kinship; the relationship of adopter and adoptee; marriage, irrespective of whether the marriage is terminated or not; extramarital union; living together, and in the relationship of guardian and ward*. On the other hand, according to the Law on the Prevention of Corruption and the Law on Civil Servants, an associated person is also a *legal or natural person whose interests, based on other grounds and circumstances, may be reasonably assumed to be associated with those of the public official/civil servant*.

777 SIGMA. 2021. 2021 Monitoring Report: The Principles of Public Administration Serbia, pp.166-167, https://www.sigmapublications.org/publications/Monitoring_Report-2021-Serbia.pdf

778 Ibid.

779 Personal Management Service, Report on Observance of Code of Conduct of Civil Servants for 2021, 2021, <https://www.suk.gov.rs/tekst/609/izvestaj-o-postovanju-kodeksa-ponasanja-drzavnih-sluzbenika-za-2021-godinu.php>

On the other hand, mandatory training on corruption prevention and strengthening integrity aims to improve the standards of behaviour of employees and managers in public authorities. The training programme prescribed by the APC follows the provisions of the code of conduct.⁷⁸⁰ The percentage of state administration bodies and independent state bodies which organise and implement this training for their managers and employees is 81.8%.⁷⁸¹

5.2.7. Gender

To what extent are the public service mechanisms gender-sensitive?



SCORE: 50/100

While new laws and strategies brought important innovations in terms of the institutional framework for achieving gender equality, it is still too early to talk about the effects.

In the last few years, Serbia has adopted several important laws and strategies on gender equality.⁷⁸² These documents brought an obligation for public authorities to continuously monitor the realisation of gender equality in the sector for which they are responsible.⁷⁸³ They are also responsible for carrying out activities related to gender equality promotion directly or in cooperation with civil society.⁷⁸⁴ The Law on Gender Equality stipulates that public authorities must implement measures to prevent and suppress violence.⁷⁸⁵ Unfortunately, the law does not further elaborate on how public authorities should implement these measures. Public authorities do not have obligations to adopt gender-sensitive protocols and regulations internally. Generally, gender-sensitive mechanisms regarding complaints and investigation in public institutions do not exist.

All public authorities with more than 50 employees are required to appoint persons in charge of gender equality. However, this person does not have obligations regarding complaints and investigation mechanisms in gender-related cases.⁷⁸⁶

The Law on Gender Equality stipulates that all public authorities must develop a risk management plan for violating the gender equality principle and record data on gender equality. This plan must contain a brief assessment of the situation concerning the position of women and men in the public authority, including age, a list of special measures, reasons for determining these measures and the goals they achieve, the start date of implementation, the method adopted and control of the implementation of measures. This document has the potential to develop special types of gender sensitivity protocols. However, bearing in mind that the implementation of these obligations recently started, it is too early to assess the results.⁷⁸⁷

⁷⁸⁰ Agency for Prevention of Corruption. 2020. Training programme in the field of preventing corruption and strengthening integrity, <https://www.acas.rs/uploads/source/Sektor%20za%20prevenciju%20i%20jačanje%20integriteta/Dokumenti/Programom%20obuke%20u%20oblasti%20sprečavanja%20korupcije%20i%20jačanja%20integriteta.pdf>

⁷⁸¹ Ministry of Public Administration and Local Self-Government. Annual Report 2021 on Implementation of the Public Administration Reform Strategy For 2021-2030, https://mduls.gov.rs/wp-content/uploads/Strategija-RJU_Godisnji-izvestaj-2021_Engl.pdf

⁷⁸² In 2021, Serbia adopted a new Law on Gender Equality, an umbrella law in the field of protection of human rights of gender minorities; the Law on Amendments to the Law on Prohibition of Discrimination; the Strategy for Preventing and Combating Gender-Based Violence and Domestic Violence for 2021 – 2025; and a new national strategy for gender equality.

⁷⁸³ The Law on Gender Equality. Official Gazette of the RS, No. 52/21, Article 25, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2021/52/3/reg?fbclid=IwAR1tvje9ljSS7Y3zupNXGEX0yat4Zs7vBHQICDDR60HDiWQ557iSO9rhfXA>

⁷⁸⁴ The Law on Gender Equality, Article 25.

⁷⁸⁵ The Law on Gender Equality, Article 53.

⁷⁸⁶ The Law on Gender Equality, Article 64.

⁷⁸⁷ The regulation on developing and implementing the risk management plan for the gender equality principle violation was adopted in mid-2022. There is still no data on the degree of implementation.

Role

5.3.1. Public education

To what extent does the public sector inform and educate the public on its role in fighting corruption?



SCORE: 25/100

Some programmes are aimed at informing the public about the fight against corruption, but they are insufficient and not well promoted.

Apart from the APC, there are only a few public bodies that have programmes aimed at educating citizens in the prevention and fight against corruption.⁷⁸⁸ Citizens are not encouraged to report corruption, and only some state authorities have on their websites sections where information can be found on how and to whom to report potential corruption.⁷⁸⁹ The MoJ has a web page dedicated to the “fight against corruption”, but there is no information for citizens on how to deal with the issue of corruption.⁷⁹⁰

The government does not have the fight against corruption listed as a priority, even at the declaratory level.⁷⁹¹ Within the revised action plan for Chapter 23, numerous activities are related to the prevention and fight against corruption. Still, they are primarily directed at civil servants and less at citizens.⁷⁹²

A good indicator that citizens are not encouraged to report corruption is the Ministry of Justice’s annual whistleblowing reports. A continual decrease in the number of reported whistleblower cases before the courts since the LPW was adopted in 2014 can be noted from these reports.⁷⁹³ In addition, most famous cases of corruption end up not being solved, which gives citizens the impression that it is futile to report corruption.⁷⁹⁴

5.3.2. Cooperation with public institutions, CSOs and private agencies in preventing/addressing corruption

To what extent does the public sector work with public watchdog agencies, business and civil society on anti-corruption initiatives?



SCORE: 25/100

Because there is no legal duty to cooperate with other stakeholders in decision-making, state authorities evaluate initiatives proposed to them on a case-by-case basis. In practice, they mostly ignore and reject them.

The willingness of state authorities to cooperate with other stakeholders is uneven and tends to happen on a case-by-case basis. Such decisions mostly depend on the priorities of the state authority, financed projects and political will. There is no general legal framework that would oblige government authorities to cooperate with CSOs and to support initiatives for corruption prevention. Moreover, there is no obligation for government authorities to explain their decision on cooperation or non-cooperation with business and civil society, but rather it is subject to

⁷⁸⁸ Institutions such as the APC, ombudsman and others which have their own pillars or indicators in the NIS won't be mentioned here as their role in prevention against corruption is explained in the relevant sections.

⁷⁸⁹ The Ministry of Interior has a page with information on how and to whom to report corruption in the ministry, and is mostly linked to the anti-bribery campaign, <http://prezentacije.mup.gov.rs/sukp/zalbe.html>

⁷⁹⁰ Alongside the statistics of corruption crimes, the page also contains legal acts and reports related to corruption, most of them outdated or not updated, <https://mpravde.gov.rs/tekst/38/protiv-korupcije.php>

⁷⁹¹ The national strategy for the fight against corruption has been missing for four years, and the government does not highlight the fight against corruption in its programme.

⁷⁹² The National Academy for Public Administration (NAPA) conducts annual training for public administration employees on issues related to conflict of interest prevention, within the general programme Corruption Prevention and the Fight against Corruption.

⁷⁹³ In 2016, the first year of statistical tracking, there were 289 whistleblower cases which appeared before courts versus 99 cases in 2021; Ministry of Justice. 2021. Annual report, <https://www.mpravde.gov.rs/sr/tekst/36946/izvestaj-o-primeni-zakona-o-zastiti-uzbunjivaca-za-2021godinu.php>

⁷⁹⁴ Veljković, J. 2019. Storm over Serbia, Whistleblower Arrest in State Arms Scam. BIRN, Balkan Insight, <https://balkaninsight.com/2019/10/14/storm-over-serbia-whistleblower-arrest-in-state-arms-scam/>

their discretion. On the other hand, some public institutions made efforts to establish adequate starting points for regular and efficient cooperation with CSOs. For example, the APC has guidelines for cooperation with CSOs.⁷⁹⁵

CSOs and businesses are also sometimes included in the process of drafting public documents or in project implementation, such as the drafting of the anti-corruption strategy.⁷⁹⁶ However, more often there are cases in which state authorities are not willing to cooperate or to consider the initiatives and recommendations provided by CSOs, especially if they cover politically sensitive topics.⁷⁹⁷ There is no systematic support from the public sector for anti-corruption projects by civil society organisations, except an annual granting competition the APC organises.⁷⁹⁸ It should be noted that in recent years, there has been more will to cooperate at the local level than at the central level.⁷⁹⁹

In February 2022, the government adopted a strategy⁸⁰⁰ which has a general goal to strengthen existing and introduce new mechanisms for creating an enabling environment for the activities of CSOs. Ensuring greater involvement of the civil sector in the decision-making processes at all levels of government is also stated as a special goal. Along with the strategy, an action plan for its implementation was also adopted, but considering the time of adoption, it is still too early to see any effects.

5.3.3. Reduce corruption risks by safeguarding integrity in public procurement

To what extent is there an effective framework to safeguard integrity in public procurement procedures, including meaningful sanctions for improper conduct by suppliers and public officials, and review and complaint mechanisms?

 SCORE: 50/100

There is a solid legal framework to safeguard the integrity of public procurement procedures. However, sanctions are rarely imposed, and there are several loopholes that are often used to bypass regular public procurement procedures.

The open bidding procedure is a general rule prescribed by the Law on Public Procurement (LPP),⁸⁰¹ and it is the procedure that is applied most frequently.⁸⁰² Exemptions from open bidding are exhaustively stipulated in the LPP.⁸⁰³ All decisions in public procurement procedures must be made on the basis of previously established objective criteria,⁸⁰⁴ and there is also a regular legal remedy against the contracting authority's decisions.⁸⁰⁵ All public procurement must be carried out in electronic form through the public procurement portal (PPP), where

795 The Agency for the Prevention of Corruption. 2020. Guidelines for Cooperation with CSOs, https://www.acas.rs/storage/page_files/Smernice%20za%20sradnju%20Agencije%20za%20sprečavanje%20korupcije%20sa%20OCD%20-%20prečišćen%20tekst.pdf

796 Such is the case with drafting of the new National Anti-Corruption Strategy which began in March 2023. Relevant CSOs were included in the working group, and there was also a public call with the invitation to apply.

797 As an example, calls to solve the issue of acting directors whose terms have expired, were deliberately ignored, <https://preugovor.org/Brief-Alert/1764/Stop-Illegal-Appointments-in-the-State.shtml>

798 The agency for the prevention of corruption conducts grant competitions to fund CSO anti-corruption projects every year. All information about the process and results are transparent, https://www.acas.rs/cyr/page_with_sidebar/civilno_drustvo#

799 This perception is based on the experience of Transparency Serbia in providing support to local governments to implement mechanisms for corruption prevention, such as local anti-corruption plans (LAP) and public participation in the budget preparation process. For example, Transparency Serbia worked with 12 municipalities and cities supported by the USAID GAI project on the development or revision of local anti-corruption plans, on establishing bodies for monitoring the implementation of LAPs, on supporting these bodies in the development of various acts following LAPs. Results of this project are here, <https://www.transparentnost.org.rs/index.php/sr/projekti/275-podrska-opstinama-i-gradovima-za-povecanje-transparentnosti-i-izradu-lokalnih-antikorupcijskih-planova>

800 Strategy for Creating an Enabling Environment for the Development of Civil Society in the Republic of Serbia 2022 to 2030, <https://www.minljmpdd.gov.rs/doc/strateska-dokumenta/Strategy-for-Creating-an-Enabling-Environment-for-the-Development-of-Civil-Society-in-the-Republic-of-Serbia2022to2030.pdf>

801 Law on Public Procurement. 2019. https://www.ujn.gov.rs/wp-content/uploads/2021/07/Public-Procurement-Law-OG-91_2019-PPO.pdf

802 Open procedure dominates at 98% for all concluded contracts in 2021. Source: PPO Annual Report for 2021, <https://jportal.ujn.gov.rs/annual-reports-ppo-public>

803 The open procedure is, alongside the restrictive procedure, prescribed in the LPP as a rule, but there are also five more types of procedure which contracting authorities can use, if the conditions prescribed by the LPP are met. The LPP also gives exclusions from the application of the LPP in Articles 11-21, which refer to areas such as: procurements in defence and security, contracts between related entities, some legal services, etc.

804 The criterion "lowest offered price" is dominant at 94%, compared to criterion of economically most advantageous which amounts to 6%. Source: PPO, 2021:20.

805 The fee for submitting a request is at least RSD 120,000 (US\$1080), which discourages bidders from submitting the request.

contracting authorities are obliged to publish all tender documentation,⁸⁰⁶ which can be accessed by anyone.⁸⁰⁷ The LPP does not state any rules for the supervision of contract implementation, which is one of the bigger legal shortcomings.^{808,809}

In practice, LPP provisions have been regularly bypassed for the most valuable projects,⁸¹⁰ through interstate agreements and tailor-made laws.⁸¹¹ Since the COVID-19 pandemic, there has been an increased use, often unjustified, of a negotiated procedure without publishing a contract notice, which is the least transparent type of procedure.⁸¹² Competition in procedures has decreased through the years.⁸¹³ Breaches of procurement law may constitute a criminal act or a misdemeanour, depending on the offence, but sanctions are rarely imposed.⁸¹⁴

The Public Procurement Office (PPO) is the central procurement body in Serbia. It is a special organisation within the government, managed by a director, which monitors the implementation of public procurement regulations. The capacity of the PPO has slightly improved since 2020,⁸¹⁵ but it still lacks resources to more efficiently monitor the public procurement system. The Republic Commission (RC) is an independent body in charge of handling requests for the protection of rights in public procurement procedures. The RC is efficient, addressing most of the submitted requests, but it has inconsistent legal positions, which leads to legal uncertainty.⁸¹⁶ Its capacity has slightly decreased since 2020.⁸¹⁷

5.3.4. Oversight of SOEs

To what extent does the state have a clear and consistent ownership policy of SOEs and the necessary governance structures to implement this policy?



SCORE: 25/100

With the adoption of the Law on the Management of Business Entities owned by the Republic of Serbia and strategy of state ownership and management of business entities owned by the Republic of Serbia, the legal conditions for a clearer ownership policy and oversight of SOEs have been met, but more activities need to be implemented in practice in order to improve the current situation.

There is no single legal framework governing state ownership.⁸¹⁸ The legal forms under which SOEs operate are not uniform.⁸¹⁹ However, the Law on the Management of Business Entities owned by the Republic of Serbia (LMBE), which was adopted in August 2023, introduces an obligation for public enterprises to change their legal

⁸⁰⁶ These documents include: annual procurement plan, contract notice, technical description and specification, description of the criteria for the qualitative selection of economic operator, contract award decisions and others.

⁸⁰⁷ Public Procurement Portal, available both in Serbian and English, <https://jnportal.ujn.gov.rs/DashboardFrm.aspx>

⁸⁰⁸ Transparency Serbia. 2021. *Public procurement and public private partnerships – between solid regulations and bad practice*, 2021, pp.12-13, <https://www.transparentnost.org.rs/images/publikacije/TS%20MATRA%20ENG%20ONLINE.pdf>

⁸⁰⁹ Since January 2023, the budgetary inspection, which is a MoF body, is in charge for the supervision of the execution of public procurement contracts.

⁸¹⁰ The registered value of procurements exempted from the application of the LPP in 2021 was RSD 380 billion (US\$3.42 billion), which amounts to 40% of the total public procurement value in Serbia in 2021. PPO. 2021:25.

⁸¹¹ Interstate agreements and special laws (such as the law on special procedures for linear infrastructure projects) are used for direct arrangements and avoid competition and transparency; Transparency Serbia. 2021. *Grand Corruption and Tailor-made Laws in Serbia*, pp.35,42&43, https://www.transparentnost.org.rs/images/dokumenti_uz_vesti/Grand_Corruption_and_Tailor-made_Laws_in_Serbia.pdf

⁸¹² Transparency Serbia, Centre for Applied European Studies. 2022. *Main problems in public procurement in Serbia*, p.17, : <https://preugovor.org/Policy-Papers/1756/Main-Problems-of-Public-Procurement-in-Serbia-in.shtml>

⁸¹³ Average number of bids fell from 3 in 2017 to 2.5 in 2021 – Transparency Serbia, Centre for Applied European Studies, 2022:6.

⁸¹⁴ In 2021, there were only nine adjudications for the criminal offence of abuse in public procurement". Public Prosecutors Office. 2022. Annual Report for 2021, p.78 <http://www.rjt.gov.rs/docs/rad-javnih-tuzilastava-na-suzbijanju-kriminaliteta-i-zastiti-ustavnosti-2022.pdf>

⁸¹⁵ In 2021, PPO had 44 employees, compared to 38 in 2020.

⁸¹⁶ There is evidence of unequal decision-making of the Republican Commission in similar cases, which is why there is an initiative to convene a general session and to harmonise legal positions. Bidders of Serbia. *Will the Republican Commission adopt a clear position this time and restore confidence in public procurement procedures?* <https://ponudjacisrbije.rs/razmena-iskustava/da-li-ce-republicka-komisija-ovoga-put/>

⁸¹⁷ In 2021, the RC had 52 employees, compared to 54 in 2020.

⁸¹⁸ SOE ownership is regulated by the Law on Government, the Law on Public Property, the Law on Public Enterprises, the Law on Management of Business Entities owned by the Republic of Serbia.

⁸¹⁹ They are either in form of joint-stock companies, limited liability companies, public enterprises or others.

form to joint-stock or limited liability companies.⁸²⁰ This process, which is already ongoing through the process of corporatisation, should bring all SOEs under a single legal framework.⁸²¹

In April 2021 the government adopted the strategy of state ownership,⁸²² thus defining the role of Ministry of Economy^{823, 824} as a centralised ownership entity over SOEs. Before the adoption of this strategy there was no state institution that exercised the three main powers of ownership in terms of control, responsibility and management ability. Even though the government directly or indirectly controls SOEs, the ownership function of the SOEs is expressed through organisational units in the Ministry of Economy (MoE), the Ministry of Finance (MoF) and in other ministries.⁸²⁵ Other SOEs are supervised and controlled by competent ministries, or their operations are not supervised at all.

The LMBE envisages the policy of centralised ownership management over business entities in state ownership.⁸²⁶ Before this, goals of ownership management were not clearly defined but were determined on the basis of laws and strategic documents, which are often in conflict with each other. Since the LMBE was adopted in 2023 and since the activities from the action plan for the implementation of the strategy are mostly scheduled or 2023, it is still too early to evaluate the effects of the policy of centralised ownership management.

According to the Law on Public Enterprises,⁸²⁷ SOEs should submit their quarterly reports on the implementation of business programmes to the MoE. Based on those reports, the MoE prepares and submits information on the level of compliance of planned and implemented activities to the government; however, no further procedure is described.⁸²⁸

Interactions

Three pillars that the public sector has most interactions with are: executive, anti-corruption agency and state-owned enterprises.

The government has a strong influence over the public sector, particularly on the employment of civil servants and state employees and on the independence of state authorities. The government creates a strategy of employment in the public sector, and it directly appoints some of the most senior civil servants, such as assistant ministers. The government dictates salaries in the public sector with its policies. Government bodies, such as the human resources management service and the appeals commission of the government, have an important role in the work of this sector.

The interaction between the public sector and the Agency for the Prevention of Corruption (APC) is primarily reflected in the powers that the agency has, which aim to prevent and fight against corruption. The APC regularly holds training courses for state employees and civil servants in public authorities on ethics and integrity. The APC also supervises and provides support to public authorities in the development of integrity plans, which is particularly important to recognise the importance of integrity plans as a mechanism for preventing the risk of corruption.

The relationship between the public sector and SOEs is reflected in the role that the public sector plays in the management and supervision of SOEs, such as through the Ministry of Economy and Ministry of Finance. However, there is still no centralised system of supervision, which is why there is no consistent and comprehensive reporting on their work.

820 The Law on the Management of Business Entities owned by the Republic of Serbia. Official Gazette of the RS, No. 76/23, <https://www.paragraf.rs/propisi/zakon-o-upravljanju-privrednim-drustvima-koja-su-u-vlasnistvu-republike-srbije.html>

821 It should be noted that the Law on the Management of Business Entities owned by the Republic of Serbia does not regulate the work of state-owned business entities, which are still public enterprises. It only stipulates that they should change their form into joint-stock or limited liability companies.

822 Strategy of State Ownership and Management of Business Entities owned by the Republic of Serbia for the period 2021-2027, <https://privreda.gov.rs/sites/default/files/documents/2021-08/Strategija-Drzavno-Vlasnistvo-003.pdf>

823 The Ministry of Economy already had the most prominent role which is broadly covered by two areas: i) privatisation; and ii) supervision of public enterprises and other SOEs that perform activities of general interest.

824 The strategy and action plan envisage strengthening the capacity of the Ministry of Economy so that it can perform the newly entrusted functions.

825 Those are public enterprises and capital companies that perform activities of general interest, SOEs that should be privatised, as well as SOEs that represent a fiscal risk for the state.

826 Article 4 of the Law on the Management of Business Entities owned by the Republic of Serbia.

827 Law on Public Enterprises. Official Gazette of the RS, No. 15/16 and 88/19, https://www.paragraf.rs/propisi/zakon_o_javnim_preduzecima.html

828 Law on Public Enterprises, Article 63 and 64.

Policy Recommendations

- The government should abandon the practice of acting appointments of civil servants, and the administrative court should annul the previous illegal decisions in this regard.
- The Agency for the Prevention of Corruption should conduct research on corruption and privileged employment in state administration and, following the research findings, propose measures to eliminate the problem of political influences in the employment process.
- The government and parliament need to make amendments to the regulations related to conflict-of-interest management for employees in the public sector and establish a basis for the wider and more efficient application of this mechanism. These amendments should also include chiefs of cabinet and governmental advisers and advisers to the president, so that they would be obliged to follow asset declaration rules.
- The Law on Whistleblower Protection should be amended to appropriately penalise all forms of retaliation towards whistleblowers and to place one body in charge of general and comprehensive oversight of the law's implementation. Additionally, the Ministry of Justice should analyse the effectiveness of law enforcement and transparency of other bodies in this area. The monitoring should not focus only on the protection granted to the whistleblowers but also on follow-up actions on information provided by them.
- The government should abandon the practice of concluding interstate agreements or proposing special laws aimed at circumventing public procurement regulations.

6. Law Enforcement Agencies

Summary

OVERALL PILLAR SCORE: 52.8/100

DIMENSION	INDICATOR	LAW	PRACTICE
CAPACITY  50/100	RESOURCES	/	75
	INDEPENDENCE	50	25
GOVERNANCE  58.3/100	TRANSPARENCY	75	50
	ACCOUNTABILITY	75	25
	INTEGRITY	75	50
	GENDER	25	
ROLE  50/100	CORRUPTION PROSECUTION	50	

The police is the main body responsible for law enforcement in Serbia. The Law on Police in Serbia delineates three categories of employees within the Ministry of Interior: police officers, civil servants and state employees. Of the 31,608 individuals involved in police tasks and exercising police powers, those engaged in administrative, financial and human resources roles within the ministry do not require police powers as these functions fall outside the scope of their duties. It consists of almost 42,000 uniformed and plainclothes officers, of which more than 31,000 have police powers like the use of force.⁸²⁹ The general police directorate within the ministry is organisationally and administratively responsible for policing. Its competencies and powers are regulated by the Law on Police, which was adopted in 2016 and amended twice in 2018.⁸³⁰ The draft Law on Internal Affairs, intended to replace existing legislation, was withdrawn from the adoption procedure twice in 2022 due to negative public and international organisations' reaction.⁸³¹ They raised concerns about proposals weakening police autonomy, bolstering interior ministerial power and undermining the police's subordination to the prosecution in criminal investigations. The police director leads the general police directorate, but the position has been vacant since December 2021.

Operational independence of the police from the Ministry of Interior is not guaranteed by law or practice, as political parties secure loyalty through economic privileges like housing solutions and salary increases. Despite legislative improvements in transparency, accountability, and integrity with the 2016 Law on Police, concerns persist regarding transparency, with the 2022 annual report not being available online and difficulty accessing older reports.

The interior ministry receives the most complaints in Serbia for non-responsiveness to information requests. Parliamentary oversight, internal control and the police complaint system are weak; integrity mechanisms, including asset declarations, lack full impact; assessing the effectiveness of new anti-corruption measures is challenging

⁸²⁹ Informator o radu Ministarstva unutrašnjih poslova Republike Srbije. September 2022, <http://mup.gov.rs/wps/wcm/connect/fe6262bf-9374-4235-ad95-fde5e77f6ade/IOR+septembar+2022+cir.pdf?MOD=AJPERES&CVID=odFwuqN>

⁸³⁰ Law on Police, No. 6/2016, 24/2018, 87/2018, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2016/6/1/reg>

⁸³¹ Radovan Balać. 2022. Withdrawal of the Draft Law on Internal Affairs in Serbia: The Prime Minister's Gambit, European Western Balkans, <https://europeanwesternbalkans.com/2022/12/31/withdrawal-of-the-draft-law-on-internal-affairs-in-serbia-the-prime-ministers-gambit/>

due to a lack of research on police officers' actual experiences and perceptions of measures like integrity testing, asset declarations and risk analysis.

Outcomes of criminal charges for police corruption remain unknown due to bureaucratic challenges between the police and the courts.

Capacity

6.1.1. Resources (practice)

To what extent do law enforcement agencies have adequate levels of financial resources, staffing and infrastructure to operate effectively in practice?



SCORE: 75/100

Although resources for police in Serbia are increasing and salaries for employees have had the highest growth in the Western Balkans, poor budget execution has led to inexpedient use of funds.

After a series of restrictive budgets, the interior ministry funds have constantly increased since 2016. The budget for 2023 is RSD 109 billion (app. €930 million), RSD 13 billion (€110 million) higher than in 2022 and RSD 24 billion (€200 million) higher than in 2019.⁸³²

Table 4: Annual budget

Year	Total budget (in billions of RSD)	Total budget (in millions of EUR) ⁸³³	Increase in % per year
2023	109.21	931.21	13.4
2022	96.31	820.90	1.6
2021	94.77	805.99	3.8
2020	91.32	776.66	7.7
2019	84.78	720.96	

At the same time, police officers' salaries increased significantly in 2019, with more than 70% of the 2021 budget for wages.⁸³⁴ Senior staff in the police are among the best paid in the Western Balkans.⁸³⁵ Also, according to the 2018 law, members of the police are entitled to new housing at a favourable price, where the square metre price cannot exceed €500.⁸³⁶ In 2018, average prices for new apartments was €1,180 per square metre,⁸³⁷ while in 2022, it reached more than €1,600.⁸³⁸ It is considered that the ruling political parties privilege police employees to ensure their loyalty at any cost because they are key to staying in power.⁸³⁹ According to one expert, these moves have

⁸³² Lazar Čovs i Predrag Vujić, Budžet Srbije za 2023: Koji ministri raspolažu sa više novca i na šta odlazi najviše, BBC News na srpskom, 16 December 2022, <https://www.bbc.com/serbian/lat/srbija-63972031>

⁸³³ Based on materials received in an interview conducted on 23 December 2022.

⁸³⁴ Izveštaj o stanju bezbednosti i radu Ministarstva unutrašnjih poslova u 2021. godini, Ministarstvo unutrašnjih poslova Republike Srbije, February 2022.

⁸³⁵ Global Initiative against Transnational Organized Crime. 2022. Low police salaries in the Western Balkans risk increasing corruption among police forces, Risk Bulletin 13., <https://riskbulletins.globalinitiative.net/see-obs-013/06-low-police-salaries-in-the-western-balkans.html>

⁸³⁶ Article 10, Zakon o posebnim uslovima za realizaciju projekta izgradnje stanova za pripadnike snaga bezbednosti, No. 41/2018, 54/2019, 9/2020 i 52/2021, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2018/41/1/reg> The state housing project for police officers undermines the anti-corruption regulation on public procurement and abuses it for political promotion. See more in: Nemanja Nenadić, Poseban zakon za državnu stanogradnju iz 2018. i njegovo sprovođenje, Belgrade Centre for Security Policy and Transparency Serbia, March 2020 https://www.transparentnost.org.rs/images/dokumenti_uz_vesti/Poseban_zakon_TS.pdf

⁸³⁷ Izveštaj o stanju na tržištu nepokretnosti za 2018. godinu, Republički geodetski zavod, December 2019, https://www.rgz.gov.rs/content/Datoteke/masovna%20procena/2019/Godisnji_Izvestaj_trziste_nepokretnosti2018.pdf

⁸³⁸ Izveštaj o stanju na tržištu nepokretnosti za prvo polugodište 2022. godine, Republički geodetski zavod, September 2022, https://www.rgz.gov.rs/content/Vesti/2022/09/ilovepdf_merged.pdf

⁸³⁹ Predrag Petrović, Kupovina lojalnosti, Belgrade Centre for Security Policy, November 2019, https://bezbednost.org/wp-content/uploads/2020/06/kupovina_lojalnosti_.pdf

meant that over 20 police unions have not seen the need to debate or suggest changes to the police budget.⁸⁴⁰ On the other hand, police unions have complained that the purchasing power of police officers dropped drastically in 2022 and the increase did not match that of the national average salary.⁸⁴¹

The police service in Serbia is considered overstaffed, with 435 police officers per 100,000 inhabitants,⁸⁴² well above the average in the European Union (326)⁸⁴³ or United Nations standards (300).⁸⁴⁴ Known examples of insufficient control of confidential procurements, as in the case of purchasing 710 vehicles,⁸⁴⁵ indicate that part of the funds is inadequately used.

Within the interior ministry, the internal control sector acts preventively and repressively to ensure police accountability.⁸⁴⁶ In 2021, the number of systematised workplaces in the internal control sector increased to 179, 23 more than in 2020, of which 158 are filled (12 more than in 2020).⁸⁴⁷ The number of offices also increased, and 16 vehicles were procured.⁸⁴⁸

6.1.2. Independence (law)

To what extent are law enforcement agencies independent by law?



SCORE: 50/100

Current legislation in Serbia does not guarantee the full operational independence of the police. On the contrary, in some provisions, the law threatens its independence.

The Serbian parliament adopted the Law on Police in 2016. Key progress in comparison to previous legislation has been made in separating the tasks of the general police directorate and interior ministry.⁸⁴⁹ Human resource management in the police became the legal duty of the interior ministry.⁸⁵⁰ Job competition has become mandatory, and regulations governing job competition have been adopted.⁸⁵¹ Criteria for promotion have been enumerated.⁸⁵² Security checks are also planned for employees during their period of employment, not only at the time of hiring.⁸⁵³ The required competencies of members of the police are prescribed, as well as a set of knowledge and skills, traits and abilities that shape employees' performance.⁸⁵⁴

However, the 2018 amendments to the Law on Police were a step backward. Recruitment without public or internal competition was made possible if the act on internal regulation and systematisation of job positions provided that the competition for certain positions was optional.⁸⁵⁵ This means that the interior minister has the power to decide who will be recruited outside the regular procedure since the classified act on systematisation was produced and approved by the minister. Also, the minister decides on each public recruitment call, appoints members of the selection committee responsible for shortlisting candidates from which the minister chooses who will be selected, signs the employment contract for each future employee and approves each request for promotion or transfer.⁸⁵⁶

840 Interview with Saša Đorđević, an expert who has followed police reform in Serbia for more than a decade, December 2022.

841 Koliko zarađuju policajci u Srbiji: Za prosečnu potrošačku korpu potrebne su im 1,32 plate, Danas, 21 November 2022, <https://www.danas.rs/vesti/ekonomija/koliko-zarađuju-policajci-u-srbiji-za-prosecnu-potrosacku-korpu-potrebne-su-im-132-plate/>

842 European Commission. 2021. Serbia 2021 Report, p.42, https://ec.europa.eu/neighbourhood-enlargement/document/download/fbe0f0b7-d8ff-4b89-a4ed-af5cccd289470_en

843 Ibid, p.42.

844 Twelfth United Nations Congress on Crime Prevention and Criminal Justice. 2010. State of crime and criminal justice worldwide, Report of the Secretary-General, 1 February 2010, p.19, https://www.unodc.org/pdf/criminal_justice/State_of_crime_and_criminal_justice_worldwide_2010.pdf

845 Vladimir Erceg, Nemanja Nenadić and Saša Đorđević. 2017. Public Suspicions Due to Secret Procurement, Poinpulse, <https://poinpulse.bezbednost.org/magazine/public-suspicions-due-secret-procurement/>

846 Article 225 of the Law on Police.

847 Sektor unutrašnje kontrole Ministarstva unutrašnjih poslova Republike Srbije, Izveštaj o radu Sektora unutrašnje kontrole za 2021. godinu, March 2022, http://prezentacije.mup.gov.rs/sukp/rezultati/Izvestaj_2021_SUK.pdf

848 Ibid.

849 Articles 11 and 24 of the Law on Police.

850 Article 11 of the Law on Police.

851 Saša Đorđević. 2016. Human Resource Management, Assessment of Police Integrity in Serbia, Belgrade Centre for Security Policy, 2016, p.1, <https://poinpulse.bezbednost.org/wp-content/uploads/2017/04/Assessment-of-Police-Integrity-in-Serbia-2016.pdf>

852 Ibid, p.41.

853 Ibid, p.41.

854 Ibid, p.45.

855 Article 135 of the Law on Police.

856 Sonja Stojanović Gajić. 2018. The London Summit Topics (4): Security Issues, Civil Society Forum of the Western Balkans, <https://wb-csf.eu/csf-security-and-migrations/opinions//the-london-summit-topics-4-security-issues>

Political, functional and operational independence of internal control is undermined since the Law on Police stipulates that the interior minister provides guidelines and issues orders (except in case of preliminary investigation and investigation initiated by the public prosecutor), states how internal control is to be conducted, oversees the work of the head of the internal control sector, who is at the same time assistant to the interior minister, and selects personnel tasked with security vetting of internal control employees.⁸⁵⁷ In this way, the minister has been given the power to influence the operation of the police. Although limited, it provides opportunities for the minister to instruct the police to refrain from acting upon certain information, thus preventing a case from ever reaching prosecution.

As a result, the principle of police operational independence is mere declarative.⁸⁵⁸ Furthermore, draft proposals to change policing legislation from 2021 and 2022 further threaten politically unbiased policing. The draft law grants the interior minister, a political figure, the authority to issue mandatory instructions, compromising the autonomy of the police and bolstering the minister's position. The absence of provisions for the police director to refuse instructions or report violations further weakens the police's independence. The minister, not the police director, dictates most by-laws in policing, including the use of force and operational procedures. The government can dismiss the director without specified reasons, a regression from the current law that requires cause related to job performance. Additionally, the proposed law allows individuals outside the policing profession, potentially with strong political ties, to become police director, deviating from the current requirement of expertise and experience in law enforcement.⁸⁵⁹

6.1.3. Independence (practice)

To what extent are law enforcement agencies independent in practice?



SCORE: 25/100

The position of director of police remains vacant, while there are examples of interference in police operations by the Ministry of Interior's political leadership.

Serbian police have operated without a director since December 2021, which, according to one expert, could be understood as the influence of politics over professionalism.⁸⁶⁰ In late 2021, the former police director retired.⁸⁶¹ Since then, there has yet to be a signal that a public competition will be announced, even if mandatory by the law.⁸⁶² This is one of most visible symptoms since 2015 that police in Serbia are exposed to political interference.

The position of the head of the criminal police directorate (the second strongest position in the police) remained vacant twice for more than a year. In total, criminal police were without a chief for over two years.⁸⁶³ In the case of the Savamala demolition, investigated by the ombudsman, senior members of the police force ordered local police to redirect citizens,⁸⁶⁴ who reported that a group of masked people were demolishing property in the Belgrade district on election night on 24 April 2016.⁸⁶⁵ A lower-ranked former police officer, the only one accused in this case, said that police and high state officials promised him compensation if he admitted responsibility for poor performance during the incident.⁸⁶⁶

857 Saša Đorđević. 2019. The Internal Control Sector of the Ministry of Interior, Institutional Barometer 2.0, Belgrade Centre for Security Policy, pp.53-71, https://preugovor.org/upload/document/institutional_barometer_2.pdf

858 Article 12 of the Law on Police.

859 Belgrade Centre for Security Police. 2022. Proposals for Police Reform in View of the Upcoming Drafting of the Law on Internal Affairs, Preugovor, https://preugovor.org/upload/document/preugovor_amendments_8_bcsp_draft_law_on_internal_.pdf

860 Interview with Saša Đorđević, an expert who has followed police reform in Serbia for more than a decade, December 2022.

861 Aleksandar Bojović, Vladimir Rebić od 16. decembra u penziji, Politika, 22 October 2022, <https://www.politika.rs/scc/clanak/490281/Vladimir-Rebic-od-16-decembra-u-penziji>

862 Article 149 of the Law on Police.

863 Interview with Saša Đorđević, an expert who has followed police reform in Serbia for more than a decade, December 2022.

864 Ombudsperson, Ombudsperson decision following a citizen's complaint in the case of Savamala – <https://www.ombudsman.rs/attachments/article/4723/savamala.pdf>

865 Marija Ignjatijević. 2016. The Collapse of the Rule of Law in Serbia: the "Savamala" Case, Pointpulse, <https://pointpulse.bezbednost.org/magazine/collapse-rule-law-serbia-savamala-case/>

866 KRIK, 2022. Policajac osuden u slučaju Savamala otkriva pozadinu dogadaja: „Rekli su mi da prihvativam krivicu jer je pitanje života i smrti za vlast – <https://www.krik.rs/policajac-osudjen-u-slucaju-savamala-otkrova-pozadinu-dogadjaja-rekli-su-mi-da-prihvativam-krivicu-jer-je-pitanje-zivota-i-smrti-za-vlast/>; BIRN, 2022 – <https://birn.rs/goran-stamenkovic-jedini-kaznjeni-u-slucaju-savamala-postupao-sam-po-naredenju-i-danas-trpim-politicke-pritiske/>

Details on the direct involvement of the country's top political leadership in criminal investigations were revealed by the former state secretary of the ministry, Dijana Hrkalović,⁸⁶⁷ who was also accused of alleged connections with criminal groups and trading in influence.⁸⁶⁸

Ministry of Interior's use of its webpage for political promotion during the 2022 election campaign might raise concerns about the fair use of government resources.⁸⁶⁹ Media outlets close to people in political power allegedly receive police data to promote the political interests of individuals.⁸⁷⁰ Information obtained from the police is often used for political purposes, to get even with political opponents and those with different opinions and convictions, and to stigmatise specific individuals.⁸⁷¹ In one example of political influence, the interior ministry political leadership took over operational command of the police during local elections in 2018.⁸⁷² Arrests of police officers due to possible connections with serious organised crime and a tabloid campaign against certain police officers were reported in 2021.⁸⁷³

Governance

6.2.1. Transparency (law)

To what extent are there provisions to ensure that the public can access the relevant information on law enforcement agency activities?



SCORE: 75/100

The legislation ensures good transparency of policing in Serbia but does not require public disclosure of asset declarations.

The 2016 Law on Police stipulates that the work of the interior ministry is public.⁸⁷⁴ It is obliged to inform the public promptly and thoroughly about its work, except for ongoing criminal proceedings, violation of regulations governing data confidentiality and breaches of citizens' dignity and right to personal liberty.⁸⁷⁵ This is an improved legal solution to the previous one from 2005. The interior ministry is also subject to the Law on Free Access to Information of Public Importance. The law recognises grounds to restrict access, including confidentiality and personal data protection.

In addition to the annual report on the security situation, which should inform the public about safety and crime trends in the country, legislation obliges the interior ministry to publish an annual report and thus inform the public about the development and results of the police reform processes, as well as quarterly reports, which are submitted to parliament.⁸⁷⁶ The internal control sector is also obliged to publish annual reports.⁸⁷⁷ Yearly reports on civilian complaints must also be made available,⁸⁷⁸ as well as reports on changes to the legislation.⁸⁷⁹

The 2016 Law on Police regulates the issue of data collection relating to changes to the financial status of officials and those with the highest risk of corruption in the interior ministry.⁸⁸⁰ This is a step forward compared to the previous legislation when only nominated, appointed and elected officials were obliged to report their property.

867 Interview on Happy TV, 25 July 2022, <https://www.youtube.com/watch?v=SnykxZgRV4w>

868 Bojana Pavlović, Dijana Hrkalović optužena za trgovinu uticajem, KRIK, 10 December 2021, <https://www.krik.rs/dijana-hrkalovic-optuzena-za-trgovinu-uticajem/>

869 Prijava zbog moguće povrede člana 50. Zakona o sprečavanju korupcije, Transparentnost Srbija, 6 December 2021 https://www.transparentnost.org.rs/images/dokumenti_uz_vesti/Prijava.ACAS.Vulin.SajtMUP.pdf

870 Marija Vukasović. 2018. Media and Police in the Western Balkans, Belgrade Centre for Security Policy, pp.15-17, <https://pointpulse.bezbednost.org/wp-content/uploads/2018/09/point-media-police-western-balkans-2018.pdf>

871 Jelena Veljković. 2017. Police and the Media Documentary Movie, Balkan Investigative Network Serbia, <https://youtu.be/myJOTYbLdaE>.

872 Petar Jeremić, Crveni alarm za buduća glasanja, Vreme, 20 December 2018, <https://www.vreme.com/vreme/crveni-alarm-za-buduca-glasanja/>

873 INJSJADER. 2021. <https://insjader.net/arkiva/tema/cetvrti-pripadnik-sluzbe-za-borbu-protiv-organizovanog-kriminala-mup-a-osumnjican-za-vezu-sa-kavackim-klanom-i-belivukom-clisgiji>; Danas, NIN. 2021. <https://www.danas.rs/vesti/drustvo/nin-kampanjom-protiv-milenkovica-i-matica-nastavljena-praksa-da-se-u-mup-u-kaznjava-za-dobar-rad/>

874 Article 6 of the Law on Police.

875 Ibid.

876 Ibid.

877 Article 234 of the Law on Police.

878 Article 240 of the Law on Police.

879 Article 254 of the Law on Police.

880 Article 230 of the Law on Police.

The law stipulates that personal property cards for managers (heads of units) and employees in high-risk positions in the ministry, determined by a corruption risk analysis, will be kept by the regulation governing records and data processing in the field of home affairs.⁸⁸¹ Yet, the legislation does not oblige the publication of asset declarations.

6.2.2. Transparency (practice)

To what extent is there transparency in the activities and decision-making processes of law enforcement agencies in practice?



SCORE: 50/100

Although the interior ministry's transparency has improved since 2016, there are still important gaps in terms of providing information of public importance and annual work reports.

The interior ministry's transparency has improved since April 2016 with a new website.⁸⁸² Laws, by-laws, strategies, agreements, conventions and project factsheets are accessible,⁸⁸³ as well as data about procurement, budgets and competitions.⁸⁸⁴ Some reports are also available, such as annual reports from the internal control sector and reports on complaints.⁸⁸⁵ There is a quick link where citizens can find information on how to report corruption in the police or submit complaints.⁸⁸⁶ However, the search function does not produce accurate results.⁸⁸⁷

The ministry regularly posts press statements and information bulletins about work results or activities of officials, primarily interior ministers.⁸⁸⁸ In 2021, the ministry published 1,730 announcements, 1,161 posts on Facebook and 962 on Instagram, and 4,029 requests from journalists were processed.⁸⁸⁹ Still, it is unknown how many requests were approved. Also, there is a significant difference between the press releases of the interior ministry and the actual number of criminal offences committed in Serbia during the year. The ministry informs citizens more about some criminal offences than others, such as drug and weapon trafficking.⁸⁹⁰ The practice of publishing reports on implementing the action plan within the European Union accession of Serbia in the field of home affairs improved in 2021 after three years of nothing being publicly available.

The Law on Police obliges the interior ministry to publish work and security reports. These were available in the information booklet until November 2022. Since then, the ministry has been publishing the information booklet via the unified information system of information booklets,⁸⁹¹ managed by the Commissioner for Information of Public Importance and personal data protection. However, annual work and security reports are unavailable on the new platform. Quarterly reports that the ministry submits to parliament have never been publicly available.⁸⁹² Asset declarations submitted to the internal control sector are not accessible for public scrutiny. Semi-annual information on legal changes has been published only once, in 2016, even though it is a legal obligation.

Journalists and researchers must wait a long time to receive a response from the police, or they do not receive it at all. Sometimes, the information they receive is incomplete. The problem is also caused by the fact that the police do not respect the statutory deadlines for providing information of public importance. As a result, journalists, media and citizens must submit complaints and address institutions charged with protecting the right to free access to information.⁸⁹³ In 2021, most complaints submitted to the Commissioner for Information of Public Importance and personal data protection were against the interior ministry.⁸⁹⁴ Police rarely hold press conferences, and there is no official spokesperson.⁸⁹⁵

⁸⁸¹ Ibid.

⁸⁸² Novi sajt MUP-a Srbije, Politika, 13 April 2016, <https://www.politika.rs/sr/clanak/353034/Novi-sajt-MUP-a-Srbije>

⁸⁸³ See <http://mup.gov.rs/wps/portal/sr/dokumenti>

⁸⁸⁴ See <http://mup.gov.rs/wps/portal/sr/finansije>

⁸⁸⁵ See <http://mup.gov.rs/wps/portal/sr/dokumenti>.

⁸⁸⁶ See <http://prezentacije.mup.gov.rs/sukp/zalbe.html>

⁸⁸⁷ For example, if the words complaint or appeal are typed in the box used to search the website, what appears is a reply that no results for those terms have been found.

⁸⁸⁸ Interview with Saša Đorđević, an expert who has followed police reform in Serbia for more than a decade, December 2022.

⁸⁸⁹ Marija Pavlović. 2020. How Police Communicate: Analysis of Press Releases on Local Safety, Belgrade Centre for Security Policy, <https://bezbednost.org/wp-content/uploads/2020/12/OEBS-eng-01.pdf>

⁸⁹⁰ Ibid.

⁸⁹¹ See <https://informator.poverenik.rs/informator?org=v2yHFEfSmGTAMAfXF5>

⁸⁹² Interview with Saša Đorđević, an expert who has followed police reform in Serbia for more than a decade, December 2022.

⁸⁹³ Marija Vukasović. 2018. Media and Police in the Western Balkans, Belgrade Centre for Security Policy, <https://pointpulse.bezbednost.org/wp-content/uploads/2018/09/point-media-police-western-balkans-2018.pdf>

⁸⁹⁴ Poverenik za informacije od javnog značaja i zaštitu podataka o ličnosti, Izveštaj o radu Poverenika za informacije of javnog značaja i zaštitu podataka o ličnosti za 2021. godinu, March 2022, <https://www.poverenik.rs/images/stories/dokumentacija-nova/izvestajiPoverenika/2021/Izve%C5%87ta2021CIRfinal.pdf>

⁸⁹⁵ Ibid.

6.2.3. Accountability (law)

To what extent are there provisions to ensure that law enforcement agencies have to report and be answerable for their actions?



SCORE: 75/100

The legislation offers solid grounds for holding the police accountable but with vague procedures for submitting complaints.

The police in Serbia are subject to external and internal control.⁸⁹⁶ Externally, national and local parliaments, magistrates, independent state regulatory bodies like the Agency for the Prevention of Corruption, and citizens oversee policing.⁸⁹⁷ Internally, the internal control sector controls police officers and other employees in the interior ministry.⁸⁹⁸ The internal control sector and the prosecution service investigate and prosecute corruption committed by police officers,⁸⁹⁹ who are not immune from criminal proceedings. As the parliament can review reports from the interior ministry and oversee the legality of special investigative measures like wiretapping, all basic and some advanced external control mechanisms are at parliament members' disposal.⁹⁰⁰

The law allows any citizen, including employees within the police service or interior ministry, to make a complaint against a police officer if they feel as if their rights were violated. There is no discrimination on any basis.⁹⁰¹ The complaint process involves proceedings before the head of the organisational unit where the police officer subject to the complaint works, and is designed to achieve consensus with the complainant. The procedure is escalated to the complaints commission if the complaint cannot be resolved.⁹⁰² In this way, a person whose rights have been allegedly violated must further substantiate the allegations in the complaint before the police employee's superior.

There are concerns that the (unstated) purpose of this process is to persuade citizens that their rights have not been violated. Violation of rights is not something that two parties can negotiate or agree upon. Only the person who decides on the violation of rights (in this case, the superior of the employee subject to the complaint) can establish whether a right has been violated. This means that two opposing positions need to be aligned – that of the citizen and the superior.⁹⁰³

6.2.4. Accountability (practice)

To what extent do law enforcement agencies have to report and be answerable for their actions in practice?



SCORE: 25/100

Parliament does not fully use its powers to hold the police accountable. The internal control service and complaint mechanism are functional, but data on the impact of measures are scarce.

Parliamentary oversight of the police is not satisfactory. The work of the committee that oversees policing is characterised by poor debate without substantive discussion. Verbal confrontations between the ruling and opposition parties and the promotion of positive results by the police dominate.⁹⁰⁴ There is a bad practice of avoiding sittings on days dedicated to posing parliamentary questions to the government and reviewing reports of independent state regulatory institutions. Since August 2022, members of parliament have proposed the establishment of inquiry committees in several cases related to the work of police,⁹⁰⁵ but these topics have not yet been included on parliament's agenda.

896 Article 220 of the Law on Police.

897 Article 221 of the Law on Police.

898 Article 224 of the Law on Police.

899 Article 227, Zakon o policiji, Official Gazette of the Republic of Serbia, No. 6/2016, 24/2018, 87/2018, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2016/6/1/reg>

900 Interview with Saša Đorđević, an expert who has followed police reform in Serbia for more than a decade, December 2022.

901 Article 234 of the Law on Police.

902 Article 235 of the Law on Police.

903 Interview with Saša Đorđević, an expert who has followed police reform in Serbia for more than a decade, December 2022.

904 Interview with Saša Đorđević, an expert who has followed police reform in Serbia for more than a decade, December 2022.

905 Akti u proceduri, Narodna skupština Republike Srbije, www.parlament.gov.rs/акти/остала-акта/акта-у-процедури/акта-у-процедури.49.html

In 2021, the internal control sector filed 184 criminal charges against 251 persons (192 police officers).⁹⁰⁶ This is an increase from 2020, when 210 individuals (162 police officers) were charged.⁹⁰⁷ Minimal fluctuations in the number of criminal charges filed against police officers have existed since 2016. In 2021, out of the total criminal charges, 53% were against officers of general jurisdiction, while 14.5% were against traffic and criminal police.⁹⁰⁸ Most of the charges were for abuse of office, as in the previous period. In 2021, the internal control sector filed 25 criminal charges against employees in managerial positions, two less than in 2020.

In 2021, the interior ministry received 1,855 complaints, around 30% more than in 2020.⁹⁰⁹ Out of 1,571 resolved complaints, omissions were determined in 111 (7%) of cases. Most cases were solved by immediate superiors of those against whom complaints were filed based of an agreement with the complainant. There is data about the complaint processes' results but not on the measures taken based on those complaints. The report also does not include information on what the citizens most frequently complained about.

6.2.5. Integrity Mechanisms (law)

To what extent is the integrity of law enforcement agencies ensured by law?



SCORE: 75/100

Regulations on police integrity improved with the adoption of the Law on Police in 2016 and related by-laws and anti-corruption measures, but there are notable gaps, including the absence of rules on activities incompatible with the police profession, uncertainties in the application of integrity testing as a preventive measure, concerns regarding human rights protection in the testing process and a lack of clarity on conditions and criteria for police officers undertaking additional work.

The Law on Police, the code of ethics for the police, the Law on Civil Servants and the Law on Prevention of Corruption provide regulations to ensure police integrity in Serbia. However, some rules are missing, such as rules on activities incompatible with the police profession. The 2016 Law on Police introduced preventive control, integrity tests, analysis of corruption risk and verification of changes in the financial status for managers (heads of units) and the employees in high-risk positions.⁹¹⁰ Although these are powerful anti-corruption tools, there are gaps in terms of integrity testing.

The role of integrity testing in fighting police corruption in Serbia remains partly unclear. It is defined by law as a preventive measure that serves to, among others, suppress corruption and as a criterion for the initiation of disciplinary proceedings and the detection of a violation of duty.⁹¹¹ According to one expert, taken together, these definitions do not represent preventive measures; they instead indicate that integrity testing is a repressive coercive measure whose focus is on sanctioning wrongdoing. Indeed, all the shortcomings regarding integrity testing stem from its need to clearly define the anti-corruption role.⁹¹²

Integrity testing also raises concerns related to human rights protection as it relies on classified documentation on the behaviour of interior ministry employees in a realistically simulated professional scenario.⁹¹³ The internal control sector has no obligation to submit a report on the tested officer to the prosecutor. The Law on Police and the rulebook on conducting an integrity test do not prescribe how integrity testing is to be used to analyse corruption risks or how it determines changes to operating procedures or the need for further training for ministry employees.⁹¹⁴

The Law on Police prohibits the employees of the interior ministry from performing duties that commercialise knowledge and skills acquired through police work.⁹¹⁵ However, the law does not regulate the conditions and criteria based on which a police officer may undertake additional work. It is still unclear what the activities incompatible with police work are because a list of such activities has never been compiled.⁹¹⁶

906 Sektor unutrašnje kontrole, Izveštaj o radu za 2021. godinu, March 2022, http://prezentacije.mup.gov.rs/sukp/rezultati/Izvestaj_2021_SUK.pdf

907 Sektor unutrašnje kontrole, Izveštaj o radu za 2020. godinu, March 2021, http://prezentacije.mup.gov.rs/sukp/rezultati/Izvestaj_2020_SUK.pdf

908 Sektor unutrašnje kontrole, Izveštaj o radu za 2021. godinu, March 2022, http://prezentacije.mup.gov.rs/sukp/rezultati/Izvestaj_2021_SUK.pdf

909 Izveštaj o rešavanju pritužbi u Ministarstvu unutrašnjih poslova u 2021. godini, <http://mup.gov.rs/wps/wcm/connect/7d0eb1ba-f599-413b-b3bd-359bd72968ec/lat-GODI%C5%A0NJI+IZVE%C5%A0TAJ+ZA+2021.pdf?MOD=AJPERES&CVID=nZKNzGm>

910 Article 230 of the Law on Police.

911 Article 230 and 230a of the Law on Police.

912 Interview with Saša Đorđević, an expert who has followed police reform in Serbia for more than a decade, December 2022.

913 Sofija Mandić and Saša Đorđević. 2016. Testing the Integrity of Police Officer, Belgrade Centre for Security Policy, <https://pointpulse.bezbednost.org/wp-content/uploads/2016/05/BCBP-Police-Integrity-Testing-ENG.pdf>

914 Ibid.

915 Article 168 of the Law on Police.

916 Interview with Saša Đorđević, an expert who has followed police reform in Serbia for more than a decade, December 2022.

6.2.6. Integrity Mechanisms (practice)

To what extent is the integrity of members of law enforcement agencies ensured in practice?



SCORE: 50/100

Despite increased efforts by the internal control sector, including preventive controls and integrity tests and a record number of criminal charges in 2021, public perception of police corruption in Serbia has not significantly changed, while challenges persist in assessing the quality of the sector's work due to a lack of accurate data on accepted or rejected criminal charges by prosecutors and court statistics since 2018.

Since 2016, with the adoption of the Law on Police and later by-laws, the internal control sector has been conducting preventive control, integrity tests, corruption risk analysis and checking incomes of police officers. In 2021, the sector conducted three preventive controls, one fewer than in 2020; 19 integrity tests, two more than in 2020; and 1,586 checks of financial status, 1,380 more than in 2020. Working groups were formed to analyse corruption risks in all 27 regional police directorates.⁹¹⁷

These efforts have not significantly influenced public perception as the police in 2021 are still seen as highly corrupt by 37% of those polled (43% in 2020) and slightly corrupt by 42% (40% in 2020).⁹¹⁸

The internal control sector brought a total of 2,470 criminal charges between 2005 and 2021. In 2019, a record number of 212 criminal charges were brought, 28 fewer than in 2021. During the COVID-19 pandemic in 2020, the sector filed 144, the lowest number since 2013. In 2021, 14 managers in the interior ministry were suspected of committing criminal acts with elements of corruption – 11 for abuse of official position and 3 for influence peddling. The processes have not yet been completed.⁹¹⁹

However, it is still difficult to assess the quality of work of the sector in gathering evidence and conducting criminal investigations with the prosecution. There is no accurate data on the number of accepted or rejected prosecutors offices' criminal charges nor in-court statistics. The last available data of that kind, for 2018, shows that the prosecution rejected as many as 130 criminal charges against interior ministry employees, including at least 36 criminal charges brought by the ministry against its employees.⁹²⁰

6.2.7. Gender

To what extent are law enforcement's mechanisms gender-sensitive?



SCORE: 25/100

While women make up 22.3% of the police force in Serbia, gender-sensitive protocols are lacking in police complaints and investigations and, despite efforts by the interior ministry to address gender equality, the focus has not extended to anti-corruption measures.

According to data from 2015, women make up 19.2% of uniformed staff and 79.6% of civilians in the interior ministry. Overall, women represent 22.3% of the police.⁹²¹ The ministry has provided training and awareness-raising materials on gender sensitivity in human resources, anti-discrimination, coaching and meditation since 2016.⁹²² However, police complaints and investigation mechanisms do not have explicit gender-sensitive protocols and guidelines. Publicly available reports including criminal and other data (annual work reports, complaints, audits, etc.) are not disaggregated by gender.

⁹¹⁷ Sektor unutrašnje kontrole Ministarstva unutrašnjih poslova, Izveštaj o radu Sektora unutrašnje kontrole za 2021. godinu, March 2022, http://prezentacije.mup.gov.rs/sukp/rezultati/Izvestaj_2021_SUK.pdf

⁹¹⁸ Government Accountability Initiative. 2021. Opinion Poll Report: Citizens' Perception of Anticorruption Efforts in Serbia, <https://www.odgovornavlast.rs/wp-content/uploads/2021/12/USAID-GAI-Citizens%20%99-Perceptions-of-Anticorruption-Efforts-in-Serbia-for-2021.pdf>

⁹¹⁹ Internal Control Sector. 2022. Annual report for 2021, http://prezentacije.mup.gov.rs/sukp/rezultati/Izvestaj_2021_SUK.pdf; Internal Control Sector. 2021. Annual report for 2020, http://prezentacije.mup.gov.rs/sukp/rezultati/Izvestaj_2020_SUK.pdf

⁹²⁰ Institutional Barometer 2.0, Belgrade Centre for Security Policy, November 2019, https://preugovor.org/upload/document/institutional_barometer_2.pdf

⁹²¹ Women in Police Services in South East Europe, 2015, <https://www.seesac.org/f/docs/Gender-and-Security/Women-in-Police-Services-in-South-East-Europe-.pdf>

⁹²² Rodna ravnopravnost u MUP-u, http://mup.gov.rs/wps/portal/sr/!ut/p/z1/04_Sj9CPykssy0xPLMnMz0vMAfIjo8ziS19zQzdDYy83c1cjQwcA80tXbxLwPAz0w_Wj9KOASgxwAEcD_eDUPP2C7LxyAHM0vCw!/?1dmy&urile=wcm%3apath%3a/public_cyrillic/baner/baner+sadrzaj/rodna+ravnopravnost+u+mup-u

Parliament adopted the Law on Gender Equality in May 2021, to which the interior ministry responded by conducting several activities. A focal point for gender equality in the ministry has been selected.⁹²³ All organisational units of the ministry have been informed of the need for data and records collected to be classified by gender and age to comply with the Law on Gender Equality. A gender dimension was introduced in preparing the ministry's planning and strategic documents. However, none of the adopted documents were anti-corruption related, more about gender equality and anti-discrimination.⁹²⁴

Research results from December 2019 show that gender discrimination prevents women in the police from achieving their full professional potential by proving that they are equal to men. The existence of gender segregation and marginalisation was noted. The research also showed that women do not have full access to material resources that enable a favourable professional position (official vehicles, telephones, per diems, projects), which is a direct consequence of women's position within the police profession. Men mainly perform operative police tasks; therefore, they have resources at their disposal that improve their professional position. The research also found that women who work in the police accept their subordinate position as something natural due to socialisation in the family, at school and work.⁹²⁵

Role

6.3.1. Corruption prosecution

To what extent do law enforcement agencies detect and investigate corruption cases in the country?



SCORE: 50/100

Police work significantly contributes to the prosecution of corruption, but corruption related statistics are difficult to analyse because corruption is mixed with other types of crime.

One of the most significant institutional changes since 2015 in corruption prosecution has been the formation of special anti-corruption departments at prosecutor's offices, courts and within the police. After completing police training courses for officers to prevent and suppress criminal offences with elements of corruption, 100 police officers were hired to work in the department for fighting corruption, a unit placed in the criminal police directorate.⁹²⁶ In the area of the fight against corruption, the police filed 493 criminal offences of abuse of official position in 2021 (compared to 206 in 2020), 144 for accepting bribes (94 in 2020) and 49 for giving bribes (86 in 2020). A total of 540 indictments were issued in 2021. The courts rendered judgements against 271 individuals.⁹²⁷ However, grand corruption is still a problem in Serbia. Since 2019, no cases have resulted in a final confiscation of assets.⁹²⁸

Police remain the primary source of criminal charges for corruption-related criminal offences. The Ministry of Interior regularly publishes information about police actions in this area, which are also published on government of Serbia webpage under Stop Corruption.⁹²⁹ However, as in previous years, information on corruption cases is mixed with other types of crime (for example, money laundering and extortion).

According to the data presented at a press conference in January 2023, the police submitted 635 criminal charges against 1,109 persons in 2022.⁹³⁰ Again, the figures also include other types of crime. This is probably because special anti-corruption departments are also responsible for numerous other (non-corruption related) criminal offences. Criminal offences related to these charges involved total damages of RSD 9.45 billion (€805 million) and illicit gains of RSD 6.87 billion (€585 million).

923 Ibid.

924 Ibid.

925 Marta Tomić, Žene u policijskoj profesiji i osvrt na stanje u srpskoj policiji, 16 December 2019, <http://www.doiserbia.nb.rs/img/doi/1450-6637/2019/1450-66371903289T.pdf>

926 Represivne mere u borbi protiv korupcije: Primena u praksi i predlog za unapredjenje, 2019, https://uts.org.rs/wp-content/uploads/2007/11/represivne_mere_u_borbi_protiv_korupcije_2.pdf

927 European Commission. 2022. Serbia 2022 Report, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Serbia%20Report%202022.pdf>

928 Ibid.

929 See <https://www.srbija.gov.rs/sekcija/243/stop-korupciji.php>

930 Predstavljeni rezultati rada Ministarstva unutrašnjih poslova iz prethodne godine, Ministarstvo unutrašnjih poslova Republike Srbije, 16 January 2023, <http://www.mup.gov.rs>

Interactions

There are still unreasonably large differences between official data on the number of detected, accused and convicted cases of corruption and the public's perception of its prevalence. The public believes that this is due to a lack of will and the unwillingness of the police, the public prosecutor's office and the judiciary to apply the regulations and prosecute the perpetrators of corrupt crimes. This is augmented by the shifting of blame for the inefficiency of criminal prosecution between the police and the prosecution service, for example, due to a failure to provide relevant evidence or making procedural errors that lead to the impossibility of using key evidence or due to the statute of limitations of criminal prosecution.

The government appoints the police director and makes various other important decisions for the work of police (legal reforms, strategies, policies, budget). Influence from the government and the minister of interior on law enforcement has negative consequences. There were examples of abuse of the minister of interior's position for the purpose of political promotion and leaking of police information to the politicians in the executive. Furthermore, the government failed to appoint a police director in timely manner several times.

The police cooperates with the media mostly through press releases. With the passivity of public prosecution and the judiciary, often the only information the public gets about the suppression of corruption is the one that comes from the police through the media. There are also instances where information about law enforcement was leaked to the (selected) media, thus undermining the work of law enforcement or discriminating favoured media against their competitors.

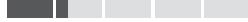
Pillar Recommendations

- The State Audit Institution should conduct comprehensive audits and evaluations of budget use within the Ministry of Interior. In parallel, prosecutors must actively monitor and closely follow civil society initiatives and investigative journalism reports that shed light on potential instances of budget misuse within the police service. This proactive approach will ensure that any irregularities are promptly identified and addressed.
- The police should take proactive measures to prevent information leaks and respond swiftly when their integrity is questioned by the media to safeguard the integrity of the police service and maintain public trust. This includes: strengthening information security (safeguarding servers, rooms, and entrances and controlling access to ensure the protection of sensitive information from unauthorised access or damage), conduct swift and thorough investigations when allegations arise in the media. And the police should always provide clear and factual information to address any doubts or concerns raised.
- The police should provide clear and comprehensive guidance to individuals who want to report such incidents to encourage reporting of corruption and ensure transparency in the process. This includes: clear instructions on websites and premises; a clear explanation of what individuals can expect during the reporting and investigation process; and the police should commit to providing regular updates and notices to individuals who have reported corruption.
- The police, prosecution and courts should collaborate in preparing and regularly publishing comprehensive statistical overviews annually on an official website. These overviews should contain key data on acts of corruption, providing the public with a clear understanding of the progress and outcomes of related cases. The following steps should be taken: collaboration and data sharing, regular statistical overviews should be prepared and published, presenting aggregated data on various aspects of corruption cases and the published statistical overviews should be easily accessible to the public, such as on the official websites of the police, prosecution and courts, ensuring transparency.
- The internal control sector should assess in an annual report the effectiveness of anti-corruption measures, such as asset declarations and integrity tests, in enhancing police integrity.
- Parliament should play an active role in overseeing the internal control sector by regularly reviewing its annual reports, supervising budgetary and operational fund legality, monitoring special evidentiary actions and integrity tests, ensuring political and ideological neutrality within the police, addressing observed illegalities or irregularities in the ministry's operations, and reporting conclusions and proposals to the National Assembly.

7. Electoral Management Body

Summary

OVERALL PILLAR SCORE: 47.2/100

DIMENSION	INDICATOR	LAW	PRACTICE
CAPACITY  66.7/100	RESOURCES	–	100
	INDEPENDENCE	50	50
GOVERNANCE  50/100	TRANSPARENCY	75	25
	ACCOUNTABILITY	50	50
	INTEGRITY	50	50
	GENDER	75	
ROLE  25 /100	CAMPAIGN REGULATION	0	
	ELECTION ADMINISTRATION	50	

In compliance with the Law on the Election of Members of the Parliament,⁹³¹ the Republic Election Commission: enables legality of the election process; drafts instructions for conducting election activities; publishes the timetable; monitors the implementation and provides opinions regarding the implementation of this law; prescribes unique standards for election material; provides electoral material for conducting elections; decides on the submitted election lists; decides on complaints; determines the results of the elections; and submits a report on the conducted elections to the National Assembly. The permanent composition of the Republic Election Commission consists of the president, 16 members, representative of the republic institution for the statistics and the secretary. The president and members of the commission are appointed by the National Assembly, for a four-year mandate, on the proposal of parliamentary groups in the Assembly. The secretary of the commission is appointed by the Assembly from the ranks of the Assembly servants. The secretary participates in the work of the commission without the right to participate in the decision-making. During the conduct of an election, the commission works in an extended composition and, in addition to the permanent composition, consists of one representative of each submitted electoral list.

The law defines the Republic Electoral Commission (REC) as an autonomous and independent state organ. However, in practice, the REC is composed of the representatives of the parliamentarian groups, mirroring the political-power relationship of parliament. The REC has sufficient resources for effective organisation and election process management. Nevertheless, the voting majority in the REC persistently exercises an unduly formal approach, especially when rejecting complaints that might not be favourable for the ruling coalition. The funds for the REC operation are secured from the state budget. Parliament accommodates the REC on its premises and provides them with the necessary administrative and technical support. Overall, the REC work concerning election conduct is well-organised and transparent. However, available financial documents do not explain why its budget increased significantly since 2021. The REC website is also missing information on procurements for the last four years. Taking into account that the REC determines its financial plan, including the amount of monthly fees for the members and

⁹³¹ The Law on the Election of the Members of Parliament (LEMP). Official Gazette of the Republic of Serbia, No. 14/2022, Articles 16-28, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/2>

administrative staff of the REC, more has to be done to improve financial transparency. Election observers' reports note that disabled voters' participation should be improved and that the REC should initiate changes that would lead to higher participation for this group of voters.

Capacity

7.1.1. Resources (practice)

To what extent does the electoral management body have adequate resources to achieve its goals in practice?



The Republic Electoral Commission (REC) has sufficient financial resources and organisational capacity to implement all entrusted competencies.

Financial resources for REC are provided from the state budget.⁹³² The REC's budget is part of the National Assembly budget to whom the REC submits its annual financial plan.⁹³³ Information on the difference between planned and used financial resources is not available for the years 2021, 2022 or 2023. Interestingly, the funds allocated to the REC sharply increased in 2021 (24%), in 2022 (11.8%), and an astonishing 58.4% in 2023.⁹³⁴

Table 5: Annual budget

Year	Total budget in RSD	Total budget in EUR ⁹³⁵	Used funds, in RSD	% increase in in total budget per year
2023	64,325,000	548,473	n/a	+58.4%
2022	40,601,000	346,129	n/a	+11.8%
2021	36,301,000	308,734	n/a	+24.1%
2020	29,251,000	248,796	22,960,616	-0.3%
2019	29,348,000	249,706	25,376,568	0.3%

The offices of the REC are located in the premises of the national parliament, and parliament provides administrative and technical support to the REC, as prescribed by the Law on the Election of Members of Parliament (LEMP).⁹³⁶ The LEMP mandates that all REC members must hold a degree in law and, according to the REC's information booklet, all permanent members meet this requirement.⁹³⁷ The exact amount paid to the REC members and supporting administrative staff is determined by the REC.⁹³⁸ Their administrative staff are civil servants of the National Assembly who are awarded to the REC during the election period.

The election observers' reports do not show concerns about the REC's capability to manage the electoral process, and available information suggests that the REC has sufficient capacity and resources for effectively conducting the electoral process. The REC submits the financial plan for its necessary funds to parliament.⁹³⁹

⁹³² Law on Election of Members of Parliament. Official Gazette of the Republic of Serbia, No. 14/2022, Articles 8, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/2>

⁹³³ Republic Electoral Commission website. Rules of procedure of the Republic Electoral Commission, pp.133-135 <https://www.rik.parlament.gov.rs/extfile/sr/431/30.01%20Informator%20RIKa%202018.pdf>

⁹³⁴ Republic Electoral Commission website. Incomes and Expenses, <https://www.rik.parlament.gov.rs/tekst/449/prihodi-i-rashodi.php>

⁹³⁵ Based on material received in an interview conducted on 23 December 2022.

⁹³⁶ The only available document where information on administrative staff can be found is the Rules and Procedures, (p.132), (2018). The document mentions eleven supporting staff members from the National Assembly administration working for the REC in December 2016.

⁹³⁷ Republic Electoral Commission website. Composition of the Commission, <https://www.rik.parlament.gov.rs/tekst/42162/sastav-komisije.php>

⁹³⁸ Republic Electoral Commission website. Booklet, (p.132), <https://www.rik.parlament.gov.rs/extfile/sr/431/30.01%20Informator%20RIKa%202018.pdf>

⁹³⁹ Republic Electoral Commission website. Rules of Procedures, Article 40, Paragraph 2, <https://www.rik.parlament.gov.rs/tekst/en/179/by-laws.php>

7.1.2. Independence (law)

To what extent is the electoral management body independent by law?



SCORE: 50/100

The legislation defines the REC as an autonomous and independent body, but its composition and decision-making model reflects the political-power distribution in parliament.

The REC's legal status and its competencies are defined by the Law on the Election of Members of Parliament (LEMP), the Law on the Election of the President of the Republic, and the Law on National Councils of National Minorities. The Serbian constitution does not contain any provisions concerning the REC.

Members and deputy members of the Republic Election Commission in permanent composition are appointed on the proposal of parliamentary groups in proportion to their representation according to the total number of MPs belonging to parliamentary groups. No parliamentary group can propose more than half of the permanent members of the Republican Electoral Commission.⁹⁴⁰ The submitter of the proclaimed electoral list has the right to propose a member and a deputy member for the extended composition. Members of the extended composition have the same rights and duties as those from the permanent composition.⁹⁴¹ The REC adopts decisions by a majority of votes of the members in permanent or extended composition.⁹⁴² Although the LEMP mandates that the REC "shall be autonomous and independent in its work",⁹⁴³ its standing composition is merely a reflection of the political-power relationship of parliament. Consequently, the members nominated by the ruling party/coalition can outvote the members nominated by the opposition groups.

The chairperson is entrusted to represent the REC, sign the acts issued by the REC, approve business trips for the REC members, convene the sittings of the REC and ensure the implementation of the rules of procedures (RoP) and perform other tasks envisaged by the RoP.⁹⁴⁴ The secretary, deputy secretary and representatives of the statistical office do not hold voting rights at the REC.⁹⁴⁵

The LEMP prescribes a specific set of conditions under which the REC's members and their substitutes can be terminated from office.⁹⁴⁶ However, the law does not prescribe any procedure to determine a potential violation of professional ethics, partiality in work or other unwelcomed behaviour that might result in the dismissal of REC members from office.

Considering that members of the REC are not fully employed in that institution, they may perform other duties (see 7.1.1). They are entitled to receive compensation for their engagement. Since the REC does not have its own administration, there are no criteria or method of recruitment of employees to be assessed. To support its work, the REC is awarded with several employees from the National Assembly administrative service.

⁹⁴⁰ The Law on the Election of the Members of Parliament (LEMP). Official Gazette of the Republic of Serbia, No. 14/2022, Articles 18, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/2>

⁹⁴¹ Ibid. article 10.

⁹⁴² Ibid. article 12.

⁹⁴³ The Law on the Election of the Members of Parliament (LEMP). Official Gazette of the Republic of Serbia, No. 14/2022, Articles 8, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/2>

⁹⁴⁴ Republic Electoral Commission website. Rules of Procedures, Article 9, <https://www.rik.parlament.gov.rs/tekst/en/179/by-laws.php>

⁹⁴⁵ Republic Electoral Commission website. Rules of Procedures, Article 25, <https://www.rik.parlament.gov.rs/tekst/en/179/by-laws.php>

⁹⁴⁶ REC members are terminated from office by force of the law: i) if they die; ii) if they lose the right to vote; iii) when the election list containing the candidate for deputy is announced; iv) if applicants on the electoral list who proposed the member withdraw the electoral list; v) if the decision on the announcement of the electoral list whose applicant proposed it is annulled; vi) if they were sentenced to a prison term of at least six months by a final court decision; vii) if they lose their ability to work; viii) in other cases provided by law. Also the National Assembly can dismiss REC members from office if: i) if they resign in writing; ii) if it is subsequently determined that they do not meet the special condition for appointment; iii) in other cases provided by this law. Source: The Law on the Election of the Members of Parliament (LEMP), Article 14. Official Gazette of the Republic of Serbia, No. 14/2022, Article 8, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/2>

7.1.3. Independence (practice)

To what extent does the electoral management body function independently in practice?

 SCORE: 50/100

The REC's independence is questioned by the opposition, which blames the government for affecting some of the REC's decisions behind closed doors.

According to the ODIHR 2022 election report, the REC "carried out its duties efficiently and within the legal deadlines, despite operating with a lack of transparency, and some practice that is occasionally opposite to international standards".⁹⁴⁷ In response, the president of the state made several remarks about the REC but reassured the public that the commission will fully comply with the legal provisions.⁹⁴⁸

Opposition leaders blame the government for influencing the REC's decisions that they find unfavourable or against their interests. For instance, the government was accused of "turning elections into charades" when the REC decided not to publish voter turnout and election results at the end of the election day.⁹⁴⁹ Also, in the 2022 election, CSOs and opposition parties named the government as the body most responsible for the controversial decisions made by the REC and administrative courts concerning the fifth repetition of voting in one Serbian town.⁹⁵⁰

The presidential and early parliamentary election process of 2022 continued to harm the trust relationship between the REC and the opposition and to question the REC's independence. The ODIHR final report (2022)⁹⁵¹ finds that trust deterioration in the REC comes from continued domination of the ruling coalition in the REC's decision-making, dismissal of the majority of complaints on technical grounds, lack of transparency in post-election dispute resolution, claims about the chairperson overstepping his authority,⁹⁵² and the absence of turnout data after closing.⁹⁵³

While the members added to the REC's extended composition during elections stay in office for no longer than three months, the REC's permanent standing members usually serve a full term, that is, until the end of the next election cycle. In the last several years, the relative stability of the standing composition was shaken only in 2016 when the chairperson and six members of the ruling party resigned but were instantly re-appointed by parliament.⁹⁵⁴

947 Organization for Security and Cooperation in Europe. 2022. "Serbia, Presidential and Early Parliamentary Elections, Final Report", <https://www.osce.org/odihr/elections-serbia/524385>

948 Asked to comment on the REC's late publication of voter turnout, the president of the republic indirectly accused the REC's members of being lazy. In the same context, he stated that the REC is complying with the law, and he reassured the public that the REC will announce the election result within the legal deadline, Source: N1. 2002. "Vučić o RIK-s: To se dešava na apsolutno svim izborima, ja učestvujem od 1993", <https://n1info.rs/izbori-2022/vucic-o-rik-u-to-se-desava-na-apsolutno-svim-izborima-ja-cestvujem-od-1993>.

949 N1 news. 2022. "Movsesijan: Odluka RIK skandal, vlast pravi cirkus od ovih izbora", <https://n1info.rs/izbori-2022/movsesijan-odluka-rik-skandal-vlast-pravi-cirkus-od-ovih-izbora/>

950 Voice of America. 2022. "Preko Velikog Trnovca do Nove Vlade Srbije", <https://www.glasamerike.net/a/srbija-izbori-trnovac-parlament-vlada-ukrajina/6632243.html>

951 Organization for Security and Cooperation in Europe. 2022. *Serbia, Presidential and Early Parliamentary Elections: Final Report*, pp. 2, 8, 29, <https://www.osce.org/odihr/elections-serbia/524385>

952 During the 2022 election process, chairperson of the REC wrote a letter to the president of the European Commission in which he denied claims of planned election fraud and stated that the true intent of creating these false accusations was to justify the expected poor election results of opposition candidates and parties. Source: Vreme. 2022. "Ujedinjeni za Srbiju: Dimitrijević je pristrasan", <https://www.vreme.com/vesti/ujedinjeni-za-srbiju-dimitrijevic-je-pristrasan/>

953 Organization for Security and Cooperation in Europe. 2022. *Serbia, Presidential and Early Parliamentary Elections: Final Report*, pp.3, 29, <https://www.osce.org/odihr/elections-serbia/524385>

954 Politika. "Dejan Đurđević razrešen pa ponovo izabran u RIK", <https://www.politika.rs/sr/clanak/350434/Dejan-Durdevic-razresen-pa-ponovo-izabran-u-RIK>

Governance

7.2.1. Transparency (law)

To what extent are there provisions to ensure that the public can obtain relevant information on the activities and decision-making processes of the electoral management body?



SCORE: 75/100

The legislation provides a sufficient level of transparency; however the REC does not have to publish aggregated data collected from local election commissions.

The law secures transparency of the REC's work by mandating the commission to publish decisions and session minutes, and by streaming sessions and press conferences on its website. The decisions must be published within 24 hours from the session when it was adopted, indicating the date and time of the publication. If a decision concerns an applicant, the REC must inform the applicant by phone or email. Furthermore, the REC must provide audio and video for the media to broadcast its sessions and allow national and international elections observers to follow its work.⁹⁵⁵

According to the Law on Public Procurement, the REC must publish on its webpage all relevant documents concerning procurement, including planning, implementation of the public procurement procedure and monitoring of the execution of public procurement contracts.⁹⁵⁶

Although the REC collects statements (requests) for public financing of election campaigns from election participants, it does not have to publish these statements.⁹⁵⁷ The role of the REC in this respect is only to collect statements and forward them to the Ministry of Finance.

The latest legislative changes introduced the local election commissions (LECs) as mid-level election administration and empowered them with several authorities. However, the legislation does not mandate the REC to compile and publish aggregated data on voting results collected from the LECs, which might undermine the transparency of the election process.⁹⁵⁸

The LEMP prescribes an obligation for the REC to publish the voting results for each polling station and all consolidated reports of voting results on its website, while the general report on the election results should be published in the Official Gazette of the Republic of Serbia.⁹⁵⁹ The general report on results from polling stations must include the number of registered voters, voter turnout, the number of voters who cast their votes, the number of invalid ballot papers, valid papers and the number of seats won by each electoral list.⁹⁶⁰

955 Law on Election of Members of Parliament, Official Gazette of the Republic of Serbia, No. 14/2022, Articles 25 and 26, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/>

956 The Law on Public Procurement. Official Gazette of the Republic of Serbia, No. 91/19, <http://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2019/91/1/reg/>

957 Law on the Financing of Political Activities. Official Gazette of the Republic of Serbia, No 88/2019, Article 21, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2011/43/1/reg>

958 The election law requires LECs to publish data on voters' requests for mobile voting before election day, but not to collect further data from PBs on election. As the REC is not legally obliged to compile and publish these details, information on mobile voting stays unknown. Source: Organization for Security and Cooperation in Europe. 2022. *Serbia, Presidential and Early Parliamentary Elections, Final Report*, <https://www.osce.org/odihr/elections-serbia/524385>. Retrieved on 30 January 2023

959 The Law on the Election of Members of Parliament (LEMP). Official Gazette of the Republic of Serbia, No. 14/2022, Article 122, https://www.rik.parlament.gov.rs/extfile/en/1638/Zakon%20o%20izboru%20narodnih%20poslanika_ENGLESKI-ociscen%20final.pdf

960 The Law on the Election of Members of Parliament. Official Gazette of the Republic of Serbia, No. 14/2022, Article 121 https://www.rik.parlament.gov.rs/extfile/en/1638/Zakon%20o%20izboru%20narodnih%20poslanika_ENGLESKI-ociscen%20final.pdf

7.2.2. Transparency (practice)

To what extent are reports and decisions of the electoral management body made public in practice?



SCORE: 25/100

While the REC continued to publish all mandatory election related material, it fails to publish its financial plans/ reports and procurement information.

The REC has a user-friendly and accessible website where it regularly publishes all the documents and information required by law such as: decisions,⁹⁶¹ session minutes,⁹⁶² media conferences⁹⁶³ and press releases.⁹⁶⁴ It also provides a link for the streaming of the REC's sessions.⁹⁶⁵

In the 2022 election process, the REC "held regular sessions for media and observers and streamed online".⁹⁶⁶ The REC publishes a calendar of its operations and events on its website and Instagram account. The REC files and publishes all the reports as required by the LEPM. Overall the reports are adequate in quality and scope. However, the REC does not publish reports on preliminary turnout. Although there is no legal obligation for REC to do so, reporting on preliminary turnout would enhance the transparency of the election process, according to the ODIHR's report (2022).⁹⁶⁷

The REC lacks transparency by not publishing its procurement documents and expenditure reports. Information and documents on procurements have not been available since 2019. While all financial plans are uploaded on the REC webpage, expenditure reports are missing for years 2021, 2022 and 2023. The absence of procurement documents and expenditure reports might raise suspicions about whether a significant increase in the REC's budget since 2021 is justified.

The only published REC's Information Booklet, containing information on REC members' wages, and the number of administrative staff and their wages, dates to 2018. Lastly, the REC's website does not store a complete archive of its work.⁹⁶⁸ Information on REC's meetings from 2020 is available in a form of summarised minutes containing only brief information about the decisions made by the REC.⁹⁶⁹

Regular contact with the REC can be established via email and landline phone calls.⁹⁷⁰ On election day the REC ran a call center, receiving reports from citizens, election candidates, and observers about potential election irregularities.⁹⁷¹

961 Republic Electoral Commision website, https://www.rik.parlament.gov.rs/dokumenta/41985/document-type-1/election-round-0/additional-document-0/_municipality-id-0/election-station-0

962 Republic Electoral Commision website, <https://www.rik.parlament.gov.rs/sekcija/6/informacije-o-odrzanim-sednicama.php>

963 Republic Electoral Commision website, <https://www.rik.parlament.gov.rs/sekcija/56/konferencije-za-medije.php>

964 Republic Electoral Commision website, <https://www.rik.parlament.gov.rs/sekcija/34/saopstenja-za-javnost.php>

965 Republic Electoral Commision website, Live-streaming of sitting, <https://www.rik.parlament.gov.rs/tekst/307/prenosi.php>

966 Organization for Security and Cooperation in Europe. 2022. *Serbia, Presidential and Early Parliamentary Elections: Final Report*, p.8, <https://www.osce.org/odihr/elections-serbia/524385>

967 "Serbia, Presidential and Early Parliamentary Elections, 3 April 2022: Final Report", (p.29), Organization for Security and Cooperation in Europe, – <https://www.osce.org/odihr/elections-serbia/524385>

968 Detailed records of the REC's sessions are available only from December 2021 to February 2022, i.e. prior to the 2022 election campaign, <https://www.rik.parlament.gov.rs/tekst/14052/zapisnici-sednica-republicke-izborne-komisije.php>

969 Republic Electoral Commision website. Informacije o održanim sednicama, <https://www.rik.parlament.gov.rs/sekcija/6/informacije-o-odrzanim-sednicama.php>

970 Republic Electoral Commision website. Contact <https://www.rik.parlament.gov.rs/tekst/1330/kontakt.php>

971 Republic Electoral Commision website, Instagram page https://www.instagram.com/p/Cb4z_76s9JW/

7.2.3. Accountability (law)

To what extent are there provisions in place to ensure that the REC has to report and be answerable for its actions?



SCORE: 50/100

As a collective body, the REC is accountable to parliament, but there are no provisions that would hold individual REC members accountable.

The REC has to report to parliament about its work on conducting elections.⁹⁷² The Law on the Election of Members of Parliament only stipulates the obligation of the REC to submit the report on the conducted elections to the National Assembly without stating a deadline.⁹⁷³ The head of the REC is only accountable to parliament, while the members in the standing composition are accountable to the parliamentary group that nominated them. Similarly, the members of the extended composition are only accountable to their nominators, who are submitters of an electoral list and presidential candidates.⁹⁷⁴

The LEMP stipulates that public funds to the REC are provided through the parliamentary budget, allowing the commission to determine wages for members and other expenses related to the election process.⁹⁷⁵ The REC must submit a financial plan and expenditure reports to parliament for both regular and election periods.⁹⁷⁶ However, there is no legal requirement for internal auditing, but the State Audit Institution might audit the REC when auditing parliament's financial report.

Submitters of candidate lists, political parties, candidates, parliamentary groups and voters are all entitled to file complaints against decisions, actions and omissions by the REC. The 2022 legislative changes improve the effectiveness of dispute resolution by extending the timeframes for filling and reviewing complaints from 24 to 48 and 72 hours and prescribing obligations for the REC to publish their decisions within 24 hours.⁹⁷⁷ In addition, the REC also has to provide templates for different types of complaints.⁹⁷⁸

7.2.4. Accountability (practice)

To what extent does the REC have to report and be answerable for its actions in practice?



SCORE: 50/100

When deciding on complaints, the REC continues to exercise an overly formal approach, resulting in the majority of complaints being rejected on technical grounds.

In 2022, the REC submitted the report on the elections⁹⁷⁹ and its financial plan for 2022; however, there are no traces of submitted expenditure reports to parliament since 2020, neither for its regular work, nor for the election campaign in 2022.⁹⁸⁰ The report on the 2022 parliamentary elections was prepared and submitted two weeks after the elections were finalised, even though there is no legal deadline for its submission. This report only presented general data on the election turnout, voting results and included lists of mandates awarded to the candidate MPs.

972 The Law on the Election of Members of Parliament (LEMP). Official Gazette of the Republic of Serbia, No. 14/2022, Articles 8 and 24, paragraph 21, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/2>

973 Ibid. Article 24, para 1, point 21.

974 Law on Election of Members of Parliament. Official Gazette of the Republic of Serbia, No. 14/2022, Articles 8, 17 and 18, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/2>

975 The Law on the Election of Members of Parliament (LEMP). Official Gazette of the Republic of Serbia, No. 14/2022 Article 169, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/2>

976 Republic Electoral Commission website. Rules of procedure of the Republic Electoral Commission, Article 41, <https://www.rik.parlament.gov.rs/tekst/en/179/by-laws.php>

977 The Law on the Election of Members of Parliament (LEMP). Official Gazette of the Republic of Serbia, No. 14/2022, Articles 22, 23, 79, 84, 112, 121, 147, 150, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/2>

978 Ibid. article 24, para 1, point 17.

979 REC. 2022. Report on Conducted Elections for the Members of the Parliament, <https://www.rik.parlament.gov.rs/extfile/sr/files/additionalDocuments/325/135/IZVE%C5%A0TAJ%20O%20SPROVEDENIM%20IZBORIMA%20ZA%20NARODNE%20POSLANIKE%20NS.pdf>

980 REC website, Incomes and Expenditures, <https://www.rik.parlament.gov.rs/tekst/sr/449/prihodi-i-rashodi.php>

A complaints/dispute resolution mechanism is in place to resolve potential irregularities in the election process and political parties, candidates, parliamentary groups, voters and submitters of candidate lists are all entitled to file complaints against decisions, actions and omissions by the REC, and other election violations.⁹⁸¹ However, due to a narrow and formal interpretation of the law exercised by the REC, the vast majority of complaints were dismissed on technical grounds in the 2022 elections. Similarly, almost all requests for annulment were rejected with the explanation that the complaint did not request annulment specifically, despite being the only legal remedy in these cases.⁹⁸² As a consequence, out of 123 complaints, only 14 REC decisions not to grant an annulment were appealed to the administrative court.⁹⁸³ Reported irregularities in most of these complaints might constitute criminal offences, so the REC's overly excessive exercise of rejections of complaints has wider consequences and might jeopardise the overall integrity of the elections. The REC does not hold regular meetings with stakeholders regarding queries on decisions and disputes.

7.2.5. Integrity (law)

To what extent are there mechanisms to ensure the integrity of the electoral management body?

 SCORE: 50/100

The REC has its code of conduct which does not contain any potential sanctions for violations of the code's provisions, and it does not impose restrictions on employment for REC members after they have left.

The REC adopted its code of conduct in February 2022.⁹⁸⁴ It prescribes a set of responsibilities for the REC's members to guarantee their commitment to maintaining the integrity of the electoral process. It is also clear that the aim of these responsibilities is to embrace professional, non-partisan principles and provide quality service to voters and other stakeholders.

The code also prohibits a list of activities for the REC's members, such as: (1) receiving gifts and services while in office; (2) using REC premises and office for private or political interests; (3) discriminating voters based on political, national, race, religious or gender identities; (4) providing false statements against the interests and integrity of the REC; (5) conducting non-material damage to election administration, or inciting others to do so; (6) publicly declaring their own political, religious or other identifier that would jeopardise their independence in a decision-making process; (7) using political symbols and slogans in the premises of the REC. However, the code does not pose any sanctions for potential violation of these actions. The code does not pose any restrictions on post-employment opportunities, nor does it require the members to sign a special contract or to swear an oath to uphold the guiding principles stated in the responsibilities.

As public officials, the members of the REC are subject to the provisions of the Law on the Agency for the Prevention of Corruption (LAPC). These provisions stipulate the obligation for a public official to submit a report on assets and income and prescribe a set of norms to prevent conflict of interest and abuse of public office.⁹⁸⁵ In addition, the Law on Civil Servants contains provisions to prevent conflicts of interest.⁹⁸⁶

981 REC decisions upon complaints during the 2022 elections, <https://www.rik.parlament.gov.rs/tekst/42216/prigovori.php>

982 Organization for Security and Cooperation in Europe. 2022. *Serbia, Presidential and Early Parliamentary Elections: Final Report*, p.29,30, <https://www.osce.org/odihr/elections/serbia/524385>

983 Ibid.

984 Republic Electoral Commission webpage. "Kodeks ponašanja", <https://www.rik.parlament.gov.rs/extfile/sr/329866/Kodeks%20ponasanja%20organu%20za%20sprovodenje%20izbora.pdf>

985 The Law on Prevention of Corruption. Official Gazette no. 35/2019, 88/2019, 11/2021 – authentic interpretation, 94/2021 and 14/2022, article 2*, para 1, point 3* and 42, <https://www.paragraf.rs/propisi/zakon-o-sprecavanju-korupcije.html>

986 The Law on Civil Servants. Official Gazette no. 79/2005, 81/2005 – corr, 83/2005 – corr, 64/2007, 67/2007 – corr, 116/2008, 104/2009, 99/2014, 94/2017, 95/2018, 157/2020 i 142/2022 Article 25, https://www.paragraf.rs/propisi/zakon_o_drzavnim_sluzbenicima.html

7.2.6. Integrity (practice)

To what extent is the integrity of the electoral management body ensured in practice?



SCORE: 50/100

The code of conduct and competencies of the Agency for the Prevention of Corruption are two practical mechanisms to protect the integrity of the REC.

The REC's code of conduct was adopted in February 2022, which was just before the start of the 2022 election campaign. So far, there has been no accusation of the REC's members breaching the code's provisions.

The Law on the Agency for the Prevention of Corruption (LAPC) is another practical mechanism for the protection of the integrity of the REC. The Agency for Prevention of Corruption (APC) has the competence to conduct controls of assets and income reports of the REC's members and act ex officio upon accusations against the members breaching the provisions of the LAPC. The reports on assets and income of the REC's members are publicly available on the APC website.⁹⁸⁷

Role

7.3.1 Campaign regulation

Does the electoral management body effectively regulate candidate and political party finance?



SCORE: 0/100

The REC has no legislative competencies to regulate and control political financing.

The REC does not regulate candidate and political party finance. The Ministry of Finance is given the competency to transfer public funds to eligible political entities, while the APC conducts oversight and control of political financing. The only role the REC has in this matter is to inform the MoF about those political entities who requested public financing when submitting their candidacy for election. On its website, the REC provides detailed instructions to political entities about the legal provisions that regulate political financing when submitting their candidacy for election.

The APC controls the annual financial reports of political parties and reports on campaign expenses. The agency has the right to direct and unhindered access to the accounting records and documentation and financial reports of political entities. The control plan for annual reports on the financing of political entities is published on the agency's website by 15 March of the current year, and the control plan for reports on election campaign expenses is published on the agency's website five days after the announcement of the election. The agency prepares a report on the results of the control of the annual report on the financing of the political entity, which is published on the agency's website by 1 February of the following year, and the report on the results of the control of the final reports on the expenses of the election campaign, which also includes the control of the preliminary reports of the political entity, is published on the agency's website no later than 120 days after the deadline for submitting the final report on the costs of the election campaign.⁹⁸⁸ In addition, the audit programme of the State Audit Institution each year includes the appropriate number of political entities that have representatives in the National Assembly. After the control of the financial reports of the political entities, the agency may submit a request to the State Audit Institution to audit those reports.⁹⁸⁹

987 Agency for Prevention of Corruption. Register, <https://publicacas.acas.rs/#acas/funcioner>

988 The Law on Financing of Political Activities. Official Gazette no. 14/2022, article 32 and 33.

989 Ibid. article 35.

7.3.2. Election Administration

Does the REC ensure the integrity of the electoral process?



Overall the REC organises and oversees elections effectively and ensures the integrity of the election process, but it should initiate changes that would facilitate better conditions for election participation of people with disabilities.

The ODIHR observation mission noted that the REC needs to promulgate clear and consistent procedures on all-day election processes to ensure consistency of voting, counting and tabulation.⁹⁹⁰

The election process is generally inclusive and sufficiently well organised. The REC publishes the final number of registered voters two days before elections and secures accountability over the management of sensitive electoral material.⁹⁹¹ Voters can make an online inquiry or check in-person on the premises of the local administration to see whether their names are registered correctly in the Single Voters' List and where they should cast their vote.

Voters with disabilities are still one of the most disenfranchised voter groups in the country. Firstly, many polling stations still lack adequate access for some members of this group.⁹⁹² Secondly, election material, including ballot papers and polling booths were not prepared for voters with visual, hearing or cognitive impairment. Due to its limited capacities and authority, these problems cannot be solely addressed by the REC.⁹⁹³

In the 2022 elections process, allegations were made by some representatives of the Albanian minority that a disproportionate number of residential addresses of citizens de facto residing in southern Serbia had been deregistered over the past decade, depriving affected people of their voting rights.⁹⁹⁴ Similarly, this problem exceeds the competencies of the REC, yet the REC could have taken an initiative for problem resolution at the Ministry of Public Administration and Local Self-Governance (MPALSG) and other related agencies.

Prior to the 2022 elections, the REC conducted voter education activities primarily through its website, social networks and, to a lesser extent, the broadcast media. Yet, the ODIHR's 2022 election mission to Serbia, found that these activities were not comprehensive in relation to recent legislative changes and protection of voters' rights.⁹⁹⁵

In the 2022 elections, observers from 9 national organisations and 23 international organisations, received approval from the REC to dispatch 537 international and 4.687 domestic observers in the election processes.⁹⁹⁶ However, it was noted that, due to an insufficient understanding of the legislation and election procedures, some observers were denied access to the polling stations.

Lastly, the REC does not initiate contact with the public prosecutor or other relevant authority when it ascertains the falsification of voters' signatures.⁹⁹⁷

⁹⁹⁰ According to ODIHR 2022 Report, an absence of uniform guidelines provided to the polling boards induced diverse handling of situations, difficulties reconciling voting counts and tabulation, and discrepancies in results protocols submitted by polling boards, Source: Organization for Security and Cooperation in Europe. 2022. "Serbia, Presidential and Early Parliamentary Elections, Final Report", p.28. <https://www.osce.org/odihr/elections-serbia/524385>

⁹⁹¹ The management authority over the Unified Voters Register (UVR) is in hands of the Ministry of Public Administration and Local-Self Governance (MPALSG).

⁹⁹² Organization for Security and Cooperation in Europe. 2022. "Serbia, Presidential and Early Parliamentary Elections, Final Report", p.10, <https://www.osce.org/odihr/elections-serbia/524385>

⁹⁹³ The government strategy for furthering the status of persons with disabilities for 2020 to 2024 sets goals to increase the number of accessible polling stations by 50% by the end of 2024 and promotes the active participation of persons with disabilities in public and political life through removing obstacles to political participation, adjustment of election and campaign materials, and ensuring secrecy of the vote for visually impaired persons.

⁹⁹⁴ Organization for Security and Cooperation in Europe. 2022. "Serbia, Presidential and Early Parliamentary Elections, Final Report", p.11, <https://www.osce.org/odihr/elections-serbia/524385>

⁹⁹⁵ Ibid.

⁹⁹⁶ Republic Electoral Commission website. 2023. "The report on elections for the members of the National Assembly", p.3, <https://www.rik.parlament.gov.rs/exfile/sr/files/additionalDocuments/325/135/IZVEŠTAJ%20O%20SPROVEDENIM%20IZBORIMA%20ZA%20NARODNE%20POSLANIKE%20NS.pdf>

⁹⁹⁷ After the REC requested one municipality to check the authenticity of the voters' signatures, and when the municipality denied the authenticity, the chairperson of the REC stated that the REC could take no further legal steps. Source: Ministry of Public Administration and Local-Self Governance, <https://www.osce.org/odihr/elections-serbia/524385>

7.3.3. Gender

To what extent does the electoral body promote the political participation of women?



Women can freely and with no obstacles exercise their right to vote, and they do not face more challenges than men voters.

Article 15 of the constitution stipulates that the state shall guarantee the equality of women and men and develop an equal opportunities policy, and Article 21 prohibits both direct and indirect discrimination based on any grounds including gender differences. Finally, Article 52 explicitly guarantees equal and universal suffrage to all citizens of age and regardless of working ability.

The Law on Gender Equality guarantees the right to join a political party and active participation in the work of a political party without any kind of discrimination based on gender.⁹⁹⁸ The Law on the Election of Members of Parliament stipulates that at least 40% of members of the lesser represented gender must be on the electoral list, so that among every five candidates on the list (first five places, second five places and so on to the end) there must be three members of one and two members of the other sex.⁹⁹⁹ This representation gets slightly distorted in practice, as when MPs resign from their mandate, the next one on the list is appointed, which ultimately leads to less than 40% representation in parliament. The REC is obliged to reject a list that does not comply to the legal obligation of gender representation.¹⁰⁰⁰

There has been no report of systematic discrimination against women voters in elections. The LEMP stipulates rules to ensure gender balance and inclusion of people with disabilities in the REC standing body. Currently, all REC members' nominators comply with the LEMP, which mandates that the nominator should be attentive to the gender equality and inclusion of persons with disabilities when proposing members and their substitutes.¹⁰⁰¹ Furthermore, requests for gender equality in the bodies that are in charge of conducting elections is further strengthened by the Law on Gender Equality.¹⁰⁰² The REC does not conduct training for the proactive promotion of equality of participation.

Interactions

Even though the Law defines the Republic Electoral Commission as an independent body, the REC lacks its own staff and budget. It relies on staff working in the parliamentary service and operates on parliamentary premises. Its budget is part of the parliamentary budget. MPs need REC confirmation to verify their mandate. Similarly, REC is in charge of the verification of MPs resignations and for the replacement of these MPs.¹⁰⁰³

The REC is not in charge of monitoring political parties' work, but directly influences them through its decisions. The REC decides whether a political party represents the interests of a national minority and subsequently, whether it enjoys related privileges (smaller threshold to enter the parliament). The REC is composed of lawyers nominated either by parliamentary parties or parties that participated in the elections, it is therefore not an expert or independent body.¹⁰⁰⁴

The REC decisions may be opposed before the court. Unlike for the rest of its work, the administrative court has to issue decisions related to the election process within the very short deadline, and this duty is largely respected.¹⁰⁰⁵

998 The Law on Gender Equality (52/2021) Article 48, para 3, <https://www.paragraf.rs/propisi/zakon-o-rodnoj-ravnopravnosti.html>

999 The Law on the Election of Members of Parliament (LEMP). Official Gazette of the Republic of Serbia, No. 14/2022, Article 73. <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/2>

1000 Ibid. article 77.

1001 Out of 38 standing REC' members, 15 (40%) are women. However, the inclusion of people with disabilities is still unsatisfactory. According to the ODIHR report (2022) the REC did not compile any data on the representation of persons with disabilities among electoral officials.

1002 The Law on Gender Equality (52/2021) Article 47, para 3, <https://www.paragraf.rs/propisi/zakon-o-rodnoj-ravnopravnosti.html>

1003 Law on Election of Members of Parliament. Official Gazette of the Republic of Serbia, No. 14/2022, Articles 8 and 24, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/2>

1004 Law on Election of Members of Parliament. Official Gazette of the Republic of Serbia, No. 14/2022, Articles 16, 24, and 137, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/2>

1005 Law on Election of Members of Parliament. Official Gazette of the Republic of Serbia, No. 14/2022, Articles 156, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/2>

Pillar Recommendations

- The government should propose and parliament should adopt a new law which would establish the state election commission as a professional and independent state body. The starting point for discussion on the best model for the election of its officials and their independence from political parties should be the draft law on the state electoral committee from 2009.¹⁰⁰⁶ This independent body should dispose with its own budget and should employ its own administration.
- The REC should publish annual procurement plans in accordance with the law (it has not been published since 2019), plus annual reports on expenditures and reports on election expenditures (not published since 2020) on its website at the latest one month after elections.
- The REC should initiate changes for better participation of voters with disabilities including:
 - » providing easier access to polling stations for persons with disabilities
 - » enabling easier movement within the polling station adapted to persons with disabilities
 - » enabling proper informing and communication with blind and deaf persons by introducing audio, visual and tactile instructions
- The REC should proactively publish turnout data, data on composition of polling boards and aggregated voting results received from the LECs on its website immediately upon their reception from the LECs in an open data format.

1006 <http://www.arhiva.drzavnauprava.gov.rs/newsitem.php?id=276>; <https://www.politika.rs/sr/clanak/196905/Politika/Izborne-zakonodavstvo-jos-uvек-manjkavo>

8. Ombudsperson

Summary

OVERALL PILLAR SCORE: 54.2/100

DIMENSION	INDICATOR	LAW	PRACTICE
CAPACITY  50/100	RESOURCES	–	50
	INDEPENDENCE	75	25
GOVERNANCE  62.5/100	TRANSPARENCY	75	50
	ACCOUNTABILITY	75	50
	INTEGRITY	75	50
	GENDER	75	
ROLE  50/100	INVESTIGATION	50	
	PROMOTING GOOD PRACTICE	50	

The ombudsperson is an independent and autonomous body, appointed and dismissed by the National Assembly to which it reports. Its role, defined by the Constitution of the Republic of Serbia and the Law on the Protector of Citizens, is to continuously promote respect for human liberties and rights by personal and institutional authority.¹⁰⁰⁷ Citizens can file complaints to the ombudsperson, who then assesses whether state administration bodies, the Public Prosecutor of the Republic of Serbia, or any other bodies or organisations exercising public authority, treat the citizens of Serbia in accordance with the laws and other regulations of the country or in compliance with the principles of good administration.

The ombudsperson continues to work on premises that have been temporarily assigned and which are inadequate. In addition, due to the continuous outflow of personnel, there is a noticeable decrease in human resource capacities, both in management positions and within the professional service. The election of the ombudsperson is still heavily influenced by politics, since only political parties can propose candidates from the total number of registered persons. In the last two years, the transparency in the work of the ombudsperson has been noticeably reduced, especially in cases where there is a stronger public interest. Also, the trend of reducing the activities of the ombudsperson continued, in terms of the number of received complaints and control procedures initiated on its own initiative, and in the number of recommendations sent to the public authorities. When it comes to recommendations, they are for the most part conceived pro futuro and do not contain mechanisms for sanctioning the violation of citizens' rights. Finally, a consistent mechanism for monitoring the implementation of the ombudsperson's recommendations has not yet been established.

¹⁰⁰⁷ The Constitution of Republic of Serbia, Art. 138, www.paragraf.rs/propisi/ustav_republike_srbije.html; the Law on Ombudsperson, Art. 1, www.paragraf.rs/propisi/zakon_o_zastitniku_gradjana.html

Capacity

8.1.1. Resources (practice)

To what extent does an ombudsperson or its equivalent have adequate resources to achieve its goals in practice?



SCORE: 50/100

Even though the ombudsperson has sufficient financial resources, it operates with primarily non-permanent staff and since 2010 has to work from a temporary office. Despite these significant issues, there is no evidence that indicates that the ombudsperson is working on solving the problem of space and personnel in the interest of the citizens.

The current space which the ombudsperson uses has been temporary accommodation since 2010 (57 offices, archives, small and large meeting rooms and a garage for five vehicles),¹⁰⁰⁸ assigned while the building for permanent accommodation is being renovated. In the meantime, that building was assigned, free of charge for a period of 30 years, to a state-owned company that is a partner in the controversial public-private partnership Belgrade on the Water.¹⁰⁰⁹

In 2022, under the Law on the Budget of the Republic of Serbia, as well as a Law on Amendments to the Law on the Budget of the Republic of Serbia, the ombudsperson was provided RSD 229.7 billion (about €1.9 million) in funds, which represents an increase of 6% compared to RSD 216.6 billion (about €1.8 million) of secured funds in 2021.¹⁰¹⁰ In 2022, as well as in 2021, the ombudsperson spent 89.87% of the provided budget funds (0.7% more than in 2020).¹⁰¹¹ The funds foreseen in the budget were used to finance the regular activities of the ombudsperson, in accordance with the financial plan it proposed.¹⁰¹² This indicates that the ombudsperson has sufficient financial resources.

On 31 December 2022, a total of 73 civil servants were employed (67 for an indefinite period and 6 for a fixed period of time),¹⁰¹³ which is less than the 82 civil servants employed in 2021 (74 for an indefinite period and 8 for a fixed period of time).¹⁰¹⁴ This further confirms the claims made by the Belgrade Centre for Human Rights in their 2021 report that there is a trend, starting when the current ombudsperson was first elected in 2017, of a decreasing number of permanent employees.¹⁰¹⁵

Based on the ombudsperson's information booklet as well as annual reports,¹⁰¹⁶ it seems like the ombudsperson has not taken any actions or adopted a plan to solve the problem of non-permanent staff and temporary space, which may lead to inefficiency in its work.

1008 Ombudsperson. Information booklet of the Ombudsperson, p.36, <https://informator.poverenik.rs/informator?org=4vRzkcyFRXyixrR7H>

1009 Diković, J. 2016. "Geozavod taken from Janković and Šabić, then given to Belgrade Waterfront." www.danas.rs/vesti/drustvo/geozavod-oduzet-jankovicu-i-sabici-pa-dat-beogradu-na-vodi/

1010 Ombudsman, Annual Report of Work for 2022, p.132, www.ombudsman.rs/attachments/article/7685/Redovan%20GI%20za%202022.%20god.pdf

1011 Ombudsman. Annual report for 2021, page 137, www.ombudsperson.rs/index.php/izvestaji/godisnji-izvestajiOmbudsman, 2022: 132.

1012 Ombudsman, 2021: 137; Ombudsman, 2022: 132.

1013 Ombudsman, 2021: 141.

1014 Ombudsman, 2021: 145.

1015 Belgrade Centre for Human Rights. *Human Rights in Serbia in 2021*, p.206, www.bgcentar.org.rs/bgcentar/wp-content/uploads/2022/03/Ljudska-prava-u-Srbiji-2021.pdf

1016 Information booklet of the Ombudsperson, p.29, <https://informator.poverenik.rs/informator?org=4vRzkcyFRXyixrR7H>, Annual Report of Work for 2021, p.145.

8.1.2. Independence (law)

To what extent is the ombudsperson independent by law?



SCORE: 75/100

There are comprehensive laws to ensure the independence of the ombudsperson. However, even the new Law on Ombudsperson, established in 2021, lacks provisions for the mandatory publication of selection criteria for the ombudsperson, creating a risk of influence in the selection and appointment procedures.

According to the constitution, the ombudsperson is an independent state body that protects the rights of citizens and controls the work of authorities entrusted with public powers.¹⁰¹⁷ The ombudsperson is elected and dismissed by parliament, is responsible to it, and has the same level of immunity as an MP.¹⁰¹⁸ The ombudsperson is elected by a majority in parliament on the proposal of the committee for constitutional affairs.¹⁰¹⁹

The law states that the ombudsperson is independent in performing their duties and that no one has the right to influence their work and actions.¹⁰²⁰ During the drafting of the new Law on the Ombudsperson in 2021, an opportunity was missed to revise the provisions which describe the process for the selection of the ombudsperson, as based on publicly unavailable criteria, which leaves room for non-objective appointments.¹⁰²¹

The ombudsperson cannot be a member of a political party and cannot make statements of a political nature.¹⁰²² Also, they cannot perform other functions or professional activities or other jobs and duties that could affect their autonomy and independence.¹⁰²³

The new law, adopted in 2021, extended the term of office from five to eight years.¹⁰²⁴ The mandate of the ombudsperson exceeds (by four years) the mandate of the MPs who appoint the position. Unlike the old law, the current law does not foresee the possibility of re-election to that position.¹⁰²⁵

The ombudsperson has the right to a salary equal to that of the president of the constitutional court (and the deputies equal to the salary of a judge of the constitutional court).¹⁰²⁶ In December 2022, the ombudsperson's salary was RSD 464,837 (about €4,000) per month, and the deputy's salary was RSD 406,732 (a little less than €4,000) per month.¹⁰²⁷

8.1.3. Independence (practice)

To what extent is the ombudsperson independent in practice?



SCORE: 25/100

The ombudsperson does not operate with the level of independence foreseen in the legal framework. Publicly available data suggest a lack of effectiveness, potential political influence and self-censorship, evidenced by a decrease in control procedures and recommendations, concerns about quality and changes in internal organisational rules, raising questions about staff discipline and political influence, while the failure to appoint deputies as required by law remains without consequences.

1017 The Constitution of Republic of Serbia, Art. 138, www.paragraf.rs/propisi/ustav_republike_srbije.html

1018 Ibid.

1019 The Law on Ombudsperson, Art. 6, [https://www.paragraf.rs/propisi/zakon_o_zastitniku_gradjana.html](http://www.paragraf.rs/propisi/zakon_o_zastitniku_gradjana.html)

1020 The Law on Ombudsperson, Art. 3, [https://www.paragraf.rs/propisi/zakon_o_zastitniku_gradjana.html](http://www.paragraf.rs/propisi/zakon_o_zastitniku_gradjana.html)

1021 Report of the Belgrade Centre for Human Rights. *Human Rights in Serbia in 2021*, p.202, <https://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2022/03/Ljudska-prava-u-Srbiji-2021.pdf>

1022 The Law on Ombudsperson, Art. 11.

1023 Ibid.

1024 Ibid, Art. 6.

1025 Ibid.

1026 Ibid, Art. 43.

1027 Informant of the Ombudsperson, p.91, <https://informator.poverenik.rs/informator?org=4vRzkcyFRXyixrR7H>

The legal framework enables the ombudsperson to work in a professional and impartial manner. However, publicly available data indicate that this is not the case or not sufficiently. Evidence of political influence on the entire work of the ombudsperson is difficult to find in a situation where everything, even getting a job for the lowest salary, depends on political will.

Although the ombudsperson's mandate expired in July 2022, parliament did not announce a competition for a new ombudsperson until the beginning of 2023, which it was obliged to do before the dissolution of the previous convocation, that is, 180 days before the end of the mandate.¹⁰²⁸ On this occasion, at the end of October 2022, five civil society organisations called on the competent parliamentary committee to adequately conduct a public interview with the candidates and to submit a proposal to parliament for a candidate that best reflects the qualities that a future citizen protector should possess. However, there was no reaction from the competent authorities, and in the meantime, the ombudsperson, despite the expiration of the mandate, continued to perform his duties, referring to Article 18 of the law, until his re-election.

Based on the available information, the public can only conclude that there is a high degree of self-censorship by the ombudsperson due to the extremely effective mechanisms of the so-called "soft power" of political parties. A 2021 report by the Belgrade Centre for Human Rights indicates that the number of control procedures conducted by the new ombudsperson in 2021 is significantly lower than the previous year (see 8.3.1).¹⁰²⁹ Similarly, in 2021, the ombudsperson sent only 342 recommendations to the authorities, while in the earlier period (2015 and 2016), up to 900 recommendations were sent per year.¹⁰³⁰ In addition, there is concern because of the reduced number and because of the quality of the recommendations, bearing in mind that a large number of them are pro futuro, i.e. they recommend how the competent authorities should act in the future, while only an insignificant number refer to a specific case and the elimination of violations of citizens' rights, that is realising that mistakes were made, repairing the damage and determining who is responsible.¹⁰³¹

The ombudsperson, elected in 2017, changed the rulebook on the internal organisation and systematisation of positions in the professional service twice.¹⁰³² The first time, the official explanation was that this was due to "the need to strengthen the personnel of the institution".¹⁰³³ The same explanation was stated in the annual report for 2021 and as a reason for drafting, for the second time, a new rulebook.¹⁰³⁴ It is not clear if this explanation is credible because of the very short time period in which the two changes were made, especially since the 2022 annual report announced that the ombudsperson will adopt a new rulebook.¹⁰³⁵ On the basis of publicly available information on the outflow of employees (from 2018, when the mandates of the deputies of the previous ombudsperson ended), the number of employees was reduced from 98¹⁰³⁶ to 73 in 2022.¹⁰³⁷ It can be reasonably assumed that the goal is to discipline the employees who have been there since the beginning of the institution's work and to create space for the party's employment of new staff.

It is also illustrative that, although the mandates of all the previous deputies expired, the new ombudsperson worked for a year without a deputy.¹⁰³⁸ Also, the fact that he proposed only three new candidates,¹⁰³⁹ despite the express provision in the law that "the ombudsperson has four deputies", remained without consequence.

1028 Belgrade Centre for Human Rights. *Human Rights in Serbia in 2022*, p.280, <https://www.bgcentar.org.rs/wp-content/uploads/2023/03/2023-04-24-Ljudska-prava-u-Srbiji-2022-web.pdf>

1029 Belgrade Centre for Human Rights. *Human Rights in Serbia in 2022*, pp.206-207, <https://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2022/03/Ljudska-prava-u-Srbiji-2021.pdf>

1030 Ibid.

1031 Ibid.

1032 Informant of the ombudsperson, p.5, <https://informator.poverenik.rs/informator?org=4vRzkcyFRXyixrR7H>

1033 Ibid, p.13.

1034 Ombudsperson. Annual report 2021, p.145, <https://www.Ombudsperson.rs/index.php/izvestaji/godisnji-izvestaji>

1035 Ombudsperson. Annual report 2022, p.141, <https://www.ombudsman.rs/attachments/article/7685/Redovan%20GI%20za%202022.%20god.pdf>

1036 Ombudsperson. Annual report 2018, p.115, https://www.ombudsman.rs/attachments/article/6062/Zastitnik%20gradjana_Godisnji%20izvestaj%20za%202018.%20godinu.pdf

1037 Ombudsperson. Annual report 2022, p.141.

1038 Belgrade Centre for Human Rights. *Human Rights in Serbia in 2020*, p.241, <https://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2014/01/Ljudska-prava-u-Srbiji-2020-za-web.pdf>

1039 Belgrade Centre for Human Rights. *Human Rights in Serbia in 2020*, p.241, <https://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2014/01/Ljudska-prava-u-Srbiji-2020-za-web.pdf>

Governance

8.2.1. Transparency (law)

To what extent are there provisions to ensure that the public can obtain relevant information on the activities and decision-making processes of the ombudsperson?



SCORE: 75/100

There are numerous provisions that should ensure the transparency of the ombudsperson's work. However, there are no provisions for sanctions for the delay in publishing the annual report, which happened once, and there is no explicit obligation to publish data on control procedures for which there is public interest, nor to hold press conferences.

The law stipulates that the regular annual report must contain information on the state of human rights, activities in the previous year, observed irregularities in the work of administrative bodies and proposals for improving the position of citizens. The report must be published in the Official Gazette and on the ombudsperson's website. In addition, it has to inform the media of its publication. However, there is no deadline for the publication only for the submission to the National Assembly (see 8.2.3).¹⁰⁴⁰

The ombudsperson and its work are subject to the Law on Free Access to Information of Public Importance. Similar to other public authorities, the ombudsperson must submit information of public importance within 15 days from the date of submission of the request.¹⁰⁴¹

According to the Law on Prevention of Corruption, the ombudsperson and deputies should submit, within 30 days from the day of election, to the Agency for the Prevention of Corruption a report on their properties and income, the properties and income of their spouse or common-law partner, as well as children if they live in the same family household, according to the situation on the day of election.¹⁰⁴² The law specifies that data from the register of assets and income of public officials¹⁰⁴³ be compiled and managed by the agency, and should be public.¹⁰⁴⁴

There is no special legal framework when it comes to public participation in the work of the ombudsperson. All regulations relating to the involvement of the public in the activities of public authorities (such as a public council, advisory commission, public consultations) apply to the ombudsperson.¹⁰⁴⁵

8.2.2. Transparency (practice)

To what extent is there transparency in the activities and decision-making processes of the ombudsperson in practice?



SCORE: 50/100

The ombudsperson's activities and decision-making process are insufficiently transparent in practice. The public for example, lacks insights into cases involving police officers' treatment of protesters and was potentially misinformed about ongoing control procedures in the Ministry of Health

The ombudsperson makes all documents required by law publicly available on its website. All annual reports, as well as special reports,¹⁰⁴⁶ are published on the website, as well as basic data on the control procedures conducted.¹⁰⁴⁷

1040 The Law on Ombudsperson, Art. 39.

1041 The Law on Free Access to Information on Public Importance, Art. 16, https://www.paragraf.rs/propisi/zakon_o_slobodnom_pristupu_informacijama_od_javnog_znacaja.html

1042 The Law on the Agency for the Prevention of Corruption, Art. 68, <https://www.paragraf.rs/propisi/zakon-o-sprecavanju-korupcije.html>

1043 The Anti-Corruption Agency, Report of property, <https://publicacas.acas.rs/#/acas/obrazacZaPrijavulmovineIzvestajiDetails/5019763>

1044 The Law on the Agency for the Prevention of Corruption, Art. 72-73.

1045 The Law on Government, Art. 33, https://www.paragraf.rs/propisi/zakon_o_vladi.html; The Law on State administration, Art. 76-77, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_upravi.html

1046 The Ombudsperson, Annual reports, <http://zastitnik.rs/index.php/lang-sr/izvestaji/posebnii-izvestaji>

1047 The Ombudsperson, Control procedures, <http://zastitnik.rs/index.php/lang-sr/izvestaji/godisnji-izvestaji>

Unlike in previous years, when this independent body published five special reports, in 2021, the ombudsperson did not publish a single thematic report,¹⁰⁴⁸ while in 2022 he published two special reports.¹⁰⁴⁹ Also, unlike previous years, based on the data available on the ombudsperson's website, it is no longer possible to determine with certainty the number of control procedures in 2022 were directed to the administrative bodies based on complaints and the body's own initiative.¹⁰⁵⁰

The information booklet about the ombudsman's work is published on the website, regularly updated and comprehensive. It also contains information on the ombudsperson's budget.¹⁰⁵¹ Asset declarations submitted by the ombudsperson and its deputies are publicly available on the anti-corruption agency's website.¹⁰⁵²

However, the annual reports lack substance about the state of human rights and the problems that citizens face. The Belgrade Centre for Human Rights emphasised in its 2020 Human Rights in Serbia report that, for example, it remains unknown whether and in what manner the ombudsperson reacted in all other cases of police officers' treatment of protest participants of which he was informed.¹⁰⁵³ Similarly, in June 2020, the Belgrade Centre for Human Rights submitted an initiative to the protector of citizens for the initiation of control procedures and direct supervision of the Ministry of Health's work regarding management of the COVID-19 information system, emphasising, in particular, the fact that potential concealment of data related to the public health of citizens of Serbia may cause irreparable and incalculable damage.¹⁰⁵⁴ Only three months later, in a guest appearance on national TV, the ombudsperson stated that the procedure for controlling the work of the Ministry of Health was ongoing.¹⁰⁵⁵ Then the Belgrade Centre for Human Rights, through a request for access to information of public importance, received information that the control procedure in the specific case had not even been formally initiated but that, the day before the ombudsperson appeared on TV, the minister of health was asked to provide the facts that determined in the process of auditing the COVID-19 information system.¹⁰⁵⁶

Even though the law stipulates that the examination procedure must be completed within 90 days from the receipt of the complaint, this deadline is often exceeded, even though there are no exceptional circumstances to justify such an action. Not infrequently, there is also a lack of timely, reasoned notification about the need to extend the investigation procedure, which, by the provisions of the law, the ombudsperson is obliged to send to the complainant. One of the examples is the case of the inhumane treatment of a woman during an induced abortion in the gynaecology and obstetrics clinic, who filed a complaint with the ombudsperson in 2022. Even after 11 months, he did not complete the procedure of control on the Ministry of Health's work, nor did clinic, nor did it inform the complainant in a timely manner of the existence of exceptional reasons that justify exceeding the deadline prescribed by law.¹⁰⁵⁷

1048 Belgrade Centre for Human Rights. *Human Rights in Serbia in 2022*, p.204, <https://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2022/03/Ljudska-prava-u-Srbiji-2021.pdf>

1049 Belgrade Centre for Human Rights. *Human Rights in Serbia in 2022*, p.281, <https://www.bgcentar.org.rs/wp-content/uploads/2023/03/2023-04-24-Ljudska-prava-u-Srbiji-2022-web.pdf>

1050 Belgrade Centre for Human Rights. *Human Rights in Serbia in 2022*, p.283, <https://www.bgcentar.org.rs/wp-content/uploads/2023/03/2023-04-24-Ljudska-prava-u-Srbiji-2022-web.pdf>

1051 The Ombudsperson, The Information Booklet, 2022, <http://zastitnik.rs/index.php/lang-sr/component/content/article/132>

1052 The Anti-Corruption Agency, Report of property, <https://publicacas.acas.rs/#/acas/obrazacZaPrijavulmovineIPrihoda>

1053 Belgrade Centre for Human Rights. *Human Rights in Serbia in 2022*, p.248, <https://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2014/01/Ljudska-prava-u-Srbiji-2020-za-web.pdf>

1054 Ibid, p.136.

1055 Ibid.

1056 Ibid.

1057 Belgrade Centre for Human Rights. *Human Rights in Serbia in 2022*, p.283, <https://www.bgcentar.org.rs/wp-content/uploads/2023/03/2023-04-24-Ljudska-prava-u-Srbiji-2022-web.pdf>

8.2.3. Accountability (law)

To what extent are there provisions to ensure that the ombudsperson has to report and be answerable for its actions?



SCORE: 75/100

There are provisions in place to ensure the ombudsperson has to be accountable for its actions to parliament, which can dismiss the person in that position. However, a reasoned proposal for dismissal can be submitted only by the competent committee of parliament or by at least one-third of the total number of MPs.¹⁰⁵⁸ In addition, the law does not specify sufficiently precisely that the ombudsperson can be dismissed, among other things, for performing functions unprofessionally and unconscionably,¹⁰⁵⁹ which is very difficult to prove, considering the way in which the law regulates the activities the ombudsperson is authorised to undertake.

The ombudsperson is responsible only and exclusively to the parliament¹⁰⁶⁰.

The ombudsperson has to submit a report to parliament by 15 March for the previous year.¹⁰⁶¹ In accordance with the rules of procedure of the National Assembly and the provisions on supervision of the state institutions and bodies, the ombudsperson's report has to be reviewed by the relevant parliamentary committees: committee on administrative, budgetary, mandate and immunity issues, committee on constitutional and legislative issues, committee on human and minority rights and gender equality, committee on labour, social issues, social inclusion and poverty reduction, committee on the judiciary, public administration and local self-government, committee on the rights of the child, defence and internal affairs committee and health and family committee.¹⁰⁶² The ombudsperson is invited to the committee session.¹⁰⁶³ The report of the ombudsperson has to be discussed by the relevant parliamentary committees within 30 days from its submission to parliament.¹⁰⁶⁴ Afterwards, the committee submits a report to parliament, along with its proposed conclusion, which may contain recommendations for the parliament to improve the issues identified by the ombudsperson, based on the recommendations from the ombudsperson's report.¹⁰⁶⁵ The Assembly discusses the report of the ombudsperson and the committee and MPs do not vote on the report but adopt the committee's conclusion on measures to improve the issues identified by the ombudsperson.¹⁰⁶⁶

The activities of the ombudsperson are not subject to judicial review because its evaluations, recommendations and opinions on irregularities do not have the form of an administrative act, nor do they have legal force and do not formally impose obligations on state bodies or citizens.

No one can be prevented from submitting a complaint to the ombudsperson.¹⁰⁶⁷ In accordance with the law, "the ombudsperson may, in particularly justified cases, not reveal the identity of the complainant to the administrative body".¹⁰⁶⁸

The ombudsperson has developed special mechanisms for the protection of whistleblowers (at the end of 2015, the rulebook on an internal whistleblowing procedure for the professional service was adopted).¹⁰⁶⁹ When it comes to the responsibility of the ombudsperson for its actions, there are general legal provisions on how the person in that position can be dismissed and why.¹⁰⁷⁰

1058 The Law on Ombudsperson, Art. 14, https://www.paragraf.rs/propisi/zakon_o_zastitniku_gradjana.html

1059 Ibid.

1060 The Law on Ombudsperson, Art. 3, https://www.paragraf.rs/propisi/zakon_o_zastitniku_gradjana.html

1061 The Law on Ombudsperson, Art. 39, paragraph 2, https://www.paragraf.rs/propisi/zakon_o_zastitniku_gradjana.html

1062 The Rules of Procedure of the National Assembly, Art. 74. And 237, [http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html)

1063 Ibid.

1064 Ibid.

1065 Ibid.

1066 Ibid, Art. 238. and 239.

1067 The Law on Ombudsperson, Art. 28, https://www.paragraf.rs/propisi/zakon_o_zastitniku_gradjana.html

1068 Ibid, Art. 34, paragraph 3.

1069 The Ombudsperson, The Rulebook on the internal whistleblowing procedure, 2015. https://www.ombudsman.rs/attachments/4464_pravilnik%20o%20postupku%20unustrasnje%20uzbunjivanja.pdf

1070 The Law on Ombudsperson, Art. 14.

8.2.4. Accountability (practice)

To what extent does the ombudsperson report and is answerable for its actions in practice?



SCORE: 50/100

The ombudsperson does not report sufficiently on its actions, nor is there publicly available data on whether the office is accountable for its actions in practice.

The ombudsperson supervises and evaluates, directly and indirectly through the secretary-general, the activities of the staff of the office in practice. Based on the results of the work, the ombudsperson rewards through promotions or sanctions through disciplinary procedures. However, according to the 2021 Human Rights in Serbia report by the Belgrade Centre for Human Rights, there are numerous ongoing disciplinary proceedings of unknown nature initiated by the ombudsperson against employees in professional service.¹⁰⁷¹ In 2020, five disciplinary proceedings were initiated against five employees of the ombudsperson and all were suspended in 2021 without explanation, and three employees were forced to leave the institution.¹⁰⁷² At the same time, there are five proceedings against the ombudsperson “due to mobbing” before the high court in Belgrade and 10 petitions have been submitted to the administrative inspection for various illegalities, irregularities and payments to prosecutors on various grounds.¹⁰⁷³

The ombudsperson’s annual report contains information on rights in specific areas.¹⁰⁷⁴ The ombudsman submitted the regular annual report for 2020 to parliament in March 2021 but, two days after the deadline expressly prescribed by law,¹⁰⁷⁵ without any consequences for the ombudsperson. Although the rules of procedure of parliament stipulate that submitted reports are considered within 30 days from submission, it was considered and adopted only on 29 December 2021.¹⁰⁷⁶

The regular annual report for 2021 was submitted to the parliament on time,¹⁰⁷⁷ more precisely to the twelfth convocation.¹⁰⁷⁸ Partly because 2022 was an election year, it was the competent committees of the thirteenth convocation that ultimately considered the report in December 2022.¹⁰⁷⁹ Parliament adopted the proposed conclusions on 27 February 2023.¹⁰⁸⁰ In 2022, media reported on a whistleblower case by an employee of the ombudsperson’s professional services accusing the ombudsman of bullying and unprofessionalism.¹⁰⁸¹ According to the employee, the judicial protection process was initiated because what she experienced at the ombudsperson’s office is a “school example of abuse at work”, from the initiation of disciplinary proceedings, transfer and isolation to humiliating conversations at official meetings.¹⁰⁸² In addition, there is also a proceeding against the ombudsperson for illegal dismissal, in which the first-instance verdict has already been passed in favour of the former colleague.¹⁰⁸³ If the verdict is upheld, the employee will be reinstated, all other wages will be paid to him; taxpayers may pay a tens of thousands of euros for this, and the procedure has lasted four to five years.¹⁰⁸⁴

1071 Belgrade Centre for Human Rights. *Human Rights in Serbia in 2022*, p.206, <https://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2022/03/Ljudska-prava-u-Srbiji-2021.pdf>

1072 Danas. 2023. ‘Protiv Zastitnika gradana Pasalica vodi se pet postupaka zbog mobinga’ (‘Against Ombudsperson Pasalic tjere are five mobbing procedures’), <https://www.danas.rs/vesti/politika/parlic-protiv-zastitnika-gradjana-pasalica-vodi-se-pet-postupaka-zbog-mobinga/>

1073 Ibid.

1074 Annual report for 2021. <https://www.ombudsman.rs/attachments/article/7369/Redovan%20Godisnji%20izvestaj%20Zastitnika%20gradjana%20za%202021.%20godinu.pdf>

1075 Parliament, Reports, annual report of the ombudsperson for 2020, [http://www.parlament.gov.rs/upload/archive/files/cir/pdf/izvestaji/2021/451-21%20\(1\).pdf](http://www.parlament.gov.rs/upload/archive/files/cir/pdf/izvestaji/2021/451-21%20(1).pdf)

1076 Belgrade Centre for Human Rights. *Human Rights in Serbia in 2022*, p.204, <https://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2022/03/Ljudska-prava-u-Srbiji-2021.pdf>

1077 Parliament, Reports, annual report of the ombudsperson for 2021, http://www.parlament.gov.rs/upload/archive/files/cir/pdf/izvestaji/2022/02-463_22.pdf

1078 Ibid.

1079 Parliament, Sessions of committee for human rights and gender equality, http://www.parlament.gov.rs/Druga_sednica_Odbora_za_ljudska_i_majninska_prava_i_ravnopravnost_polova__46198.941.html; http://www.parlament.gov.rs/Deseta_sednica_Odbora_za_ustavna_pitanja_i_zakonodavstvo_46216.941.html; http://www.parlament.gov.rs/%C5%A0esta_sednica_Odbora_za_pravosu%C4%91e_dr%C5%BEavnu_upravu_i_lokalnu_samoupravu.46228.941.html

1080 Parliament, Acts of Parliament, Conclusions, http://www.parlament.gov.rs/upload/archive/files/cir/pdf/ostala_akta/13_saziv/RS11-23.pdf

1081 Danas. 2022. ‘Optužbe protiv Pašalića stigle do Vučićevog kabinet’ (The accusations against Pasalic reached Vucic’s cabinet), <https://www.danas.rs/vesti/drustvo/optuzbe-protiv-pasalica-stigle-do-vucicevog-kabinet/>

1082 N1. 2023. Građani mogu platiti desetine hiljada evra zbog inačenja Ombudsmana (“Citizens can pay tens of thousands of euros due to the abuse of the Ombudsperson”), <https://n1info.rs/vesti/grabovica-gradjani-mogu-platiti-desetine-hiljada-evra-zbog-inacenja-ombudsmana/>

1083 Ibid.

1084 Ibid.

8.2.5. Integrity Mechanisms (law)

To what extent are there provisions in place to ensure the integrity of the ombudsperson?



SCORE: 75/100

There are several regulations covering the rules on integrity and ethical behaviour of the ombudsperson: the Law on the Ombudsperson, the Law on the Prevention of Corruption and the Law on Civil Servants. However, there is no code of conduct specifically for the ombudsperson and no evidence that integrity plans have been created.

The Law on the Ombudsperson provides that the ombudsperson and deputies may not perform any other public function, other professional activity or any duty or job that could affect their autonomy and independence.¹⁰⁸⁵ Moreover, it provides that they may not be members of political parties or make statements of a political nature.¹⁰⁸⁶

According to the Law on the Prevention of Corruption, the ombudsperson and deputies are considered as public officials and have all the same obligations as other public officials. This includes detailed provisions on conflicts of interest, the prohibition of gifts, as well as the procedure for the submission of asset declaration to the Agency for the Prevention of Corruption (see 5.2.5).¹⁰⁸⁷ The provisions on conflicts of interest and a prohibition on receiving gifts in the Law on Civil Servants apply to employees of the professional service.¹⁰⁸⁸

The ombudsperson and deputies are obliged to keep secret the information obtained in the performance of their duties, even after the termination of their duties.¹⁰⁸⁹ The obligation to keep secrets also applies to employees of the professional service.¹⁰⁹⁰

The ombudsperson does not have its own code of conduct. However, the ombudsperson is subject to the code of good administration and the code of ethics of the International Ombuds Association; however both documents have been removed from the official website of the ombudsperson and therefore it is unknown whether they are still applicable. Also, there is no publicly available information that the creation of the institution's integrity plan has continued since 2010.

8.2.6. Integrity Mechanisms (practice)

To what extent is the integrity of the ombudsperson ensured in practice?



SCORE: 50/100

There is still a need to improve the mechanisms for strengthening the integrity of the institution, given that it is an independent body that, with the power of its authority and integrity, significantly contributes to the realisation of the principles of good governance.

There is no publicly available data on whether or not there have been complaints against the ombudsperson for possible violations of the rules on neutrality, impartiality or the rules on conflict of interest. One of the possible reasons for this is the fact that the ombudsperson and its work is practically invisible, as noted in numerous criticisms by the Belgrade Centre for Human Rights.¹⁰⁹¹

In addition, no information is available to the public about whether the ombudsperson fulfilled its legally prescribed duties and continued the previous practice of improving the ombuds institution's integrity plan.

The ombudsperson and the deputies' asset declarations are published on the website of the Agency for the Prevention of Corruption.¹⁰⁹² They include data prescribed by the Law on the Prevention of Corruption. However, asset declarations from the staff of the ombudsperson have not been subject to the annual plan for checking

1085 The Law on Ombudsperson, Art. 11, https://www.paragraf.rs/propisi/zakon_o_zastitniku_gradjana.html

1086 Ibid.

1087 The Law on Prevention of Corruption, Art. 77- 76, https://www.paragraf.rs/propisi/zakon_o_sprecavanju_korupcije.html

1088 The Law on Civil Servants, Art. 25a, https://www.paragraf.rs/propisi/zakon_o_drzavnim_sluzbenicima.html

1089 Law on Ombudsperson, Art. 24, https://www.paragraf.rs/propisi/zakon_o_zastitniku_gradjana.html

1090 Ibid.

1091 Belgrade Centre for Human Rights. Human Rights in Serbia in 2022, pp.279-283, <https://www.bgcentar.org.rs/wp-content/uploads/2023/03/2023-04-24-Ljudska-prava-u-Srbiji-2022-web.pdf>

1092 The Anti-corruption Agency, Reports of property, <https://publicacas.acas.rs/#acas/obrazacZaPrijavulmovineIPrihoda>

the assets and income of public officials since 2016.¹⁰⁹³ Also, there is no available data that they were subject to extraordinary control.

8.2.7. Gender

To what extent are the ombudsperson's mechanisms gender-sensitive?



SCORE: 75/100

Gender-sensitive mechanisms and guidelines exist and are actively implemented. However, there is no information on training staff on these mechanisms.

The actions of ombudsperson are gender-sensitive (gender is a mandatory information in the record of complaints, in the work of the reception office and in the work on complaints concerning gender issues; the rule is that the processor must be a female) and go beyond the mechanisms prescribed by national legislation.

The law stipulates that the ombudsperson deals with gender equality. To ensure specialisation in that area, the law expressly states that the ombudsperson must have a deputy for that area.¹⁰⁹⁴

Special protocols for promoting gender equality are not stated in law, but a special gender-sensitive practice in dealing with complaints and reception of citizens was established in 2007, according to the law that describes a special obligation for the ombudsperson to ensure specialisation of tasks under the competence of the ombudsperson, especially with regard to the protection of gender equality.¹⁰⁹⁵

Out of a total of 82 employees in the ombuds professional service, 65 are women and 17 are men while out of three deputies, two are women and one is a man.¹⁰⁹⁶ This composition enables the reception of citizens in the reception office and the handling of complaints based on the principle of there being a female.

There is no publicly available data on employee training on gender-sensitive mechanisms in the professional service. However, the ombudsperson and associates have participated in numerous international conferences to exchange experiences.¹⁰⁹⁷

The ombudsperson produces some gender-disaggregated data (such as complaints filed by women or men or rights violated by women or men). The data are not classified according to whether the complaints were resolved by women or men, although such data exist considering that each employee is personally responsible for working on a specific case.

Role

8.3.1. Investigation

To what extent is the ombudsperson active and effective in dealing with complaints from the public?



SCORE: 50/100

The ombudsperson is insufficiently efficient in dealing with citizens' complaints, far below the expectations and needs of citizens.

The procedure for submitting a complaint to the ombudsperson is very simple and fast. There is no special form to file a complaint, but a general contact form is available on the website,¹⁰⁹⁸ which enables citizens to file a complaint more easily and simply. Citizens can also file a complaint by coming to the reception office, by email or

1093 The Anti-corruption Agency, Public officials, https://www.acas.rs/lat/page_with_sidebar/javni_funkcioneri#

1094 The Law on Ombudsperson, Art. 8.

1095 Ibid.

1096 Annual report of the Ombudsperson for 2021, p.145, <https://www.ombudsman.rs/index.php/izvestaji/godisnji-izvestaji>

1097 Ibid, p.5.

1098 The Ombudsperson, Complaint form, <https://www.ombudsman.rs/index.php/prituzba>

by phone. Each of these contacts results in a formal procedure, whether to initiate an investigation or to formally conclude that there are no grounds for further action. Complaints can be filed in any language used in everyday communication, which for members of national minorities means that they can fill it in their native language, either in Cyrillic or Latin.¹⁰⁹⁹

Before filing a complaint, the complainant is obliged to try to protect their rights in an appropriate legal procedure.¹¹⁰⁰ Complaints submitted before citizens try to protect their rights will be rejected by the ombudsman.

In 2022, 13,841 citizens contacted the ombudsperson. The ombudsperson was able to establish contact with 8,595 of these; 1,645 citizens were received at the reception office to submit a complaint or for advice; 3,601 cases were accepted, including 3,530 complaints and 71 cases initiated on the ombudsperson's own initiative.¹¹⁰¹ In 2021, these numbers were significantly lower; 10,757 citizens contacted the ombudsperson, of whom 1,054 citizens were admitted to interview. The number of established cases, however, was higher than in 2022: 4,501, including 4,426 complaints and 75 cases initiated on the ombudsperson's own initiative.¹¹⁰²

The number of controls conducted in 2021 on the ombudsperson's own initiative is significantly lower than the previous year,¹¹⁰³ while for 2022, based on the available data on the website of the ombudsperson, it is no longer possible to determine with certainty the number of control procedures conducted based on complaints and on the initiative of this body.¹¹⁰⁴

The statistics published on the official website of the ombudsperson are different from the statistical data presented in its annual reports. Thus, according to the statistics published on the official website, the ombudsperson made contact with 10,244 citizens in 2021,¹¹⁰⁵ which is a decrease compared to the previous year, 2020, when, according to data from the website, contact was made with 11,811 citizens.¹¹⁰⁶ Meanwhile, according to statistical data from its annual reports, the ombudsperson had contact with 11,811 citizens in 2021,¹¹⁰⁷ and 18,165 in 2020.¹¹⁰⁸ According to data from the annual report of work for 2022, the ombudsperson received 13,841,¹¹⁰⁹ but based on data available on the website it is no longer possible to determine the exact number of citizens with whom the ombudsperson made contact to determine.¹¹¹⁰ These were significant decreases compared to the period from 2014 to 2017, when the ombudsperson had more than 17,000 contacts with citizens,¹¹¹¹ with the exception of an unusually large number of citizens in 2022, due to long-term lockdowns in the COVID-19 pandemic.

There is no mechanism for monitoring whether and how the relevant institutions implement the ombuds recommendations. In addition, the public's perception of the ombudsperson is, due to insufficiently transparent and efficient action, a body that protects public authorities from citizens. This impression is greatly influenced by the lack of orientation and openness of the ombudsperson to citizens, his rare and confusing appearances in the media and the absence of promotion of any results.

1099 The Ombudsperson, In which language can you contact the Ombudsperson, <https://www.ombudsman.rs/index.php/2016-04-05-12-53-00/najcesce-postavljana-pitanja>; <https://www.ombudsman.rs/index.php/prituzba>

1100 The Law on Ombudsperson, Art. 28.

1101 Annual report of the Ombudsperson for 2022, p.1, <https://www.ombudsman.rs/index.php/izvestaji/godisnji-izvestaji>

1102 Annual report of work of the Ombudsperson for 2021, p.5, <https://www.ombudsman.rs/index.php/izvestaji/godisnji-izvestaji>

1103 Belgrade Centre for Human Rights. Human Rights in Serbia in 2022, p.206, <https://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2022/03/Ljudska-prava-u-Srbiji-2021.pdf>

1104 Belgrade Centre for Human Rights. *Human Rights in Serbia in 2022*, p.283, <https://www.bgcentar.org.rs/wp-content/uploads/2023/03/2023-04-24-Ljudska-prava-u-Srbiji-2022-web.pdf>

1105 Belgrade Centre for Human Rights. *Human Rights in Serbia in 2022*, p.206, <https://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2022/03/Ljudska-prava-u-Srbiji-2021.pdf>

1106 Belgrade Centre for Human Rights. *Human Rights in Serbia in 2020*, Page 243, <https://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2014/01/Ljudska-prava-u-Srbiji-2020-za-web.pdf>

1107 Annual report of the Ombudsperson for 2021, p.111, <https://www.ombudsman.rs/attachments/article/7369/Redovan%20Godisnji%20izvestaj%20Zastitnika%20Gradjana%20za%202021.%20godinu.pdf>

1108 Annual report of the Ombudsperson for 2020, p.10, <https://www.ombudsman.rs/attachments/article/7007/Redovan%20godi%C5%A1nji%20izve%C5%A1taj%20za%C5%8C%20godinu.pdf>

1109 Annual report of the Ombudsperson for 2022, p.20, <https://www.ombudsman.rs/attachments/article/7685/Redovan%20GI%20za%202022.%20god.pdf>

1110 Belgrade Centre for Human Rights. Human Rights in Serbia in 2022, p.283, <https://www.bgcentar.org.rs/wp-content/uploads/2023/03/2023-04-24-Ljudska-prava-u-Srbiji-2022-web.pdf>

1111 Belgrade Centre for Human Rights. Human Rights in Serbia in 2021, p.206, <https://www.bgcentar.org.rs/wp-content/uploads/2022/08/Ljudska-prava-u-Srbiji-2021.pdf>

8.3.2. Promoting good practice

To what extent is the ombudsperson active and effective in raising awareness within government and the public about standards of ethical behaviour?



The ombudsperson is mostly passive and ineffective in promoting good practice and ethical behaviour in the work of public authorities via its recommendations, because of a lack of independence from the political parties that elected him. The ombudsperson does not have the mandate to control the government, the general secretariat of the government or relevant government committees; civil servants must monitor recommendation implementation. There is no obligation in law for authorities to maintain central records of the ombudsman's recommendations. The ombudsperson is active in publishing findings, recommendations, reports on complaints, materials on the principles of good administration and efficient handling of complaints. All of the above are published on the official website of the ombudsperson.¹¹¹²

The ombudsperson is not competent to control the work of the government¹¹¹³ because a provision in the Law on the Ombudsperson is interpreted and applied so that he cannot control the work of the government, the general secretariat of the government or the competent committees of the government, while all other bodies, including government agencies, should. This is because these are collective bodies and not bodies of executive power, which comprise the highest political representatives.

All civil servants employed in the professional service monitor the implementation of recommendations in the specific case they are dealing with. Information and statistics on the implementation of recommendations are published in the ombudsperson's annual report.¹¹¹⁴ In 2022, the ombudsperson sent a total of 904 recommendations to administrative bodies. Authorities acted within the deadline in 94 recommendations (63.09%), 55 recommendations were not acted upon, while in 194 recommendations, the deadline has not yet expired for the authorities to act on them.¹¹¹⁵ This means that the number of recommendations sent is higher than in 2021, when the ombudsperson sent a total of 805 recommendations; however, the number of accepted recommendations is lower, as the authorities accepted 100 recommendations in 2021 (almost 78%).¹¹¹⁶ There are exceptions in politically sensitive cases where the execution of recommendations is not imperative or high on the priority list. For example, in a case of illegal use of force and police abuse by police officers, according to a citizen who participated in protests in July 2020, was only resolved in January 2022 by the Ministry of Internal Affairs regarding, having determined the omissions of police officers to the detriment of citizens' rights.¹¹¹⁷

The law does not contain an obligation of any authority to keep central records on the implementation of the ombudsperson's recommendations. In the absence of such a provision, parliament adopts a conclusion which summarises the proposed conclusions of the competent committees each time it considers the ombudsperson's annual report. These conclusions contain only very general guidelines for the future work of the ombudsperson and public authorities covered by the ombudsperson's recommendations.

The competent committees of the National Assembly will, in carrying out their legislative duties and control functions, monitor executive bodies for compliance with the ombudsperson's recommendations and "the National Assembly calls on the government to continuously report to the National Assembly on the implementation of these conclusions".¹¹¹⁸

¹¹¹² The official web presentation of the Ombudsperson, section with tabular presentation of the control procedures undertaken by the Ombudsperson since its establishment, with summaries and a link to reports on the conducted procedures, <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33>

¹¹¹³ The Law on Ombudsperson, Art. 19.

¹¹¹⁴ The official web presentation of the Ombudsperson, section with tabular presentation of the annual report submitted to the National Assembly by the Ombudsperson since its establishment, with summaries and a link to reports, The Annual Reports, <https://www.ombudsman.rs/index.php/izvestaji/godisnji-izvestaji>

¹¹¹⁵ Annual report of the ombudsperson for 2022, p.2.

¹¹¹⁶ Annual report of the ombudsperson for 2021, p.6, <https://www.ombudsman.rs/attachments/article/7369/Redovan%20Godisnji%20izvestaj%20Zastitnika%20gradjana%20za%202021.%20godinu.pdf>

¹¹¹⁷ Belgrade Centre for Human Rights. *Human Rights in Serbia in 2022*, p.283,

¹¹¹⁸ Parliament, Acts of Parliament, Conclusions, http://www.parlament.gov.rs/upload/archive/files/cir/pdf/ostala_akta/2019/RS34-19.pdf

Interactions

The National Assembly elects the ombudsperson who is responsible for reporting back to the National Assembly annually on its work.¹¹¹⁹ Parliament is regularly late in reviewing those reports, does not review them critically, and the conclusions it makes based on the ombudsperson's recommendations are not sufficiently substantive or high-quality to improve the fight against corruption (see 8.2.4). Parliament began the procedure for the election of a new ombudsperson a year after the expiration of the mandate of the current one, thus limiting the legitimacy of the office holder (see 8.1.3). The ombudsperson does not have jurisdiction to oversee parliamentary actions.¹¹²⁰

The ombudsperson and many CSOs operate in the same area, which is why their cooperation and complementarity is extremely important. It is not rare that CSOs criticise the ombudsperson for ignoring or not reacting properly to their initiatives. Such complaints are occasionally responded to by the ombudsperson, who points to a lack of evidence or understanding of the matter on the part of the CSOs.

The ombudsperson does not have jurisdiction to oversee the work of the government as a collective body, but it can oversee the ministries that make it up. In recent years, there has been a noticeable decrease in the number of recommendations and control procedures towards ministries and public authorities. In addition, public authorities do not implement even the reduced number of recommendations, some of which are targeted at systemic problems (see 8.3.2).

Pillar Recommendations

- The government should provide a permanent and adequate space for the ombudsperson by executing the existing decision or making a new decision on the allocation of space for permanent use.
- The ombudsperson should undertake all necessary measures and activities to improve its human resources by filling vacant positions in the professional service.
- Parliament should provide an effective and a publicly available mechanism for monitoring the implementation of the ombudsperson's recommendations, as well as the recommendations of the parliamentary committee in connection with the ombudsperson's annual report. That mechanism should ensure the prescription of sanctions for non-reporting on the implementation of recommendations and for unjustified non-implementation of recommendations.
- The government should prepare and parliament should adopt amendments to the Law on the Ombudsperson to: abolish the monopoly of political parties nominating candidates; give full transparency to the election process that enables all candidates to present their work programmes; ensure equal participation of CSOs in the election process, and the selection of the best candidates based on clear, well-known and measurable criteria.
- The ombudsperson should always, when there is increased public interest, initiate proceedings by official duty, especially according legislative competence.
- The ombudsperson should make information about his work available to the public in a timely and complete manner, above all information about control procedures and recommendations made, especially in those cases where there is an expressed public interest.

¹¹¹⁹ The Law on the Protector of Citizens, Arts. 3 and 6, <https://www.ombudsman.rs/attachments/article/643/Закон о Заштитнику грађана на енглеском језику.pdf>

¹¹²⁰ Ibid.

9. State Audit Institution

Summary

OVERALL PILLAR SCORE: 75/100

DIMENSION	INDICATOR	LAW	PRACTICE
CAPACITY  75/100	RESOURCES	–	75
	INDEPENDENCE	75	75
GOVERNANCE  83.3/100	TRANSPARENCY	75	75
	ACCOUNTABILITY	75	75
	INTEGRITY	100	100
	GENDER	0	
ROLE  66.7/100	EFFECTIVE FINANCIAL AUDITS	100	
	DETECTING AND SANCTIONING MISDEMEANORS	50	
	IMPROVING FINANCIAL MANAGEMENT	50	

The State Audit Institution (SAI) is an independent institution established by the 2005 Law on SAI.¹¹²¹ It is accountable to parliament.¹¹²² Members of the council are elected for a five-year term upon the proposal of parliament's finance committee.¹¹²³ Parliament elected the current council in April 2023.¹¹²⁴

There are six sectors within the SAI.¹¹²⁵ Besides the Belgrade head office, the SAI has offices in three other cities.¹¹²⁶ The SAI's budget is provided from the overall budget of Serbia based on the SAI's financial plan, with the parliamentary committee for finances' consent.¹¹²⁷ Since its founding, the SAI has had problems with inadequate premises and insufficient human resources for a comprehensive audit of all budget users. The situation has improved over the past seven years, but is still unsatisfactory.

The legal framework sets the basis for the independence of the SAI.¹¹²⁸ SAI representatives claim they do not face any pressure from the government or politicians in general; however, most SAI council members have been proposed by the ruling party. No members of the council have been removed from office since the SAI was established.

¹¹²¹ The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 1, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

¹¹²² The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 3, para 3, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

¹¹²³ The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 19-20, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

¹¹²⁴ SAI, Elected members of the Council of the State Audit Institution – <https://www.dri.rs/aktuelnost/izabrani-clanovi-saveta-drzavne-revizorske-institucije>

¹¹²⁵ Sectors: auditing the budget of the republic and budget funds; auditing local authorities' budgets; auditing organisations of mandatory social insurance; auditing of public enterprises, business companies and other legal entities established by direct and indirect beneficiaries; for methodology and development; and the sector for general and legal affairs, within which six services work.

¹¹²⁶ SAI's offices outside Belgrade are in Novi Sad, Nis and Kragujevac, where some activities are carried out.

¹¹²⁷ The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 51, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

¹¹²⁸ The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 3, para 2, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

The SAI's transparency has increased in the last few years: annual reports and the information booklet are published, and all audit reports are available to the public. However, the criteria for selecting audit subjects are still not published. Relevant parliamentary committees and the parliament in the plenum discuss SAI reports on the audit of the state budget but do not provide concrete recommendations based on them. So far, parliament has never requested an independent audit of the SAI's accounts.

Since its establishment, the SAI has struggled with insufficient office space, leading to inadequate working space and a lack of human resources. The SAI regularly files criminal and misdemeanour charges for violations revealed during audits; however, the prosecution fails to act upon them. The prosecution also fails to publish a report about the results of its actions.

Capacity

9.1.1. Resources (practice)

To what extent does the audit institution have adequate resources to achieve its goals in practice?



SCORE: 75/100

Since its founding in 2007¹¹²⁹ the SAI has not had adequate premises, which has affected its ability to strengthen its human resource capacities and management of auditing processes.¹¹³⁰

The SAI has offices in five locations:¹¹³¹ one in Belgrade, two in Niš and one in Novi Sad and Kragujevac each. This has caused communication problems and increased overall operating costs. Additionally, since 2007, there has been a lack of office space, contributing to the lack of an employment plan.

The deadline for the government to solve this problem passed in December 2014. The SAI states that this long-standing problem is ongoing.¹¹³² At the beginning of 2023, the SAI had 325 employees, while the systematisation foresees 426. Out of the planned 29 authorised state auditors (meaning auditors who, in accordance with law, have passed the exam for obtaining the title of authorised state auditor), 16 are in place, and out of the planned 60 state auditors (auditors who have the status of state auditor, but have not yet passed the exam for obtaining the title of authorised state auditor), 37 are in place.¹¹³³ All employees of the SAI have adequate professional education. The majority are economists, followed by lawyers.¹¹³⁴

On the other hand, the SAI has adequate financial resources, and its financial plan is always entirely accepted by the relevant parliamentary committee. The SAI budget has increased year by year. The SAI budget for 2023 was RSD 1.026 billion (€8.5 million); in 2022, it was RSD 941 million (€7.8 million); and in 2021, RSD 892 million (€7.6 million).¹¹³⁵

SAI representatives claim that employees are provided with adequate training. According to the SAI 2021 annual report, the continuous professional development of employees is determined by the strategic plan of the SAI for 2019-2023. The SAI adopts a training plan and executes it yearly, fully committed to career development.¹¹³⁶

¹¹²⁹ The State Audit Institution, the highest authority for auditing public funds in the Republic of Serbia, was established by the Law on the State Audit Institution in 2005. It was recognised as a constitutional category by the new Constitution of Serbia in 2006. At the session of the National Assembly held on 24 September 2007, the National Assembly elected the president, vice president and members of the council of the State Audit Institution, the highest body of the institution, which created the conditions for the start of this institution.

¹¹³⁰ The 2021 SAI Annual Report, https://www.dri.rs/storage/upload/documents/Godisnji_izvestaji/izvestaj_o_radu_2021.pdf

¹¹³¹ The SAI Information Booklet, p.15, https://www.dri.rs/storage/upload/documents/Informatori/informatori_31032022.pdf

¹¹³² The 2021 SAI Annual Report, p.92, https://www.dri.rs/storage/upload/documents/Godisnji_izvestaji/izvestaj_o_radu_2021.pdf

¹¹³³ The SAI Information Booklet, p.9, https://www.dri.rs/storage/upload/documents/Informatori/informatori_31032022.pdf

¹¹³⁴ Statement by a SAI member who insisted on anonymity, 15 October 2022.

¹¹³⁵ SAI, Financial Plan, <https://www.dri.rs/finansijski-plan>

¹¹³⁶ The 2021 SAI Annual Report, p.97, https://www.dri.rs/storage/upload/documents/Godisnji_izvestaji/izvestaj_o_radu_2021.pdf. In 2021, SAI employees participated in 56 training courses, among which 319 employees received training on ethical standards. Employees also participated in various courses provided by donor projects in the country and abroad.

9.1.2. Independence (law)

To what extent is there formal operational independence of the audit institution?



SCORE: 75/100

The constitution guarantees the SAI's independence but does not provide for the independence of council members.

According to the constitution and the law, the SAI is an autonomous and independent state body responsible to the National Assembly.¹¹³⁷ The SAI has established mechanisms based on which it performs its competence.¹¹³⁸ The constitution does not stipulate provisions concerning the SAI council members' independence.¹¹³⁹ The act also states that the SAI shall audit the realisation of all budgets (republic, provinces and local governments).¹¹⁴⁰ According to the law, the SAI exercises its auditing competence, which cannot be challenged before courts or other government bodies.¹¹⁴¹

One major loophole in the legislation which might endanger independence is the election procedure of the president and members of the SAI council¹¹⁴² as party representatives in the parliamentary committee nominate them, and parliament elects them. According to economic analyst, Mihajlo Gajić, this way, "personal independence is not assured, and depends on the balance of power in parliament".¹¹⁴³ However, other provisions enable the SAI's independence in its scope of work and relationship with other institutions and regarding the council members' position.¹¹⁴⁴

The SAI's financial independence is safeguarded through independent disposal of the budget and independent adoption of the financial plan.¹¹⁴⁵

The council of the SAI only determines the year's auditing plan.¹¹⁴⁶ The law stipulates that the SAI should decide independently on the subjects of audits, the topics, the scope and type of audit, and the timing and duration of audits. The SAI sets its agenda according to the law and sets criteria for selecting audits and auditees, following the International Organization of State Audit Institutions (INTOSAI)¹¹⁴⁷ standards.¹¹⁴⁸

Auditors have no immunity; they are entirely responsible for the auditing process and subject to criminal law.¹¹⁴⁹

1137 The Constitution of the Republic of Serbia. Official Gazette 98/2006 and 115/2021, article 96, https://www.paragraf.rs/propisi/ustav_republike_srbije.html; The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 3, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

1138 The legislative framework of the external audit of the public sector in Serbia, and in accordance with the negotiating position of the Republic of Serbia for the Intergovernmental Conference on the Accession of the Republic of Serbia to the European Union for Chapter 32 – financial supervision is based on the Lima Declaration guidelines for audit principles, the Mexican Declaration on the Independence of State Audit Institutions, international standards of supreme audit institutions, standards of the International Organization of State Audit Institutions (INTOSAI), European guidelines for the application of INTOSAI standards and the INTOSAI code of ethics for auditors in the public sector (scientific work on the role and work of SAI, https://ips.ac.rs/publications/drzavna_revizorska_institucija_i_njena_uloga_u_kontroli_finansija_jedinica_lokalnih_samouprava_sa_posebnim_osvrtom_na Oblast_javnih_nabavki/

1139 The Constitution of the Republic of Serbia. Official Gazette no. 98/2006 and 115/2021, article 96, https://www.paragraf.rs/propisi/ustav_republike_srbije.html

1140 The Constitution of the Republic of Serbia. Official Gazette no. 98/2006 and 115/2021, article 92, https://www.paragraf.rs/propisi/ustav_republike_srbije.html

1141 The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 3, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

1142 The Law on SAI, Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 19, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

1143 Interview with economic analyst Mihajlo Gajić, 25 February 2023.

1144 According to the Law on SAI, Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 5, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html, the institution performs the following tasks (among others): plans and performs audits, enacts by-laws and other enactments to implement the Law on SAI, submits auditing reports, takes standpoints and gives opinions and other forms of public announcements regarding the application and implementation of particular provisions of the law. The law also states that the SAI "extends professional assistance to the Assembly, the government and other government bodies on particular significant measures and important projects, in a manner that does not diminish the independence of the institution".

1145 The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 51, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html; the parliamentary committee gives the consent and the Ministry of Finance approves.

1146 The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 35, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

1147 Decision on adopting translation of international standards of the supreme audit institutions, Official Gazette 77/2015, https://www.dri.rs/storage/upload/documents/Publikacije/objavljeni_standardi_SI_GI-1,10,30.pdf; Compliance audit standard, INTOSAI, <https://www.issai.org/wp-content/uploads/2019/08/ISSAI-4000-Compliance-Audit-Standard.pdf>

1148 Also, the Law on Financing Political Activities. Official Gazette 14/2022, article 35, https://www.paragraf.rs/propisi/zakon_o_finansiranju_politickih_aktivnosti.html. The audit program foresees that every year the SAI covers the appropriate number of political entities that have representatives in the National Assembly, and the agency for the prevention of corruption, after the control of the political entity's financial reports, can send a request to the SAI to audit those reports in accordance with the law governing the competence of the State Audit Institution.

1149 Statement by a SAI member who insisted on anonymity, 15 October 2022.

9.1.3. Independence (practice)

To what extent is the audit institution free from external interference in the performance of its work in practice?



SCORE: 75/100

Although there is no direct recorded external interference, experts believe this is mainly because, in practice, action against public bodies is not taken based on SAI audits but rather on decisions by the prosecutor's office.

The results of audits and criminal or misdemeanour charges against officials indicate that the SAI functions free from external involvement. In 2022, the SAI submitted 145 reports against 322 responsible persons, compared to 101 in 2021.¹¹⁵⁰ According to economic analyst Mihajlo Gajić: "the SAI works professionally, even better than expected considering the economic and political circumstances in Serbia".¹¹⁵¹

In the last few years, the SAI has not publicly indicated that it has had any problems with external pressures during the auditing process, such as obstruction from auditing subjects failing to submit documents.¹¹⁵² Experts, NGOs and media have not recorded direct attempts of influence by politicians in appointments and elections of members of the SAI council and employees, nor any political interventions in the activities of the SAI.

However, an SAI member interviewed for this report points out that it is difficult to conclude whether the SAI is independent only based on audit reports bearing in mind the unpublished selection criteria for conducting the audit, as well as the elimination of the deficiencies that were found.¹¹⁵³ Economic analysts say that external influence is unnecessary because, in practice, action is rarely taken on SAI audits. Rather, the decisive factors typically stem from the actions taken by the prosecutor's office in response to criminal or misdemeanour cases initiated by the SAI, which lack independent processing (see 4.1.4). Also, the annual audit plan could be questioned, primarily since the criteria for the plan's preparations have never been published (see 9.2.2).¹¹⁵⁴

Members of the SAI council are proposed to the parliamentary finance committee by political parties.¹¹⁵⁵ According to the SAI member interviewed for this report, this leads to the impression in the public that members of the council are representatives of political parties, although they are not.¹¹⁵⁶ In 2018, the five members of the council who were elected were all proposed by ruling parties. All of them were already SAI employees. So far, there have been no cases of SAI members being dismissed without justification, that is, for political reasons, nor has it been publicly proven that they have a political background.¹¹⁵⁷

¹¹⁵⁰ The 2022 SAI Annual report, p.763, <https://www.dri.rs/storage/newaudits/ИзвештајорадуДРИза2022.годинудопуњено.pdf>

¹¹⁵¹ Interview with economic analyst Mihajlo Gajić, 25 February 2023.

¹¹⁵² Insight into the annual reports of SAI, <https://www.dri.rs/godisnji-izvestaji-o-radu>, and press clipping, <https://www.dri.rs/pres-materijal>

¹¹⁵³ Statement by a SAI member who insisted on anonymity, 15 October 2022.

¹¹⁵⁴ Ibid.

¹¹⁵⁵ Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 19, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

¹¹⁵⁶ Statement by a SAI member who insisted on anonymity, 15 October 2022.

¹¹⁵⁷ Interview with economic analyst Mihajlo Gajić, 25 February 2023.

Governance

9.2.1. Transparency (law)

To what extent are there provisions to ensure that the public can obtain relevant information on the relevant activities and decisions by the SAI?



The rules of procedure¹¹⁵⁸ and the law¹¹⁵⁹ provide a strong legal basis for the transparency of the SAI. However, there are no legal deadlines for publishing reports.

The SAI is obliged to publish annual reports, special reports on urgent issues during the year, and a report on the audit of the final account of the republic's budget.¹¹⁶⁰ However, there are no deadlines for making such information publicly available on the SAI website.

The law envisages that “the work of the institution is public by the law and the rules of procedure”,¹¹⁶¹ which state that the draft and proposal of the audit report are confidential and that the report of auditing subjects on measures taken to fulfil recommendations from the auditing report is a public document. The rules of procedure also stipulate that the institution “publishes acts on its website”. During auditing, only information about the subject, phase of the auditing process and expected time of finishing the audit can be published.¹¹⁶² When there are irregularities, a press release is published “in the media, determined by the president of the SAI”.¹¹⁶³

There are comprehensive legal provisions which should ensure that the work and activities of the SAI are available to the public. SAI is obliged to publish the information booklet on its work on the website and regularly update data in the information booklet.¹¹⁶⁴

9.2.2. Transparency (practice)

To what extent is there transparency in the activities and decisions of the audit institution in practice?



The public can obtain relevant information on the organisation and functioning of the SAI via its annual reports and information booklets. All audit reports are available to the public. However, the criteria for selecting the audit subjects are still not transparent, and there are no specific outreach actions to citizens to make them aware of the work of the SAI.

In practice, the SAI publishes all reports on the audits it conducts, response reports and reports on response reports¹¹⁶⁵ and the recommendations it gives.¹¹⁶⁶ The SAI regularly publishes and updates its website, information booklet, summaries of audit reports,¹¹⁶⁷ announcements, news, press material and contact persons in charge of relations with the media and the public. It regularly presents the findings of its audit reports in announcements and

1158 The SAI Rules on Procedure. Official Gazette 9/2009, article 47, https://www.dri.rs/storage/upload/documents/Opsti_dokumenti/Poslovnik_DRI.pdf

1159 The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 40-49, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

1160 The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 43, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

1161 The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 49, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

1162 The SAI Rules on Procedure. Official Gazette 9/2009, article 48, https://www.dri.rs/storage/upload/documents/Opsti_dokumenti/Poslovnik_DRI.pdf

1163 Ibid.

1164 The Law on Free Access to Information of Public Importance. Official Gazette 120/2004, 54/2007, 104/2009, 36/2010 and 105/2021, article 39, https://www.paragraf.rs/propisi/zakon_o_slobodnom_pristupu_informacijama_od_javnog_znacaja.html

1165 SAI, Audits, Audits in progress, Audits of response report – <https://www.dri.rs/revizije-u-toku>; <https://www.dri.rs/izvestaji>; <https://www.dri.rs/revizije-odazivnog-izvestaja>

1166 The SAI Recommendations Registry <https://dri.rs/registrovane-recomendacije>

1167 The SAI Report Summaries, <https://dri.rs/sazeci-izvestaja>

news about its activities. SAI regularly organizes press conferences where it presents individual reports.¹¹⁶⁸ In 2022, in connection, 1,740 texts were published about the work of the State Audit Institution in printed and electronic media.¹¹⁶⁹ All information about the work of the SAI is available on its website.

The SAI's information booklet is updated occasionally, not monthly, as determined by the commissioner for public information.¹¹⁷⁰ In 2022, the SAI received and responded to all 15 requests for access to information of public importance (18 in 2021).¹¹⁷¹ The annual report for 2022 did not specify what those requests were, while in 2021, most questions were related to whether the SAI submitted requests to initiate misdemeanour proceedings or criminal charges against responsible persons in the audited entities and for the delivery of copies of these documents.¹¹⁷² Members of the SAI¹¹⁷³ stated that the SAI "almost daily receives information in which citizens warn of the way public funds are spent, and that information is sent to the competent supreme state auditors". Citizens' petitions are submitted to the SAI by email and regular mail.

Despite the improvement in the last few years, the criteria for selecting the audit subjects are still not transparent. Furthermore, the SAI does not have outreach programmes or public channels for receiving information from citizens about suspected misuse of public funds.

The SAI does not provide information that it receives from the prosecution and court regarding the misdemeanour and criminal charges against those responsible for irregularities in its audit reports in its annual reports on how it monitors the processing of its reports and whether and how those processes are completed.

9.2.3. Accountability (law)

To what extent are there provisions to ensure that the SAI has to report and be answerable for its actions?



SCORE: 75/100

Based on the law, the SAI is accountable for its actions, although not all details – such as the content of annual reports – are regulated, and there is no obligation to audit the final accounts of the SAI itself.

The SAI is fully accountable to the National Assembly and must submit its annual report to parliament by 31 March.¹¹⁷⁴ The law does not specify the content of the report; the SAI defines it in its rules of procedure.¹¹⁷⁵

The SAI must also deliver reports about the information and data parliament asks for.¹¹⁷⁶ The parliamentary committee for finances reviews these reports and gives its standpoints and recommendations to parliament. A sub-committee is dedicated only to reviewing SAI reports and liaising with the SAI regularly. Parliament decides on proposed recommendations, measures and deadlines for their implementation.¹¹⁷⁷

There is no obligation to audit the final accounts of the SAI. The SAI does not audit its final accounts, but parliament can entrust an audit of the SAI's final accounts to firms that conduct auditing under the Law on Accounting and Auditing.¹¹⁷⁸ Data on its final accounts are part of the SAI's annual report that has to be submitted to parliament.

¹¹⁶⁸ The SAI Actualities <https://www.dri.rs/aktuelnost-lista>

¹¹⁶⁹ The 2022 annual report, p.118.

¹¹⁷⁰ The SAI information booklet, <https://www.dri.rs/informator-o-radu>

¹¹⁷¹ The 2022 annual report, p.109.

¹¹⁷² The 2021 annual report, pp.91-92, https://www.dri.rs/storage/upload/documents/Godisnji_izvestaji/izvestaj_o_radu_2021.pdf and 2020 annual report, p.103, https://www.dri.rs/storage/upload/documents/Godisnji_izvestaji/izvestaj_o_radu_2020.pdf

¹¹⁷³ Statement by a SAI member who insisted on anonymity, 15 October 2022.

¹¹⁷⁴ The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 43, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

¹¹⁷⁵ The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 44, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html. The report should contain data on implementing the annual audit programme, provided and spent assets and final accounts of the SAI, as well as data on the work of the SAI council, on cooperation with international professional and financial institutions, selection of consultants for training, training and exams to become an auditor. The deadline for submitting the work report for the previous year is 31 March of the current year.

¹¹⁷⁶ The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 46, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

¹¹⁷⁷ The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 48, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

¹¹⁷⁸ The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 52, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

The SAI organises its internal audits under the unit for internal audit scope, which includes inspection of its internal procedures, public procurements, compensations and workload of employees, inventory and office and property management.

If the audited entity or the responsible person of the audited entity from the time to which the audit refers, objects to the findings of the audit contained in the proposal of the audit report, together with the submitted audit report, a response to the objection is submitted to that entity. The council determines the answer to the objection. There is no legal remedy against the council's response.¹¹⁷⁹

9.2.4. Accountability (practice)

To what extent does the SAI have to report and be answerable for its actions in practice?

 SCORE: 75/100

The SAI submits its reports to parliament, but MPs adopt them without providing concrete recommendations and have never requested an independent audit of the SAI's accounts.

In 2022 and 2021, the SAI submitted its annual reports,¹¹⁸⁰ which are presented to MPs by the president of the SAI council. The parliamentary committee for finances and the parliament in plenum have tended to adopt conclusions based on SAI reports in previous years without any concrete recommendations. They have merely stated that the SAI's report was a comprehensive presentation of its activities.¹¹⁸¹

Although the Law on SAI allows parliament to request an independent audit firm to audit the SAI's final accounts, MPs have never requested this.¹¹⁸² The SAI is regularly peer-reviewed (a comprehensive review of their standards, practice and methodology) by other SAIs worldwide, according to INTOSAI standards.¹¹⁸³

The SAI has very good cooperation with the finance committee and regularly participates in its meetings. In the last five years, the committee held its sittings outside the parliamentary seat, and at those meetings with the local authorities, the SAI presented the audit reports on the work of those local authorities.¹¹⁸⁴

According to the law, a council member cannot be held responsible for the opinion expressed in the audit report and the proceedings initiated due to a criminal offence committed when exercising his jurisdiction and cannot be detained without the approval of the Assembly.¹¹⁸⁵

SAI reports cannot be changed, they are final. This possibility for other audit houses to revise SAI reports is not regulated by law. However, in practice it is quite possible for SAI reports to be commented on by the audited entities and other interested parties. However, that does not affect the content of the SAI report.

¹¹⁷⁹ The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 39, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

¹¹⁸⁰ The report contains information on the published audits, provided and spent assets and SAI final account, on the work of the SAI council, on cooperation with international professional and financial institutions, selection of consultants for training, training and exams for auditors and other activities of the SAI, annual report, <https://www.dri.rs/godisnji-izvestaji-o-radu>

¹¹⁸¹ Conclusion regarding the consideration of the annual report, http://www.parlament.rs/upload/archive/files/cir/pdf/ostala_akta/2021/RS60-21.pdf; http://www.parlament.rs/upload/archive/files/cir/pdf/izvestaji/13_saziv/02-581_23.pdf

¹¹⁸² Statement by a SAI member who insisted on anonymity, 15 October 2022.

¹¹⁸³ INTOSAI. 2019. Peer Review Guidelines, <https://www.intosaicbc.org/subcommittee-3-on-peer-reviews-2/>; INTOSAI. 2011. <https://www.issai.org/wp-content/uploads/2019/08/GUID-1900-Peer-Review-Guidelines.pdf>; International Journal of Government Auditing, https://www.intosai.org/fileadmin/downloads/about_us/IJGA_Issues/former_years/2011/eng_2011_oct.pdf

¹¹⁸⁴ Insight into the work of the finance committee, for example, the meeting was held in Sombor on 28 December 2022, http://www.parlament.rs/13th_Sitting_of_the_Committee_on_Finance,_State_Budget_and_Control_of_Public_Spending.46234.537.html

¹¹⁸⁵ The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 53, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

9.2.5. Integrity Mechanisms (law)

To what extent are there mechanisms to ensure the integrity of the audit institution?

 SCORE: 100/100

Comprehensive mechanisms are in place to ensure the integrity of the audit institution.

State auditors and employees must respect and implement the code of ethics of the SAI,¹¹⁸⁶ adopted in 2021, as well as the INTOSAI code of ethics.¹¹⁸⁷ The SAI code of ethics contains provisions respecting ethical principles, rules on acting and professional standards that assume integrity, respect, independence, objectivity, impartiality, political neutrality, preventing a conflict of interest, the confidentiality of data, competency and professional behaviour. For violating the code, liability according to law “is stipulated, without precise elaboration of the meaning of that provision”.¹¹⁸⁸ The SAI ethics committee is in charge of implementing the code’s provisions.¹¹⁸⁹ The council adopted the conclusion that each SAI employee must be given a copy of the code and must sign the statement that they have read it and are aware of the consequences for violating its provisions.¹¹⁹⁰

Members of the council are subject to obligations and prohibitions established by the governing law preventing conflicts of interest when performing public functions.¹¹⁹¹ Members of the SAI council must report their assets to the Agency for the Prevention of Corruption (APC),¹¹⁹² and part of this data is public.¹¹⁹³ Two years after termination of office, they are obliged to ask for consent from the agency if they wish to be employed by or to establish business cooperation with a legal entity, entrepreneur or international organisation engaged in activities related to the SAI.¹¹⁹⁴

Members of the council cannot be relatives or spouses of each other.¹¹⁹⁵ The law stipulates that audit data is an official secret and can be used only for writing the report. Members of the council, employees and external experts engaged by the SAI must keep this data confidential.¹¹⁹⁶

1186 The SAI Code of Ethics, https://www.dri.rs/storage/upload/documents/Opsti_dokumenti/Eticky_kodeks_DRI_2021.pdf

1187 International Organization of State Audit Institutions (INTOSAI)
code of ethics, <https://www.issai.org/wp-content/uploads/2019/08/ISSAI-130-Code-of-Ethics.pdf>

1188 Statement by a SAI member who insisted on anonymity, 15 October 2022.

1189 The SAI code of ethics, article 18, https://www.dri.rs/storage/upload/documents/Opsti_dokumenti/Eticky_kodeks_DRI_2021.pdf

1190 Information obtained through a request for free access to information, answer received in January 2023.

1191 The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 17, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html; Law on the Prevention of Corruption. Official Gazette no. 35/2019, 88/2019, 11/2021 – authentic interpretation, 94/2021 and 14/2022, articles 40-44, https://www.paragraf.rs/propisi/zakon_o-sprecavanju-korupcije.html

1192 The Law on the Prevention of Corruption. Official Gazette no. 35/2019, 88/2019, 11/2021 – authentic interpretation, 94/2021 and 14/2022, articles 67-76, https://www.paragraf.rs/propisi/zakon_o-sprecavanju-korupcije.html. Also, the Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 17, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html stated that members of the council, supreme state auditor, authorised state auditors and auditors cannot hold positions in a state body, municipal bodies or functions in political parties or unions. Furthermore, a member of the SAI council and the auditor cannot have property shares in enterprises that are under the SAI jurisdiction, nor can they perform other business activities that could have a negative influence on its independence, impartiality and social reputation as well as trust in the SAI and its reputation. A member of the council and auditor cannot participate in the process of auditing if they were employed by the subject of the audit or performed work for this subject in the five year period from the termination of such engagements.

1193 The content and public disclosure of data is regulated by the Law on the Prevention of Corruption, articles 71 and 73. Data that are publicly available from the register of assets and income of public officials are: name and surname of public official, their public function; the source and amount of the public official's net income received from the budget and other public sources, the right to use the apartment for official purposes, except for the address where the apartment is located, right of ownership or right of lease on immovable property, except for the address where the immovable property is located, the right of ownership or the right of lease of a public official on movable property subject to registration, except for their registration number, deposits in banks and other financial institutions without the name of the bank or other financial institution and without specifying the type and number of accounts and the amount of funds in the accounts, shares and shares in a legal entity, to a legal entity in which the legal entity has more than 3% of shares; and activity of an entrepreneur.

1194 The Law on the Prevention of Corruption. Official Gazette no. 35/2019, 88/2019, 11/2021 – authentic interpretation, 94/2021 and 14/2022, article 55, https://www.paragraf.rs/propisi/zakon_o-sprecavanju-korupcije.html

1195 The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 18, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

1196 The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 42, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

9.2.6. Integrity mechanisms (practice)

To what extent is the integrity of the audit institution ensured in practice?

 SCORE: 100/100

The integrity of SAI is ensured in practice. However, there are allegations by some opposition politicians that the work of SAI is selective and under the influence of the executive authorities; the allegations remain unproven.

There have been no reported violations of the code of ethics by employees or council members. The APC has not undertaken any measures against SAI council members or auditors.¹¹⁹⁷ All council members and other SAI officials have reported their assets to the APC.¹¹⁹⁸

The first and only cases of raising questions in public, in the Assembly, regarding the integrity of SAI council members or SAI employees took place at the session of the finance committee held on 5 October 2022, at which the president of the SAI council presented the 2021 SAI work report.¹¹⁹⁹ At that time, opposition MP Miroslav Aleksić criticised the SAI for being under the ruling party's influence and, for that reason, not auditing the largest public companies, such as Telekom, EPS and Belgrade Waterfront, which have and spent the largest budgets.¹²⁰⁰ However, that was not entirely true because the SAI audited the public power supply company, EPS, and reported on identified irregularities.¹²⁰¹

9.2.7. Gender

To what extent are the audit institution's mechanisms gender-sensitive?

 SCORE: 0/100

The SAI does not have any gender-sensitive mechanisms in place.

The SAI has not developed gender equality mechanisms, there are no gender-sensitive protocols or guidelines, nor is training conducted on gender-sensitive tools. It also does not process gender-disaggregated data.¹²⁰²

However, out of five SAI council members, four are women (only the SAI president is a man). Out of five supreme state auditors, two are women.¹²⁰³

1197 The decisions on violation of the law, <https://www.acas.rs/cyr/decisions/all>

1198 The asset register, http://www.acas.rs/sr_cir/registri.html?fbclid=IwAR35v9NiODw8nLGUztCFXt-q7c5j9S6AzfHOBOugvutVBtoiJaB_isqlpk

1199 Finance Committee's meeting on 4 October 2022. www.parlament.rs/Четврта_седница_Одбора_за_финансије,45459.43.html

1200 Without mentioning specific names and examples, MP Miroslav Aleksić accused the SAI of "conducting proceedings only against unfit and disobedient leaders from the ranks of the authorities so that the authorities can blackmail and pressure them". The SAI representatives did not respond to these statements, nor were there any comments or further analyses about them in the media or by independent experts.

1201 The report on the audit of the regularity of operations of the Public Enterprise Elektroprivreda Srbije, 18 January 2021, <https://dri.rs/izvestaj/3351>; In 2018 and 2019, the public company Elektroprivreda Srbije did not act in compliance with the Law on Public Procurements during the planning, implementation of procedures and reporting on public procurements where the value was RSD 43.38 billion, and the contracted value was RSD 31.53 billion without VAT," she announced, State Audit Institution, 18 January 2021; In the report on the audit of business expediency in industrial wastewater management, the SAI also stated that EPS is the largest generator of industrial wastewater. Report on the feasibility audit of the business: Management of industrial waste water, 31 January 2023, p.2 <https://dri.rs/izvestaj/11293>

1202 Statement by a SAI member who insisted on anonymity, 15 October 2022.

1203 SAI, Council members, Supreme state auditors – <https://dri.rs/sai-council>

Role

9.3.1. Effective financial audits

To what extent does the audit institution provide effective audits of public expenditure?



The SAI increases the number of performed audits and audits of response reports from year to year.

In 2021, the SAI conducted 534 audits (527 in 2021).¹²⁰⁴ State auditors found errors in the financial reports of RSD 725 billion (€6.2 billion) and irregularities in the operations of RSD 31 billion (€265 million) in 2022, of which the largest part, RSD 28 billion (€239 million) refers to public procurement.¹²⁰⁵ In the 2022 annual report, the SAI stated that it had returned RSD 9.62 billion (€82 million) to the national budget. It made 2,743 recommendations for improvement and increasing the efficiency, effectiveness and the economy of entities in the public sector. Most recommendations were given in public procurement, financial management and control, expenditures and expenses, and others. SAI audited ministries, local authorities, state-owned enterprises, social security funds and public institutions.¹²⁰⁶ In 2022, the SAI also prepared 215 post-audit reports submitted by entities in response to the recommendations issued after the audit. This is a significant advance because it is the only way to really determine whether the recommendations have been adequately implemented. The SAI has significantly expanded the scope of performance audits and has had 15 teams working for four years and an additional 15 teams for combined audits of performance and compliance reports.¹²⁰⁷

The SAI has produced 12 performance audit reports in 2022 related to environmental protection,¹²⁰⁸ and this area is one of SAI's strategic goals.¹²⁰⁹

All reports were published on the SAI website.

The OECD and EU initiative, SIGMA, during the evaluation of public administration in the candidate countries for EU membership in its 2021 report, gave the SAI a score of 4.5 out of a maximum of 5.0 (compared to 3.5 in 2017) in the field of external audit, assessing the SAI independence, competence, organisation and application of the highest standards..¹²¹⁰

9.3.2. Detecting and sanctioning misbehaviour

Does the audit institution detect and investigate misbehaviour of public officeholders?



The SAI has filed numerous charges against officials for misdemeanours, criminal acts or economic offences; however, judicial institutions have responded very slowly.

The SAI submits charges to the court as a request to initiate misdemeanour proceedings or to file criminal charges if it discovers any activities that indicate the existence of a misdemeanour or criminal acts during auditing.¹²¹¹ The SAI does not have the authority to investigate misbehaviour, only to report it to the prosecution.

The SAI has filed numerous charges against officials for misdemeanours, criminal acts or economic offences detected during auditing. However, judicial institutions have been very slow in responding to these charges.¹²¹²

1204 The SAI 2022 annual report, <https://www.dri.rs/storage/newaudits/ИзвештајорадуДРИза2022.Годинудопуњено.pdf>

1205 The SAI 2022 annual report.

1206 The audit reports, <https://www.dri.rs/izvestaji?page=8>

1207 Statement by a SAI member who insisted on anonymity, 15 October 2022.

1208 The audit reports, <https://www.dri.rs/izvestaji?page=8>

1209 Strategic plan SAI for 2019–2023 https://www.dri.rs/storage/upload/documents/Opsti_dokumenti/DRI%20Strateski%20plan2018-2023.pdf

1210 SIGMA Monitoring Report, November 2021, <https://www.sigmaproject.org/publications/Monitoring-Report-2021-Serbia.pdf>

1211 The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law), article 41, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

1212 Statement by a SAI member who insisted on anonymity, 15 October 2022.

In 2022, the institution submitted 145 reports against 2,332 responsible persons, out of which 109 were requests to initiate misdemeanour proceedings, 29 were for economic offences, and seven were criminal. Also, 40 pieces of information were submitted to prosecutors' offices, attorney's offices and other competent authorities.¹²¹³

However, experts who observe the SAI's work claim that the courts and prosecutor offices are not doing their job and that no sanctions are imposed on those targeted by the SAI. Therefore, it can be expected that the number of implemented recommendations will decrease.¹²¹⁴ According to one NGO representative, the SAI has complete integrity on paper, but in practice, audit subjects implement the audit findings less and less because there are no sanctions, especially at the local level.¹²¹⁵

Table 6: Requests for initiating misdemeanour procedures by the SAI¹²¹⁶

Year	Requests submitted	In process	Acquittals	Convictions	Readdressed	Suspended due to obsolescence	Dismissed
2019	320	56	20	230	6	6	2
2020	133	32	12	83	2	2	2
2021	97	40	/	56	1	/	/
2022	130	66	2	59	/	2	1

Table 7: Initiated criminal procedures¹²¹⁷

Year	Criminal charges	In process	Acquittals	Convictions	Readdressed	Suspended due to obsolescence	Dismissed
2019	33	11	/	1	/	1	20
2020	8	4	/	/	/	/	4
2021	7	4	1	/	/	/	2
2022	9	7	/	/	/	/	2

1213 The 2022 SAI annual report, p.74. <https://www.dri.rs/storage/newaudits/ИзвештајорадуДРИза2022.Годинудопуњено.pdf>

1214 Interview with economic analyst Mihajlo Gajić, 25 February 2023.

1215 "The SAI is lessening at the local level, and the opinion is that the recommendations of the SAI do not have to be fulfilled; it was not the case before." From an interview with Dragomir Pop Mitić, activist from the Užice Center for Human Rights and Democracy, who has been analysing the work of local governments for years, 25 October 2023.

1216 Based on FOI request submitted by Transparency Serbia on 21 August 2023.

1217 Ibid.

9.3.3. Improving financial management

To what extent is the SAI effective in improving the financial management of government?



SCORE: 50/100

Even though the SAI makes comprehensive recommendations, approximately 75% of SAI recommendations get implemented, and there has been some improvement in the government's financial management due to the SAI's actions; still, a number of irregularities recorded in previous years, especially in the domain of public procurement, linger.

Progress is noticeable in establishing internal controls and internal audits of public fund users. Still, some irregularities, especially in public procurement, are repeated year after year. In 2021, the SAI found irregularities in the operations of the audited entities worth over €50 million, which was less than the previous year.¹²¹⁸ The SAI paid particular attention to public procurements, said Duško Pejović, head of SAI, and emphasised that the audit included 2019 and 2020 public procurement.¹²¹⁹ In 2022, the SAI audited public procurements of RSD 150.07 billion and found irregularities of RSD 28.33 billion, which means that in 18.88% of public procurements, some kind of irregularity was determined, Mr Pejović said at the committee of finance session.¹²²⁰

In 2021, the SAI analysed the implementation of 2,155 recommendations given in 2020 to audit subjects and determined that 1,668 recommendations were implemented (approximately 75%).¹²²¹ The majority of them were related to the most considerable irregularities, such as public procurement, financial management and control, expenditures and expenses (see 5.3.3).

Based on the recommendations in audits conducted in 2020 and 2021, savings were achieved due to reduced expenditures and expenses (RSD 236.97 million, or app. €2.1 million), the collection of receivables increased, and income increased (RSD 47.27 million, or app. €402,000). There were also other benefits, like a more objective presentation of data in financial reports and more substantial financial records of budget users in the treasury and customs administration.¹²²²

Interactions

The National Assembly elects the president and members of the SAI council, and the SAI is responsible to the National Assembly.¹²²³ SAI representatives regularly participate in the meetings of the parliamentary finance committee, with which it has signed a memorandum of cooperation and has a special joint sub-committee for reviewing audit reports prepared by the SAI.¹²²⁴ However, parliament does not make adequate conclusions based on the SAI reports and recommendations (see 9.2.4). It also does not hold the government to account regarding the fulfilment of SAI recommendations and findings. That is why there are not enough positive developments in the efficient and responsible management of public finances in practice (see 9.3.3).¹²²⁵

1218 See 9.3.1.

1219 "We audited RSD 120.14 billion or a total of 4.5% of the total contracted values related to public procurement, and we determined that RSD 61 billion refers to 2019 and 59 billion to 2020," said Mr Pejović at the finance committee meeting (4 October 2022). RSD 53.5 billion of irregularities in public procurement was determined, which is RSD 75.59 billion less than the previous year, i.e. 56.55% lower.

1220 Parliamentary committee of finance session (15 September 2023), www.parlament.gov.rs/32._седница_Одбора_за_финансије,47906.43.html

1221 Mr Pejović at the Finance Committee meeting on 4 October 2022.

1222 To the greatest extent, these benefits relate to a more objective presentation of data in financial reports, to the amount of RSD 258.28 billion, of which RSD 115 billion refers to the recording of obligations of budget users in the treasury's general ledger, and RSD 114 billion for recording claims of budget users. Also, in 2021, RSD 18.6 billion worth of claims from the customs administration were recorded. From the SAI's recommendations, the budget system was improved by regulating the method of recording liabilities based on discounts by means of a by-law, and in this way, the same was recorded in 2021 to the amount of RSD 26.2 billion.

1223 The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 3, para 3 and article 19, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

1224 The decision on establishing the sub-committee for reviewing audit reports of the SAI, <http://www.parlament.gov.rs/upload/documents/dokumenta/05.12.2022.%20Pododbor%20FIN.pdf>

1225 CRTA. 2022. Analysis of the role of the National Assembly in respecting the recommendations of independent institutions, pp.7-8, <https://crt.rs/uloga-narodne-skupstine-u-obezbedjivanju-postovanja-preporuka-nezavisnih-institucija-2022/>

The SAI is legally obligated to file misdemeanour and criminal charges against those responsible for irregularities in its audit reports.¹²²⁶ In practice, the prosecutor's office is late processing those reports, and the SAI does not provide information in its annual reports on how it monitors the processing of its reports and whether and how those processes are completed (see 9.2.2). Also, the prosecutor's office does not react proactively or act independently based on the findings from the report on business irregularities¹²²⁷.

The government can be subjected to audits by the SAI,¹²²⁸ and it is also competent to fulfil the conclusions adopted by the National Assembly based on the SAI recommendations.¹²²⁹ The government does not inform parliament of what it has done based on those conclusions and fails to propose amendments to existing regulations based on SAI's recommendations from individual audit reports and thus reduce irregularities and eliminate possible corrupt practices.¹²³⁰

Pillar Recommendations

- The state prosecution office should act upon the SAI's submissions and report about the results of its actions during the year.
- The SAI should increase the number of auditors to fill the systematised positions and especially strengthen its performance audit sector to expand the scope and volume of the work.
- The SAI should enforce cooperation with CSOs and citizens to promote channels for reporting irregularities.
- The SAI needs to publish on its website the criteria by which it makes its annual auditing plan.
- The finances committee should follow up quarterly on the fulfilment of the SAI's recommendations in audited institutions, for example, through public hearings on the most strategic issues raised by SAI in its report.

1226 The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 41, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

1227 Statement by an SAI member who insisted on anonymity, 15 October 2022 and Interview with economic analyst Mihajlo Gajic, 25 February 2023.

1228 The Law on SAI. Official Gazette no. 101/2005, 54/2007, 36/2010 and 44/2018 – other law, article 10, https://www.paragraf.rs/propisi/zakon_o_drzavnoj_revizorskoj_instituciji.html

1229 The Rules of Procedure of the Parliament. Official Gazette 20/2012, article 237, para 5, point 2.

1230 Statement by an SAI member who insisted on anonymity, 15 October 2022 and Interview with economic analyst Mihajlo Gajic, 25 February 2023.

10. Anti-Corruption Agencies

Summary

OVERALL PILLAR SCORE: 60.4/100

DIMENSION	INDICATOR	LAW	PRACTICE
CAPACITY  56.2/100	RESOURCES	75	50
	INDEPENDENCE	75	25
GOVERNANCE  58.3/100	TRANSPARENCY	75	50
	ACCOUNTABILITY	75	50
	INTEGRITY	50	50
	GENDER	25	
ROLE  66.7/100	PREVENTION	75	
	EDUCATION	75	
	INVESTIGATION	50	

The Agency for Prevention of Corruption (APC) is an independent body in charge of conflict-of-interest prevention among public officials, control of party and campaign financing, enforcing lobbying legislation, identification of corruption risks in legislation, monitoring anti-corruption strategic documents and implementing various other measures to prevent corruption.¹²³¹

The agency is managed by a director who makes all decisions, pronounces measures and gives opinions and instructions for law enforcement. The director also appoints assistant directors, although the deputy is chosen in a public competition. The council of the agency is the second-level authority that decides on appeals filed against the director's decisions.¹²³²

The impact of the agency's efforts in preventing corruption is limited due to a lack of follow-ups by parliament and the government and insufficient promotion of such activities by the agency itself. The agency's position is weakened through an unclear division of roles between the agency and the government's coordinated body for monitoring the implementation of the action plan for Chapter 23 and the absence of a National Anti-Corruption Strategy since 2018.

Some of the agency's tasks are still not sufficiently defined, thus limiting the accountability of this body in terms of its results and the accountability of public officials and political entities that the agency oversees for potential wrongdoing. Furthermore, the agency does not have adequate resources (staff, in particular) to achieve all envisaged goals, even if there is a slightly higher level of guarantees for the appropriate budget in the law than other budget beneficiaries.

Legal guarantees for the agency's independence are comparatively high, but some problems identified in practice were not addressed through the latest law amendments. The agency's independence and integrity of its officials were challenged based on them dealing with some prominent cases related to the ruling party and its high-level officials.

¹²³¹ Law on the Prevention of Corruption, Article 6.

¹²³² Law on the Prevention of Corruption, Articles 8, 9, 17 and 20.

The agency is accountable to parliament and submits comprehensive annual reports regularly. However, it does not sufficiently communicate the results of its work and, for years, did not discuss its decisions in individual cases with the public.

Despite changes in the legal framework aimed to improve the accountability mechanism and professionalisation of the agency through the new selection system of its council (previously board) and director, there is no evidence of substantial progress.

Even if the agency publishes a lot of information about its work on its website, thus complying with the law, important information is still missing, and existing databases (registries) are not user-friendly. During the mandate of the previous director, the agency did not organise any press conferences.

The agency is rather active in fulfilling its role in preventing corruption (integrity plans, methodological documents, and so on) and providing education on corruption (public officials, civil servants, and others).

Capacity

10.1.1. Resources (law)

To what extent are there provisions that provide the ACA with adequate resources to effectively carry out its duties?

 **SCORE: 75/100**

The agency has a higher level of guarantees for sufficient resources in the law compared to most of the other budget beneficiaries. Still, it ultimately depends on the decisions of the government and parliament.

The agency's work is financed from the republic's budget. The agency proposes its financial plan that may be altered in further steps of budget adoption, as regulated in the Budget System Law,¹²³³ by the finance ministry, government or parliament. Financial plans may be altered, even for expenses, where the amount that the agency is entitled to is pre-determined in the law (such as funds for control of election campaign reports).¹²³⁴

According to the Law on the Prevention of Corruption (LPC), the annual funds for the agency's work from the budget should be sufficient to enable its efficiency and independence.¹²³⁵ However, this legal provision is merely declarative. There is no guarantee in law that the agency's plan will be fully approved, nor is it a legal duty for the director of the agency to request funds that would be sufficient to fulfil all potentially necessary tasks (for example, to expand the checks of asset declarations) in the upcoming year. The agency independently disposes funds for work within the approved budget limitations and has one additional safeguard, introduced through amendments to the LPC in 2019,¹²³⁶ based on a GRECO recommendation.¹²³⁷ The government cannot suspend, postpone or limit (for example, through a quota system how much may be spent within the certain month, as is the case with other public institutions),¹²³⁸ the spending of approved budget funds intended for the agency's work without the consent of its director.¹²³⁹

In addition to the budget, the agency may use funds or technical assistance from donors. It may also generate its own income, when specified in the law, such as from lobbyists' training¹²⁴⁰ and performing corruption risk assessments in private sector organisations.¹²⁴¹

1233 Budget System Law, Articles 37, 39, 42.

1234 Law on Financing Political Activities, Article 34.

1235 Law on the Prevention of Corruption, Article 4.

1236 Ibid.

1237 GRECO. 2022. Fifth Evaluation Round, Serbia Report, <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680a7216b>, pp.14 and 49, recommendation number 13.

1238 Rulebook on System of Republic of Serbia Budget Execution, Article 16.

1239 Law on the Prevention of Corruption, Article 4.

1240 Law on Lobbying. Official Gazette of the Republic of Serbia, No. 87/2018 I 86/2019 – other law, Article 7.

1241 Law on the Prevention of Corruption, Article 98.

10.1.2. Resources (practice)

To what extent does the ACA have adequate resources to achieve its goals in practice?



SCORE: 50/100

The agency's financial resources did not increase with increased competencies. The agency does not have enough staff members, by far, to properly fulfil its role and has insufficient office space.

According to the director of the thinktank, Bureau for Social Research, the agency requests funds only for its current number of employees and not for envisaged ones, which shows that funds are not sufficient for the full scale of its operations.¹²⁴² The agency's budget of the has not changed significantly in recent years, and its range is between RSD 240 million and RSD 300 million (app. €2 million and €2.5 million), with 2023 being set at RSD 295.783.000.¹²⁴³ The budget remained the same even though the agency received new responsibilities (lobbying, preparation of corruption risk analyses). Almost 90% of the agency's budget goes to salaries and regular operating costs.¹²⁴⁴

The agency is a beneficiary of donor support (from the EU, USAID, OSCE, and others), which is an important component for capacity building.¹²⁴⁵ The exact value of such donations is usually not stated in the agency's financial documents¹²⁴⁶ as the support is mostly in kind (for example, the design of a new web page).

The new systematisation¹²⁴⁷ (from 1 November 2023) created eight primary sectors and two special ones, unlike in the previous version,¹²⁴⁸ which included ten primary sectors and two special ones. With the new systematisation,¹²⁴⁹ the director predicted that the agency would have the same number of employees as indicated in the previous case: 162,¹²⁵⁰ while the systematisation adopted in 2018 envisaged 126 employees. In the information booklet updated on 30 October 2023 there was no information on the number of current employees in the agency. On 31 December 2022, 93 people were employed in the agency, which means there were 57 job vacancies.¹²⁵¹ This indicates that the agency does not have adequate resources to achieve its goals in practice in all its competencies.¹²⁵²

In addition to the human resources problem, the agency lacks office space since the building where it is located is not adequate for the number of employees, as identified already in the 2017 annual report.¹²⁵³ The agency requested new premises in 2018,¹²⁵⁴ which has not yet been fulfilled.

The agency applies general rules on employing civil servants (competitions) and announcing vacant positions. Candidates must meet the requirements from the job description, including appropriate academic qualifications and work experience, which are indicated in the announcements.¹²⁵⁵ The competition committee organises interviews with candidates and additional tests. There are no special rules or norms regarding verifying candidates' ethical standards.¹²⁵⁶ The agency's staff generally have opportunities for career development and professional training,¹²⁵⁷ which are comparatively high due to international cooperation projects.¹²⁵⁸ The qualification level of key personnel

1242 Interview with Zoran Gavrilović, director, Bureau for Social Research (BIRODI), 22 February 2023.

1243 APC, financial plan for 2023, https://www.acas.rs/storage/page_files/Finansijski%20plan%20za%202023.%20godinu_1.pdf

1244 APC's information directory, finances chapter, <https://informator.poverenik.rs/informator?org=Qk52gm8k2qA4So5S3&ch=tqtoH9xBMFM5NAvTR>

1245 The agency continuously receives the support of the international donors through various projects and initiatives, with the aim of systematically strengthening the professional and technical capacities of the Agency. Through these projects, the Agency implements legal responsibilities and develops the skills of employees – Annual report for 2022, pp.52 and 53.

1246 APC. Annual Report for 2022, https://www.acas.rs/storage/page_files/Annual_Report_2022.pdf, p.52.

1247 https://www.acas.rs/storage/page_files/Pravilnik%20o%20unutra%C5%A1njem%20ure%C4%91enju%20i%20sistematizaciji%20radnih%20mesta%20u%20Slu%C5%BEbi%20Agencije%202023_1.pdf

1248 Rulebook on internal organisation and systematisation, in force from March 2019 to July 2023.

1249 Rulebook on internal organisation and systematisation, in force from July 2023.

1250 Ibid.

1251 Annual report for 2022, p.57.

1252 Based on several anonymous employee statements, February 2023.

1253 APC. Annual report for 2017, p.16, https://www.acas.rs/storage/page_files/Izve%C5%A1taj%20o%20radu%20za%202017.%20Agencije%20za%20borbu%20protiv%20korupcije.pdf

1254 Based on the agency statement from 23 August 2022, along with copy of the request of the agency from 26 March 2018, to the Republic of Serbia directorate for property.

1255 APC. Competitions, <https://www.acas.rs/lat/competitions/expired>; https://www.acas.rs/cyr/page_with_sidebar/organizacija#

1256 The agency's response, 23 August 2022.

1257 They attended a total of 38 training courses in 2021, according to the annual report, p.92.

1258 Based on interview with a former agency staff member, 22 December 2022.

fulfils legal requirements; some even have substantive experience in relevant areas of work.¹²⁵⁹ However, there has also been an outflow of qualified and experienced staff since 2018.¹²⁶⁰ The agency states that employees have adequate career development and training opportunities, both through national mechanisms and through international projects.

10.1.3. Independence (law)

To what extent is the ACA independent by law?



Comparatively, the agency's independence is very high. However, challenges for independence, exposed in the law's implementation, were not addressed during the legal reforms in 2020.

The LPC¹²⁶¹ defines the agency as an autonomous and independent state body accountable to parliament. Since the beginning of the agency's work in 2010,¹²⁶² there have been no changes in its status, but essential changes related to its leadership selection have been in force since September 2020.

Parliament elects the director and five members of the council of the agency after a public competition organised by the judicial academy and announced by the Ministry of Justice. The selection committee¹²⁶³ conducts candidate testing based on Ministry of Justice criteria and interviews candidates. It evaluates the candidate's competence, professional integrity and the working programme (for the director only).¹²⁶⁴ Parliament also decides on the director's dismissal by a majority vote of all MPs.¹²⁶⁵ The director may be dismissed if they become a political party member, are sentenced to prison sentence for at least six months or if they have another conviction making them unworthy of public office or a violation of the law in the field of corruption prevention. Parliament's judiciary committee can initiate a procedure to decide whether there are reasons for the director's dismissal, and the director has the right to address the committee. The same applies to council members.¹²⁶⁶ Both the director and the council members are elected for five years and can only be elected twice.¹²⁶⁷ The director announces and conducts the public competition for the deputy director and decides on their dismissal.¹²⁶⁸ The director and members of the council cannot be political party members, but there is no such ban for ex-members or other types of affiliation.¹²⁶⁹

The new Law on the Prevention of Corruption, in force since September 2020, despite positive assessments of GRECO¹²⁷⁰ failed to solve some previously identified shortcomings. The new law worsened the independence of the agency in some areas. The new law essentially remained the same as the previous one, but one of the more significant innovations is the introduction of the agency's obligation to analyse the risk of corruption in draft laws, but the drawback is that these analyses are not published. The obligation to act on anonymous petitions was also introduced. However, nothing was done to ensure greater independence of the agency and ensure the implementation of the law.¹²⁷¹ According to previous legislation, the agency's nine-member board (which became the council with

1259 APC. Director and deputy director, https://www.acas.rs/cyr/page_with_sidebar/organizacija#

1260 Based on an interview with a former agency staff member who resigned after the election of Dejan Sikimić as director in January 2018. They stated that they left because of his political connection with the ruling party and the way in which he introduced a new systematisation of jobs and a new general practices in the agency, 22 December 2022.

1261 The Law on the Prevention of Corruption, Article 3.

1262 Law on the Agency Against Corruption, 2008.

1263 The process for selecting a member of the council of the agency involves a public competition conducted by the judicial academy. The administrative board of the judicial academy establishes a commission, comprising three members, responsible for selecting council members. Eligible candidates must meet specific criteria, including education, work experience and a clean legal record. The commission reviews applications, conducts a test focusing on professional competence and integrity, and assigns scores. The test has two parts: one scored out of 100 points for competence and the other evaluated on a pass or fail basis for professional integrity. Candidates who fail the integrity test are disqualified. The commission publishes test results and a ranking list within 15 days, submitting them to the minister responsible for judicial affairs. The minister issues regulations governing the public competition process. The Law on the Prevention of Corruption, Article 23.

1264 The Law on the Prevention of Corruption, Article 12.

1265 The Law on the Prevention of Corruption, Article 16.

1266 The Law on the Prevention of Corruption, Article 27.

1267 The Law on the Prevention of Corruption, Articles 14 and 25.

1268 The Law on the Prevention of Corruption, Article 17.

1269 The Law on the Prevention of Corruption, Article 10 and 21.

1270 GRECO, Evaluation Report Serbia, Fifth evaluation round – Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies – <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680a7216b>

1271 BIRODI and Transparency Serbia 2023. The new Law on Prevention of Corruption does not solve society's problems <https://www.danas.rs/vesti/politika/birodi-i-transparentnost-novi-zakon-o-sprecavanju-korupcije-ne-resava-probleme-drustva/>

the new law) choose the director after a public competition, not parliament as it is the case with the new law on the ACA. Previously, parliament elected board members, but only after being proposed by qualified institutions (including some independent ones, like SAI, commissioner for information, ombudsperson, bar association and journalist's associations).¹²⁷² With the new law, board members are elected without the need for qualified suggestions by these institutions. This has worsened the independence of the agency as it is now subject even more to the dominant ruling party in the parliament.

The selection process for the agency's council members and director, while initiated through a public competition, raises concerns as the ultimate decision rests solely on the majority of members of parliament.¹²⁷³ The system of candidate testing, introduced in 2019, might guarantee more significant expertise among council members. However, parliament is free to choose candidates who have passed the test (regardless of the level of demonstrated knowledge or any further criteria).¹²⁷⁴

Employees of the agency are civil servants in appointed positions, civil servants and deputies, and the regulations on civil servants¹²⁷⁵ and deputies are applied to their rights¹²⁷⁶ (such as working conditions, income, vacations and absences, membership in trade unions and associations, rights to appeal) and obligations¹²⁷⁷ (such as execution of orders, transfer, temporary work on jobs that are not within the scope of the job, work in a workgroup, keeping official and other secrets). The director, council members and employees do not have immunity or other special privileges because of their work.

10.1.4. Independence (practice)

To what extent is the ACA independent in practice?



SCORE: 25/100

The agency's independence was challenged based on dealing with some prominent cases related to the ruling party and its high-level officials.

The agency's independence has been called into question on several occasions in the last 10 years, particularly in connection with the selection of its directors, their resignations and decisions.¹²⁷⁸

According to the director of the thinktank, Bureau for Social Research the agency's new director, Dejan Damnjanović, elected on 27 February 2023, continued the agency's earlier practice of not dealing with corruption cases of high-level political and state officials, based on the decisions he made.¹²⁷⁹ Although certain parties, above all, the ruling SNS, have repeatedly violated the law in the same way for years, the agency either rejects such reports or imposes the mildest punishments, such as warnings.¹²⁸⁰ Also, in public statements, he focuses on providing

1272 Law on Anti-corruption Agency, Article 9.

1273 Coalition prEUgovor Report on Progress of Serbia in Chapters 23 and 24 – March 2019 – <https://preugovor.org/Alarm-Reports/1528/Coalition-prEUgovor-Report-on-Progress-of-Serbia.shtml>

1274 The Law on the Prevention of Corruption, Articles 13 and 24.

1275 Law on Civil Servants.

1276 Law on Civil Servants. Official Gazette of RS, No. 79/2005, 81/2005 – ispr, 83/2005 – ispr, 64/2007, 67/2007 – ispr, 116/2008, 104/2009, 99/2014, 94/2017, 95/2018, 157/2020 i 142/2022, Section 3, Rights of civil Servants – articles 12-17.

1277 Law on Civil Servants. Official Gazette of RS, No. 79/2005, 81/2005 – ispr, 83/2005 – ispr, 64/2007, 67/2007 – ispr, 116/2008, 104/2009, 99/2014, 94/2017, 95/2018, 157/2020 i 142/2022, Section 3, Obligations of civil Servants – articles, pp.18-24.

1278 The board replaced the first director, Zorana Marković in 2012. Her successor, Tatjana Babić, resigned in December 2016 after being appointed as a judge of the constitutional court. The next competition was ultimately unsuccessful because the members of the board did not want to support the government's informally endorsed candidate. On 6 September 2017, the board elected Majda Kršikapa as the director, who resigned only two months later without giving a reason, at a time when the agency announced extraordinary controls on the highest state officials. The prosecutor suspended the proceedings against Malog and two other officials; the agency is still checking the assets of Nikolić and Jovanović: Insajder TV <https://insajder.net/arkhiva/tema/protiv-malog-i-jos-dvojice-funkcionera-tuzilac-obustavio-postupak-agencija-jos-proverava-imovinu-nikolicu-i-jovanovicu>). The media reported that the dismissal of Kršikapa, the head of the agency, was possibly due to political pressure, especially in anticipation of the agency's response to "politically sensitive" cases, including the origin of over €200,000 used by the minister of internal affairs to buy an apartment. The agency filed a criminal complaint two years later. During Kršikap's brief tenure, she investigated the financing of the ruling SNS party and peculiar individual donations of RSD 40,000, totalling 6,500 donations. However, there is no information about the Agency approaching the prosecutor's office regarding irregularities in the 2016 election campaign. In 2014, the agency reported potential money laundering to the prosecutor's office related to social assistance recipients making substantial donations to the ruling party. Despite the agency's report on possible illegalities in the financing of political parties, the higher public prosecutors office in Belgrade decided on 11 May 2022, that there were no grounds for initiating criminal proceedings against them, more than six years after receiving the report. Insajder: "How the control of Malog and Nikolić's property ended with the resignation of the agency's director", <https://nova.rs/vesti/politika/kako-se-kontrola-imovine-malog-i-nikolicu-zavrsila-ostavkom-direktorke-agencije/>

1279 Interview with Zoran Gavrilović, director, Bureau for Social Research (BIRODI), 22 February 2023.

1280 Monitoring izbora. 2022. Monitoring of Elections 2022, pp.184-194.

justifications for the actions and practices of the agency in cases involving high-level officials. In an interview with Politika, Damnjanović explicitly stated that the president of Serbia, Aleksandar Vučić, did not commit any mistakes by participating in and leading the election campaign of the ruling SNS “because he is not acting as the president of the country”.¹²⁸¹

Due to a delay by the Ministry of Justice in the implementation of the LPC on the prevention of corruption in 2020, the agency did not have a council for six months; that is, it worked without a second-level body that, in practice, decides on appeals against the agency’s decisions.¹²⁸² The law that entered into force on 1 September 2020, provided for the abolition of the old board of the agency but not for the simultaneous election of the new council. The competition for the election of the council was announced almost two months after the law entered into force, and the council was elected in March 2021, after 18 months.¹²⁸³

The 2018–2023 director, Dragan Sikimić, was elected almost a year after the agency worked without a director and for years with an incomplete board. His independence was questioned because he was a member of the ruling SNS party until the day of his election to office;¹²⁸⁴ he was a donor to the party and its nominee for the local election commission in 2017.¹²⁸⁵ In the selection process, the board members did not check his ties with SNS, which by law is the subject of controls carried out by the agency. In an announcement by the board, they stated they were not aware of such information but also that they are not an investigative body.¹²⁸⁶

There has been a notable change in the attitude of the agency’s representatives when it comes to the criticism of the government’s actions over the years.¹²⁸⁷ While in the initial years of the agency’s work, until 2015, board members were active in media and public events, promoting the agency’s work and commenting on corruption related issues, while the current council members are almost invisible to the public; frequent disagreements with the Ministry of Justice about relevant legal reforms (including about the content of law regulating APC work) were not visible after 2018; the list of the obstacles in the agency’s annual reports were reduced and one of the issues that agency regularly raised until 2018 – to ensure the expansion of spatial capacities¹²⁸⁸ – disappeared in its later reports, although the problem remained unresolved.¹²⁸⁹

Similarly, the agency’s decisions related to complaints against political parties and officials during the 2022 election campaign are occasionally too lenient (see 10.3.3).¹²⁹⁰

In February 2021, the National Assembly adopted an authentic interpretation of the “public official” definition in the Law on the Prevention of Corruption,¹²⁹¹ even if the definition of the term was clear.¹²⁹² The government’s council for the fight against corruption and Transparency Serbia pointed out the harmfulness of this interpretation, which significantly reduced the number of public officials and retroactively abolished their liability for violating the law. At the same time, the agency did not publicly react.¹²⁹³

1281 Politika. 2023. U Srbiji ima više od 30000 javnih funkcionera (There are more than 30,000 public officials in Serbia), <https://www.politika.rs/sr/clanak/585141/U-Srbiji-ima-vise-od-30-000-javnih-funkcionera>

1282 LPC was adopted in May 2019 and entered into force on 1 September 2020. Although it stipulated that council members would be elected by the day the law came into force, it did not happen. A competition was announced in October 2020, and candidates were tested only on 1 February 2021, i.e. five months after the expiration of the legal deadline. The mandate of the agency board ended on the day of implementation of the new law, so the agency was without a second-level body for the next six months.

1283 Parliament. Odluka o izboru članova Veća Agencije. Parliament’s decision on the selection of the agency’s board members, http://www.parlament.rs/upload/archive/files/cir/pdf/ostala_akta/2021/RS11-21.pdf

1284 Danas. 2018. Sikimić: Ispunjeni svi uslovi za moj izbor (Sikimić: All conditions for my selection fulfilled), <https://www.danas.rs/vesti/politika/sikimic-ispunjeni-svi-uslovi-za-moj-izbor/>

1285 For the 2017 presidential election in the municipality of Zemun.

1286 Politika. 2018. Izborom Sikimića nije prekršen zakon (The election of Sikimić did not violate the law), <https://www.politika.rs/sr/clanak/396781/Izborom-Sikimica-nije-prekrsen-zakon>

1287 Interview with Bojan Elek, deputy director of the Belgrade Centre for Security Policy, 5 December 2022.

1288 APC. Annual report, https://www.acas.rs/lat/pages/godji%C5%A1nji_izve%C5%A1ta

1289 Interview with Zoran Gavrilović, head of Bureau of Social Research, 22 February 2023.

1290 The agency announced decisions on 16 applications for violating the Law on the Financing of Political Activities during the 2022 election campaign, all against the ruling SNS. For nine of them, it was determined that there were no grounds for initiating proceedings. The agency issued warning measures in four cases, while in three cases, it announced that it would file misdemeanour charges. However, the agency initiated misdemeanour proceedings for the same violations in earlier election cycles because the warning was not acted upon at that time. In 2023 it rejected them as unfounded, <https://www.acas.rs/lat/decisions/all?page=2>

1291 PROPISI, propisi. Net: Autentično tumačenje odredbe člana 2. stav 1. tačka 3) Zakona o sprečavanju korupcije (Authentic interpretation of the provisions of Article 2, paragraph 1, item 3 of the Law on Prevention of Corruption), <https://www.propisi.net/autenticno-tumacenje-odredbe-clana-2-stav-1-tacka-3-zakona-o-sprecanju-korupcije/>

1292 There is no information that the agency, which is responsible for the implementation of the law, has ever notified the National Assembly or officially announced elsewhere that there are problems with the interpretation and practical application of the term public official.

1293 CRTA, crt.rs – Discussion on the authentic interpretation of the term “public official” in the Law on the Prevention of Corruption, <https://crt.rs/wp-content/uploads/2021/02/Crt-Rasprava-o-autentic%C5%8Cnom-tumac%C5%8Cenju-Javni-funkcioner.pdf>

Governance

10.2.1. Transparency (law)

To what extent are there provisions to ensure that the public can obtain relevant information on the activities and decision-making processes of the ACA?



The agency has to provide significant information about its work, political party financing and public officials, but a duty to publish some highly relevant data, such as information on initiated investigations or opinions regarding corruption risks, is not stipulated.

The agency must submit an annual report on its work to the National Assembly by 31 March,¹²⁹⁴ but the law does not define the report's content. The agency must also submit an annual report on implementing anti-corruption measures from the Chapter 23 action plan¹²⁹⁵ based on its own monitoring methodology.¹²⁹⁶ The agency has to publish both reports on its website, but there is no obligation by when.¹²⁹⁷ The parliamentary committee has to consider the report within 30 days, and parliament will discuss it in plenary in the upcoming session.¹²⁹⁸

The agency is not obliged by law to publish its opinions on assessing the risk of corruption in legislation.¹²⁹⁹

The agency also deals with lobbying.¹³⁰⁰ However, as GRECO¹³⁰¹ identified there is no duty for the agency to publish information on lobbyists' contacts with public institutions and officials, only the register of licenced lobbyists.¹³⁰² The registry of lobbyists, which the agency maintains and posts on its website, has to contain the basic data of lobbyists: name and surname, address and date of registration.¹³⁰³ The agency is obliged to publish several registers and records: register of officials, register of property and income of officials, register of lobbyists and lobbied persons, list of legal entities in which the official owns shares, catalogue of gifts, annual financial reports of political parties and campaign finance reports. According to the LPC, only some data (for example, income from public but not private sources; whether the official has bank savings, but not the amount; apartments owned by the official, but not by a family member) from the report on the assets and income of officials needs to be publicly available.¹³⁰⁴ According to the current law (1 September 2020), all data related to former public officials are deleted from the register three years after they end their mandate.¹³⁰⁵

The law stipulates that proceedings conducted by the agency to determine violations and implement measures are confidential.¹³⁰⁶ Public disclosure is limited to information about the initiation and outcome of procedures involving public officials.¹³⁰⁷ Certain measures imposed by the agency, such as recommendations for dismissal, must be published in the Official Gazette of the Republic of Serbia and on the agency's website. However, this requirement does not extend to cases where the agency issues only a "warning" for a violation. There is no mandatory disclosure or prohibition regarding information on ongoing procedures and measures imposed by the director, pending confirmation by the agency's council in the appeal process.

1294 LPC, Article 39.

1295 LPC, Article 38; Report on the Implementation of the Revised Chapter 23 Action Plan for 2022. https://www.acas.rs/storage/page_files/Izve%C5%A1taj%20o%20sprovo%C4%91enju%20Revidiranog%20akcionog%20plana%20za%20Poglavlje%2023-Potpoglavlje%20Borba%20protiv%20korupcije_4.pdf

1296 Guidelines for monitoring and oversight of the implementation of the revised action plan for Chapter 23, https://www.acas.rs/storage/page_files/Smernice%20za%20izve%C5%A1tavanje%20o%20sprovo%C4%91enju%20%20vr%C5%A1enju%20nadzora%20nad%20sprovo%C4%91enjem%20Revidiranog%20akcionog%20plana%20za%20poglavlje%2023%20E2%80%93%20Potpoglavlje%20borba%20protiv%20korupcije.pdf

1297 APC. Reports for 2022, https://www.acas.rs/storage/page_files/Izve%C5%A1taj%20o%20radu%20za%202022.%20Agencije%20za%20spre%C4%8Davanje%20korupcije_1.pdf; https://www.acas.rs/storage/page_files/Izve%C5%A1taj%20o%20sprovo%C4%91enju%20Revidiranog%20akcionog%20plana%20za%20Poglavlje%2023-Potpoglavlje%20Borba%20protiv%20korupcije_4.pdf

1298 National Assembly. Rules of Procedure, Articles 237-239.

1299 LPC, Article 35

1300 LPC, Article 6

1301 GRECO Recommendation ix, <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680a7216b> (p.49)

1302 The Law on Lobbying, Articles 14-244

1303 APC, Register of Lobbyists, <https://publicacas.acas.rs/#/acas/registroLobista>

1304 LPC, Article 73.

1305 LPC, Article 100.

1306 LPC, Article 81.

1307 LPC, Article 81.

The agency is also obliged to inform the applicant about the outcome of the case, but the law does not state a deadline.¹³⁰⁸

There is an obligation and short deadline to publish decisions on reports on potential violations submitted during the election campaign related to abuse of officials and public resources,¹³⁰⁹ but not out of that period.

The Law on Free Access to Information of Public Importance obliges the agency to publish and regularly update data about its work in the information booklet¹³¹⁰ and to provide information based on free access to information requests.¹³¹¹

10.2.2. Transparency (practice)

To what extent is there transparency in the activities and decision-making processes of ACA in practice?

 SCORE: 50/100

The agency publishes all the information it is obliged by law but avoids publishing highly relevant information for the public, such as other decisions and reports on the disclosure of warnings and information on initiated misdemeanour proceedings against officials and political parties.

The annual report contains information on activities from various areas under the agency's jurisdiction.¹³¹² The agency did not organise any press conferences in 2021 or 2022. Unlike the previous director, who rarely spoke directly to the media, the new director (from 2023) has given several interviews and made several television appearances during 2023.¹³¹³ In 2022, the agency answered 62 journalistic questions and six invitations to appear in electronic media. The questions were mainly related to property and income of public officials, conflict of interest, and, within that, nepotism and incompatibility of public functions.¹³¹⁴ A significant part of the journalists' questions were related to the financing of political activities.¹³¹⁵ The media published 1,992 articles about the agency in 2022 (2,627 in 2021), of which 398 were in a positive context.¹³¹⁶

The agency published decisions on violations of the law by date of adoption and opinions on the implementation of the Law on the Prevention of Corruption and other issues within its jurisdiction on its website.¹³¹⁷ Also, the news section publishes selected information about the agency's activities (such as training and announcements of deadlines, but not decisions).¹³¹⁸ All sectors have their page on the website.¹³¹⁹ However, there is no information on the website about the work of the complaints department.

The agency updates its information booklet monthly,¹³²⁰ and its content generally corresponds to the requirements of the Law on Free Access to Information of Public Importance. However, it is noticeable that since 2018, the quantity and quality of information have significantly decreased, which is claimed to be¹³²¹ the director's decision. Until 2018, the information booklet contained information about the agency's practice and the number of employees in all sectors at that time. It was a step above the information required by law, which no longer exists.¹³²²

1308 LPC, Articles 81 and 90.

1309 LPC, Article 50.

1310 The Law on Free Access to Information of Public Importance, Article 39.

1311 Law on Free Access to Information of Public importance, Article 16.

1312 All reports from 2010, when the agency began its work, are published on the annual reports page, <https://www.acas.rs/lat/pages/godi%C5%A1nje%5A1ta>

1313 Radio-Television Vojvodina (RTV). Guest appearances on television by the agency's director in 2023, 9 March 2023, https://media.rtv.rs/sr_lat/pravuga/81420

1314 NOVA, nova.rs. 2023. Agencija već pet meseci proverava da li je Šapić prijavio svu imovinu. Za taj posao su potrebna „dva klika” (The agency has been checking for five months whether Šapić has declared all his assets. That job takes “two clicks”), For example, Nova asked the agency in May 2023 why it needed months to check the property reports of Belgrade Mayor Aleksandar Šapić. On 30 January 2023, the Agency for the Prevention of Corruption announced that it was launching the procedure of an extraordinary verification of the report on the assets of Belgrade Mayor Aleksandar Šapić. The agency replied that the procedure is ongoing, that the report is being checked, but that Article 81 of the Law on the Prevention of Corruption does not allow them to make available to the public the data that is the subject of the check until the procedure is completed, <https://nova.rs/vesti/politika/agencija-vec-pet-meseci-proverava-da-li-je-sapic-prijavio-svu-imovinu-za-taj-posao-su-potrebna-dva-klika/>

1315 APC. Annual report, p.54.

1316 APC. Annual report, p.54.

1317 APC practice page, <https://www.acas.rs/lat/decisions/all>

1318 APC website, www.acas.rs

1319 Ibid.

1320 APC. 2023. Information Booklet, the latest available: 30 November 2023, <https://informator.poverenik.rs/informator?org=Qk52gm8k2qA4So5S3>

1321 Interviews with the agency's employees, 26 June 2022.

1322 Ibid.

However, the agency does not publish all of its important public decisions on its website, such as summaries of warnings and information on initiated misdemeanour proceedings against officials and parties and measures imposed based on the Law on Financing Political Activities.¹³²³ Also, the registers maintained and published by the agency are not easy to review and further analyse as they are not presented in an open data format.¹³²⁴

10.2.3. Accountability (law)

To what extent are there provisions in place to ensure that the ACA has to report and be answerable for its actions?



SCORE: 75/100

The agency is responsible only to parliament; there are no special mechanisms for evaluating its work, nor is there any civil oversight.

According to the LPC, the agency is accountable to the Assembly. It has to submit an annual report to parliament no later than 31 March for the previous year.¹³²⁵ Parliament may also request that special reports be submitted on the state of corruption and the risks of corruption in public authorities. The deadline for the report review is set (30 April),¹³²⁶ but not what the competent parliamentary committee should determine during the process.

In addition to the overall report on its work, the agency is mandated to issue a report on its control of political campaign financing.¹³²⁷ As for its investigation work, the agency must publish outcomes in a limited number of cases: only when dealing with the alleged violation of Law on the Financing of Political Activities (LFPA) reported during the election campaign¹³²⁸ and when identifying wrongdoing of public officials and imposing measures against them (not just warnings).¹³²⁹

The Law on Whistleblowers applies to all state bodies and institutions and has no provisions that specifically refer to potential whistleblowers who claim misconduct in the agency. This means that potential whistleblowers in the agency have the same right to protection as any other whistleblower.¹³³⁰

Within the agency, the director manages the service, organises and ensures the legal and effective performance and issues almost all acts and decisions.¹³³¹ Under the LPC, the council decides on appeals against the director's decisions except for the rights and obligations of agency employees, for which an appeals commission is in charge. The council also takes principled positions for the LPC's implementation, supervises the work and monitors assets of the director.¹³³² Similar competencies of the council are not stipulated in applying the LFPA or the Law on Lobbying.

Against the decision of the council or director, when the possibility of appeal to the council is not foreseen, it is possible to conduct an administrative dispute before the administrative court. There is no deadline stated for the consideration of these cases.¹³³³ Citizens can submit petitions to the agency regarding its work and the work of other state bodies.¹³³⁴ There are no judicial review mechanisms for the agency's work or citizen oversight committees.

The State Audit Institution (SAI) may perform a financial audit of the agency, which depends on the SAI's annual plan. There is no legal obligation for the SAI to conduct an audit every year.

1323 Interview with Bojan Elek, deputy director of the Belgrade Centre for Security Policy, 5 December 2022.

1324 APC, search through election campaign expense reports, <https://publicacas.acas.rs/#/acas/pretragaKampanja>

1325 LPC, Article 39.

1326 Rules of procedure of the National Assembly, Article 237.

1327 LFPA, Article 33.

1328 LFPA, Article 37.

1329 LPC, Article 50.

1330 The Law on Whistleblowers, https://www.paragraf.rs/propisi/zakon_o_zastiti_uzbunjivaca.html

1331 The director passes general and individual acts, decides on the requests of public officials, makes decisions on violations of the law and pronounces measures, gives opinions and instructions for the implementation of the law, prepares a proposal for budget funds for the work of the agency, decides on the rights, obligations and responsibilities of the employees of the agency, implements the decisions of the council of the agency and performs other tasks specified by law. LPC, Article 9.

1332 LPC, Articles 9 and 20.

1333 LPC, Article 80.

1334 LPC, Articles 87-91.

10.2.4. Accountability (practice)

To what extent does the ACA have to report and be answerable for its actions in practice?

 SCORE: 50/100

Parliament does not properly evaluate the work of the agency, and there is little public accountability as there is a lack of response to most criticism, with no press conferences held since November 2018 and no answers to questions from journalists.

To date, parliament has never concluded that the agency did not perform tasks within its competence. In the 2021 report, parliament stated only that the report was accepted,¹³³⁵ while, in their discussion, MPs only positive comments (unlike in previous convocations).

In 2022, out of 49 appeals against the director's decisions (82 in 2021),¹³³⁶ the council of the agency rejected 45 as unfounded. In one case, the council annulled its earlier decision and, again, ruling on the appeal, rejected the same. During 2022, the administrative court submitted for response 16 lawsuits that were filed for the annulment of the council's decisions made in the appeal settlement procedure, and another 57 administrative disputes are pending based on lawsuits from previous years. In 2022, the administrative court delivered 27 judgements. Twenty-five lawsuits were rejected, and two were accepted.¹³³⁷ In 2021, the administrative court delivered 23 verdicts, rejecting 20 lawsuits and accepting three,¹³³⁸ while many cases from previous years remained unresolved.¹³³⁹ Information on administrative disputes against the director's decisions is not presented¹³⁴⁰.

The agency does not have an internal auditor, although the systematisation provides for that position, and SAI recommended it in its only audit of the agency (in 2017) since its establishment.¹³⁴¹

The approach is inconsistent regarding accountability for the agency's actions to the public. In some instances, the agency decides to publish press releases, usually following criticism or remarks from CSOs,¹³⁴² while in most cases, it does not react.¹³⁴³ Since 26 November 2018 (when the director stated that he would "never comment on individual cases"),¹³⁴⁴ the agency did not organise press conferences where questions were allowed, and the director refused to answer such questions in other instances when approached by journalists.¹³⁴⁵

There are no official statistics published on internal whistleblowing cases, but the agency stated that there were nine internal whistleblowing procedures in the previous 10 years, all completed, of which measures were proposed in five cases related to changes in the agency's internal acts, handling procedures, individual legal acts, education, publishing the agency's act on the internal electronic network, establishing records, as well as acting under the adopted internal acts of the agency.¹³⁴⁶

1335 Parliament's conclusion regarding the consideration of the work report for the Agency for the Prevention of Corruption for 2021 http://www.parlament.rs/upload/archive/files/cir/pdf/ostala_aka/13_saziv/RS14-23.pdf

1336 In the 10 sessions in 2021, the council decided on 82 appeals: it rejected 60 as unfounded and annulled the first-instance decisions in 22 cases. Part of the annulled decisions resulted from the authentic interpretation of the term "public official" adopted by the National Assembly in February 2021, <https://www.propisi.net/autenticno-tumacenje-odredbe-clana-2-stav-1-tacka-3-zakona-o-sprecavanju-korupcije/>

1337 APC. Annual report for 2022, pp.18 and 19.

1338 APC. Annual report for 2022, pp.26-29 and 83-85.

1339 In 2021, the administrative court submitted to the council of the agency response to 29 lawsuits filed for the annulment of the agency's board's decisions in the appeal settlement procedure (the board ceased to exist on 1 September 2020). Another 54 administrative disputes are pending based on cases from previous years.

1340 This may indicate that the administrative court did not deal with them in 2021, even if there were such disputes, launched by Transparency Serbia in 2020.

1341 SAI. Audit for 2017, <https://www.dri.rs/php/document/download/1183/1>

1342 For example, the agency responded with a statement to several findings from non-governmental organisations that monitored the agency work. Thus, on 31 March 2022, the agency responded to the CRTA observation mission. The statement said, "the finding that the competent institutions did not sufficiently contribute to the protection of the public interest, but allowed the conditions for fair elections to collapse further does not correspond to the actual situation". When the Bureau for Social Research (BIRODI) called the agency to withdraw the interpretation that a public official can be the president of the Association of Journalists of Serbia, the agency responded by stating that it is the only institution in Serbia authorised to interpret the conflict of interest of public officials, give opinions and acts in situations of conflict of interest.

1343 Danas, Beta. 2019. Neobično saopštenje Agencije za borbu protiv korupcije (TV: An unusual announcement by the Anti-Corruption Agency), <https://www.danas.rs/vesti/politika/ts-neobicno-saopstenje-agencije-za-borbu-protiv-korupcije/>. Insajder. 2021. Agencija za sprečavanje korupcije: Ime zvučno, rezultati tihi (Agency for the Prevention of Corruption: The name is loud, the results are quiet), <https://www.istinomer.rs/analize/agencija-za-sprecavanje-korupcije-ime-zvucno-rezultati-tihi-1-deo/>

1344 UNS, Press center. Početak kampanje za podizanje svesti građana o usvajanju i sprovodenju lokalnih antikorupcijskih planova (Beginning of the campaign to raise citizens' awareness of the adoption and implementation of local anti-corruption plans), <https://presscentar.uns.org.rs/announcements/2804/pocetak-kampanje-za-podizanje-svesti-gradjana-o-usvajanju-i-sprovodenju-lokalnih-antikorupcijskih-planova.html>

1345 N! Info, [n1info.rs](https://rs.n1info.com/vesti/a551764-direktor-agencije-za-borbu-protiv-korupcije-nije-zeleo-da-odgovori-na-pitanja-n1/). 2019. Direktor Agencije za borbu protiv korupcije nije želeo da odgovori na pitanja N1 (The director of the agency for the fight against corruption did not want to answer the questions of N1), <https://rs.n1info.com/vesti/a551764-direktor-agencije-za-borbu-protiv-korupcije-nije-zeleo-da-odgovori-na-pitanja-n1/>

1346 The agency's response to an FOI, 23 August 2022.

10.2.5. Integrity Mechanisms (law)

To what extent are there mechanisms to ensure the integrity of members of the ACA(s)?



SCORE: 50/100

The agency does not have its own code of ethics, but the code for civil servants applies to its employees.

The Law on the Prevention of Corruption, which foresees some integrity mechanisms for officials, also applies to members of the council of the agency, the director and other officials within the agency. The law regulates the issue of gifts, restrictions on employment after termination of office, and declaration of assets and income. However, the agency itself controls possible violations of these provisions.¹³⁴⁷

The professional integrity of candidates for the director and council member posts is tested through questions aimed to “determine a psychological profile of the candidate concerning the professional behaviour considered necessary for the performance of the function”.¹³⁴⁸ However, in 2022 the director of the thinktank, Bureau for Social Research, Zoran Gavrilović publicly demanded that professional integrity should be evaluated against candidates’ “contribution to the fight against corruption and their past (un)ethical behaviour” instead.¹³⁴⁹

As for staff members, civil servants’ regulations apply without any special rules. The director can adopt a code of conduct for employees in the professional service.¹³⁵⁰ Such an act has not been adopted, but the code of conduct of civil servants is applied.¹³⁵¹ The Law on Civil Servants has some mechanisms for the integrity of civil servants, such as rules on conflicts of interest and gifts, but there are no rules on declaring assets.¹³⁵² Post-employment restrictions do not apply to civil servants, only to officials.¹³⁵³

The agency has to prepare a training programme for ethics and integrity strengthening¹³⁵⁴ for civil servants that is implemented through the national academy for civil servants.

10.2.6. Integrity Mechanisms (practice)

To what extent is the integrity of members of the ACA(s) ensured in practice?



SCORE: 50/100

Despite existing ethical mechanisms, the agency faces challenges in ensuring work integrity, with decisions concentrated in the hands of the director, employees expressing concerns about a recent “purge” and doubts raised about the council’s assessment of conflicts of interest, candidate selection processes and the transparency of the competition for council members in 2020.

The existing ethical mechanisms can ensure the agency performs with integrity. Still, this is often not the case in practice because the director makes all decisions and employees carry them out for fear of losing their jobs.¹³⁵⁵ It has never been publicly announced that an agency employee violated the code of ethics or that there were procedures to determine violations of the code within the agency.

1347 LPC, Articles 55,58 and 67.

1348 Pravilnik O Programu Testa Za Izbor Direktora Agencije Za Sprečavanje Korupcije. Sl. glasnik RS, br. 114/2020, Article 4, Pravilnik o programu testa za izbor člana veća Agencije za sprečavanje korupcije. Sl. Glasnik, br. 114/2020, Article 4. Rules on the test programme for the selection of the director of the Agency for the Prevention of Corruption. Official Gazette of RS, no. 114/2020, Article 4; Rules on the test programme for the selection of members of the council of the Agency for the Prevention of Corruption. Official gazette of RS, no. 114/2020.

1349 BIRODI. 2022. Statement, Odložiti testiranje kandidata za članove Veća Agencije za sprečavanje korupcije, objaviti novi konkurs i značajno promovisati! Srbiji ne trebaju antikorupcijska Potemkinova sela! (Postpone the testing of candidates for members of the council of the Agency for the Prevention of Corruption, announce a new competition and significantly promote! Serbia does not need anti-corruption Potemkin villages!), <https://www.birodi.rs/birodi-odloziti-testiranje-kandidata-za-clanove-veca-agencije-za-sprecavanje-korupcije-objaviti-novi-konkurs-i-znacajno-promovisati-srbiji-ne-trebaju-antikorupcijska-potemkinova-sela/>

1350 Interview with Bojan Elek, deputy director of the Belgrade Centre for Security Policy, 5 December 2022.

1351 Law on Civil Servants, Articles 25 to 31.

1352 Law on Civil Servants, Article 31.

1353 Ibid.

1354 LPC, Article 99; Program onuke u oblasti sprečavanja korupcije i jačanja integriteta. Sl. glasnik RS, br. 114/2020.

1355 Interview with the agency employees who asked for anonymity.

Tijana Perić Diligenski, vice-president of the Serbia opposition Centre party, stated that the employees of the agency complained to her that in November 2023, there was a “purge”, that is, that the new director replaced at least 15 employees from management positions and brought in insufficiently qualified but “suitable” personnel.¹³⁵⁶ However, not a single employee spoke about it publicly. In response to these allegations, the agency said that everything was done according to the rules and that all officials were “assigned to appropriate positions”.¹³⁵⁷

The conditions for employment in the agency are publicly announced and represent part of the job competition. During the competition and admission procedures of new employees, there is no examination of candidates’ integrity.¹³⁵⁸

Employees have training on ethics and integrity issues that is repeated in cycles. In response to a freedom of information (FOI) request, the agency stated that there were no cases of violation of the code of conduct or other ethical standards in the agency.¹³⁵⁹

It remains unknown whether, in any specific case, the council of the agency, assessed the conflict of interests of director, his deputy and assistants, including the one that may have arisen from deciding on matters related to the political party of which previous director was affiliated before being elected.¹³⁶⁰

The competition for council of the agency members in 2021 did not go without criticism either. The media revealed doubts about conflicts of interest in the candidate selection process, indicating many agency employees, judicial academy examiners and Ministry of Justice associates among the candidates.¹³⁶¹ It remained unknown whether any of the candidates in the first competition failed to pass the professional integrity test¹³⁶² and how this test was conducted as the evaluation committee did not include a psychologist.¹³⁶³ Parliament elected five council members among 18 candidates based solely on pre-arranged political agreements and without due consideration of individual qualities.¹³⁶⁴ MPs can choose from among all the candidates who passed the competition and are not obliged to choose the candidate with the best grades. Two council members were previously also members of the agency’s board (now the agency’s council), proposed by the president of the republic and the administrative committee of the parliament, including the current council’s chair, whose election was opposed in 2016 because of alleged concealment of human rights violations.¹³⁶⁵ Two council members were employees of the agency, and the fifth is an active employee of the anti-monopoly commission, a former official of the Ministry of Justice and an employee of the judicial academy.¹³⁶⁶

1356 NOVA, nova.rs/vesti/politika/cistka-u-agenciji-za-sprecavanje-korupcije-pravnika-zamenila-profesorka-spanskog-policajac-kontrolise-stranacke-finansije/

1357 NOVA, nova.rs/vesti/politika/agencija-za-sprecavanje-korupcije-nema-cistke-svi-su-rasporedjeni-na-odgovarajuca-radna-mesta/

1358 The agency's response to an FOI, 23 August 2022.

1359 The agency's response to an FOI, 23 August 2022.

1360 After the election of the director in January 2018, the board issued a statement in which it stated that it did not deal with the questions raised about the two potential payments from the candidate for director in the amount of RSD 40,000 each to the SNS account, as well as his eventual election in 2017 as the president of the election board commission of the municipality of Zemun at the proposal of the SNS-PS-PUPS coalition. “The candidate Dragan Sikimić did not submit any of this information to the board in his biography when submitting the documents, nor was this information known to the board. On the other hand, the board of the agency reminds once again of its powers entrusted to it by the law, which are also stated in this announcement. They clearly show that the board of the agency is not an investigative body, but a supervisory body in relation to the director, and not in relation to the candidates for the position of director”, the statement of the board reads. The document published by the daily newspaper Danas showed that Sikimić had been a member of the SNS since 7 May 2010, that the number of the membership card is 178843 and that he was registered in Zemun, as well as that the last year of payment of the party membership fee was 2012. The document also states the date when his membership in SNS was allegedly deleted – 17 January 2018, exactly when he was elected to the position of director of the agency.

1361 Nova S. Controversial candidates for the Agency for Prevention of Corruption, <https://nova.rs/vesti/politika/kontroverzni-kandidati-za-agenciju-za-sprecavanje-korupcije/>

1362 Interview with Zoran Gavrilović, director, Bureau for Social Research (BIRODI), 22 February 2023.

1363 BIRODI statement, 31 January 2022.

1364 Five candidates elected received between 167 and 172 votes, while the sixth on elections only 15. For most of non-elected candidates MPs did not bother even to vote against or to abstain, but did not take part in voting at all. There was no presentation of candidates and MPs received only their CVs, whose format and set of information differed significantly.

1365 Peščanik. Peščanik.net. 2016. Apel protiv izbora Danice Marinković za člana Odbora Agencije za borbu protiv korupcije (Appeal against the election of Danica Marinković as a member of the Board of the Anti-corruption Agency), <https://peschanik.net/apel-protiv-izbora-danice-marinkovic-za-clana-odbora-agencije-za-borbu-protiv-korupcije/>

1366 APC, members of the council of the agency, https://www.acas.rs/lat/page_with_sidebar/organizacija

10.2.7. Gender

To what extent are the ACA mechanisms gender-sensitive?



SCORE: 25/100

The agency fulfils the provisions of the Law on Gender Equality that refer to gender statistics and provides an overview of the most essential data classified by gender. However, it lacks gender-sensitive protocols and training.

There are no gender-sensitive protocols or guidelines in the appeal and investigation mechanisms of the agency. However, the agency states that there is an intention to develop such protocols and guidelines.¹³⁶⁷

The agency does not provide officials and staff with training and awareness-raising material for the optimal implementation of the gender-sensitive mechanism.

With the support of the OSCE Mission in Serbia, the agency created a manual for measuring progress in promoting gender equality throughout the agency's work.¹³⁶⁸ The initial analysis took place in 2021, and the first annual assessment of the defined indicators was expected in 2022,¹³⁶⁹ but did not happen. The analysis deals with the aspects of corruption concerning its gender dimension and the possible connection between them.¹³⁷⁰

The agency produces gender-disaggregated data (such as complaints filed by women or men, the processing time for complaints filed by women or men, complaints resolved or ignored by women or men).¹³⁷¹

With the online international conference on Gender Policy as a Necessity or an Opportunity: The Policy of Equal Opportunities Towards More Effective Prevention of Corruption, the agency marked the International Day of the Fight against Corruption on 9 December 2021.¹³⁷² The conference highlighted the importance of the systematic inclusion of gender perspectives in implementing corruption prevention mechanisms and the continued commitment to implementing gender measures throughout the agency's work. Mechanisms for introducing a gender perspective into the agency's work, developed with expert help, were presented.¹³⁷³

Role

10.3.1. Prevention

To what extent does the ACA engage in preventive activities regarding fighting corruption?



SCORE: 75/100

The ACA is generally very active and has been successful in its preventive anti-corruption activities, such as achieving major legislative reform and influencing policy change. However, the agency did not go beyond its competences and did not publicly initiate the adoption of reform laws, nor did it contribute to the content of the laws adopted by parliament.

Within the agency, there is a sector for prevention of the corruption and for strengthening of integrity.¹³⁷⁴ The agency initiated the third cycle (first in 2013) of developing and implementing integrity plans for 2,977 public authorities in December 2021, employing a questionnaire for employees to provide anonymous input, with subsequent upgrades to the application and the creation of a manual featuring decision models.¹³⁷⁵

¹³⁶⁷ Agency's response to an FOI, 23 August 2022.

¹³⁶⁸ The manual defines 100 indicators (10 for each organisational unit) to measure progress.

¹³⁶⁹ The agency's response to an FOI, 23 August 2022.

¹³⁷⁰ APC. Annual report 2021: "The assessed relationship between gender inequality and corruption is reflected in the fact that both have the potential to slow down the development of society, thereby influencing the increase in poverty. In this sense, corruption represents a significant obstacle for women to access their civil, social and economic rights fully." https://www.acas.rs/storage/page_files/Izve%C5%A1taj%20oradu%20za%202021.%20Agencije%20za%20spre%C4%8Davanje%20korupcije.pdf

¹³⁷¹ Gender statistics are part of the agency's annual reports.

¹³⁷² APC. News. Obeležavanje Međunarodnog dana borbe protiv korupcije (Celebrating the International Day of the Fight Against Corruption), <https://www.acas.rs/lat/news/59>

¹³⁷³ APC. Annual report for 2021.

¹³⁷⁴ The sector includes the department for strengthening institutional integrity, the department for integrity plans and analysis, and the department for education, anti-corruption plans and strategy - internal organisation, https://www.acas.rs/lat/page_with_sidebar/organizacija#

¹³⁷⁵ APC. Guide model for application of the Code of conduct of national deputies, [https://www.acas.rs/storage/page_files/Model%20Vodi%C4%8Dak%20za%20primenu%20Kodeksa%20pona%C5%A1anja%20nacionalnih%20poslanika%20\(2021\).pdf](https://www.acas.rs/storage/page_files/Model%20Vodi%C4%8Dak%20za%20primenu%20Kodeksa%20pona%C5%A1anja%20nacionalnih%20poslanika%20(2021).pdf)

In 2021, the agency published the model guide for the implementation of the code of conduct for members of parliament¹³⁷⁶ and developed a training programme for MPs but did not publish it.

The agency adopted the methodology for assessing the risk of corruption in regulations,¹³⁷⁷ based on which it issued 15 opinions on draft laws in 2021 but did not publish any. In 11 cases, it indicated risk factors and gave recommendations to ministries but did not address the government or parliament in cases where their recommendations were ignored.¹³⁷⁸ In the past (2013-2018), even before the legal obligation to submit a draft law was established in 2020,¹³⁷⁹ the agency, on its own initiative or based on the request of institutions, analysed individual acts from an anti-corruption point of view and published its findings.¹³⁸⁰ However, the agency did not go beyond its competences and did not publicly initiate the adoption of reform laws, nor did it contribute to the content of the laws adopted by parliament.¹³⁸¹

In 2021, the department for research and analysis surveyed University of Belgrade students on their perception of the state of corruption,¹³⁸² in which 1,052 students participated.

In July 2022, the agency submitted the report to the National Assembly on the assessment of impact of measures taken to reduce corruption in eight risk areas: public procurement, privatisation, health, taxes, education, police, customs and local self-government.¹³⁸³

In addition, the agency is responsible for reporting on implementing anti-corruption measures from the action plan for Chapter 23.¹³⁸⁴ The agency has developed a good monitoring methodology that differs from the methodology of the coordinating body for monitoring the implementation of measures from the action plan for Chapter 23, in that it is more detailed. It monitors the implementation by stages, as well as the quality of fulfilment of the measure.

10.3.2. Education

To what extent does the ACA engage in educational activities to fight corruption?



SCORE: 75/100

The ACA is generally very active in educating the public on corruption and how fight it. However, no research has ever been published on how successful the agency is in this, i.e. whether there has been progress after such training.

The agency cooperates with state bodies, officials, civil servants, journalists, students and civil society.¹³⁸⁵ The scope of activities and the number of participants is limited by the budget and the number of employees in the agency, in the department responsible for education.

The agency held training sessions¹³⁸⁶ for various institutions on corruption risk management, integrity plans, conflict of interest, financing of political activities, money laundering and other topics within its jurisdiction. In 2022, training courses were held for lecturers (training of trainers) in the field of ethics and integrity for employees in public enterprises; training for lecturers in the field of ethics and integrity, as well as online training dedicated to monitoring the implementation of activities from strategic documents, where the participants had the opportunity to find out what activities in the field of implementation of anti-corruption measures, prevention and repression of corruption were provided for in the revised action plan for Chapter 23 (sub-chapter: fight against corruption).¹³⁸⁷ By 2022,

1376 APC. Guide model for application of the Code of conduct of national deputies, [https://www.acas.rs/storage/page_files/Model%20Vodi%C4%8Da%20za%20primenu%20Kodeksa%20pona%C5%A1anja%20narodnih%20poslanika%20\(2021\).pdf](https://www.acas.rs/storage/page_files/Model%20Vodi%C4%8Da%20za%20primenu%20Kodeksa%20pona%C5%A1anja%20narodnih%20poslanika%20(2021).pdf)

1377 APC. Methodology for risk assessment from corruption in regulations, https://www.acas.rs/storage/page_files/Metodologija%20za%20procenu%20rizika%20od%20korupcije%20u%20propisima.pdf

1378 Interview with the agency employees who asked for anonymity.

1379 LPC, Articles 6 and 35.

1380 APC. Annual Report 2021, pp.24 & 25.

1381 Interview with Bojan Elek, deputy director of the Belgrade Centre for Security Policy, 5 December 2022.

1382 APC, Research report, University of Belgrade students' perception of the state of corruption at the University, [https://www.acas.rs/storage/page_files/Percepacija%20studentata%20Univerziteta%20u%20Beogradu%20o%20stanju%20korupcije%20na%20Univerzitetu%20\(istra%C5%BEivanje\).pdf](https://www.acas.rs/storage/page_files/Percepacija%20studentata%20Univerziteta%20u%20Beogradu%20o%20stanju%20korupcije%20na%20Univerzitetu%20(istra%C5%BEivanje).pdf)

1383 National Assembly, APC Report on impact assessment of measures taken to reduce corruption in eight risk areas, http://www.parlament.rs/upload/archive/files/cir/pdf/izvestaji/2022/02-554_22.pdf

1384 APC. Nadzor nad Akcioneim planom za poglavlje 23 (Oversight of the Action Plan for the Chapter 23), https://www.acas.rs/lat/page_with_sidebar/nadzor_pracenje

1385 APC, News section, www.acas.rs

1386 APC. News, <https://www.acas.rs/lat/search?search=trenin>

1387 APC. Annual report for 2022, pp.28, 29 and 54, https://www.acas.rs/storage/page_files/Izve%C5%A1taj%20o%20radu%20za%202022.%20Agencije%20za%20spre%C4%8Davanje%20korupcije_1.pdf

over 100,000¹³⁸⁸ (103,401) employees and managers in public authorities had completed training on ethics and integrity remotely by taking a test (over 40,000 in 2021).¹³⁸⁹ However, no research has ever been published on how successful the agency is in this, such as whether there is progress after such training.

The agency has a special sector for cooperation with the media and civil society. Since its foundation, the agency has supported around 30 civil society projects and conducted 13 public tenders, based on which 25 projects were realised and financed from the state budget through the agency along with others through donor support.¹³⁹⁰ The agency, among other things, participated in the drafting of public policy documents for a special working group for the development of the proposed action plan for the implementation of a strategy for the creation of an incentive environment for the development of civil society between 2022 and 2023.¹³⁹¹ In 2021, for example, the agency, in cooperation with the Ministry of Human and Minority Rights and Social Dialogue, organised a consultative meeting with CSOs on how to be more effective with civil society's participation in the fight against corruption.¹³⁹²

At the end of February 2022, the agency announced a public tender for civil society organisations to allocate funds to projects in the field of corruption prevention. The topics of accepted projects (four out of eight submitted) are primarily aimed at increasing transparency in public authorities, better information for citizens and greater participation in the creation of public policy and implementation of EU standards, and on the integration of gender-responsive measures and measures of non-discrimination in corruption prevention mechanisms.¹³⁹³

10.3.3. Investigation

To what extent does the ACA engage in investigation regarding alleged corruption?



SCORE: 50/100

The ACA's track record in detecting, investigating and sanctioning misbehaviour is mixed. The agency initiated numerous proceedings, issued reprimands and imposed measures against public officials for violating the Law on the Prevention of Corruption, but faced criticisms for lenient decisions on complaints against political parties during the 2022 election campaign and has not actively promoted proceedings against high-ranking officials in the last six years.

The agency is not authorised to conduct criminal investigations, but some of its activities have investigative elements: verification of property and income declarations, control of political party financing and verification of annual party reports and campaign expenses, and handling citizens' complaints and reports.

The law stipulates that the agency must verify the accuracy of the information in property declarations following the annual verification plan "for a certain number of officials and categories of officials", meaning that the agency can set the numbers of controls itself.¹³⁹⁴ In the case of a discrepancy between the data presented in the asset declaration and the actual situation or between the increase in the value of an official's assets and their legal and reported income, the agency must establish the cause of such discrepancy¹³⁹⁵ and call an official or a related person to obtain information about the actual value of the official's assets.

In 2022, the agency checked the accuracy, completeness and timeliness for 366 public officials' report, of which 250 were according to the annual inspection plan for 2022 and, due to suspicion, initiated eight extraordinary checks of public officials' reports.¹³⁹⁶

The agency can issue measures against public officials violating the LPC (such as the recommendation for dismissal), initiates misdemeanour proceedings and files criminal charges.¹³⁹⁷ In 2022, the agency initiated 356 proceedings

1388 APC. Annual report for 2022, p.58.

1389 APC. Annual report for 2021, pp.48 to 53.

1390 APC. Annual report for 2021, data for 10 year period (up to 2021), p.62.

1391 APC. Annual report for 2022, p.49.

1392 APC. How to be more effective with civil society's participation in the fight against corruption, <https://www.acas.rs/lat/news/91>

1393 APC. Annual report for 2022, p.48.

1394 The annual report verification plan for 2021 covers 200 public officials, including directors and members of management boards of agencies, commissions and other regulatory bodies, officials of the National Bank of Serbia and members of the Autonomous Province of Vojvodina's Assembly.

1395 LPC, Article 76.

1396 APC. Annual report for 2022, p.16.

1397 LPC, Article 86.

against public officials on various grounds for violating the LPC¹³⁹⁸ (284 in 2021).¹³⁹⁹ In that same year, the agency issued 219 reprimands and initiated misdemeanour proceedings in 201 cases (134 in 2021) due to a failure to submit asset declarations or for the submission of an incorrect or incomplete report. In 2022, there were 33 requests submitted for the initiation of misdemeanour proceedings in connection with conflict of interest cases involving officials or due to the incompatibility of jobs with the performance of a public function. The misdemeanour court imposed warning measures in 72% of cases; public disclosure decisions on violation of the law in 14%; termination of public office by force of law in 10%, and in 4% a measure of public disclosure recommendations for dismissal from public office.¹⁴⁰⁰

In 2022, the agency made 309 decisions (347 in 2021, 179 in 2020) due to conflicts of interest violating LPC.¹⁴⁰¹ The agency imposed measures in 162 cases (126 in 2021) because of the accumulation of public functions, and in 55 cases (63 in 2021), there was a violation of the rules on conflict of interest and nepotism.¹⁴⁰²

The agency also has powers to impose measures against political entities, such as loss of the right to obtain funds from public sources.¹⁴⁰³ In 2022, the agency issued 41 decisions¹⁴⁰⁴ to deprive a political entity from funds from public sources to finance its activities based on court decisions on established offences (13 in 2021). The agency initiated 44 procedures against political subjects (22 in 2021) and issued 28 warning measures (23 in 2021). In 2022, as in 2021, the agency reported to the prosecutor's office suspicions that a responsible person in one political entity committed a criminal offence.¹⁴⁰⁵ However, the agency's decisions related to complaints against political parties and officials during the 2022 election campaign were occasionally too lenient.¹⁴⁰⁶ For one of the most blatant violations of the LFPA by the ruling SNS party, the agency did not initiate a misdemeanour procedure at all.¹⁴⁰⁷ In the final report on the elections in Serbia,¹⁴⁰⁸ the OSCE Office for Democratic Institutions and Human Rights (ODIHR) mission emphasised severe problems related to the abuse of public resources and campaign financing and recommendations for solving them.¹⁴⁰⁹

In 2022, the agency received 213 petitions from physical and legal persons, and 253 were processed, including those from previous years.¹⁴¹⁰

Since 1 September 2020, the agency can also act on anonymous petitions,¹⁴¹¹ but the application form still requires a telephone number and mail address.¹⁴¹² According to the sector to which the petitions refer, the most represented are the following: justice (37, compared to 47 in 2021), education (36 in both years), health (10, compared to 6 in 2021). In 12 cases, the agency found no ground to act (19 in 2021).¹⁴¹³

The agency forwarded 151 cases (161 in 2021) to competent prosecutor's offices for further processing.¹⁴¹⁴ By law, the agency must inform applicants of the outcome at the end of the procedure. The agency also has an application on its website for reporting corruption, which, however, is not a petition¹⁴¹⁵ as it states report on corruption (without further instructions). Also, the agency is not in charge of investigating criminal offences. Nevertheless, reporting a case to the agency might have a positive outcome as the agency should check whether a competent institution

1398 APC. Annual report for 2022, p.16.

1399 APC. Annual report for 2021, p.19.

1400 APC. Annual report for 2022, p.15.

1401 APC. Annual report for 2022, p.14.

1402 APC. Annual report for 2022, p.14.

1403 Law on Political Financing, Article 45.

1404 APC. Annual report for 2022, p.21.

1405 APC. Annual report for 2022, p.22.

1406 The agency announced decisions on 16 applications for violating the Law on the Financing of Political Activities during the 2022 election campaign, all against the ruling SNS. For nine of them, it was determined that there were no grounds for initiating proceedings. The agency issued warning measures in four cases, while in three cases, it announced that it would file misdemeanour charges. However, the agency initiated misdemeanour proceedings for the same violations in earlier election cycles because the warning was not acted upon at that time. In 2023 it rejected them as unfounded. <https://www.acas.rs/lat/decisions/all?page=2>

1407 CINS, [cins.rs](https://www.cins.rs/nedozvoljena-donacija-sns-od-13-miliona-evra/). 2019. Nedozvoljena donacija SNSu od 13 miliona evra (*Unauthorized donation to SNS of €13 million*), <https://www.cins.rs/nedozvoljena-donacija-sns-od-13-miliona-evra/>

1408 OSCE. 2022. Republic of Serbia, Presidential and Early Parliamentary Elections, <https://www.osce.org/files/f/documents/0/0/524385.pdf>

1409 Ibid, pp.17-19, and 33.

1410 APC. Annual report for 2022, p.45.

1411 LPC, Article 91.

1412 Which is contrary to Pravilnik O Postupanju Po Predstavkama. Sl. glasnik RS, br. 126/2020), Article 3.

1413 APC. Annual report for 2022, p.46.

1414 APC. Annual report for 2022, p.46.

1415 APC. Form to report corruption, https://www.acas.rs/cyr/page_with_sidebar/prijavi_korupciju

investigated the case.¹⁴¹⁶ In the last six years, the agency did not initiate proceedings against high-ranking officials. The agency reacted proactively to some of the cases reported by the media, but in a way that was perceived as a protection of office holders from liability. For example, in the arms export controversy involving the minister of the interior's father, Branko Stefanović, the agency released a statement in 2019 clarifying that he had no ownership, legal representation or employment in the company GIM. The agency concluded, after verification, that GIM's purchase of weapons did not pose a conflict of interest for Minister Stefanović. It asserted that this transaction would not compromise the minister's impartial and independent execution of public duties and stated that there was no inappropriate relationship that an official must avoid in performing a public function.¹⁴¹⁷

Interactions

The National Assembly elects council members and the director of the Agency for the Prevention of Corruption, which is responsible to the parliament and obliged to report annually on its work. Parliament is regularly late in reviewing those reports, does not review them critically, and the conclusions it adopts based on the agency's recommendations are not sufficiently substantive or of sufficient quality to improve the fight against corruption.¹⁴¹⁸

According to the agency,¹⁴¹⁹ cooperation with other state bodies runs smoothly. The agency is granted direct access to the databases of other public authorities upon written and reasoned request from the agency.¹⁴²⁰ Similarly, other legal entities, banks and financial institutions fulfil their duty to provide the agency with necessary data,¹⁴²¹ as the law requires.¹⁴²² Cooperation with other state bodies and institutions also occurs through joint activities, workshops, consultative meetings, and training.¹⁴²³ However, there are examples of slow action by the prosecutor's office.¹⁴²⁴

The agency is competent to file misdemeanour and criminal charges when it finds irregularities during its work. The agency regularly asks the prosecutor's office for reports on the progress and outcome of the proceedings based on its applications. It reports about it to parliament in all annual reports. The prosecutor's office is late to process those reports, often dismissing them as unfounded. Regarding the report on illegal donations to the ruling party, for example, the prosecutor's office dismissed it five years after its submission.¹⁴²⁵

All political parties must submit detailed financial reports to the agency annually and after an election campaign. The agency is empowered by the law to check these reports, compare them with its monitoring and initiate legal actions in case of identified wrongdoing. Most of the parliamentary parties formally respect these duties. However, the control is not sufficiently detailed, and in some instances, processes are not initiated promptly. The abuse of administrative resources by public officials for the benefit of political parties is insufficiently regulated in the law and restrictively interpreted by the agency.

Although the agency has a service for cooperation with the media and regularly responds to journalists' requests for access to information of public importance, it should be more proactive in informing the media about its activities and decisions related to the fight against corruption. One example of collaborating with media was in 2021 when the agency launched a media campaign called "For Functions without Corruption", but nothing since. The agency rarely organises press conferences, and its officials did not give interviews from 2018 to 2023.

1416 LPC, Article 90.

1417 Free Europe, Anti-corruption Agency: Branko Stefanović is not employed by GIM, <https://www.slobodnaevropa.org/a/30315368.html>

1418 Conclusion regarding the consideration of the report of the Agency for the Prevention of Corruption for 2020. http://www.parlament.rs/upload/archive/files/cir/pdf/ostala_akta/2021/RS99-21.pdf

1419 Annual report for 2022, p.56.

1420 Interview with an employee of the agency who wanted to remain anonymous, 20 December 2022.

1421 The agency response, 23 August 2022.

1422 LPC, Article 36.

1423 The agency's response, 23 August 2022.

1424 CINS, [cins.rs](https://www.cins.rs/slucaj-protiv-sns-a-zastareo-tuzilastvo-i-agencija-prebacuju-odgovornost/). 2017. Slučaj protiv SNS-a zastareo, tužilaštvo i Agencija prebacuju odgovornost (*The case against SNS is out of date, the prosecution and the Agency are shifting responsibility*), <https://www.cins.rs/slucaj-protiv-sns-a-zastareo-tuzilastvo-i-agencija-prebacuju-odgovornost/>; In 2014, the agency informed the prosecutor's office in Zaječar that SNS financed the 2013 election campaign in violation of the rules by paying in cash. However, the prosecutor's office started the preliminary investigation only after CINS' text about it in 2016. The case expired a few months later.

1425 Prosecution: SNS did not launder money, financing of the 2014 campaign "clean"; <https://www.krik.rs/tuzilastvo-sns-nije-prao-pare-finansiranje-kampanje-2014-cisto/>, 11 May 2022.

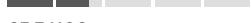
Pillar Recommendations

- The government should amend its rules of procedure and other relevant acts to oblige legislators to seek the agency's opinion on norms that could impact corruption or anti-corruption efforts, and to provide a comprehensive analysis of potential risks in the explanatory note. This should increase the number of acts on which the agency gives an opinion on the risks of corruption.
- Parliamentary committees should be obliged by parliamentary rules of procedure to take into account the agency's analyses of draft legislation and should proactively seek the agency's support in amendments drafting;
- Parliament needs to amend the Law on the ACA to make it mandatory for the agency to publish its opinions, as well as to publish how the proponents of the regulations acted according to the agency's opinion within a legally mandated deadline.
- The agency should proactively publish on its website opinions given to officials regarding the performance of other functions or jobs and other matters without revealing personal data.
- The Laws on FPA should be amended to clearly define the role of the agency in overseeing party and campaign financing by setting deadlines for control based on reports submitted in the election campaign period, defining a minimal set of actions that should be performed when checking the completeness and truthfulness of campaign finance reports, and so on.
- The agency should make all its registers more user-friendly (for example, with the possibility to sort data from asset declarations) and clarify to what extent they are accurate. The agency should also link all public records, or their parts, managed by the agency for an easier search of data.
- Parliament needs to amend the Law on the Prevention of Corruption:
 - » to make it mandatory for public officials to share in their published asset declarations the assets of public officials' firms such as shares in another company and real estates and information about income from allowed private resources
 - » to set a legally prescribed minimum number of controls and minimum content for the control of asset declarations that the agency has to perform and provide sufficient powers and resources for such controls (for example, every official to be checked within four years, or the development of methodologies for risk assessment);
- Parliament needs to amend the Law on the ACA to restore the system of proposing council members by institutions instead of them being elected by parliamentary majority, in a way that may be combined with the current system of candidate testing.
- The agency should strengthen its integrity and accountability mechanisms, including the promotion of whistleblowing procedures and publish (anonymously) data on the handling of petitions (external whistleblowing) and data on measures conducted following internal whistleblowing), on the agency's website.
- Parliament should promptly discuss the agency's reports and call for responsible elected officials when problems identified in previous years' reports from the agency are still unresolved.
- The government and the agency should collaborate in formulating and presenting a comprehensive National Anti-Corruption Strategy, to be subsequently endorsed by parliament, by March 2024.
- The agency should be more active in promoting the results of their work with the public and enabling the exchange of opinions and questions (including discussion on final decisions in individual cases), thus influencing greater compliance with the laws that agency implements and supervises.

11. Political Parties

Summary

OVERALL PILLAR SCORE: 54.2/100

DIMENSION	INDICATOR	LAW	PRACTICE
CAPACITY  62.5/100	RESOURCES	75	50
	INDEPENDENCE	75	50
GOVERNANCE  62.5/100	TRANSPARENCY	75	75
	ACCOUNTABILITY	75	50
	INTEGRITY	75	25
GENDER		25	
ROLE  37.5/100	INTEREST AGGREGATION AND REPRESENTATION	50	
	ANTI-CORRUPTION COMMITMENT	25	

There are 129 active political parties listed in the register of political parties, half of which are minority political parties.¹⁴²⁶ There are three blocks of political affiliations that traditionally form coalitions. The block with largest support, which holds the power since 2012, consists of the largest political party – Serbian Progressive Party (SNS), that is self-labelled as a “catch all” party – with an estimated 39.2% support. This party traditionally exercises power in a coalition with the Socialist Party of Serbia (SPS) (a successor to the communist party that was in power during the 1990s) with an estimated 8.1% support. These parties form a ruling coalition with minority parties. The largest opposition block represents a consortium of liberal, left-wing and centre parties with around 25.8% of support. The largest opposition party from this block is the Party of Freedom and Justice with 8.6% support (derived from Democratic Party that was in power from 2000-2012), the newly established National Movement of Serbia with 7.7%, the newly established Serbia Centre with 4.5% and green parties with around 3 to 4% each. A third block consists of right-wing parties that were never in power: Movement Dveri with around 3.9% support, Party Zavetnici and New Democratic Party of Serbia with around 3% support.¹⁴²⁷ One of the most important lines of ideological division between the blocks is whether they have pro-EU or pro-Russian sentiments. While the ruling coalition attempts to maintain relations with both international entities, liberal opposition advocates for EU integration, and the right-wing opposition is openly against the EU and for building stronger relations with Russia.

The free foundation of political parties and their role in shaping the political will of citizens is guaranteed by the constitution. Although the constitutional court has the competence to decide to ban political parties, none of the competent institutions has ever initiated such a procedure. Political parties and other political entities with representatives in the assemblies receive significant public funding, and they may use these funds to finance their election campaign activities. Raising funds from private sources is also permitted but less common. The existing legal framework and political climate keep many opposition parties in an unfavourable position, making it difficult to generate sufficient funds to run a competitive election campaign.

¹⁴²⁶ Ministry of State Administration and Local Self Governance. Register of political parties, <https://mduls.gov.rs/wp-content/uploads/Izvod-iz-Registar-politickih-stranaka-22.11.2023.pdf>

¹⁴²⁷ N1. 2023. “Stata” survey: SNS at 36.%, followed by SSP and Aleksić’s National Movement of Serbia, <https://n1info.rs/vesti/istrazivanje-stata-izbori-rejting/>

While the legislative framework provides sufficient safeguards for political parties, several physical assaults on opposition leaders intensified political conflicts and overall mistrust between political competitors in the 2022 elections. The state institutions reacted promptly in these incidents, yet the opposition parties argue that the police are not equally diligent in protecting and investigating reported assaults on lower-ranked party officials and activists.

Through the 2022 legislative amendments, an effort has been made to improve the transparency of campaign financing and introduce an obligation for political entities to submit to the Agency for Prevention of Corruption (APC) a preliminary report on expenditure. However, in practice, these interim reports are not very informative. Regarding the control of political financing, the APC publishes one report on campaign financing control and one annual report. Although the APC's reporting has improved, it still lacks information on the legal outcomes of initiated proceedings. The APC has continued to play a passive role and has imposed inadequate sanctions, especially in the election campaign, which undermines the effectiveness of the accountability mechanism.

Most political parties have powerful and irreplaceable leaders who are not accountable to the membership and are largely independent in making decisions on behalf of the party.

Following the 2022 elections, the representation of political platforms in parliament was enriched. Currently, parliament hosts a broad spectrum of political parties, from left-wing environmentalism and social democracy over the political centre to national populism and right-wing ethnocentrism.

Capacity

11.1.1. Resources (law)

To what extent does the legal framework provide an environment conducive to the formation and operations of political parties?

 SCORE: 75/100

Legislative changes adopted in 2015 provide a legal framework for the formation and work of political parties in Serbia.¹⁴²⁸ At least 10,000 citizens are needed to form a political party.¹⁴²⁹ If all legal requirements are met, the process is completed after a decision by the Ministry of Public Administration and Local Self-Government (MPALSG) to add a political party to the list of registered political parties. However, if the MPALSG finds that the application does not meet the formal requirements, then a party-applicant is given 15-30 days to address deficiencies and re-submit the application. Political parties have a right to initiate an administrative dispute if the MPALSG rejects the registration of a political party.¹⁴³⁰

The free foundation of political parties and their role in shaping the political will of citizens in society is guaranteed by the constitution.¹⁴³¹ However, the constitution explicitly prohibits political parties' activities aimed at the forced overthrow of the constitutional system, violation of guaranteed human or minority rights, and inciting racial, national or religious hatred.¹⁴³²

1428 The Law on Political Parties. Official Gazette of the Republic of Serbia, No. 61/15, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2009/36/17/reg>

1429 The Law on Political Parties. Official Gazette of the Republic of Serbia, Article 8. No. 61/15, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2009/36/17/reg>. The Law on Political Parties. Official Gazette of the Republic of Serbia, Article 26. No. 61/15, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2009/36/17/reg>

1430 The Law on Political Parties. Official Gazette of the Republic of Serbia, Article 26. No. 61/15, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2009/36/17/reg>. The Law on Political Parties. Official Gazette of the Republic of Serbia, Article 26. No. 61/15, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2009/36/17/reg>

1431 Constitution of the Republic of Serbia. Official Gazette of the Republic of Serbia, Article: 5 No.16/22 <http://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/ustav/2006/98/1/reg>

1432 A political party might be banned by the constitutional court if it determines that the party's activities are violating one of the listed prohibitions. A procedure for banning a political party could be initiated by the government, the Republic Public Prosecutor, or the MPALSG. Source: Constitution of the Republic of Serbia. Official Gazette of the Republic of Serbia, Articles 55 No.16/22, <http://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/ustav/2006/98/1/reg>. and The Law on Political Parties. Official Gazette of the Republic of Serbia, Article 37 and 38. No. 61/15, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2009/36/17/reg>

Political parties and other political entities (the law allows a coalition of political parties and citizens' groups to participate in an election)¹⁴³³ are financed from the state budget, but they are also allowed to finance their activities from private sources.¹⁴³⁴ Political entities whose candidates have been elected to parliament, autonomous province and/or local assemblies are eligible to receive funds of 0.105% of the tax revenues for their regular work.¹⁴³⁵ The funds are distributed to the parties¹⁴³⁶ proportionally according to the votes won in the elections.¹⁴³⁷ Since the law permits a political party to also use these funds for election campaigning, the parties with MPs are in an advantageous position over new political competitors and parties with no representative. Public funds designated for election campaigns (0.07% of tax revenues) are distributed in the two late cycles, limiting political parties to use them effectively.¹⁴³⁸ The first part of 40% is allocated only to those political entities who applied for public funds within five days of the official announcement of the election list. The second 60% is distributed within five days from the announcement of the final election results to political entities who passed the electoral threshold, proportionally to the votes won. In the case of presidential elections, the first part (40%) is allocated to nominators of candidates if they have submitted a request for public financing. The nominator of a winning candidate is awarded with the rest of the funds (60%).¹⁴³⁹

11.1.2. Resources (practice)

To what extent do the financial resources available to political parties allow for effective political competition?



SCORE: 50/100

Political parties' expenditures are covered mostly by public funding, yet the business environment does not show any interest in supporting opposition parties, which are also less visible in the media than the incumbent.

Political parties generate more than 80% of the reported annual income for their regular operations from public funds.¹⁴⁴⁰ The APC report suggests that the bulk of parties' expenditures are covered from these funds.¹⁴⁴¹

In the 2022 election campaign, opposition political parties filed claims that their potential donors were discouraged from supporting their campaigns due to fear of retribution, while access to loans was limited, given the lack of business interest from the banks.¹⁴⁴²

The total share of raised private sources in the election campaign remains relatively low. Private donations from natural and legal persons account for less than 13% of the total share of generated campaign funds.¹⁴⁴³ Moreover, the APC's report (2022) reveals that this share is significantly lower for opposition parties.¹⁴⁴⁴

1433 Law on the Election of Members of Parliament. Official Gazette of the Republic of Serbia, No.14/22, Article: 62, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/2>

1434 The Law on Financing Political Activities. Official Gazette of the Republic of Serbia, Article 3: <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/4/reg>

1435 The Law on Financing Political Activities. Official Gazette of the Republic of Serbia, Article 16, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/4/reg>

1436 In the case of coalitions, the distribution of the funds among its members is determined by a coalition agreement signed before the elections. Source: The Law on Financing Political Activities. Official Gazette of the Republic of Serbia, Article 17, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/4/reg>

1437 Article 17 of the Law on Financing Political Activities stipulates that "the number of votes of a political entity is taken as the basis for the allocation of funds and it is calculated by multiplying the number of votes up to 3% of valid cast votes of all voters with a quotient of 1.5, and the number of votes over 3% of valid cast votes of all voters with a coefficient of 1". Source: The Law on Financing Political Activities. Official Gazette of the Republic of Serbia, Article 17, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/4/reg>

1438 The Law on Financing Political Activities. Official Gazette of the Republic of Serbia, Article 21, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/4/reg>

1439 Agency for Prevention of Corruption website. Law on the Financing of Political Activities, https://www.acas.rs/storage/page_files/Zakon%20o%20finansiranju%20političkih%20aktivnosti.pdf

1440 Agency for Prevention of Corruption. 2022. Report on the Control of the Annual Report on the Financing of Political Entities p.8, https://www.acas.rs/storage/page_files/Izveštajokontrolifinansiranjapolitičkihaktivnostiu2022.godini-Izveštajokontroligodišnjihfinansijskihizveštajapolitičkihsubjekataza2021.godinu.pdf

1441 Agency for Prevention of Corruption. 2022. Report on the Control of the Annual Report on the Financing of Political Entities p.8, https://www.acas.rs/storage/page_files/Izveštajokontrolifinansiranjapolitičkihaktivnostiu2022.godini-Izveštajokontroligodišnjihfinansijskihizveštajapolitičkihsubjekataza2021.godinu.pdf

1442 ODIHR. 2022. *Serbia, Presidential and Early Parliamentary Elections*, p.18, <https://www.osce.org/odihr/elections/serbia/524385>. Law on the Financing of Political Activities, Article 42, https://www.acas.rs/storage/page_files/Law%20on%20Financing%20Political%20Activities.pdf

1443 Agency for Prevention of Corruption. 2022. Report on the Control of the Annual Report on the Financing of Political Entities p.9 https://www.acas.rs/storage/page_files/Izveštajokontrolifinansiranjapolitičkihaktivnostiu2022.godini-Izveštajokontroligodišnjihfinansijskihizveštajapolitičkihsubjekataza2021.godinu.pdf

1444 Ibid.

Table 8: Total amount at disposal for parliamentary elections in 2022 in EUR¹⁴⁴⁵

List	Budget relocation	Other sources	Total
SNS	8,088,100	1,478,844	9,566,944
SPS	821,007	1,012,607	1,833,614
UPS	1,334,310	35,037	1,369,347
NADA	869,445	61,503	930,948
Dveri	768,387	12,245	780,632
Zavetnici	768,387	0	768,387
Moramo	829,021	23,494	852,515
Suverenisti	566,272	0	566,272

According to the 2022 ODIHR report, private media with national coverage favoured the incumbents in their news and programme coverage. On the other hand, the public media provided more balanced reporting and presentation of all election candidates, although it was noted that uncritical and extensive news coverage favoured ruling parties.¹⁴⁴⁶

11.1.3. Independence (law)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of political parties?



SCORE: 75/100

The existing legal framework provides sufficient protection against unwarranted interventions in the core areas of political parties' work. However, there is no specific safeguard in the law when it comes to the various inspection controls.

The decision to ban a political party can be issued only by the constitutional court upon the initiative of the government, the republic public prosecutor or the MPLSG. A political party might be banned if it works to violently overthrow the constitutional order, violate guaranteed human and minority rights, or incite racial, national or religious hatred.¹⁴⁴⁷

There are no regulations which would allow state attendance and surveillance of political party meetings. The existing normative framework is reasonably designed and limited to oversight of political financing and protecting citizens' rights. For instance, the election campaign supervisory committee¹⁴⁴⁸ (ECSC) oversees political parties' actions, submitters of proclaimed electoral lists and MP candidates. The ECSC should promptly initiate proceedings before the competent state authorities if any participant in the election campaign calls for violence, spreads national, religious or racial hatred or incites gender inequality.¹⁴⁴⁹ Within the mandate to conduct the control of the political parties' financing, the APC also runs the field monitoring of political parties' activities during the campaign.

1445 Transparency Serbia. 2022. Campaign financing 2022. https://www.transparentnost.org.rs/images/dokumenti_uz_vesti/Finansiranje_kampanje_vrednost_i_preliminarni_izvestaji_-_prezentacija.pdf

1446 ODIHR. 2022. Serbia, Presidential and Early Parliamentary Elections, p.23, <https://www.osce.org/odihr/elections/serbia/524385>

1447 The Law on Political Parties. Official Gazette of the Republic of Serbia, Article: 4 and 37, No. 61/15, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2009/36/17/reg>

1448 The supervisory committee has 10 members appointed by parliament: one-half at the government's proposal and one-half at the parliamentary groups' proposal from among prominent public servants. Members of the supervisory committee may not be members of political parties' bodies. Among other duties, the ECSC shall also: (i) monitor pre-electoral activities and pinpoint any irregularities in the actions of political parties, candidates and other participants in the election procedure; and (ii) warn of the actions of political parties, candidates and the media which obstruct the election campaign and endanger the equality of rights of all candidates.

1449 Law on the Election of Members of Parliament. Official Gazette of the Republic of Serbia, Articles 145 and 146, No.14/22, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/2>

In addition, the State Audit Institution must conduct an audit of the appropriate number of political entities that have representatives in the National Assembly. Yet, the criteria based on which the State Audit Institution decides what political parties to audit is not sufficiently specified. The law stipulates that the SAI considers the volume of funds received by the political entity from public sources and the frequency of previous audits when deciding what political entities shall be covered by the audit.¹⁴⁵⁰

While the legislation directly related to political parties is reasonable, there are no specific safeguards in the law that would protect political parties from arbitrary or selective actions of state institutions. Political parties, as any other legal entities are subjects of inspection control in various areas, such as labour, health or tax regulation.

11.1.4. Independence (practice)

To what extent are political parties free from unwarranted external interference in their activities in practice?



There are occasional reports of harassment and assaults on representatives of opposition parties, especially around elections, although authorities have largely been effective in identifying and arresting those responsible.

Despite frequent accusations by public officials against opposition parties of attempting to violently overthrow the government and plotting a coup d'état, the authorised institutions have never initiated a process to ban "mischievous" political parties. For example in 2023, the minister for construction, infrastructure and transport accused members of opposition parties for attempting to plot a coup d'état, and the minister for family care and demography stated that "the opposition parties are the opposition to Serbia", and the minister of interior affairs announced that opposition parties plan to sabotage elections and cause chaos on the election day.¹⁴⁵¹ In addition, media controlled by the government use the same narrative to portray opposition leaders as traitors and criminals.¹⁴⁵² On the other hand, similar accusations are made by opposition leaders, mostly from right-wing parties - Zavetnici, Dveri, New Democratic Party of Serbia – against the ruling parties, again as little more than politically motivated allegations. For instance, the right-wing opposition, New Democratic Party of Serbia, is accusing the President Vučić of treason due to his handling of the Kosovo* crisis.¹⁴⁵³

In 2018, in the city of Kruševac, the opposition leader, Borko Stefanović of the Left of Serbia party (today a member of the Party of Freedom and Justice), was seriously injured in what appeared to be a politically motivated assault. Although the offenders were arrested and later convicted, this assault sparked a sequence of protests known as One of Five Million.¹⁴⁵⁴ Physical assaults on opposition leaders continued in 2020 and 2022. The leaders of the Movement of Free Citizens, Sergej Trifunović and Pavle Grobović were attacked in the two separate incidents in 2020 and 2022 while conducting political activities.¹⁴⁵⁵

Reports of harassment and assaults on the representatives of opposition parties by the ruling party and/or public officials are especially frequent during the election campaign and on election day. During the election campaign in 2022, a Moramo candidate was attacked in Kula during signature collection, another Moramo activist was assaulted by several SNS supporters when trying to film the distribution of goods by the SNS to citizens in Bečej on 19 March. In Boleč, on 27 March, there were scuffles between SNS and SSP activists. Two parliamentary candidates and one PB member from the coalition Moramo and United were assaulted and injured by groups of SNS activists in Belgrade.¹⁴⁵⁶ The police have been effective in identifying and arresting individuals who threatened opposition leaders.¹⁴⁵⁷

1450 Law on Financing of Political Activities. Official Gazette no. 14/2022), article 35, https://www.paragraf.rs/propisi/zakon_o_finansiranju_politickih_aktivnosti.html

1451 The minister for construction, infrastructure and transport accused members of opposition parties of attempting to plot a coup d'état. Nova.rs. "Vesic: Poslanici opozicije napali Vucica, to je pokusaj drzavnog udara", <https://nova.rs/vesti/politika/vesic-poslanici-opozicije-napali-vucica-to-je-pokusaj-drzavnog-udara/>; Minister for family care and demography stated that "the opposition parties are the opposition to Serbia", 08 May 2023, <https://www.danas.rs/vesti/politika/ministarica-kisic-tepavcevic-optuzila-opozicione-stranke-da-su-opozicija-srbija/>; Minister of interior affairs announced to the public that opposition parties plan to sabotage elections and cause chaos on the election day. Objektiv. 2022. "Agresivna opozicija i kriminalci uz podrsku zapada planiraju haos na dan izbora evo zasto pominju Majdan", <https://objektiv.rs/vest/1059552/agresivna-opozicija-i-kriminalci-uz-podrsku-zapada-planiraju-haos-na-dan-izbora-evo-zasto-pominju-majdan/>

1452 N1. 2023. "The parallel reality of the media in Serbia: Lies, insults and targeting people", <https://n1info.rs/english/news/the-parallel-reality-of-the-media-in-serbia-lies-insults-and-targeting-people/>

1453 N1. 2023. "Jovanovic: Vucic nece moci da pobegne od odgovornosti zbog izdaje Kosova", available at <https://n1info.rs/vesti/jovanovic-vucic-nece-moci-da-pobegne-od-odgovornosti-zbog-izdaje-kosova/>

1454 BBC. 2023. "Serbia Protests. Thousands march against President Vucic", <https://www.bbc.com/news/world-europe-46772500>

1455 Danas. 2020. "Sergej Trifunović was attacked during the collection of signatures", <https://www.danas.rs/vesti/politika/izbori-2020/n1-sergej-trifunovic-napadnut-tokom-prikupljanja-potpisa/>; Danas. 2023. "Napad na Pavla Grbovića", <https://www.danas.rs/vesti/politika/izbori22/snimak-napada-na-pavla-grbovica-video/>

1456 ODIHR. 2022. *Serbia, Presidential and Early Parliamentary Elections*, p.23, <https://www.osce.org/odihr/elections/serbia/524385>

1457 For instance refer to news media report: RTV. 2020. Uhapšen zbog pretnji Đilasu, Obradoviću, available at: https://www.rtv.rs/sr_lat/politika/uhapsen-zbog-pretnji-dilasu-obradovicu-veselinovicu-stefanovicu..._1124633.html

Although opposition leaders are not arbitrarily prosecuted by the state institutions, in some instances, opposition leaders have filed claims that the police had been intentionally obstructing their representatives from conducting election campaign tasks by detaining and arresting them. For example in 2021, during the local elections in Negotin, a dozen supporters and members of the opposition People's Party (PP), were taken to the police station. The reason for their detention was not reported in the news. On the same day, the members of local polling boards of the PP were stopped by traffic police and detained for hours, preventing them from conducting their duties on election day. In 2022, Sečanj, the leader of the opposition and the holder of the opposition list there, Vukašin Baćin, was arrested for an alleged attempt to bribe voters. In 2023, at the end of election day, the police in Kruševac detained the president of the executive committee of the opposition Party of Freedom and Justice in Kruševac, Dimitrije Peković, after he reported electoral fraud at the polling station.¹⁴⁵⁸

On the other hand, it seems that the police were not equally diligent in investigating cases and interrogating ruling party representatives when they are accused of violations of the law during election campaigning.¹⁴⁵⁹ One such example is the case of physical assault on the leader of the Free Citizens' Movement, Pavle Grbović, on election day in 2022 parliamentary elections, when he filmed alleged parallel voting registers in front of his polling station, and was held by activists of the ruling party, SNS. He was attacked after confronting them, the police only came after the attack even though they were primarily called to investigate these voting irregularities. The police took no further action except for taking a statement from the victim and advised him that he should have better protected himself.

Governance

11.2.1. Transparency (law)

To what extent are there regulations that require parties to make their financial information publicly available?



SCORE: 75/100

There are relatively comprehensive regulations requiring political parties to make their financial information publicly available via the APC. However, there is no requirement for political parties to publish election campaign expenditure reports on their own websites. Transparency of financing third-party campaigns in favour or against political parties is not regulated, neither is it the duty of election candidates to report on expenditures paid by them directly.

A political entity with representatives in representative bodies and registered political parties must submit an annual financial report to the APC by 30 April. These reports have to be published on the APC's website and must be published on the websites of the political entities within eight days of their submission to the APC. The report must include information on donations and assets, together with the previously obtained opinion of a certified auditor. In the income section, political parties must list the names of all donors who made financial or service contributions to the party.¹⁴⁶⁰ The submitted report should include the value of each contribution.¹⁴⁶¹ Also, all the expenditures, including online campaigning expenditures, must be reported in a designated section.¹⁴⁶²

¹⁴⁵⁸ During the local elections in Negotin, a dozen supporters and members of the opposition People's Party (PP) were taken to the police station. The reason for their detention was not reported in the news. On the same day, members of local polling boards of the PP were stopped by traffic police and detained for hours, preventing them from conducting their duties on election day. Source: N1. 2021. "Narodna stranka tvrdi – privedeno više njihovih članova iz odbora u Negotinu", <https://n1info.rs/vesti/narodna-stranka-tvrdi-privedeno-vise-njihovih-clanova-iz-odbora-u-negotinu/>; In Sečanj, the leader of the opposition and the holder of the opposition list in that place, Vukašin Baćin, was arrested for an alleged attempt to bribe voters. Source: Danas. 2022. "Uhapšen nosilac opozicione liste grupe građana u Sečnju Vukašin Baćina", <https://www.danas.rs/vesti/drustvo/uhapsen-nosilac-opozicione-liste-grupe-gradjana-u-secnju-vukasin-bacina/>; At the end of the election day, the police in Kruševac detained the president of the executive committee of the opposition Party of Freedom and Justice in Kruševac, Dimitrije Peković, after he reported electoral fraud at the polling station. Source: Vreme. 2022. "Kruševac – Uhapšen aktivista Ujedinjene opozicije Srbije", <https://www.vreme.com/vesti/krusevac-uhapsen-aktivista-ujedinjene-opozicije-srbije/>

¹⁴⁵⁹ Please refer to the following media reports: <https://www.danas.rs/vesti/drustvo/ne-davimo-beograd-aktivisti-sns-pokusali-da-sabotiraju-dogadjaj-policija-nije-reagovala/>, and <https://n1info.rs/izbori-2022/grbovic-prijava-protiv-napadaca-policajac-neprijatan-i-njega-ceka-postupak/>, and <https://www.danas.rs/vesti/politika/aktivisti-sns-pretukli-sefa-izbornog-staba-narodne-stranke/>

¹⁴⁶⁰ The Law on Financing Political Activities. Official Gazette of the Republic of Serbia, Article 28, Paragraph 1, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/4/reg>

¹⁴⁶¹ Ibid.

¹⁴⁶² The Law on Financing Political Activities. Official Gazette of the Republic of Serbia, Article 28, Paragraph 3, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/4/reg>

The 2022 legislative amendments introduced an obligation for political entities competing in the election to submit two reports on election campaign expenditures, which are also published on the APC website.¹⁴⁶³ Firstly, political contestants must submit a preliminary report on election campaign expenditure five days before election day, and a final report within 30 days from the date of publication of an aggregate report on the election results. The reports must include information on the origin, amount and structure of raised and spent funds from public and private sources, credits and loans. The law does not require political parties to publish election campaign expenditure reports on their websites.¹⁴⁶⁴

Political parties are also required to record all donations and publish on their website donations that exceed the annual level of an average monthly salary (approximately €700 in 2023). These donations must be published within eight days from the date the value of the donation exceeded the amount of one average monthly salary.¹⁴⁶⁵

11.2.2. Transparency (practice)

To what extent can the public obtain relevant financial information from political parties?



SCORE: 75/100

Despite comprehensive regulations, in practice, citizens do not have complete information on political financing and rarely witness the institutional outcome of illegal financing allegations.

Political parties mostly follow legal obligations to publish their annual financial reports and donations on their websites. These documents are accessible but not always easy to find as there are no legal procedures on where and how to post them on the party's website. For example, among those that do not publish their financial data is the largest political party, SNS, which holds power, and one of the rising opposition left-wing parties, Green-Left Front (currently part of the largest opposition coalition). Often, information on the date when a donation is received is missing, which raises doubts if a political party publishes it according to the legally binding deadline. For example, the second-largest political party in the ruling coalition, the Socialist Party of Serbia, publish all the donations received in one year without specifying the dates of donation.¹⁴⁶⁶ The APC website has a completed register of all financial reports, which is easy to navigate. Nevertheless, the reports are not offered in a machine-readable format.¹⁴⁶⁷ The Serbian Center for Investigative Journalism (CINS), a civil society organisation from Belgrade, has made data from these reports publicly available in a machine-readable format.¹⁴⁶⁸

Transparency Serbia investigated the transparency of election campaign financing in 2020 and 2022. The results of the 2022 research suggest that citizens have insufficient information about election campaign financing and that recent legislative changes did not improve overall transparency.¹⁴⁶⁹ For example, some participants in the elections report the costs of distribution or design of promotional materials, travel and telephone communication and others do not, the value of similar services varies significantly among different parties, and the rent of billboard space differs significantly, for example. Many sections of the election reports do not enable efficient control, and additional data must be sought. For example, there are very few examples of billboards being listed by their position and lease period, and in many cases even basic information is missing, such as billboard number and unit price. In the case of internet advertising, details are regularly missing, such as web addresses on which the advertising was carried out as well as notes that could be used to see whether there was advertising on social networks.

The APC's election campaign monitoring does not cover social media and online campaigning. Overall, an insufficient transparency of political campaigning on the internet is partly caused by the policy of the companies providing the advertising services. While Facebook has tools to gather information on political advertisements and financiers, other online platforms are not as transparent, allowing political parties to conceal some of their financiers. A recent case raised suspicion of concealment of political financing when the company Meta announced the suspension

1463 Law on the Financing of Political Activities, Article 29, https://www.acas.rs/storage/page_files/Law%20on%20Financing%20Political%20Activities.pdf

1464 Law on the Financing of Political Activities, https://www.acas.rs/storage/page_files/Law%20on%20Financing%20Political%20Activities.pdf

1465 The Law on Financing Political Activities. Official Gazette of the Republic of Serbia, Article, Paragraph 3, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sqr/skupstina/zakon/2022/14/4/reg>

Law on the Financing of Political Activities, Article 9.

1466 The website of the Socialist Party of Serbia, donations, <https://www.sps.org.rs/prilozi-2022/>

1467 Agency for Prevention of Corruption website. Register of the Agency for Prevention of Corruption, <https://publicacas.acas.rs/#/acas/pretragaGFI>

1468 Center for Investigative Journalism of Serbia – CINS. "Stranacka kasa", <https://www.cins.rs/baze-podataka/stranacka-kasa/>

1469 Transparency Serbia. "Izbori april 2022: Transparentnost finansiranja izborne kampanje – TRAFIKA", https://www.transparentnost.org.rs/images/dokumenti_uz_vesti/TRAFIKA_izbori_april_2022.pdf2, and "Monitoring izbora 2022", p.13 <https://izbori.transparentnost.org.rs/nedovoljna-transparentnost-finansiranja-izborne-kampanje/>

of thousands of fake Facebook and Instagram accounts for creating a perception of widespread and authentic grassroots support for the ruling party and the president of Serbia.¹⁴⁷⁰

11.2.3. Accountability (law)

To what extent are there provisions governing financial oversight of political parties by a designated state body?



SCORE: 75/100

There are a number of provisions which mandate political parties to keep and publish records of their finances but provisions on the subject and the scope of the financial control are not comprehensive.

The APC has the mandate to check the accuracy of reported incomes and expenditures in annual and election campaign finance reports. The control of the reports shall be performed following the plan adopted by the APC.¹⁴⁷¹ The law envisages sanctions for not submitting financial reports to the agency in full and a timely manner.¹⁴⁷² However, the law lacks comprehensive provisions on the subject and scope of the financial control.¹⁴⁷³

The legislation empowers the APC to obtain free access to bookkeeping records and financial documents of political parties.¹⁴⁷⁴ Upon the APC's request, public institutions, local governments, banks and natural and legal persons who finance political entities, and/or perform on their behalf, must deliver the required information or provide access to the requested documents.¹⁴⁷⁵

The 2022 LFPA stipulates that the SAI conducts an audit of the appropriate number of political entities that have representatives in parliament.¹⁴⁷⁶ The term *appropriate number* is not defined, which leaves room for a biased selection of political parties to be audited.

The annual tax control plan should include the control of donors of funds, and/or goods and services to political entities. The list of donors that should be subjected to tax control is made on the basis of the APC's report.¹⁴⁷⁷ However, it is unclear whether the tax administration should control only those entities marked as suspicious in the APC's report, or it might pick any entity mentioned in the report.

The APC publishes the verification results within 120 days of submitting the final reports. The substance and nature of verification are determined by the APC rulebook.¹⁴⁷⁸

Legislation does not sufficiently determine a separation between official functions and campaigning activities. Third-party campaigning is still exercised but not accounted for as the legislation does not regulate it.¹⁴⁷⁹

1470 According to Meta's report, an estimated cost for these actions is around €150,000. Source: Quarterly Adversarial Threat Report, Meta Platform Inc, p.11, <https://about.fb.com/wp-content/uploads/2023/02/Meta-Quarterly-Adversarial-Threat-Report-Q42022.pdf>

1471 The law stipulates that the plan of control of annual reports shall be published on the APC's website by 15 March of the current year, and the plan of control of reports on election campaign expenditure shall be published on the agency's website five days after the call for elections. The APC's plan prescribes that the control of annual financial reports that shall be conducted based on reported incomes and expenditures that might motivate political parties to underreport their donations and expenditures to avoid being accounted for. Lastly, the APC plans for the control of annual financial reports also predicate the use of random selection not specifying what type of random method shall be used and what shall be the scope of selection by this method.

1472 Political parties can be fined up to RSD 2 million (€17,000) and lose between 10% and 100% of their financial support from public sources the following year. Source: Law on Financing Political Activities. Official Gazette of the Republic of Serbia, Article 42, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/4/reg>

1473 According to the APC's 2021 plan for the control of the annual financial reports, political parties with the largest reported incomes and expenditures, those with representatives in parliament, those already subjected to the control of the State Audit Institution and those selected randomly by the APC, will be subjected to the APC's report control. In the case of the election campaign expenditure reports, the APC's 2022 plan for control predicates that selection criteria are based on whether the political party (entity) has registered a list in the parliamentary elections or registered a list in the local elections in Belgrade, while control of the reports of political entities with registered lists in 13 local elections will be determined based on income and expenditure and random selection. The plan aims to check the spending of roughly 90% of all public funds provided to political parties. Source: Agency for Prevention of Corruption. "Plan kontrole godisnjih izvestaja o finansiranju politickih subjekata", https://www.acas.rs/storage/page_files/Plan%20kontrole%20GIF%20za%202022.%20godinu.pdf

1474 Upon the APC's request for information or documents, political parties are obliged to deliver to the agency all documents and information within 15 days. In the course of the election campaign, the deadline may not exceed three days. The Law on Financing Political Activities. Official Gazette of the Republic of Serbia, Article 31 and 32, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/4/reg>

1475 The Law on Financing Political Activities. Official Gazette of the Republic of Serbia, Article 32, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/4/reg>

1476 The Law on Financing Political Activities. Official Gazette of the Republic of Serbia, Article 35 and 32, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/4/reg>

1477 Law on the Financing of Political Activities, Article 36, https://www.acas.rs/storage/page_files/Law%20on%20Financing%20Political%20Activities.pdf

1478 The Law on Financing Political Activities. Official Gazette of the Republic of Serbia, Article 33, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/4/reg>

1479 ODIHR. 2022. *Serbia, Presidential and Early Parliamentary Elections*, p.17, <https://www.osce.org/odihr/elections-serbia/524385>

11.2.4. Accountability (practice)

To what extent is there effective financial oversight of political parties in practice?



SCORE: 50/100

There is financial oversight of political parties but it is ineffective, and sanctions for non-compliance are generally insufficient.

The positive trend of submitting the annual financial report (AFR) to the APC was reversed in 2022. In 2022, of a total of 263 political entities, comprising 116 political parties and 147 citizens' groups, only 145 political entities, roughly 55% of the total (comprising 76 political parties and 69 citizens' groups), complied with the legal obligation by submitting their reports within the stipulated timeframe. In the same year, the APC (or relevant authority) initiated misdemeanour proceedings against 91 political entities, consisting of 36 political parties and 55 citizens' groups, for failing to submit their AFRs for 2022. In 2021, the submission rate for AFRs stood at 80%.¹⁴⁸⁰ Out of 19 political entities competing in the 2022 parliamentary elections, 16 submitted the preliminary Report on the Expenses for the Election Campaign, and 15 submitted the final REEC.¹⁴⁸¹ In its annual report, the APC continued to provide only aggregated data on the total number of initiated proceedings and court decisions without any reference to specific irregularities noted in the previously published control of the final election campaign expenditure reports. This practice by the APC raises doubts about the efficiency of existing accountability mechanisms.¹⁴⁸²

The phrase “the APC initiated a process of verifying the factual situation to determine the existence of a violation of the law” is assigned to all observed irregularities that might suggest breaches of relevant provisions.¹⁴⁸³ Considering the number of complaints submitted by CSO observers against political parties for breaching legal provisions, the impression is that the APC’s control of political parties’ financial reports is superficial and futile.¹⁴⁸⁴

Lastly, the APC does not respond promptly to most alleged violations, especially during the election campaign. In 2022, 12 complaints filed by CRTA and Transparency Serbia to the APC about the misuse of administrative resources by public officials during the campaign, were not decided by the APC before the elections.¹⁴⁸⁵ Moreover, the APC tends to issue warning measures instead of fines, even for repeated violations committed by the same party. In the election campaign period, the APC reviewed 15 complaints concerning alleged misuse of administrative resources and public office, all submitted against the SNS. Four warnings and one fine were issued against the party. The APC informed the ODIHR EOM that it considered the measures sufficient as the respective posts and videos were removed from the accounts; however, it did not adopt any other measures to prevent similar violations.¹⁴⁸⁶

Looking back, the APC and competent state bodies never addressed the allegations about a large-scale attempt to conceal a true private source of financing in election campaigns in 2012, 2014 and 2016, when the Serbian Progressive Party consistently reported hundreds of citizens’ donations in the exact amounts, which added up to a significant sum.¹⁴⁸⁷

1480 Agency for Prevention of Corruption. Annual Financial Report 2021 and 2022, https://www.acas.rs/cyr/page_with_sidebar/politicki_subjekti#

1481 Agency for Prevention of Corruption. “Izveštaj o kontroli troškova finansiranja političkih subjekata za izbor poslanika za Narodnu skupštinu Republike Srbije za 2022. Godinu”, (p.3), https://www.acas.rs/storage/page_files/Izveštaj%20o%20kontroli%20finansiranja%20troškova%20izborne%20kampanje%20Narodni%20poslanici%202022.pdf

1482 Agency for Prevention of Corruption. Annual Financial Report 2022, https://www.acas.rs/storage/page_files/Izve%C5%A1taj%20o%20kontroli%20finansiranja%20tro%C5%A1kova%20izborne%20kampanje%20Narodni%20poslanici%202022.pdf

1483 See for example, Agency for Prevention of Corruption. “Izveštaj o kontroli troškova finansiranja političkih subjekata za izbor poslanika za Narodnu skupštinu Republike Srbije za 2022. Godinu”, (p.17), https://www.acas.rs/storage/page_files/Izve%C5%A1taj%20o%20kontroli%20finansiranja%20tro%C5%A1kova%20izborne%20kampanje%20Narodni%20poslanici%202022.pdf

1484 For example, please refer to: Transparency Serbia. 2022. <https://izbori.transparentnost.org.rs/izvestaji-ts-o-monitoringu-izbora-2022/>; CRTA. 2022. Final Report with Recommendations, <https://crtas.rs/izbori-2022-zavrsni-izvestaj-sa-preporukama/>; Final Report by ODIHR (2022), <https://www.osce.org/odihr/elections-serbia/509429>

1485 ODIHR. 2022. *Serbia, Presidential and Early Parliamentary Elections*, p.3, <https://www.osce.org/odihr/elections-serbia/524385>

1486 ODIHR. 2022. *Serbia, Presidential and Early Parliamentary Elections*, p.19, <https://www.osce.org/odihr/elections-serbia/524385>

1487 These suspicions are supported by testimonies given to the public prosecutor in which Serbian Progressive Party members and employees in the local administration claimed that they had instructions to transfer funds, which they have previously received in cash from their superiors, to the bank account of the political party. CINS. 2022. “Slučaj trećeg čoveka iz kafane. Svedočenja lažnih donatora SNS”, <https://www.cins.rs/slucaj-treceg-coveka-iz-kafane-svedocenja-laznih-donatora-sns-a/>

11.2.5. Integrity (law)

To what extent are there organisational regulations regarding the internal democratic governance of the main political parties?



Political parties adopted regulations on their internal democratic governance, although party leaders tend to hold significant power.

The statutes of all major parties enforce democratic procedures for the election of the leadership and other bodies. Generally, the statutes provide a range of wide competencies and powers to the party's president. For instance, the president of a party might: 1) take the role of chairman of the main party board (Serbian Progressive Party); 2) have the authority to initiate the dismissal of almost all party officials (Democratic Party & People's Party); 3) have the right to represent the party "without limitation" (Socialist Party of Serbian); and 4) assemble and chair the meeting of the party's main board, assembly, executive board and presidency (Party of Freedom and Justice).¹⁴⁸⁸ Overall, all the main political parties have internal regulations built upon democratic principles, although extensive powers usually lie in the hands of the party's leader.¹⁴⁸⁹

Candidates for party president are usually proposed by the party's local councils. In the majority of political parties, the method of nomination and election are stipulated in the statute. The president is elected by the party's assembly or congress.¹⁴⁹⁰

Formally, candidates for parliament are chosen by the party's main board, upon the proposal of the local/municipal party's board (or based on the recommendation of the executive board confirmed by the presidency) or by the party's presidency.¹⁴⁹¹

11.2.6. Integrity (practice)

To what extent is there effective internal democratic governance of political parties in practice?



In practice, internal democratic governance is incapacitated to prevent the disintegration of political parties, which usually emerge after internal party elections or disputes.

The vast majority of political parties have powerful and irreplaceable leaders who are unaccountable to the membership and largely independent in making decisions on behalf of the party.¹⁴⁹² Despite being governed by democratic rules, election processes for the leadership are usually a foregone conclusion.

Internal party conflicts are not rare, yet the parties lack the democratic capacity to embrace and articulate conflicting ideas. As a result, a common outcome of intra-party disputes is the secession of a part of the membership to form a new political organisation. In dozens of cases, after losing inter-party elections, an unsettled leader and his faction leave the organisation and start a new political party. The recent example of the People's Party, lead by the former minister of foreign affairs and president of the UN's general assembly, Vuk Jeremić, who was seceded twice in a year and a half and resulted in two newly established political parties led by former officials of this party. Just a few days after the presidential elections in April 2022, its former vice-president and presidential candidate, Zdravko Ponoš, left and later established the political party SRCE.¹⁴⁹³ Just one year later, in August 2023, Miodrag Aleksić, leader of the parliamentary group, also left the party and established the National Movement of Serbia.¹⁴⁹⁴ Both

¹⁴⁸⁸ The source used are the statutes of the named political parties.

¹⁴⁸⁹ Dušan, Spasojević, and Stojiljković Zoran. 2019. "The presidentialisation of political parties in Serbia: Influence of direct elected president." *The presidentialisation of political parties in the Western Balkans*, pp.49-71.

¹⁴⁹⁰ Ibid.

¹⁴⁹¹ Ibid.

¹⁴⁹² Ibid.

¹⁴⁹³ N1. 2022. Zdravko Ponoš left the Peoples' Party, <https://n1info.rs/vesti/zdravko-ponos-napustio-narodnu-stranku/>

¹⁴⁹⁴ N1. 2023. Aleksić left the Narodna, announced the formation of a new parliamentary club and party, <https://n1info.rs/vesti/aleksic-dao-ostavku-na-sve-funkcije-u-stranci-formira-novu-poslanicku-grupu/>

officials were in disagreement with the Peoples' Party leadership politics and entered with their newly established parties in coalition with other left-wing parties, while the Peoples' Party continued to gravitate towards the right. There have been only a few exemptions of political parties solving internal disputes through democratic intra-party elections and avoiding secessions. In recent years, only the Democratic Party (in 2018), the Democratic Party of Serbia (2016) and the Movement of Free Citizens (2020) have chosen new presidents through party elections.¹⁴⁹⁵

Usually, intra-party dynamics develop under the scrutiny of the party leader who possesses wide powers and little accountability to the party membership. Key decisions concerning the party's stand on various political issues are announced by the party leader, leaving an impression that other party bodies and the membership were not involved in the process of deliberation. Similarly, the decision to remove party officials from their duties is unanimously shared among all party committees in advance. The illustrative example is the dismissal of the highly ranked official of the Serbian Progressive Party (SNS) and the minister in the government, from his presidency of the organisation in Belgrade, in 2021.¹⁴⁹⁶

The submissiveness of party officials to their president is perhaps well illustrated by the 2023 statement of the vice-president of the ruling party who said: "he is invincible ... we count on him because he created us and taught us everything".¹⁴⁹⁷ Officials of the same party believe that the party will cease to exist if the current president resigns.¹⁴⁹⁸

Only one party of the coalition with representatives in parliament nurtures a collective leadership with no authoritative figure. The coalition We Must (Moramo), comprised of several political organisations among which is the Movement Don't let Belgrade D(r)own (Ne davimo Beograd), emerged from the civil sector and green activism.¹⁴⁹⁹

11.2.7. Gender representation

To what extent are women part of political parties' leadership?



SCORE: 25/100

Legal provisions stipulate positive discrimination to ensure women's representation on the electoral list, and political parties are also obliged to adopt special measures for gender equality, but few do so in practice.

Relevant rules stipulate that there must be at least 40% of the underrepresented gender on the electoral list, that is, for every five candidates, at least two must be women.¹⁵⁰⁰ In practice, the number of women on electoral lists is almost always reduced to the legal minimum, and if a woman leaves her position in parliament, she will be replaced by the following candidate from the electoral list who may be of the opposite sex, thereby creating disbalance in legal quota.¹⁵⁰¹

Despite the increased number of women in legislative and executive power, the mechanisms of candidacy and promotion have not fundamentally changed, that is, they have remained centralised, authoritarian, clientelist and nepotistic.¹⁵⁰²

1495 Danas. 2020. Pavle Grbović the new president of PSG, <https://www.danas.rs/vesti/politika/pavle-grbovic-novi-predsednik-psg-a/>; Danas. 2021. Zoran Lutovac reelected as the president of the Democratic Party, <https://www.danas.rs/vesti/politika/danas-skupstina-demokratske-stranke-bira-se-predsednik/>; RTV. 2016. Jovanović instead of Rašković Ivić?, https://rtv.rs/rsn/politika/jovanovic-umesto-raskovic-ivic_726120.html

1496 Politika. 2021. "Odbori SNS-a izjasnjavaju se o nepoverenju Stefanoviću, <https://www.politika.rs/sr/clanak/479248/Odbori-SNS-a-izjasnjavaju-se-o-nepoverenju-Stefanovicu>

1497 Politika. 2023. "Ako Vučić ode biće veliki potres u SNS", <https://www.politika.rs/sr/clanak/533038/Ako-Vucic-ode-bice-veliki-potres-u-SNS-u>

1498 N1. "Vučićevi suradnici: Ostavka bi značila kraj SNS i najcrnji scenarij", <https://n1info.hr/regija/vucicevi-suradnici-ostavka-bi-znacila-kraj-sns-a-i-najcrniji-scenarij/>

1499 The movement Ne davimo Beograd formed, together with the Open Civic Platform AKCIJA and the Ecological Uprising, the green-left coalition MORAMO, https://nedavimobeograd.rs/formirana-zeleno-leva-koalicija-moramo/?gclid=CjwKCAiA-P-rBhBEEiwAQEXhHxeGXZWjUeSmnHautpfncJvvaXJPk9RcuVueyK39L1vVXQuwWxuBoCcBUQAvD_BwE

1500 Law on the Election of Members of Parliament. Official Gazette of the Republic of Serbia, Article 73, No.14/22, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/2>

1501 European Western Balkans. Gender-balanced Serbian government: Step towards gender equality or just a PR move?, <https://europeanwesternbalkans.com/2020/11/19/gender-balanced-serbian-government-step-towards-gender-equality-or-just-a-pr-move/>

1502 OSCE Mission to Serbia. 2021. Violence against women politicians in Serbia: women in politics at the tripoint of gender, power and political culture – Brief Report, p.19, <https://www.osce.org/files/f/documents/7/1/502191.pdf>

Political parties are obliged to adopt an action plan with special measures for gender equality promotion every four years.¹⁵⁰³ They are also required to prepare reports on the number of women and men in management, supervisory and other bodies. According to the latest available data from 2022, only 11 (8 minority parties) out of 101 political parties submitted these reports. According to the submitted data, only the Macedonian Party of Serbia and the Rusin Democratic Party and, to some extent, the Democratic Union of Roma have a balanced number of women and men in decision-making and supervisory bodies, while in other parties, the percentage of women's participation ranges from 30% to 35%, taking into consideration that the 11 submitted reports are not a credible sample for assessing the state of gender equality because the reports and numbers of the largest political parties in the Republic of Serbia are missing.¹⁵⁰⁴ The findings of research conducted in 2020 indicate that various forms of violence against female politicians exist, and there is a lack of protection mechanisms against gender-based violence in political parties, parliament or at the local level.¹⁵⁰⁵

Role

11.3.1. Interest aggregation and representation

To what extent do political parties aggregate and represent relevant social interests in the political sphere?



The two major ruling parties are firmly clientelist, and the diversity of political platforms is more apparent among opposition parties.

The political system is dominated by populist parties. On one side, the main ruling party combines populism with declaratively pro-EU politics, while typical populist parties promoting Christian values and anti-immigrant sentiments can be found among the opposition, such as Dveri, Zavetnici and the New Democratic Party of Serbia.¹⁵⁰⁶

The two major ruling parties, the Serbian Progressive Party and the Serbian Socialist Party are firmly clientelist. The Serbian Progressive Party, which has been in power for the past decade, is a key player who holds interests in state-owned enterprises, managing public procurement processes and domestic private capital, interlinking all of these actors and processes for their own benefit and to acquire advantage over other political parties. In recent years, several dozen stories were published by an investigative journalists about business deals between the state and individuals close to the Serbian Progressive Party (see 14.1.4).¹⁵⁰⁷

Diversity in political platforms is far more apparent among the opposition parties in parliament. Interestingly, several political organisations with representatives in parliament arose from civil society organisations. For instance, the first authentic coalition promoting a green-left political platform, We Must (Moramo), arose from civil society. Similarly, a right-wing debutant in parliament – the Serbian Party Oathkeepers (Srpska Stranka Zavetnici) and national-conservative movement Dveri – also emerged from the civil associations.¹⁵⁰⁸ The 2022 elections also marked a comeback of two traditional parties, the conservative Democratic Party of Serbia and the social-democrats, Democratic Party. The political centre is also represented by the two new parties, the social-democrats Freedom and Justice party and the centre-right People's Party.¹⁵⁰⁹

1503 The Law on Gender Equality. Official Gazette of the Republic of Serbia, Article 48, Paragraph 2, No 52/2021, <https://www.paragraf.rs/propisi/zakon-o-rodnoj-ravnopravnosti.html>

1504 Ministry of Human and Minority Rights. 2023. 2022 Report on Gender Equality in the Republic of Serbia, p.75. <https://www.minljmpdd.gov.rs/doc/izvestaji/izvestaj-o-ostvarivanju-rodne-ravnopravnosti-uRSza2022.godinu.pdf>

1505 Violence against women politicians in Serbia: women in politics at the tripoint of gender, power and political culture – Brief Report, OSCE Mission to Serbia, April 2021, p 13-18 available at <https://www.osce.org/files/f/documents/7/1/502191.pdf>

1506 Stojiljković, Zoran, and Dušan Spasojević. 2018. "Populistički Zeitgeist u "proevropskoj" Srbiji." *Politička misao: časopis za politologiju* 55.3, 104-128.

1507 For example, see: <https://www.krik.rs/rasprodaja-u-vrnjackoj-banji-25-miliona-evra-sns-biznismenima-da-srede-hotele/>, and <https://www.danas.rs/vesti/drustvo/koruptivne-veze-miljenjum-tim-ustupio-audi-i-stan-bratu-sinise-malog/>, and <https://www.slobodnaevropa.org/a/tepic-firma-premijerkinog-brata-iz-budzeta-dobila-40-miliona-evra/30854137.html>

1508 Dveri was created as a student magazine when several students of Serbian language and literature published the first issue for national culture in 199: Dveri srpska. Then they became a patriotic non-governmental organisation and entered politics in 2011. Dveri was registered as a political organizations in 2015: Free Europe. 2022. A 'new beginning' for the right in Serbia, <https://www.slobodnaevropa.org/a/srbija-izbore-desnica/31801289.html>

1509 BBC. 2022. The Assembly of Serbia and the 2022 elections: Who's who in the parliamentary benches, <https://www.bbc.com/serbian/lat/srbija-62377118>

In 2022, the election turnout was slightly over 58%, which is the highest in a decade and almost 10% higher than in the 2020 elections when the opposition boycotted it.¹⁵¹⁰ Thus, the legitimacy of parliament and institutional political struggle in the country is significantly strengthened by higher voter turnout and participation of political organisations representing citizens with different political views.

11.3.2. Anti-corruption commitment

To what extent do political parties give due attention to public accountability and the fight against corruption?



SCORE: 25/100

Despite having provisions on the fight against corruption in their statutes and policy documents, the public usually perceives political parties as a source of corruption.

The fight against corruption has a prominent status in the manifestos or programmes of almost all political parties. However, in practice, political parties are considered one of the main generators of corruption.¹⁵¹¹

The largest ruling party, the Serbian Progressive Party, placed the fight against corruption in its statute¹⁵¹² and programme.¹⁵¹³ It also has an internal anti-corruption council.¹⁵¹⁴ The Socialist Party of Serbia in its programme has a section dedicated to the fight against corruption and organised crime.¹⁵¹⁵ Meanwhile, the opposition Party of Freedom and Justice, proclaimed the fight against corruption and an independent judiciary as one of its main programme objectives¹⁵¹⁶ and dedicated part of its website to anti-corruption.¹⁵¹⁷ Also, the Belgrade committee of the People's Party has established an office to support citizens, among others, in fighting corruption and protecting whistleblowers.¹⁵¹⁸

Opposition parliamentary political parties' representatives often claim that the ruling parties do not want to depoliticise public administration and decrease corruption because it will jeopardise their internal structure.¹⁵¹⁹ Officials and representatives of the ruling political party claim that the results of the fight against corruption and implementation of the recommendations of the relevant international organisations demonstrate their commitment to the fight against corruption.¹⁵²⁰

Even though there are often testimonies in public by the participants or even video clips or recorded conversations that uncover the corruption schemes of the political parties that have made up the ruling coalition for the past decade (SNS, SPS, Jedinstvena Srbija), none of these claims are processed by the judiciary, thereby leaving citizens with the perception of corruption in political parties rather than having any solid evidence.¹⁵²¹ The same allegations are attributed to the opposition parties who held power till 2012 (such as the Democratic Party, United Regions of Serbia and Democratic Party of Serbia).¹⁵²² Furthermore, many of the prominent former ruling parties' officials, from both the central and local level, joined the SNS¹⁵²³ once it became the ruling party.

1510 021. 2023. Turnout projections for this election and comparison with previous votes, <https://www.021.rs/story/Info/Srbija/361597/FOTO-Projekcije-izlaznosti-na-ovim-izborima-i-poredjenje-sa-prethodnim-glasanjima.html>

1511 Nieves Zúñiga, Transparency International. 2021. Overview of corruption and anti-corruption in Serbia: Changes in the last 10 years, Transparency Serbia, <https://knowledgehub.transparency.org/helpdesk/overview-of-corruption-and-anti-corruption-in-serbia-changes-in-the-last-10-years>; In addition, please refer to: CINS. Fight Against Corruption/Political Parties, <https://www.cins.rs/teme/borba-protiv-korupcije/politicke-partije/>

1512 The statute of the Serbian Progressive Party, Article 7, <https://www.sns.org.rs/o-nama/statut-srpske-napredne-stranke>

1513 The programme of the Serbian Progressive Party, <https://www.sns.org.rs/o-nama/program-srpske-napredne-stranke>

1514 More details are available at Serbian Progressive Party Website, <https://www.sns.org.rs/search/node/>

1515 The Socialist Party of Serbia. 2014. Programme Declaration: Vision of Serbia 2020, pp.77-79, available at <https://www.sps.org.rs/wp-content/uploads/2016/07/Programska-deklaracija-Vizija-Srbije-2020.pdf>

1516 The statute of the Party of Freedom and Justice, Article 6, <https://ssp.rs/o-nama/dokumenti/statut/>

1517 More details are available at Party of Freedom and Justice website <https://ssp.rs/category/?category=korupcija>

1518 Peoples' Party website <http://narodnakancelarija.com/#zdisk>

1519 Depolitizacija državnih službenika na položaju u Srbiji: Priča bez kraja, WeBER 20, https://cep.org.rs/wp-content/uploads/2023/04/Depolitizacija-drzavnih-službenika-na-polozaju-u-Srbiji_prica-bez-kraja.pdf

1520 Refer to the programme of the government, National Parliament. 2022. Vlade Republike Srbije kandidata za predsednika Vlade Ane Brnabic, p.60, https://media.srbija.gov.rs/medsrp/dokumenti/ana-brnabic-ekspoze-1022_cyr.pdf

1521 Free Europe. 2022. Everything about election irregularities in Serbia, <https://www.slobodnaevropa.org/a/srbija-izborne-nepravilnosti/31787095.html>

1522 OzonPress. 2023. Serbia, the empire of party employment, <https://www.ozonpress.net/drustvo/srbija-carstvo-stranackog-zaposljavanja/>

1523 BBC in Serbian. 2019. Flyovers in Serbian Politics, <https://www.bbc.com/serbian/lat/srbija-50412608>

Interactions

While being prohibited by the constitution to exercise power directly, ruling political parties are effectively decision-makers in parliament. It is visible from the almost unanimous support for government decisions by all members of parliamentary groups of the ruling majority. Furthermore, in some laws, parliamentary groups are recognised as a nominal proposer of candidates for office holders that should be non-partisan (such as the ombudsperson or Commissioner for Information of Public Importance and personal data protection). The mandate of MPs is free, which includes the possibility to leave the party and keep the mandate, which further promotes the selection of candidates that are seen to be faithful to the party leadership, rather than other individual qualities.

All political parties have to submit a detailed financial report to the Agency for Prevention of Corruption, both annually and following an election campaign.¹⁵²⁴ The agency is empowered by law to check these reports, compare it with its own monitoring and initiate legal actions in cases of identified wrongdoing.¹⁵²⁵ Most parliamentary parties do respect these duties.¹⁵²⁶ However, the control is not sufficiently detailed and in some instances processes are not initiated in a timely manner.¹⁵²⁷ The abuse of administrative resources by public officials for the benefit of political parties is insufficiently regulated in the law, and restrictively interpreted by the agency.¹⁵²⁸

The REC is not in charge of monitoring political parties' work, but directly influences them through its decisions. The REC decides whether a political party represents the interests of a national minority and subsequently, whether it enjoys related privileges (smaller threshold to enter the parliament). The REC is composed of lawyers nominated either by parliamentary parties or parties that participated in the elections, it is therefore not an expert or independent body.¹⁵²⁹

Pillar Recommendations

- The government should propose and parliament should adopt amendments to the Law on Financing Political Activities to remove identified weaknesses in the system, clearly set out responsibilities of the Agency for Prevention of Corruption 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, at least one year prior to next election.
 - » the law should establish thresholds for the cost of the election campaign per one electoral list/presidential candidate;
 - » the law should redefine the purpose of budget subsidies and their distribution in a way that funds for campaigns are distributed before elections, while the funds for regular party financing may not be used to finance election campaigns;
 - » the law should stipulate the obligation of the Agency for Prevention of Corruption in the control of political parties, related to deadlines, transparency and content of the control reports;
 - » the law should more precisely regulate the purpose of tax administration control of party's donors, in order to prevent abuse;
 - » transparency of financing during the campaign should be regulated by introducing a system of transparent accounts that would enable the timely publishing of political parties' incomes and expenditures;
 - » the law should strengthen regulation of third-party campaigning and financing of activities by candidates and explicitly prohibit all forms of abuse of public assets for the campaign purposes;

¹⁵²⁴ The Law on Financing Political Activities, "Official Gazette of the Republic of Serbia", Article 28, Paragraph 1; and Article 29, Paragraph 1, available at: <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/4/reg>

¹⁵²⁵ The Law on Financing Political Activities. Official Gazette of the Republic of Serbia, Article 32, 33, and 37, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/4/reg>

¹⁵²⁶ Agency for Prevention of Corruption. 2022. Report on the Control of the Annual Report on the Financing of Political Entities, p.8, https://www.acas.rs/storage/page_files/Izveštaj%20o%20kontroli%20finansiranja%20političkih%20aktivnosti%20u%202022.%20godini%20-%20Izveštaj%20o%20kontroli%20godišnjih%20finansijskih%20izveštaja%20političkih%20subjekata%20za%202021.%20godinu.pdf

¹⁵²⁷ ODIHR. 2022. "Serbia, Presidential and Early Parliamentary Elections, 3 April 2022: Final Report", p.19, <https://www.osce.org/odihr/elections/serbia/524385>

¹⁵²⁸ Nieves Zúñiga, Transparency International. 2021. Overview of corruption and anti-corruption in Serbia: Changes in the last 10 years, Transparency Serbia, available at: <https://knowledgehub.transparency.org/helpdesk/overview-of-corruption-and-anti-corruption-in-serbia-changes-in-the-last-10-years>.

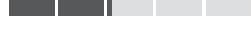
¹⁵²⁹ The Law on the Election of Members of Parliament. Official Gazette of the Republic of Serbia, No.14/22, Article: 16, 17 and 22, <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/2>

- The government should propose and parliament should adopt amendments to other laws to restrict opportunities for the abuse of public office and resources to promote parties in election campaigns, including a ban on the distribution of extraordinary social benefits during the campaign, restrictions on new employment in the public sector during the campaign, restriction on public officials' promotional activities in the campaign .
- Political parties (and the Agency for Prevention of Corruption) should consider measures for improving the integrity of political parties and political life (for example, integrity plans, parliamentary ethical committee).
- The government and parliament should amend the criminal offence set in the Law on Financing of Political Activities to criminalise threats to service providers of political parties and to adequately punish all types of retribution towards both party donors and service providers.
- The Agency for Prevention of Corruption shall, instead of issuing warning measures, enforce adequate sanctions in cases when a political party repeats the law violation.
- The Agency for Prevention of Corruption shall publish the outcomes of initiated proceedings (decision of public prosecutor, criminal or misdemeanour court).

12. Media

Summary

OVERALL PILLAR SCORE: 52.1/100

DIMENSION	INDICATOR	LAW	PRACTICE
CAPACITY 	RESOURCES	75	50
56.2/100/100	INDEPENDENCE	75	25
GOVERNANCE 	TRANSPARENCY	75	50
58.3/100	ACCOUNTABILITY	75	50
	INTEGRITY	75	25
	GENDER	50	
ROLE 	INVESTIGATE AND EXPOSE CASES OF CORRUPTION	50	
41.7/100	INFORM PUBLIC ON CORRUPTION AND ITS IMPACT	25	
	INFORM PUBLIC ON GOVERNANCE ISSUES	50	

Newly adopted, long-awaited changes to the media laws in 2023¹⁵³⁰ brought some improvement to the legal framework for the media's functioning – such as a more transparent and accessible process of public co-funding, a promise to create a single information platform for co-financing public information projects,¹⁵³¹ a certain degree of independence in the functioning of the Regulatory Body for Electronic Media (REM) and on the journalists' working rights,¹⁵³² but at the same time, the gap deepened in the already polarised media scene in Serbia, and above all, marked the return of the state to media by opening possibilities to become a media owner. While the authorities praise the new laws, claiming that they are aligned with the constitution and the media strategy,¹⁵³³ media experts, civil society groups, national media associations, political opposition and global NGOs¹⁵³⁴ keep warning that new legal solutions will increase the already robust state control over access to news and information against the media

1530 The Law on Electronic Media (LEM) and the Law on Public Information and the Media (LPIM), both adopted in late October 2023 before the dissolution of parliament because of the upcoming elections, came into force on 4 November, 2023. Official Gazette of the Republic of Serbia No. 92/2023. The third law planned by the media strategy, the Law on Public Media Services, has yet to be amended.

1531 The application of the articles of the law related to the unique information system for the implementation and monitoring of co-financing of projects (articles 31–34) will begin to be applied only from 1 January 2025. Second, the same exception at the beginning of the application of the law also applies to the name and registration number of the media, and personal name and unique personal number (JMBG) of a domestic natural person or passport number, etc, (article 47, para 1 and 2), Law on Public Information and the Media, article 159.

1532 Cenzolovka, Sinos: Usvojeno pravo novinara da ne moraju komunicirati s poslodavcima kada su na odmoru (*Right of journalists not to have to communicate with their employers when they are on vacation is adopted*), 30 October 2023, <https://www.cenzolovka.rs/drzava-i-mediji/sinos-usvojeno-pravo-novinara-da-ne-moraju-komunicirati-s-poslodavcima-kada-su-na-odmoru/>

1533 Cenzolovka, Jovanović ponosan na medejske zakone: Usvojeni zakoni revolucionarni i uskladjeni sa evropskim zakonodavstvom (*Minister of information and telecommunications Mihailo Jovanović is proud of the media laws: The adopted laws are revolutionary and harmonised with the European legislator*), 30 October 2023, <https://www.cenzolovka.rs/drzava-i-mediji/jovanovic-ponosan-na-medejske-zakone-usvojeni-zakoni-revolucionarni-i-uskladjeni-sa-evropskim-zakonodavstvom/>

1534 Global NGOs, including Reporters Without Borders, Article 19 and Balkan Free Media Initiative – EURACTIV. 2023. Pressure builds on Serbia over controversial new media laws, <https://www.euractiv.com/section/media/opinion/pressure-builds-on-serbia-over-controversial-new-media-laws/>

strategy,¹⁵³⁵ which distinctly communicated that the state must get out of media ownership,¹⁵³⁶ and lay the foundation for the shutdown of the remaining independent media and the suppression of freedom of speech and objective information.¹⁵³⁷ The European Commission, in its latest report, concludes that the legal process for passing media decrees is not entirely in line with European standards.¹⁵³⁸

The initial action plan for implementing the media strategy expired at the end of 2022, and a new action plan for 2023-2025 has not yet been adopted.

With almost 2,600 registered media outlets,¹⁵³⁹ Serbia has two parallel informative media scenes: one supported by or otherwise aligned with the government and the other made up of media that apply a critical lens to the government's actions. Some of the most influential media outlets from the first group frequently violate standards of professionalism and regulations. The latter's reach is limited, but despite external pressure, threats and lawsuits, they engage in investigative journalism and reveal corruption at the highest level.

Media concentration (including cable TV providers) is more pronounced, with the state-owned Telekom Srbija¹⁵⁴⁰ and the private United Group¹⁵⁴¹ company competing for the market share.¹⁵⁴² Informative TV channels affiliated with one cable provider are not accessible on another's cable network¹⁵⁴³, thus limiting access to news. There are currently five television channels with national coverage, four of them with the regulator licence, accessible on terrestrial and cable networks.¹⁵⁴⁴ These are selected at competition by the Regulatory Body for Electronic Media (REM), an independent authority according to the law, although it is biased in practice.¹⁵⁴⁵ REM has been composed mainly of individuals appointed by the government.¹⁵⁴⁶ According to the new law, independent experts will propose REM council members,¹⁵⁴⁷ but parliament will still elect them.¹⁵⁴⁸ Serbian journalist associations and some international media NGOs¹⁵⁴⁹ are concerned that the new law will block much-needed REM reforms.¹⁵⁵⁰

1535 Under the current media strategy (2020-2025) direct and indirect ownership of private media by the state is banned. This strategy was agreed by the government and representatives of media organisations and civil society and endorsed by the EU in 2020.

1536 Government of Serbia, Media Strategy, p.7 para 4. https://www.media.srbija.gov.rs/medsrp/dokumenti/medijska_strategija210_cyr.pdf

1537 VoA. 2023. Glas Amerike, Skupština Srbije usvojila medejske zakone (The Serbian Parliament adopted media laws).

1538 European Commission. 2023. Serbia 2023 Report, https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_695_Serbia.pdf

1539 Serbian Business Register Agency (SBRA), <https://apr.gov.rs/home.1435.html>

1540 Telekom Srbija Beograd is a Serbian state-owned telecommunications operator, providing all services in Serbia under the MTS brand, <https://mts.rs/>; N1, News: Telekom "recognised" control over five private television stations, 31 May 2022, <https://rs.n1info.com/vesti/telekom-priznao-kontrolu-nad-cetiri-privatne-televizije/>

1541 United Media is a leading media company in SEE, owning cable channels, portals, radio stations, print media and its own production house. It is the owner of two major critical TV news channels – N1 and Nova, and their cable TV broadcaster, SBB, and is a broadband internet service provider which operates as part of the United Group, <https://www.unitedmedia.net/>

1542 There were tensions between the two companies in the last five years and several controversies in the latest Telekom Srbija's push against the United Group, including Telekom's campaign to acquire SBB users. Nova: Telekom continued its campaign against SBB with a promotional stand in the main post office, 12 November 2022, <https://nova.rs/vesti/biznis/telekom-nastavio-kampanju-protiv-sbb-a-promotivni-stand-i-u-glavnoj-posti/> In the fourth quarter of 2022, Telekom Srbija's market share was 52.6% compared to 43.7% of its main rival SBB (Serbia Broadband company within privately owned United Group), while in Q2 of 2023 it was 52.9% to 40.9%. (RATEL. An overview of the electronic communications market in the republic of Serbia, The Second Quarter of 2022. –https://www.ratel.rs/uploads/documents/empire_plugin/Q2%202023.pdf,p.14); Nova. 2022. Yettel also in Telekom's campaign against SBB, where did they get confidential user data from?, <https://nova.rs/vesti/biznis/i-yettel-u-kampanji-telekoma-protiv-sbb-otkud-im-poverljivi-podaci-korisnika/> Yettel is a Serbian mobile, fixed, internet and IPTV provider, owned by the Czech investment group PPF with the headquartered in Belgrade.

1543 From the beginning of 2020, the users of cable operator Supernova owned by Telekom does not broadcast N1 and other United Media channels. "State influence over the media landscape increased in 2021 through Telekom Srbija, a joint-stock company in which the state is a majority shareholder," Freedom House. *Country Report: Nations in Transit – Serbia 2022*, executive summary, <https://freedomhouse.org/country/serbia/nations-transit/2022>

1544 The tender announced by REM in 2022 envisages the awarding of four licences for the so-called national frequencies, which were reduced from the five frequencies available a decade ago. The same four broadcasters which previously had a licence, were awarded a licence (TV Pink, Happy, Prva and B92), and REM announced that the "fifth frequency" will be discussed later that year. In August 2022, REM announced a tender for the fifth licence. Four TV stations applied (Nova S, Kurir, Kopernikus i BK). In the meantime, REM gave permission to the informer to broadcast TV programmes, but the fifth licence has not yet been awarded.

1545 REM has been criticised for a lack of independence, particularly when deciding on the allocation of national broadcast frequencies. Reporters Without Borders (RSF) characterised the media environment as "polluted by propaganda, influence peddling and fake news" after four national broadcast frequencies were awarded to pro-government media in July 2022 – Freedom House. *Report Freedom in the World 2023 – Serbia*, section: civil liberties, D1, <https://freedomhouse.org/country/serbia/freedom-world/2023>. For years REM council has been incriminated by independent national experts and in relevant international reports due to its politicisation, instrumentality, partiality, lack of independence, inefficiency, etc. That casts a shadow on the credibility of the procedure and the validity of certain members' election. Center for Media Pluralism and Media Freedom. 2023. *Monitoring Media Pluralism in the Digital Era: Application of the media pluralism monitor in the European Union, Albania, Montenegro, Republic of North Macedonia, Serbia & Turkey in the year 2022, Country report: Serbia*, https://cadmus.eui.eu/bitstream/handle/1814/75736/serbia_results_mpm_2023_cmpf.pdf?sequence=1&isAllowed=y. REM is an independent body according to the constitution and the law. Still, it is responsible for the performance of its competence to the parliament of Serbia, which calls that independence into question, said Judita Popović, a member of the REM Council. N1/Beta. 2022. "Judita Popović: REM blag prema medijima koji arogantno krše zakone" (REM soft on media that arrogantly break the law), <https://rs.n1info.com/vesti/judita-popovic-rem-blag-prema-medijima-koji-arogantno-krse-zakone/>

1546 RSF, Report on Serbia, 2023, *Political Context*, <https://rsf.org/en/country/serbia>. The new LEM stipulates that the REM Council will continue its work in its current composition for another year.

1547 LEM, Article 13.

1548 LEM, Article 11.

1549 Global media freedom NGOs such as Reporters Without Borders, Article 19 and Balkan Free Media Initiative.

1550 EURACTIV. Pressure builds on Serbia over controversial new media laws.

There are two major journalist associations – the Journalists Association of Serbia (JAS) and the Independent Journalists Association of Serbia (IJAS) – and several electronic, print, and local media associations. The Serbian journalists' code of ethics states that journalists must respect all ethical and professional standards.¹⁵⁵¹

According to the law, the establishment of the media is simple: there are no legal obstacles to their work, and censorship is prohibited. In practice, however, both censorship and self-censorship are increasingly present.¹⁵⁵²

The state was required to withdraw entirely from media ownership in 2015.¹⁵⁵³ It only formally did so, but the new law now opens the way to legalisation of state control over the media, which already exists in Serbia, says the president of the European Federation of Journalists, Maja Sever,¹⁵⁵⁴ and added that the legalisation of that control is just one step further.

Most media outlets today generate income from advertisements and public subsidies distributed for projects, often based on dubious selection procedures.

As the International Press Institute noted in 2023, Serbia exhibits a unique situation in which insults and attempts to discredit watchdog journalism stem overwhelmingly from leading politicians, including the president, prime minister and ruling party MPs.¹⁵⁵⁵

Capacity

12.1.1. Resources (law)

To what extent does the legal framework provide an environment conducive to a diverse independent media?



Instead of creating a more conducive legal framework for free and independent media, the newly adopted media laws represent another step backwards for media freedom.

According to the constitution, anyone in Serbia can establish a newspaper.¹⁵⁵⁶ According to the Law on Electronic Media (LEM), electronic media must obtain a licence to broadcast from an independent regulatory and supervisory body, REM.¹⁵⁵⁷ Rights for terrestrial broadcasting (which must also broadcast on cable providers) are issued via a public competition for a limited number of licences and cable TVs on demand.¹⁵⁵⁸ Although the law sets criteria for selection, the decision-making process is arbitrary.¹⁵⁵⁹ Since there is no possibility of appeal, the only legal remedy is an administrative dispute,¹⁵⁶⁰ for which no deadline is envisaged.

The Law on Public Information and the Media (LPIM) specifies that the public interest¹⁵⁶¹ is achieved by encouraging diversity of media content, freedom of expression of ideas and opinions, and the free development of independent and professional media. The law envisages the provision of a broad range of information sources and media content and forbids any form of monopoly to protect media pluralism in the public information sector.¹⁵⁶² However, two new

1551 Serbian Journalists' Code of Ethics, <https://savetzastampu.rs/en/documents/kodeks-novinara-srbije/>

1552 Freedom House. *Freedom in the World* 2023, Report for Serbia, Overview, Section D1.

1553 According to the 2014 Law on Public Information and Media.

1554 N1. 2023. Predsednica EFJ o medijskim zakonima: Državna kontrola nad medijima ionako postoji u Srbiji, ovo je samo korak dalje (EFJ president on media laws: State control over the media exists in Serbia anyway; this is just a step further), <https://n1info.rs/vesti/predsednica-efj-o-medijskim-zakonima-drzavna-kontrola-nad-medijima-ionako-postoji-u-srbiji-ovo-je-samo-korak-dalje/>

1555 International Press Institute (IPI), News Room. 2023. *Serbia: Independent journalism faces biggest crisis in years*, <https://ipi.media/serbia-independent-journalism-faces-biggest-crisis-in-years/>

1556 Constitution of the Republic of Serbia, article 50.

1557 The Law on Electronic Media, Articles 7 (p.4 and 5).

1558 The Law on Electronic Media, Articles 3 and 4.

1559 The REM has faced both domestic and international criticism for its lack of independence and politically motivated decision-making processes. (EFJ: Serbia. 2023. *New draft media laws represent another step backward for media freedom*). See also 12.1.3. Independence (law) indicator for more details.

1560 LEM, Article 96.

1561 LPIM, Articles 15 and 16.

1562 LPIM, Article 6.

laws,¹⁵⁶³ adopted in late October 2023,¹⁵⁶⁴ enable the state to establish institutions that can be media publishers and media content producers (through which the state indirectly becomes the media owner).

According to national journalists' organisations and CSOs, media experts, opposition parties and international organisations, the new laws represent a step backwards in media freedom,¹⁵⁶⁵ increasing the state's already firm grip on access to news and information.¹⁵⁶⁶

In early 2020, the government adopted the strategy for the development of the public information system in the Republic of Serbia for 2020-2025 (media strategy).¹⁵⁶⁷ The goal was to improve and ensure freedom of the media, including amending the three fundamental media laws.¹⁵⁶⁸ A statement – coordinated by the Media Freedom Rapid Response (MFRR) – warns that “the new laws undermine national and international confidence in the media strategy and pose serious questions for the government's commitment to improving media freedom and pluralism as part of its potential accession to the European Union.”¹⁵⁶⁹

Legally, there are no restrictions or preconditions to entry into the journalistic profession.

12.1.2. Resources (practice)

To what extent is there a diverse independent media providing a variety of perspectives?



SCORE: 50/100

While there are diverse independent media outlets, their reach is limited. They are increasingly subject to external pressure and threats from the authorities, especially at the local level. There is a serious concern that the situation will worsen after adopting new laws in 2023.

There are various media outlets (TV, radio, press, online) independent from the government, both in the capital and other cities, but they face numerous problems. The working conditions for independent local media are extremely difficult.¹⁵⁷⁰

The media scene in Serbia is deeply fragmented.¹⁵⁷¹ On one side are major media outlets practising shoddy journalism backed by the authorities.¹⁵⁷² On the other side are independent media (in terms of their critical approach towards those in power) with limited reach.¹⁵⁷³ According to Jovanka Matić, a media expert at the Institute of Social

¹⁵⁶³ Cenzolovka, Sever. 2023. *Takvi medijski zakoni kao što se donose u Srbiji – ne donose se nigde* (Sever: *Media laws like those passed in Serbia are not passed anywhere*), <https://www.cenzolovka.rs/drzava-i-mediji/sever-takvi-medijski-zakoni-kao-sto-se-donose-u-srbiji-ne-donose-se-nigde/>

¹⁵⁶⁴ The third media law – The Law on Public Media Services Official Gazette No 83/2014, 103/2015, 108/2016, 161/2020, 129/2021 i 142/2022; “Amendments to the Law on Public Media Services, unencumbered by the delay in the drafting of the other two media laws, but this does not deprive them of the ballast of problems that arise due to inconsistent application so far,” said Saša Mirković, a representative of ANEM in the working group for drafting media laws. <https://javniservis.net/sekcije/drustvo/sta-je-moguce-uraditi-do-izmena-i-dopuna-zakona-o-javnim-medijskim-servisima/>

¹⁵⁶⁵ The European Federation of Journalists (EFJ) and partner organisations of the Media Freedom Rapid Response (MFRR).

¹⁵⁶⁶ N1, Professor Snjezana Milivojevic. 2023. Newly adopted laws represent a grave attack on media freedom in Serbia, <https://n1info.rs/english/news/professor-snjezana-milivojevic-newly-adopted-laws-represent-a-grave-attack-on-media-freedom-in-serbia/>. Pro-European opposition parties demanded that the laws be withdrawn from the procedure or amended in the part that allows the state-owned Telekom to now legally own the media and that these media “will be the centre of state propaganda.” Journalists' Union of Serbia (SINOS).2023. *Skupština Srbije usvojila medijske zakone (The Serbian Parliament adopted media laws)*, <http://www.sinos.rs/srpski/aktuelno/23/2023/10/26/7582/skupstina-srbije-usvojila-medijske-zakone.html>. The opposition claims that new media laws are “introducing darkness” into Serbia. SINOS. 2023. “The possibility of Telekom establishing a media has caused an uproar among the public. I remind you, it is about legalising what he has been doing illegally until now. And it can further expand and disavow the media scene and market in Serbia,” N1 Ivana Stefanović, director of the Slavko Ćuruvija Foundation. 2023. Stevanović o medijskim zakonima: *Pokazna slika kako vlast donosi važne zakone, a mi se hvatamo za glavu (Stevanović on media laws: A clear picture of how the government passes important laws, and we are holding our heads)*, <https://n1info.rs/vesti/stevanovic-o-medijskim-zakonima-pokazna-slika-kako-vlast-donosi-vazne-zakone-a-mi-se-hvatamo-za-glavu/>. “The return of the state to the ownership structure of the media in the field of telecommunications brings noise, dilemma and concern as to how it will be implemented in practice,” said the president of the Association of Independent Electronic Media (ANEM), Saša Mirković in an interview for Radio Free Europe, 25 October 2023.

¹⁵⁶⁷ Serbian government adopts media strategy, 30 January 2020, <https://www.srbija.gov.rs/vest/en/149736/serbian-government-adopts-media-strategy.php>

¹⁵⁶⁸ Among other amendments to the Criminal Code and the Criminal Procedure Act, related to the safety of journalists and the employment act, the area of protection of journalistic sources, project co-financing of the media, the obligation of electronic media operators, especially with regard to non-discriminatory treatment of media service providers, the sanctions for non-compliance with legal rules, the financing of the public broadcaster (RTS) from tax, not the budget, strengthening the independence and autonomy of the REM, etc. *Danas*, <https://www.danas.rs/vesti/drustvo/sprovodjenje-medijske-strategije-zavisice-od-volje-vlasti/>

¹⁵⁶⁹ Media Freedom Rapid Response, Statement, 26 October 2023: Serbia: New draft media laws represent another step backward for media freedom, para 7, <https://www.mfr.eu/serbia-new-draft-media-laws-represent-another-step-backward-for-media-freedom/>

¹⁵⁷⁰ N1, TV N1. 2021. Live with Journalists, <https://rs.n1info.com/english/news/journalists-local-media-in-serbia-work-in-dire-environment-people-without-news/>

¹⁵⁷¹ Reporters Without Borders. *Report for Serbia 2023, Key Findings: Media Landscape*, <https://rsf.org/en/country/serbia>

¹⁵⁷² IREX, *Media Sustainability Index*, <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-europe-eurasia-2019-serbia.pdf>, p.6.

¹⁵⁷³ RSF. *Report 2023, Media Landscape*.

Sciences, the government is mainly responsible for such fragmentation by dividing the media into “politically correct” and those it considers “enemies of the state”.¹⁵⁷⁴

As Reporters Without Borders (RSF) has noted, most media outlets derive revenue from advertising and opaque public subsidies, and access to both is controlled mainly by the ruling elite.¹⁵⁷⁵ This situation mostly affects local media, primarily dependent on public funding sources¹⁵⁷⁶ due to the underdeveloped and poor media and advertising market.¹⁵⁷⁷ Thus, the distribution of competition money directly affects the sustainability of the media.¹⁵⁷⁸ Advertising revenue in local and online media is minimal.¹⁵⁷⁹ The 2023 EC report highlights unfulfilled obligations in this area.¹⁵⁸⁰

The Law on Public Information enables project co-financing. In the 2015-2022 period, about 16,590 projects in media competition received more than €100 million.¹⁵⁸¹ However, most journalists and media analysts are not satisfied with how the money is allocated since it mostly goes to media outlets close to the authorities,¹⁵⁸² many of whom are notorious for violating professional standards.¹⁵⁸³

Journalist associations often organise professional training on various topics for journalists, ranging from managing information on health-related issues and investigative journalism¹⁵⁸⁴ to information security.¹⁵⁸⁵ Journalists in Serbia are not required to have special qualifications. In addition, there is no definition of a journalist in the media strategy or the code of journalists.¹⁵⁸⁶ In practice, anyone can be a journalist.¹⁵⁸⁷

1574 Cenzolovka, Interview with Jovanka Matić, Media expert, Institute of Social Sciences, 5 May 2022, <https://www.cenzolovka.rs/pritisci-i-napadi/matic-sa-ovom-vladajucim-strankom-medijiska-situacija-u-srbiji-se-nece-popraviti/>. In last few years, the Serbian independent media, TV N1 and Nova in particular, and daily Danas, have been the targets of a campaign against them led by the highest officials of the government and the ruling coalition, including the president of the country. International and non-governmental organisations, media associations, as well as the European Union were informed and protection was requested (example; Danas. 2019. *The authorities are encouraging a crackdown on independent media*, <https://www.danas.rs/vesti/drustvo/vlast-podstrekjuje-hajku-protiv-nezavisnih-medija/>. There is a new video (July 2023) targeting the independent media Nova and N1 that appeared and spread on social networks. The video begins with pictures of journalists and presenters of Nova and N1 televisions and photos of the front pages of the “Nova” newspaper, in which these media are targeted. The video narrator reads, among others, “These creatures of dark propaganda like vultures feed on our fears and close the door to truth and freedom of thought. As their lies spread like poison, our minds are shaped and trapped in a distorted perception of reality.” In the video, you can also see a picture with the Nova and N1 television signs next to pest insects on which it says, “Stop foreign propaganda”. (Danas. 2023. “New SNS video - attack on free media and journalists”, <https://direktno.rs/vesti/drustvo-i-ekonomija/479133/direktno-laste-vladan-sekulic-video-mediji-napad.html>). Media Freedom Rapid Response (MFRR) emphasises the same problem (“A heavily polarised media landscape between pro-government tabloids and independent media”, MFRR. Findings 2021, p.12 N1. 2023. Opšti juris na medije koji nisu pod kontrolom vlasti: Od novinara se prave državni neprijatelji (General attack on media that are not under government control: Journalists are being made enemies of the state), <https://n1info.rs/vesti/opsti-juris-vlasti-na-danas-i-autore-dokumentarca-ja-aleksandar-drzavni-gambit/>

1575 RSF. *Report 2023, section media landscape*.

1576 IREX; *Media Sustainability Index 2019*, p.11. “Project co-financing of the media has turned from a solid idea (*project financing of the media by local self-governments began in 2015 – TS note*) that was supposed to support the media scene into something quite the opposite, something that has acquired numerous political connotations and has become the source of numerous problems. Because the facts show that the media that are critical of the government have a hard time getting money, and the media that are with the existing government relatively easily acquire funds.”; Cenzolovka. 2023. Public interest or political obedience – what is decisive in the distribution of money for media contests, <https://www.cenzolovka.rs/drzava-i-mediji/javni-interes-ili-politicka-poslusnost-sta-je-odlucujuce-pri-raspodeli-novca-po-medijiskim-konkursima/>. “From the beginning of the project co-financing process, the choice of members of competition commissions has been questionable, as well as the phenomenon of the establishment of more and more media associations from among which commission members are chosen.” – Ibid.

1577 “It is unbelievable that the state authorities have an ignorant attitude towards such an important topic, advertising regulation. This issue is crucial for the establishment of a fair and transparent media market,” Izabela Branković, Media Association. Cenzolovka. 2023. Everything suddenly died: Work on media laws was buying time and cheating, there is no political will for adoption.

1578 BIRN. 2022. Finansiranje medija, vlasnici i politički uticaj (*Media financing, owners and political influence*), <https://birnsrbija.rs/finansiranje-medija-vlasnici-i-politicki-uticaj/>

1579 IREX, *Report, 2019*: pp.11-12.

1580 EC. Serbia 2023 Report, p.42.

1581 Center for Sustainable Communities. 2022. *Project co-financing of the media in Serbia*, 2022 https://centarzaodrzivezajednice.shinyapps.io/Projektno_sufinansiranje_medija_u_Srbiji/

1582 Cenzolovka, Veran Matić. 2022. Tehnički mandat i projektno sufinsaniranje (*Technical mandate and project co-financing*), <https://www.cenzolovka.rs/drzava-i-mediji/veran-matic-tehnicki-mandat-i-projektno-sufinansiranje/>. BIRN. 2017. Transparentnost podataka o državnoj potrošnji na medijski sektor – Pravna analiza i preporuke, (*Transparency of data on state spending on the media sector – Legal analysis and recommendations*) – <http://birnsrbija.rs/wp-content/uploads/2017/11/TRANSPARENTNOST-PODATAKA-DRZAVNA-POTROSNJA.pdf>. JAS believes that the co-financing process has been wrong because it allowed interest groups to influence the allocation of funds through members of the competition commissions (interview with Dragana Čabarkapa, JAS).

1583 Press Council. 2022. *Co-financing of Media that violate Ethics Standards*, <https://savetzastampu.rs/lat/wp-content/uploads/2022/12/Izvestaj-Sufinansiranje-medija-koji-krse-etickie-standarde-2019-2021.pdf>. EC. Serbia Report 2023, p.43: “In the current system, the print media with the most violations of the journalistic code of professional conduct recorded by the Press Council, including those with court convictions, are not precluded from and in effect continued – receiving public co-funding, especially at the local level.”

1584 IJAS. 2022. “IJAS held training for journalists on the topic of information management on health topics”, <https://nuns.rs/nuns-odrzao-obuku-za-novinare-i-novinarke-na-temu-upravljanja-informacijama-o-zdravstvenim-temama/>. IJAS. 2023. Training in investigative journalism, <https://nuns.rs/poziv-na-obuku-istrzivacko-novinarstvo/>

1585 Media Daily, TV Radio Web. 2022. Obuka za novinare o sigurnosti informacija (Training for journalists on information security), <https://mediadaily.biz/2022/08/31/obuka-za-novinare-o-sigurnosti-informacija/>

1586 One association (JAS) proposed such a definition to be integrated into the future law on public information (interview with Dragana Čabarkapa, JAS).

1587 IJAS, File 2021. 2021. Ko je danas novinar i ko može da se bavi novinarstvom (*Who is a journalist today and who can engage in that profession*), <https://nuns.rs/ko-je-danas-novinar-i-ko-moze-da-se-bavi-tom-profesijom/>

12.1.3. Independence (law)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of the media?



SCORE: 75/100

While laws protect media independence, new media regulations allow state-owned companies, such as Telekom, to establish media without providing safeguards.

The constitution guarantees freedom of thought and expression.¹⁵⁸⁸ Editors in the media enjoy legal independence in their work: the law prohibits direct or indirect discrimination based on their political affiliations and beliefs or other personal characteristics.¹⁵⁸⁹ Both state and private media exist, regardless of format.¹⁵⁹⁰ The law prohibits censorship,¹⁵⁹¹ and a journalist has the right to refuse to carry out an editor's order if, in doing so, it would violate regulations, rules of the profession and journalistic ethics.¹⁵⁹² According to the Serbian journalists' code of ethics (SJCE), indicating the source of information is mandatory unless the source does not wish to do so.¹⁵⁹³

New media regulations allow state-owned companies, such as Telekom, to establish and buy media; thus, according to professors Zoran Stojiljković and Čedomir Čupić, eliminating competition and creating a type of monopolisation, which is not good for the market and, ultimately, not good for the citizens.¹⁵⁹⁴

The Law on Free Access to Information of Public Importance has been in place since 2004. The latest amendments have been in force since February 2022, the most important one for the media being a deletion of the member authority to refuse the right to access information by referring to the abuse of this right by the applicant. Previously, when a government agency did not disclose information in response to a request, this could have been appealed to the commissioner on information of public importance. However, the commissioner's decisions were rarely enforced, and although the commissioner could have levied a fine against the agency in these instances, enforcement requests were still rarely met.¹⁵⁹⁵

Since 2012, changes to the Criminal Code in Serbia mean libel is not treated as a criminal offence.¹⁵⁹⁶ Along with several other changes, new amendments to the code (in preparation since 2021) are supposed to improve criminal protection in the area of public information.¹⁵⁹⁷ While appreciating the efforts, the international organisation Article 19 raised concerns that certain draft amendments could threaten freedom of expression, including: 1) A number of terms in the proposal are extremely vague, in violation of the requirement of legality for restrictions on the right to freedom of expression;¹⁵⁹⁸ 2) an amendment penalises the expression of opinions that are afforded absolute protection under international freedom of expression standards;¹⁵⁹⁹ 3) The amendment provides criminal sanction for "insult" and similar concepts that are not permissible under international freedom of expression standards.¹⁶⁰⁰

1588 Constitution, Article 46.

1589 LPIM, Article 4.

1590 Constitution, Article 50.

1591 LPIM, Article 4.

1592 Ibid, Article 50.

1593 [CodeofEthics](#), Chapter I.

1594 N1. 2023. Zagadenje javnog prostora": Šta konkretno znači za građane to što će Telekom moći da osniva medije? ("Pollution of public space": What exactly does it mean for citizens that Telekom will be able to establish media?), [https://n1info.rs/vesti/zagadenje-javnog-prostora-sta-konkretno-znaci-za-grdjane-to-sto-ce-telekom-moci-da-osniva-medije/](https://n1info.rs/vesti/zagadenje-javnog-prostora-sta-konkretno-znaci-za-gradjane-to-sto-ce-telekom-moci-da-osniva-medije/)

1595 Commissioner for information of public importance and personal data protection, Law on Free Access to Information of Public Importance. Official Gazette of RS. No. 120/2004, 54/2007, 104/2009, 36/2010 and 105/2021, https://www.paragraf.rs/propisi/zakon_o_slobodnom_pristupu_informacijama_od_javnog_znacaja.html. Article-19. 2021. *Media Freedom and Safety of Journalists in Serbia*, Media Freedom Rapid Response Mission Report, p.17 <https://www.article19.org/wp-content/uploads/2021/04/MFRR-Serbia-mission-report.pdf>

1596 Ministry of Justice. The Law on Amendments and Additions to the Criminal Code, Belgrade 2019. Official Gazette of RS, No. 35/19, https://www.mpravde.gov.rs/files/Criminal%20%20%20Code_2019.pdf (Article 117 was deleted from the previous law)

1597 Paragraf. 2021. Draft law on amendments and amendments to the Criminal Code – text of the regulation, <https://www.paragraf.rs/dnevne-vesti/121121/121121-vest13.html>

1598 Laws that grant authorities excessively broad discretionary powers to limit expression fail to meet this requirement. This is the case of the proposed amendment that does not clarify key terms, including "public importance," "insolence" or ruthlessness. Article-19 also finds a vague interpretation of protecting certain individuals' "mental peacefulness" from "rude insults or maltreatment, insolence or ruthlessness." Article-19. 2021. Comments to the proposed amendments of the Serbian Criminal Code.

1599 The proposal to amend the Criminal Code fails to meet the international freedom of expression standards. It does not distinguish criticism and offensive expressions that do not warrant criminal liability from attacks and threats that journalists face as a result of their journalistic activities. The latter in fact, requires prosecutorial action to protect journalists at risk. Article-19. 2021. Comments to the proposed amendments of the Serbian Criminal Code, p.2.

1600 Article-19.2022. *Serbia: Criminal code draft amendments could threaten freedom of expression*, <https://www.article19.org/resources-serbia-criminal-code-draft-amendments-could-threaten-freedom-of-expression/>

When it comes to electronic media licensing, while the law clearly states criteria¹⁶⁰¹ that should be observed and assessed by the REM, the mechanism for decision-making within the regulator's council does not allow verifying whether these criteria have been applied, as decisions are made through voting.

12.1.4. Independence (practice)

To what extent is the media free from unwarranted external interference in its work in practice?



SCORE: 25/100

The media are regularly under external influence, particularly by the authorities at state and local levels.

The most problematic area is political independence. Journalists and editors are regularly subjected to political attacks instigated by ruling elite members, and certain national TV networks reinforce such attacks.¹⁶⁰² The Serbian media landscape is still strictly divided between pro-government and independent media, and no single legal act comprehensively regulates the issue of conflict of interest between media owners and ruling parties, partisan groups or politicians.¹⁶⁰³ In recent years, journalists' access to official sources of information has been significantly reduced, which was particularly noticeable after the outbreak of the COVID-19 pandemic.¹⁶⁰⁴

Public discourse is toxic, and tabloid media play a central role in spreading hate speech.¹⁶⁰⁵ Hate speech and discriminatory terminology are often used and tolerated in the media and are rarely followed up by regulatory authorities or prosecutors.¹⁶⁰⁶

According to the CASE coalition's database of SLAPP (strategic lawsuit against public participation) lawsuits, Serbia ranks 10th in Europe with 28 registered lawsuits in 2022.¹⁶⁰⁷ Of that number, 12 proceedings are currently being conducted against the Krik portal, which investigates crime and corruption.¹⁶⁰⁸

Due to the overall situation in the media, according to the Media Freedom Index¹⁶⁰⁹, the country fell to 91st place in 2023 (from 79th in 2022). The joint statement of several international organisations highlights that positive steps¹⁶¹⁰ forward in prosecuting attacks are undermined by an increasingly hostile climate created by political leaders.¹⁶¹¹ Another 2023 report by Freedom House emphasises that the state and ruling party exercise influence over private media through advertising contracts and other indirect subsidies and that ruling party supporters own many private outlets.¹⁶¹²

1601 Law on Electronic Media, Article 92.

1602 Reporters Without Borders. *Report for Serbia 2023, Key Findings: Political context.*

1603 Center for Media Pluralism and Media Freedom. Country Report: Serbia, p. 21; ISTINOMER (CRTA). 2021. Zarobljeni mediji bez poverenja gradana (Captive media without the trust of citizens), <https://www.istinomer.rs/analize/analize-analize/zarobljeni-mediji-bez-poverenja-gradjana/>. N1, N1Info. 2021. Burazer u publikaciji: „Zarobljavanje“ medija, pod pretnjom oni koji kritikuju (Burazer in the publication: “Capture” of the media, those who criticize are under threat), <https://rs.n1info.com/vesti/burazer-u-publikaciji-zarobljavanje-medija-pod-pretnjom-oni-koji-kritikuju/>

1604 Article 19. *Media Freedom and Safety of Journalists in Serbia*, Media Freedom Rapid Response Mission Report, 2021, p.17. Cenzolovka. 2020. Pritisici napadi – Zaključavanje informacija (Pressures and Attacks – Information Lockdown), <https://www.cenzolovka.rs/pritisici-i-napadi/zakljucavanje-informacija/>. Press Council. *Report Monitoring of violations of the code of journalists Serbia in online media during 2020 Covid-19 pandemic, 2020* – https://savetzastampu.rs/wp-content/uploads/2021/04/KONACNA-PREZENTACIJA-KORONA-13.04_-003.pdf

1605 Irene Khan, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, from Cenzolovka. 2023. <https://www.cenzolovka.rs/drzava-i-mediji/izvestiteljka-un-ajrin-kan-ocenila-da-je-javni-diskurs-u-srbiji-toksican/>

1606 EC. Serbia Report 2023, p.42.

1607 Coalition against SLAPPs in Europe. A Treat to Democracy Continue to Grow, A 2023 Updated Report, <https://www.the-case.eu/wp-content/uploads/2023/08/20230703-CASE-UPDATE-REPORT-2023-1.pdf> According to Gradanske Inicijative (2023) as a contact point for reporting SLAPPs in Serbia, the number of cases is potentially higher than the one in the report, but only verified data is published, <https://www.gradanske.org/case-koalicija-srbija-10-u-evropi-po-broju-slapp-tuzbi/>

1608 Euronews Serbia. 2023. Srbija je 10. U Evropi po brojnim tužbama,...: Zloupotreba pravnog sistema za zastrašivanje medija (Serbia is 10th in Europe in terms of SLAPP lawsuits, ...: Abuse of the legal system to intimidate the media), <https://www.euronews.rs/srbija/politika/100572/srbija-10-u-evropi-po-slapp-tuzbama-stanje-u-regionu-jos-gore-zloupotreba-pravnog-sistema-zarad-zastrasivanja-medija/vest>

1609 RSF. Index, Serbia, <https://rsf.org/en/index>

1610 There were positive steps made towards the protections of journalists, establishing of some mechanisms such as the above-mentioned working group for their protection, an SOS phone line for journalists whose safety is jeopardised, open 24/7 (set up in March 2021). However, MFRR noticed some obstacles to their effective operation and resolution. Article 19, p.16.

1611 International Press Institute (IPI) – Joint statement signed by Article 19 Europe, European Centre for Press and Media Freedom (ECPMF), European Federation of Journalists (EFJ), International Federation of Journalists (IFJ), International Press Institute (IPI), OBC Transeuropa (OBCT), Reporters Without Borders (RSF) and The Daphne Caruana Galizia Foundation. 2023. “Serbia: Independent journalism faces biggest crisis in years”, <https://ipi.media/serbia-independent-journalism-faces-biggest-crisis-in-years/>. “The findings of the European Parliament and Rapporteur Vladimir Bilčík are damning and record that no progress has been made in the past year...including the freedom of the press and freedom of expression.” IPI, News Room (source: European Parliament). 2023. “Serbia: Growing concern in Europe over media freedom and pluralism”, <https://ipi.media/serbia-growing-concern-in-europe-over-media-freedom-and-pluralism/>

1612 Freedom House, *Freedom in the World 2023: Serbia*, section B2. The EU also emphasises that the political and economic influence on the media is still a cause for concern in Serbia: EC, Commission Staff Working Document, *Serbia 2022 Report*, p.42 . Cenzolovka, 2023. Željko Bodrožić, IJAS President: “Extremely dangerous chase”: How did the media become the biggest enemy of the state? <https://www.cenzolovka.rs/pritisici-i-napadi/izuzetno-opasna-hajka-kako-su-mediji-postali-najveći-drzavni-neprijatelji/>

Verbal attacks on journalists by high-ranking officials have continued.¹⁶¹³ In 2022, according to the IJAS, 137 attacks on journalists were recorded in Serbia.¹⁶¹⁴ In the first 10 months of 2023, there were 146 attacks.¹⁶¹⁵ The increase in online threats is particularly noticeable.¹⁶¹⁶ The state prosecutor's office has launched several criminal proceedings for threats and attacks on journalists; of 81 submitted criminal reports, there were just five convictions.¹⁶¹⁷ There were 151 registered attacks on journalists in 2021, and only three convictions were made out of 66 criminal investigations.¹⁶¹⁸ The SafeJournalists network launched the #Do not Hesitate to report campaign to raise awareness of the problem of impunity for attacks on journalists and encourage them to report all types of attacks related to their work.¹⁶¹⁹

According to journalists' associations, the regulator (REM) has failed to position itself as a guarantor of media pluralism and the realisation of public interest.¹⁶²⁰ Regarding licensing electronic media, several monitoring organisations are concerned that the allocation process lacks transparency¹⁶²¹ and that REM again awarded four national FTA TV licences to broadcasters with national reach, which repeatedly violated media regulations.¹⁶²² Although in August 2022, REM published a call for the allocation of the fifth media licence with a national frequency, it has still not been awarded¹⁶²³ as of November 2023¹⁶²⁴ without credible justification.¹⁶²⁵ An even bigger concern is that the council of REM, in May 2023, awarded a cable and IPTV licence to the publisher of a print tabloid (*Informer*) which frequently breaches the ethical code of conduct¹⁶²⁶ to broadcast TV programmes.¹⁶²⁷ There have been several warnings that REM's approach to granting TV licences undermines media pluralism and diversity.¹⁶²⁸

1613 EC Report. Serbia 2022, p.102. MFRR confirms those concerns: <https://www.mfrr.eu/serbia-mfrr-condemns-dangerous-and-baseless-smear-campaign-aimed-at-krik/>. "Women journalists are targeted by specific forms of online harassment of a sexual nature or have threats made against their family members" – Article 19, *Media Freedom and Safety of Journalists in Serbia*, p.6

1614 In 2022: 34 verbal threats, nine physical attacks, four attacks on property and 84 different attempts to pressure the media. NOVA S, president of the European Federation of Journalists, Maja Sever: (Serbian). 2023. "Prime Minister Brnabić should reconsider her attitude towards journalists; things crossed the line a long time ago", <https://nova.rs/emisije/predsednica-evropske-federacije-novinara-premijerka-brnabic-da-preispita-svoj-odnos-prema-novinarima-stvari-su-davno-presle-granicu/>

1615 In first 10 months of 2023, 146 attack are registered (36 verbal threats, eight physical attacks and 101 different forms of pressures), IJAS, Attacks on journalists – data base, <https://www.bazenu.rs/srpski/napadi-na-novinare>

1616 In the period from 1 January 2016 to 30 April 2022, there were a total of 227 cases in which there is a suspicion that a criminal offence was committed against the safety of journalists via the internet, Working Group for the Safety and Protection of Journalists – *Danas*. 2022. <https://www.danas.rs/vesti/politika/radna-grupa-za-bezbednost-i-zastitu-novinara-razgovarala-sa-premijerkom-o-napadima-na-novinare/>. "Online harassment contributes to a sense of a deep unsafe feeling amongst journalists, who may self-censor out of fear for their safety in the absence of adequate protection from the state. Women journalists are targeted by online harassment of a sexual nature." Article 19, *Media Freedom and Safety of Journalists in Serbia*, p.11

1617 IPI. Serbia: Independent journalism faces biggest crisis in years.

1618 IJAS.2022. Media strategy – sequel 2020–2025, Report (Source: Friedrich Naumann Foundation) Belgrade. 2022, <https://nuns.rs/izvestaj-medijska-strategija-nastavak-2020-2025/>; Cenzolovka. 2022. Neka priča ko šta hoće, zna se ko će biti tužen (Let anyone say what they want.. We know who will be sued) <https://www.cenzolovka.rs/pritisci-i-napadi/neka-prica-ko-sta-hoce-zna-se-ko-ce-bitu-tuzen/>; Even when a competent court decides positively on a claim, the fines are unreasonably low. For example, the high court in Belgrade ruled that the portal e-Pančevo slandered the journalist Nenad Živković, that because of such texts in the environment in which the journalist lives, he could be exposed to condemnation and outrage, but for the harassment against him, this portal was fined only RSD 100,000; IJAS. 2022. <https://nuns.rs/za-kampanju-klevetanja-novinara-zivkovica-portal-e-pancevo-kaznjen-sa-samo-100-000/>

1619 JUGPRESS. n November 2, the International Day of Combating Impunity for Crimes Against Journalists, members of the SafeJournalists network launched the #Don't Hesitate to Report campaign. The goal of the campaign is to raise awareness of the problem of impunity for attacks on journalists, which is present in all countries of the Western Balkans, and to encourage journalists to report all types of attacks related to their work, <https://jugpress.com/safejournalists-ne-oklevaj-prijavi-napade-i-pretnje/>

1620 ISTINOMER. 2021. Analysis: Zarobljeni mediji bez poverenja građana (*Captive media without the trust of citizens*), <https://www.istinomer.rs/analyze/analyze-zarobljeni-mediji-bez-poverenja-gradjana/>; EC. Serbia Report 2023: "Despite the fact that several TV channels broadcast content that encourages overt or covert hatred or violence, including by providing a platform for convicted war criminals, REM concluded that all of the media, except one, overall met the provisions set out in the Law on electronic media.", p.44; Nedim Sejdinović, Media Analyst describes REM as "cartoon of itself", which serves "the ruling clique as a key instrument for abusing the media for their political propaganda" <https://nuns.rs/izvestaj-medijska-strategija-nastavak-2020-2025/>

1621 Media Freedom Rapid Response (MFRR). 2022. Signed by Article 19 Europe, European Centre for Press and Media Freedom (ECPMF), European Federation of Journalists, IJAS, International Press Institute (IPI) and OBC Transeuropa (OBCT) <https://www.mfrr.eu/serbia-tendering-process-of-national-fa-tv-licences-must-be-open-and-transparent/>

1622 VOA. 2022. The Council of REM reassigned national frequencies to Pink, Happy, Prva and B92 televisions, <https://www.glasamerike.net/a/srbija-frekvencije-rem-vu%C4%8D%C4%87-mediji-politika/6679165.html>; TV N1, INFO. 2022. (President of the REM Council, Olivera) Zekić: "Ovo je potpuno novi konkurs, nećemo gledati šta je ko prethodno radio" (*This is an entirely new competition, we will not look at what anyone has done before*, <https://m1info.rs/vesti/zekic-ovo-je-potpuno-novi-konkurs-nećemo-gledati-sta-je-ko-prethodno-radio/>); Regarding this statement of Zekić, that the body will not take into account the past work of television when making a decision, in the Demostat report, it is estimated that this "practically means that REM will not comply with the provisions of the Law on Electronic Media". Danas. 2022. <https://www.danas.rs/vesti/drustvo/demostat-iz-rem-a-potvrđili-da-ce-televizije-dozvole-za-nacionalne-frekvencije-dobiti-pre-4-avgusta/>

1623 According to the published call, REM was expected to decide within 30 days of publishing the list of eligible applicants.

1624 Danas. 2023. Olivera Zekić: Odluka o petoj frekvenciji kad se završi spor između REM-a i Nove S (Decision on the fifth frequency when the dispute between REM and Nova S is over, <https://www.ekspres.net/vesti/rem-dodela-pete-nacionalne-frekvencije-sud-olivera-zekic-20-1-2023>; IJAS. 2022. Nova S sued the REM in the administrative court for not making a decision on the issue of the license for the fifth frequency within the legal deadline, <https://nuns.rs/nova-s-tuzila-rem/>

1625 EC. Serbia 2023 report, p.44.

1626 Daily Informer, which leads the way in violating the code in political reporting, primarily from the first chapter, which refers to the truthfulness of reporting and provisions related to discriminatory speech and the culture and ethics of public speech. It had 512 violations of the code, according to the latest available Press Council's report. Press Council: *Report on monitoring compliance with the code of journalists Serbia in daily newspapers in the period from 1 October 2022 until 31 January 2023*, p.7; Also, EC. Serbia 2023 Report, p.44.

1627 Cenzolovka. 2023. Exactly one week after the council of the Regulatory Body for Electronic Media (REM) granted them a licence to provide media services via cable and IPTV networks (23 May 2023.), Informer TV began broadcasting an experimental programme, <https://www.cenzolovka.rs/trziste/informer-tv-krenula-sa-eksperimentalnim-programom/>

1628 "The clearest example was the controversial decision in July 2022 by the REM to again award all four national frequencies to pro-government television channels, overlooking applications by independent media outlets. The REM continues to display a lack of functional independence." IPI, Report 2023; Danas. 2022. Why does the Regulatory Body for Electronic Media not assign a fifth national frequency for television, <https://www.danas.rs/vesti/drustvo/novinarska-udruzenja-rem-arbitrarno-doneo-odluku-o-broju-frekvencija/>; ECPMF, <https://www.ecpmf.eu/serbia-rems-awarding-of-tv-licences-underscores-media-pluralism-and-media-diversity-failure/>

According to the IJAS report, competent institutions in Serbia failed to contribute sufficiently to the protection of journalists.¹⁶²⁹ At the end of 2020, the government formed the working group on security and protection of journalists. However, after a few months, all independent media and journalists' associations withdrew from the group, protesting the deterioration of media freedom and safety conditions.¹⁶³⁰ International Press Institute (IPI) assess that independent journalism in Serbia faces the biggest crisis in years.¹⁶³¹

Governance

12.2.1. Transparency (law)

To what extent are there provisions to ensure transparency in the activities of the media?



Although there are legal provisions, they do not cover all aspects of media transparency, such as information about the main media financiers and significant advertisers.

Media laws improved the legal framework for the transparency of media ownership to some extent,¹⁶³² but gaps remain. For example, the law does not provide for the publication of some critical data, namely information about the main media financiers and significant advertisers.¹⁶³³ The 2023 LPIM introduces the unique information system for transparent monitoring of co-financed media projects¹⁶³⁴ but postpones the application of these provisions to start from 1 January 2025.¹⁶³⁵ Until then, the previous law will apply, meaning that media outlets are obliged by the current law to submit information on their founders to REM for entry into the media register maintained by the SBRA. The register also contains information on the funds granted to the media as state aid and on funds received from public authorities.¹⁶³⁶

The law also stipulates that each media outlet must publish basic information in the form of an impressum, abbreviated impressum, as well as a description of its content and method of publication, depending on the form of media.¹⁶³⁷

The media strategy states that the existing legal framework and volume of data entered into the media register do not ensure the collection of all the information needed to achieve the register's goals.¹⁶³⁸ Also, no mechanism is available to keep the collected data up-to-date, networked with data held in other registers, and easily accessible and searchable by users.

The action plan of the media strategy also envisaged amendments to essential media laws, suggesting greater transparency in practice. It includes activities such as ensuring the obligation of regular and transparent public reporting on the spending of funds, the opening of public media services to the public based on the principles of transparency, openness and responsibility, and ensuring stable, transparent and non-discriminatory sources of funding, as well as mechanisms for the financial sustainability of the media.¹⁶³⁹ The unique information system for transparent monitoring of co-financed media projects, announced by the 2023 LPIM to unify all relevant information and improve the transparency of implementation, is set to resolve some of these issues.¹⁶⁴⁰ Still, its implementation is not envisaged before 2025.

1629 IJAS, IJAS Analysis. 2021. "Insufficient Protection of Journalists in Serbia", <https://nuns.rs/nedovoljna-zastita-novinara-u-srbiji/>; "Access to justice for journalists targeted with threats or harassment is not consistent: sometimes the police and prosecution do not investigate these acts, or they claim alleged lack of resources to investigate violent attacks or online threats against journalists. Equally, the judiciary often dismisses cases of violence or intimidation against journalists allegedly for lack of evidence or intent to harm", Article 19. *Media Freedom and Safety of Journalists in Serbia* p.7.

1630 "The associations resigned from the working group due to, as they stated, ignoring the attacks and jeopardising the safety of journalists and the media in Serbia", Slobodna Evropa. 2021. <https://www.slobodnaevropa.org/a/31149159.html>; Freedom House. *Report Freedom in the World*, 2022. Overview, Key Developments in 2021.

1631 IPI, Newsroom. 2023. Serbia: Independent journalism faces biggest crisis in years, <https://ipi.media/serbia-independent-journalism-faces-biggest-crisis-in-years/>

1632 LPIM 2014, article 7.

1633 Transparency Serbia proposed this information to be part of the register, but the proposal was not accepted in the public debate.

1634 LPIM, articles 31-34.

1635 LPIM, article 159.

1636 LPIM, Article 37-39.

1637 LPIM, Articles 42-44.

1638 Media strategy, Article 2.

1639 Media strategy action plan, <https://www.kultura.gov.rs/tekst/sr/5745/akcioni-plan-za-sprovodjenje-strategije-razvoja-sistema-javnog-informisanja-u-republici-srbiji-za-period-2020-2025-godina.php>

1640 LPIM, articles 31-34

12.2.2. Transparency (practice)

To what extent is there transparency in the media in practice?



SCORE: 50/100

While media outlets usually disclose some information on their activities, in many instances, ownership information, primary sources of income and editorial policies are missing.

In 2000, Serbia's media system began a transformation that included, among other things, the withdrawal of the state from media ownership and the transformation of state broadcasting into a public media service. Although the state reluctantly renounced its role as the media owner, parallel processes prevented fulfilling the set goals in practice.¹⁶⁴¹ However, in the 2023 laws, a provision essentially facilitates the return to state co-ownership of private media in Serbia.¹⁶⁴²

According to a 2022 report by the Serbian Union of Journalists, information about the internal organisation of the media is partly available to the public. Although the media generally fulfil the obligation to publish an impressum, it is notable that 630 media registered on the Serbian Business Register Agency (SBRA) database do not have information about the editor-in-chief.¹⁶⁴³

Data on the primary sources of media income have not been published. Information on funding from public sources is available via an FOI request or on the websites of funding providers.¹⁶⁴⁴ Due to donor requirements, media outlets receiving donations to support their work mostly publish such information for specific media projects.

12.2.3. Accountability (law)

To what extent are there legal provisions to ensure that media outlets are answerable for their activities?



SCORE: 75/100

Provisions to ensure media outlets have to answer for their activities to stakeholders exist; however, there are still some gaps in the regulatory framework regarding guarantees of independence, inconsistency of the REM in imposing measures and ineffective system of misdemeanour sanctions.

When it comes to electronic media, REM, among other things, determines the strategies for the development of radio and audio-visual media services, issues licences for TV and radio stations, controls the work of media service providers, ensures the consistent application of the provisions of the law, imposes measures on media service providers for violating the law, and stipulates binding rules for media service providers.¹⁶⁴⁵ Electronic media are not obliged to submit annual reports to REM, but REM performs permanent monitoring¹⁶⁴⁶ of their work. The regulator collects and analyses data and monitors and analyses the situation in areas of providing media services through direct insight into individual or entire programme content (programme monitoring), analysis of programme content, data, notices and documentation obtained from media service providers, data obtained from public authorities, associations and institutions dealing with monitoring the situation in the provision media services, public opinion research, statistical and other data. According to REM's annual report for 2022, natural persons, CSOs, government bodies, ombudsperson and journalist associations submitted 85 reports of violations related to the programme content: protection of minors – 9; hate speech – 4; advertising – 1; violation of personal interest – 9; violation of general interest – 38; truthfulness and objectivity – 1; elections – 20; and protection of human rights – 3.¹⁶⁴⁷

¹⁶⁴¹ ISTINOMER, CRTA. 2021. *Captured Media without the Trust of Citizens*, Analysis (Belgrade) <https://www.istinomer.rs/analize/analize-zarobljeni-mediji-bez-poverenja-gradjana/>

¹⁶⁴² EFJ, 4 October 2023.

¹⁶⁴³ Serbian Union of Journalists (SINOS). Research, <http://www.sinos.rs/srpski/istrazivanja/7/2022/04/18/7112/vise-od-600-medija-zvanicno-bez-glavnog-urednika.html>

¹⁶⁴⁴ Ministry of Culture. Competitions, <http://www.kultura.gov.rs/cyr/konkursi>; nothing from the end of July 2023.

¹⁶⁴⁵ LEM, Article 7.

¹⁶⁴⁶ LEM, Article 32, collection and analysis of administrative, judicial and business practice in the area of provision media services.

¹⁶⁴⁷ REM. Annual report for 2022, p. 17 and 18.

In the draft legal analysis of REM's position, conducted by lawyers and legal adviser, with the help of IJAS,¹⁶⁴⁸ it is emphasised that the regulatory framework does not provide guarantees of independence, that there are pressures on REM from political and economic power centres,¹⁶⁴⁹ that the system of misdemeanour sanctions has not proven to be effective and that the regulator needs to have a consistent practice of imposing measures.

The Press Council is an independent, self-regulatory body that brings together publishers, print and online media owners, news agencies and media professionals. It supervises compliance with the code of ethics of Serbian journalists and acts on complaints from individuals and institutions about specific content in the press. The council organises mediation to resolve disputes between authorised complainants¹⁶⁵⁰ and the media. It also pronounces public warnings when there has been a violation of ethical standards. Only media that accept the jurisdiction of the Press Council are obliged to publish the decision (public warning) of the complaints commission that they have violated the code.

The EC report anticipates that “new laws will strengthen the independence of the Regulatory Authority for Electronic Media (REM) and codify the role of the Press Council”.¹⁶⁵¹ How it will be in practice remains to be seen.

The Law on Public Information and Media stipulates the right to reply¹⁶⁵² and the right to correction,¹⁶⁵³ free of charge, without changes, omissions or additions.¹⁶⁵⁴ The damaged party can file a lawsuit if the responsible editor does not publish or refuses to publish it. The law describes in detail how to publish such replies or corrections to ensure they are easily noticeable.¹⁶⁵⁵

12.2.4. Accountability (practice)

To what extent can media outlets be held accountable in practice?



While some media have effective accountability mechanisms – mainly respecting the code of ethics – there is no effective sector-wide accountability system.

According to an IJAS analyst and lawyer, REM does not function effectively or perform its work according to the law. This refers, in particular, to the council of REM, which is competent to impose sanctions on media service providers in cases of violations of the law and by-laws, for which REM itself submits applications.¹⁶⁵⁶ According to Judita Popović, a former REM council member,¹⁶⁵⁷ while REM operates in the public interest, it contributes to Serbia's chaotic electronic media scene with its “mild approach to the arrogant violation of the law by commercial media service providers”.¹⁶⁵⁸

The Press Council, meanwhile, functions very well, says Mrs Babić, analyst and lawyer at IJAS. Still, many media outlets do not accept its competencies and do not publish the decisions of the council or the appeals commission. On the other hand, the council periodically monitors and publishes violations of the journalist's code of ethics, primarily in the print media, which IJAS consider very useful. The Press Council publishes monthly on its site which media violated the code, what sanction is imposed and whether the media published it on its website.¹⁶⁵⁹

1648 DANAS. 2020. Draft legal analysis of REM's position presented, <https://www.danas.rs/vesti/drustvo/predstavljen-nacrt-pravne-analize-polozaja-rem/>

1649 RTS, Pajović. 2020. REM treba izmestiti iz sistema propisa državne uprave (Pajović: REM should be removed from the system of state administration regulations), <https://www.rts.rs/lat/vesti/drustvo/3865033/rem-pejovic-javna-rasprava.html>

1650 Press Council. Data-base of complaints and decisions, <http://zalbe.rs/>

1651 EC. Serbia 2023 report, p.41.

1652 LPIM, Article 94.

1653 LPIM, Article 95.

1654 LPIM, Article 108.

1655 LPIM, Article 107.

1656 Interview with Marija Babić, analyst and lawyer of IJAS.

1657 In June 2023, after three years in the REM Council, Judita Popović resigned, saying in an interview for Radio Slobodna Evropa (RSE) that she realised that it had become pointless to stay in a body that does not navigate space and time and ignores the enormous social turbulence and public dissatisfaction. RSE. 2023. <https://www.slobodnaevropa.org/a/judita-popovic-rem-ostavka/32450261.html>

1658 N1, News (source: BETA). “Judita Popovic: REM soft on media that arrogantly break the law”.

1659 Interview with Marija Babić, analyst and lawyer of IJAS; Press Council, *Who has violated the code in the last 12 months*, <https://savetzastampu.rs/lat/ko-je-prekrsoj/>

The media mainly use their portals and social networks as forums. Some invite citizens to report specific problems or suggest certain topics. However, representatives of JAS and IJAS still see a need for more of it as it would be helpful for both journalists and citizens, especially those who can point out potential problems and abuses.¹⁶⁶⁰ Some media outlets have an ombudsperson, but according to representatives of JAS and IJAS, management appoints them, and they serve no purpose.¹⁶⁶¹

The media generally publish answers and corrections, but it depends on whether they respect the laws and the code of ethics and work professionally or not.¹⁶⁶²

12.2.5. Integrity mechanisms (law)

To what extent are there provisions to ensure the integrity of media employees?



The provisions of the code of ethics of Serbian journalists, jointly developed by JAS and IJAS, are a solid basis for journalistic integrity, but individual media codes are very rare.

The code of ethics of Serbian journalists was adopted in 2006. As an ethical standard for the professional conduct of journalists, the code describes the duty of all journalists to follow professional and ethical principles and to oppose pressure to violate those principles.¹⁶⁶³ The code covers the areas of: “truthfulness of reporting”, “independence from pressure”, “responsibility of journalists”, “journalistic attention”, “attitude towards sources of information”, “respect for privacy”, “use of honourable means”, “respect for authorship” and “protection of journalists”. Editors and publishers are responsible for implementation of the code. National journalists’ associations have their so-called courts of honour,¹⁶⁶⁴ which also deal with violations of the code.

The code was amended in 2013, adding provisions regarding preventing corruption and conflict of interest.¹⁶⁶⁵ With these changes, journalist associations implemented one of the non-binding recommendations from the strategy for the fight against corruption.¹⁶⁶⁶ The strategy also recommends training journalists on corruption topics to avoid sensationalism and raise public awareness of the dangers and harm of corruption and the need for anti-corruption action. There is also a recommendation for the media to adopt internal regulations that would define how to deal with gifts and issues of conflict of interest between journalists and editors.¹⁶⁶⁷ According to a representative from IJAS, some newsrooms have internal instructions on what journalists may accept as gifts.¹⁶⁶⁸

In addition to the national code, the Association of Online Media adopted its internal code¹⁶⁶⁹ in 2017. The National Council of Rusyns and the Russian Letter Newspaper Publishing Institution adopted an internal code of ethics in 2019.¹⁶⁷⁰

1660 Ibid.

1661 Interviews with representatives of JAS and IJAS.

1662 Ibid.

1663 Code of ethics, preamble.

1664 The court of honour is an independent body (both JAS and IJAS have such courts), and it decides on petitions for the imposition of measures against members of the IJAS or JAS who do not respect the code of journalists of Serbia. Court of honour's decisions are public and published on the organisation's website. IJAS, court of honour, <https://huns.rs/sud-casti-nuns-a/>; JAS, honourable court <https://www.uns.org.rs/sr/o-nama/organizacija/honorable-court.html>

1665 Serbian journalists code of ethics, https://savetzastampu.rs/en/wp-content/uploads/2020/11/Serbian_Journalists_Code_of_Ethics.pdf

1666 The objectives of the strategy and the measures of the action plan are binding for state authorities. Recommendations of the strategy for media, NGOs, business sector are non-binding.

1667 The National Anti-Corruption Strategy for 2013-2018 (the latest available since the new one is not adopted), <https://www.mpravde.gov.rs/en/vest/3369-the-anti-corruption-strategy-and-the-action-plan.php> (available for download in English).

1668 Interview with IJAS representative.

1669 Press Council. 2021. Research: “Are the media ready for internal ethical codes?”, p.5, <https://savetzastampu.rs/wp-content/uploads/2022/01/najnovije.pdf>

1670 Ibid.

12.2.6. Integrity mechanisms (practice)

To what extent is the integrity of media employees ensured in practice?



SCORE: 25/100

Media outlets and journalists often violate the code of ethics, but some still respect it or at least try to.

According to Marija Babić, analyst and lawyer with IJAS, some media outlets respect the code's standards, but others, particularly tabloids, systematically violate it.¹⁶⁷¹ Monitoring by the Press Council¹⁶⁷² shows that nine dailies violated the code in 2,653 articles (1 October 2022 to 31 January 2023), with tabloids leading the way. Meanwhile, the REM reported that four television stations with national coverage committed more than 12,000 violations of the advertising law, and several complaints were filed for hate speech and broadcasting of violence.¹⁶⁷³

As for reporting and consulting sources, some articles are not attributed to the author or, in many cases, refer to anonymous sources, not to protect the latter but to present certain unverified and even incorrect information.¹⁶⁷⁴ Some media outlets and journalists contact multiple sources or at least try to do so but cannot get the perspective of the "other side", according to Marija Babić from IJAS. As RSF noted, journalists critical of the ruling party have restricted access to interviews with government representatives.¹⁶⁷⁵ At the same time, the public broadcaster does not give airtime to anyone whose views are different from their editorial policy.¹⁶⁷⁶ The only exception is during election campaign periods when it has to do so based on the law.¹⁶⁷⁷

A longtime journalist, Branka Mihajlović,¹⁶⁷⁸ thinks if journalists opt for a lower paying but honourable job, they can expect fulfilment for keeping their integrity, but only if they are ready to stay marginalised and often stigmatised – personally and the media they work for. "Being honourable in dishonourable times comes with a price. But, even in this media darkness and chaos in which journalists live and still work, some still preserve their integrity and refuse to violate the professional code".¹⁶⁷⁹

Role

12.3.1. Investigate and expose cases of corruption practice

To what extent is the media active and successful in investigating and exposing cases of corruption?



SCORE: 50/100

Investigative journalism has disclosed numerous high-level corruption cases, but only independent media outlets report on it.

Investigative journalism is limited to a few media outlets. It is practically disappearing locally (where media struggle to survive and are subject to pressure from local authorities).¹⁶⁸⁰ According to several experts, Serbia has a number of successful investigative journalism organisations, but there is a cohort of national broadcasters, tabloids and local

1671 Interview with Marija Babić, IJAS, 5 August 2022.

1672 Press Council. 2023. *Report, Monitoring poštovanja Kodeksa novinara Srbije u dnevnim novinama u periodu od 1. oktobra 2022. do 31.januara 2023. godine* (Monitoring of compliance with the Journalists' Code of Serbia in daily newspapers in the period from 1 October to 31 January 2023), <https://savetzastampu.rs/lat/wp-content/uploads/2023/03/IZVESTAJ-O-MONITORINGU-POSTOVANJA-KODEKSA-NOVINARA-SRBije-U-DNEVNIM-NOVINAMA.pdf>

1673 REM. (latest available) *Report for 2020: Komercijalni pružaoci medijskih usluga – Načini ispunjavanja zakonskih i programske obaveza* (2020 Report: Commercial Media Service Providers – Ways to Meet Legal and Program Obligations), p. 114.

1674 EURACTIVE. "In Serbia, fake news is spread by state-backed media", <https://www.euractiv.com/section/media/news/in-serbia-fake-news-is-spread-by-state-backed-media/>

1675 RSF Report, 2023, *political context*, <https://rsf.org/en/country/serbia#media-outlets-6781>

1676 Interview with Marija Babić.

1677 Law on Public Media Services. Official Gazette of RS, no. 83/2014, 103/2015, 108/2016, 161/2020, 129/2021 and 142/2022, Article 7, para 8

1678 Branka Mihajlović, now a journalist for Radio Free Europe's office in Belgrade, for "Integrity in Journalism: Integrity and Authorship in Journalism in the Western Balkans", Belgrade, 2020, <https://www.czkd.org/meta-content/uploads/2020/11/Integrity-in-Journalism-Conversations-with-journalists-from-the-Western-Balkans-czkd.pdf>

1679 Branka Mihajlović.

1680 Cenzolovka, Država i mediji: Istraživačko novinarstvo na lokalnu nestaje: Tema uvek ima, ali su novinari i mediji na ivici opstanka ("State and Media: Local investigative journalism is disappearing: There is always a topic, but journalists and the media are on the verge of survival"), 13 January 2021, <https://www.cenzolovka.rs/drzava-i-mediji/istrazivacko-novinarstvo-na-lokalnu-nestaje-tema-uvek-ima-ali-su-novinari-i-mediji-na-ivici-opstanka/>

media that produce a tremendous amount of misinformation.¹⁶⁸¹ CRTA also emphasise, in its 2023 analysis Mapping Disinformation in the Serbian Media that the current situation in Serbian media is characterised by information disorder with extreme propaganda and manipulation of facts and that disinformation is frequently spread when it relates to those who challenge the government.¹⁶⁸²

As the European Commission noted, recurrent statements by high-level officials on journalists' daily and investigative work prevent the creation of an environment where freedom of expression can be exercised without hindrance.¹⁶⁸³ Investigative journalists also continued to face frequent refusals by public bodies to disclose information or no response. Their possibility to report on ongoing criminal proceedings is also excessively limited in the legal framework.¹⁶⁸⁴

In terms of uncovering corruption and producing original content, only non-profit research portals and a few critically oriented media cover these topics. Other independent media reports these discoveries, but the number of independent media is minimal compared to the more than 2,500 registered in Serbia.

Among the most prominent media that practice investigative journalism are CINS (Center for Investigative Journalism), KRIK (Crime and Corruption Research Network), BIRN Serbia (Balkan Investigative Reporting Network), TV N1, weeklies NIN and Vreme, dailies Danas and Nova, and Južne Vesti at the local level. In the last five years, they have revealed many corruption cases indicating connections between organised crime and high-level state and ruling party officials. Examples include the link between the then minister of internal affairs with an arms trade scheme in 2019,¹⁶⁸⁵ a minister without portfolio involved in dubious privatisation in 2019,¹⁶⁸⁶ the Savamala case that started in 2016 and has yet to be solved,¹⁶⁸⁷ the minister of finance, who anti-corruption agencies investigated on suspicion of money laundering in 2021,¹⁶⁸⁸ and tender rigging from the office of the mayor of Belgrade.¹⁶⁸⁹

Some of the most dramatic events disclosed in the last couple of years, which journalists continue to investigate, include the arrest of Veljko Belivuk's group, accused of serious crimes and murders,¹⁶⁹⁰ the Jovanjica marijuana farm case¹⁶⁹¹ and Jovanjica 2¹⁶⁹² or the COVID-19 pandemic related affair when the government bought equipment based on secret contracts.¹⁶⁹³

1681 IJAS, Cenzolovka, Istraživački novinari u zemlji bez stida: Može li Srbija da podnese istinu? ("Investigative journalists in the country without shame: Can Serbia handle the truth?", Director of BIRN Serbia, Milorad Ivanović and Director of CINS Branko Čečen, 12 October 2021, <https://nuns.rs/istrazivacki-novinari-u-zemlji-bez-stida-moze-li-srbija-da-podnese-istinu/>)

1682 CRTA. 2023. Analysis: "Mapping disinformation in the Serbian media", p.26, <https://crtaweb.org/en/mapping-disinformation-in-serbian-media-2020/>

1683 European Commission. Serbia Report 2023, p.42.

1684 Ibid.

1685 BIRN. 2019. Trgovina oružjem povlašćena cena za ovca ministra policije ("Arms trade: Preferential price for the father of the police minister"), <https://birn.rs/trgovina-oruzjem-povlaescena-cena-za-oca-ministra-policije/>

1686 KRIK. 2019. "Disastrous Privatization by Influential Serbian Minister Goes Uninvestigated"; Danas. 2019. "Popović imun na istragu u slučaju „Minel“ (Popovic is immune from investigation in 'Minel' case), <https://www.danas.rs/vesti/politika/popovic-imun-na-istragu-u-slucaju-minel/>

1687 The demolition of private buildings in the centre of Belgrade. In 2016, the president of Serbia said that he did not know who did it and called the culprits "complete idiots". At the press conference in April 2023, he said: "I decided Savamala shacks should be demolished, Belgrade Waterfront was built". N1. 2023. "Vucic: I decided Savamala shacks should be demolished, BW built", <https://n1info.rs/english/news/vucic-i-decided-savamala-shacks-should-be-demolished-bw-built/>

1688 BBC na srpskom. 2021. "Balkan, korupcija i Pandora papiri: Isplivali papiri o 24 stana u Bugarskoj, Siniša Mali i dalje negira da je vlasnik" (Balkans, corruption and Pandora papers: Papers surfaced about 24 apartments in Bulgaria, Siniša Mali still denies being the owner), https://www.bbc.com/serbian/_lat/balkan-58785507; Freedom House. Report on Serbia 2022, sections: independent media, corruption ("The 'Pandora Papers', leaked in October, have brought forth more evidence of ownership by Finance Minister Sinisa Mali of two offshore companies that owned 24 apartments in Bulgaria. This accusation against Mali dates back to 2015, but the Pandora Papers discovered the missing link that Mali was indeed the owner of the two offshore companies").

1689 BIRN, Snimci otkrivaju da je Šapićev šef Kabinetata nudio nameštanje tendera Kentkartu (The recordings reveal that Šapić's chief of staff offered to rig the tender to Kentkart), 10/04/2023, <https://birn.rs/nudjeno-namestanje-tendera-kentkartu/>

1690 Balkan Insight – BIRN. 2021. "Serbia Turns on Crime Gang Once Known for Official Ties", <https://balkaninsight.com/2021/02/04-serbia-turns-on-crime-gang-once-known-for-official-ties/>

1691 Danas, Affair Jovanjica, series of articles – example: <https://www.danas.rs/tag/afera-jovanjica/>; TV NOVA S, Jelena Zorić (now BIRN and Vreme journalist, ex-TV N1 reporter who disclosed Jovanjica affair), 7 October 2021 https://www.facebook.com/watch/?v=268960025229936&_rdr; Vreme, Slučaj Jovanjica: Politička pozadina prljavih znacki (Jovanjica Affair – Political background of dirty badges), 6 July 2022. <https://www.vreme.com/vesti/slucaj-jovanjica-politicka-pozadina-prljavih-znacki/>

1692 After the discovery of a marijuana plantation, arrests continued, and the Jovanjica 2 case was formed, in which eight people, mostly members of the security agencies, were accused of providing protection and logistical support to the owner of the marijuana plantation and confidential information. Radio Slobodna Evropa. "Pet odgovora o smeni dvojice policajaca u Srbiji i slučaju 'Jovanjica' (Five answers about the dismissal of two policemen in Serbia and the case of 'Jovanjica'), 13 August 2023, <https://www.slobodnaevropa.org/a/jovanjica-srbija-slobodan-milenkovic-dusan-mitic/32570859.html>

1693 CINS. Tajni ugovori: Kako je Srbija kupovala medicinsku opremu za vreme korone (Secret contract: How Serbia bought medical equipment during the corona pandemic?), <https://www.cins.rs/tajni-ugovor-kako-je-srbija-kupovala-medicinsku-opremu-tokom-korone/>, 20 February 2023.

12.3.2. Inform public on corruption and its impact

To what extent is the media active and successful in informing the public on corruption and its impact on the country?



Generally speaking, the media in Serbia are insufficiently active in informing the public about corruption and its consequences. The exemption is the media that practice investigative journalism.

Quality journalism in Serbia, which investigates crime and corruption, is caught between rampant fake news and propaganda.¹⁶⁹⁴ According to a journalist from BIRN, this is due to the so-called mainstream media – primarily the public service – being so closed. The scope of reporting on corruption is limited, except when it comes to information disseminated by the government, and these are mostly cases of petty corruption that do not involve the leading authorities. However, “the changing attitudes of the public affect the limited reach of such content; there is so-called news fatigue and the active avoidance of complex topics, including corruption”¹⁶⁹⁵

Still, a few investigative media outlets report their findings about corruption cases despite the growing number of lawsuits, threats and public insults by leading politicians (see 12.1.4).¹⁶⁹⁶

Special programmes for educating the public about corruption, run by the media, are sporadic; the media mainly report on corruption. Such programmes are insufficiently visible, and many citizens do not even know they exist due to the leading media being so closed to a wide range of topics. In addition, there is apathy on the part of the public and even the normalisation of corruption, bearing in mind the absence of any official reaction to corruption cases.¹⁶⁹⁷

Government support for such programmes does not exist.

12.3.3. Inform public on governance issues

To what extent is the media active and successful in informing the public on the activities of the government and other governance actors?



All media reports extensively on government activities, but the pro-government media are not critical.

Serbian media regularly broadcast official announcements and statements by officials, and the public service broadcasts live parliamentary sessions. The prime minister, ministers and ruling party members are regular, almost daily guests on TV stations with national coverage. The Serbian president is a leading figure in the news. According to media monitoring carried out by the Centre for Research, Transparency and Accountability (CRTA), ruling parties have received around 90% of central news segment time in the channels with national coverage, with the opposition receiving the remaining 10%. President Vučić alone received at least 40% of the time devoted to all political actors each month from July 2020 to March 2021.¹⁶⁹⁸

In 2021, Twitter labelled all television channels with national coverage, the public broadcaster of the Autonomous Province of Vojvodina RTV, and the accounts of some of the newspapers with the highest circulation in the country as “state-affiliated”.¹⁶⁹⁹

According to an analyst by the Journalists Association of Serbia, the reporting on government activities is not objective from either side, and it is therefore questionable how much citizens are informed. The pro-government media have no critical attitude towards the government, while the “opposition” media mostly criticise the government even when there is no reason for it.¹⁷⁰⁰

1694 RSF. Report 2023, <https://rsf.org/en/country/serbia>

1695 Interview with Dragana Obradović, BIRN, Country Director, Serbia.

1696 IPI, News Room. 2023. *Serbia: Independent journalism faces biggest crisis in years*.

1697 Interview with Dragana Obradović, BIRN, Country Director, Serbia.

1698 CRTA. 2021. *Media Monitoring of the Political Pluralism in Serbia*, July 2020, p.8, https://crt.rs/wp-content/uploads/2021/04/Crta_medijski-monitoring-politickog-pluralizma-jul-mart-2021.pdf

1699 European Western Balkans. 2021. “Twitter labels accounts of all national TV channels in Serbia as “state-affiliated”, <https://europeanwesternbalkans.com/2021/08/16/twitter-labels-accounts-of-all-national-tv-channels-in-serbia-as-state-affiliated/>

1700 Interview with Dragana Čabarkapa.

12.3.4. Gender

To what extent does the media include women's voices?



News stories include women's voices and perspectives but tend to relegate them to health, education and other issues traditionally assigned to women.

Although more than 60% of people employed in the media are women, only 18% of them are in the position of editor-in-chief, mostly in online portals.¹⁷⁰¹

As the Peaceful Change initiative's study outlined, the screen presence of women reporters confirms that women make up the majority of field reporters in Serbia. However, newsrooms in Serbia not only failed to use their power and influence to challenge traditional social and cultural norms that perpetuate the oppression of women but often ended up reinforcing and maintaining harmful gender perceptions and stereotypes. Journalists also highlighted how newsrooms fail to include women's perspectives, experiences and voices in their media productions.¹⁷⁰²

Women are rarely invited as guests or quoted in political debates. Even in stories about violence against women, journalists more often talk to men than women.¹⁷⁰³ According to the latest available data, in 2020, women made up 20% of the people heard, read about or seen in newspapers, television, radio and digital news.¹⁷⁰⁴ The share of women differs slightly by type of media; it is lower in traditional media (19%) and higher in online media (25%).¹⁷⁰⁵

As for reporting on specific topics, such as the COVID-19 pandemic, one-quarter of news subjects (26%) were by women, which was more than in the rest of the news (average is 20%). Women experts made up to 26% of all who explained different aspects of the pandemic, which is 12% more than in analysed general news.¹⁷⁰⁶ Women also led the way in reporting COVID-19 related stories (78% of all COVID-19 news).¹⁷⁰⁷

According to the same source, there were more than 20,000 stories about women who suffered violence and did not report it during 2021. The testimonials were published on Twitter under the hashtag #Ididnotreport, initiated by the experience of a woman who reported a violent partner but faced inaction and a lack of support from authorities.¹⁷⁰⁸

Interactions

Although the anti-corruption agency has a service for cooperation with the media¹⁷⁰⁹ and regularly responds to journalists' requests for access to information of public importance, it should be more proactive in informing the media about its activities and decisions related to the fight against corruption. One example of collaboration with the media was in 2021 when the agency launched a media campaign called "For Functions without Corruption",¹⁷¹⁰ but nothing ever since. The agency rarely organises press conferences, and its officials did not give any interviews from 2018 to 2023 (the previous directors' mandate).

Media that apply a critical approach and engage in investigative journalism have revealed high-level corruption cases that shook the country in the last couple of years, some indicating connections between organised crime and

¹⁷⁰¹ FoNet. 2022. Interview with Sanja Pavlović, from Autonomni ženski centar (Autonomous Women's Centre): "In the media, 60% of employees are women, and only 18% of them hold the position of editor-in-chief", <https://www.danas.rs/vesti/drustvo/sanja-pavlovic-azc-u-medijima-60-odsto-zaposlenih-cine-zene-a-samo-18-odsto-njih-je-na-poziciji-glavne-urednice/>

¹⁷⁰² Peaceful Change Initiative. Women in Media, Serbia Survey 2023.

¹⁷⁰³ Media Diversity Institute. 2019. *Challenging the Sexist Serbian Media*, <https://www.media-diversity.org/challenging-the-sexist-serbian-media/>

¹⁷⁰⁴ Global Media Monitoring Project. 2020. *Who Makes the News? Serbia*, National report, p.22, <https://centarzamedije.fpn.bg.ac.rs/wp-content/uploads/2021/07/Serbia-Report-GMMP.pdf>

¹⁷⁰⁵ Ibid.

¹⁷⁰⁶ UNESCO. World Trends in Freedom of Expression and Media Development: *Global Media Monitoring Project (GMMP)*, Report for 2020, p.11, <https://centarzamedije.fpn.bg.ac.rs/wp-content/uploads/2021/07/Serbia-Report-GMMP.pdf>

¹⁷⁰⁷ Ibid.

¹⁷⁰⁸ BBC News in Serbian. 2021. "Women, sexual abuse and the #nisamprijavila campaign in Serbia: 'So that no girl experiences pain like those who have shared experiences'", <https://www.bbc.com/serbian/lat/srbija-59803726>

¹⁷⁰⁹ APC, Media and agency, https://www.acas.rs/cyr/page_with_sidebar/mediji

¹⁷¹⁰ APC, Media campaigns, https://www.acas.rs/cyr/page_with_sidebar/mediji#

high-level state and ruling party officials. Those media and some NGO portals are among the essential revealers of corruption cases in Serbia.¹⁷¹¹ The Prosecution Office for Organised Crime¹⁷¹² and four special departments of the Higher Public Prosecutor's Offices(HPPO) were established to fight corruption. However, information on corruption cases is rarely communicated to the media by representatives of prosecution offices.

The government's selective attitude towards the media has long been a problem in Serbia. The government has kept deepening fragmentation, dividing the media into "politically correct" and those it considers "enemies of the state",¹⁷¹³ which have minimal reach. It uses various mechanisms to restrict these media, from ignoring the latter to directly influencing money allocation in project financing.¹⁷¹⁴ That is why the scope of reporting on corruption is limited. In early 2020, the government adopted the media strategy, but there is already a significant delay in implementing it.¹⁷¹⁵

Pillar Recommendations

- The government and parliament should respect media strategy and complete the legislative process by amending newly adopted laws, especially regarding media ownership and mechanisms for protecting pluralism by:
 - » respecting media freedom and establishing legal guarantees for it;
 - » ensuring that state ownership will not jeopardise the diversity of media content and removing provisions that allow state-owned companies like Telekom Srbija to own media;
 - » enabling the visibility of all TV channels to all citizens starting at least with awarding the fifth media service licence with national frequency to one of the independent broadcasters;
 - » securing a completely independent functioning of the regulatory body, including:
 - provisions that enable judicial and civil control of REM's actions following complaints from citizens and organisations;
 - introducing provisions that prescribe the criteria and methodology on the basis of which REM monitors media reporting during election campaigns in order to avoid abuse of state institutions and functions;
 - » removing all forms of "covert control" through the biased use of budget money in project financing.
- The government and parliament should finally adopt the Law on Public Media Services, in line with the media strategy, and not only periodically change the provisions that continuously extend the payment of the subscription.
- The government should enforce the independence and efficiency of judicial institutions in line with the media strategy and with the adoption of the action plan for 2023-2005, in the protection of journalists and media freedom (attacks, lawsuits, court proceedings or indictments) by:
 - » adopting binding rules for prosecutors to take immediate measures in cases of violence against journalists;
 - » ensuring the conditions for the fast and regular implementation of these measures.
- ACAS and experts in the anti-corruption field should cooperate with the media to arrange and provide continuous training/workshops for journalists on reporting corruption, both at national and local levels.
- Projects within the media and from donors and budgets should be designed to provide comprehensive and continuous support for investigative journalism.

1711 For more details see Indicator 12.3.1, Investigate and expose cases of corruption practice.

1712 Prosecutor's Office for Organised Crime, https://tok.jt.rs/html Tok/pocetna_eng.htm

1713 For more details see Indicator 12.1.2 Resources (practice).

1714 For more details see Indicator 12.1.4 Independence (practice).

1715 In early 2020, the government adopted the strategy for the development of the public information system in the republic of serbia for 2020-2025 (media strategy). Experts agree that its implementation would lead to significant changes in the Serbian media landscape, but that after three years of almost ignoring this strategic document, it is clear that there is no political will for its implementation. European Western Balkans, 12 December 2022. <https://europeanwesternbalkans.com/2022/12/21/serbias-media-strategy-path-towards-media-freedom-or-a-front-for-the-eu/>

13. Civil Society

Summary

OVERALL PILLAR SCORE: 61.8/100

DIMENSION	INDICATOR	LAW	PRACTICE
CAPACITY  68.8/100	RESOURCES	75	50
	INDEPENDENCE	75	75
GOVERNANCE  66.7/100	TRANSPARENCY	–	50
	ACCOUNTABILITY	–	50
	INTEGRITY	–	100
ROLE  50/100	GENDER	50	
	HOLD GOVERNMENT ACCOUNTABLE	50	
	POLICY REFORM INITIATIVES ON ANTI-CORRUPTION	50	

The constitution guarantees freedom of any form of association and activity. The state can intervene in the work of civil associations only if their activities are aimed at the violent overthrow of constitutional order, violation of guaranteed human or minority rights, or inciting racial, national or religious hatred. The legal framework enables the organisation of CSOs and some possibilities to implement their role, but it is not sufficiently conducive. In general, CSOs are free to operate independently of the government. Still, there have been many attempts by the government and political party representatives to win over NGOs or to manipulate them for their interests.

In February 2022, Serbia adopted a strategy for creating a stimulating environment for the development of civil society for 2022-2030. As foreseen in the action plan, a council for cooperation and development of civil society was established in September 2023. An enabling environment for developing and financing CSOs still needs to be created as verbal attacks and smear campaigns against such organisations continue.

There is still limited transparency in the work of CSOs, although it has improved in the last few years. Several successful self-regulatory initiatives have been implemented within the Serbian NGO sector. The capacity of CSOs to act as public watchdogs is low, especially at the local level, where CSOs experience pressure from local authorities.

In the last couple of years, Freedom House's rating of civil society in Serbia's has been declining due to the intimidation of CSOs by government officials and pro-government media and violence against peaceful protesters.¹⁷¹⁶

The Serbian Business Registers Agency (SBRA) now counts over 37,300 registered associations and CSOs.¹⁷¹⁷ Apart from Transparency Serbia, whose main activity is the fight against corruption, the subgroup for corruption within the Working Group of the National Convention on the EU for Chapter 23 is also active in this field. Many CSOs deal

¹⁷¹⁶ Freedom House. *Nations in Transit 2023: Serbia*, Civil Society Chapter. Despite certain improvements on paper, the trend of narrowing their action continues, as well as pressure, intimidation and verbal attacks directed at activists and non-governmental members organisations. Shadow report: The state of democracy in Serbia in 2022, p.21, <https://centarsavremenepolitike.rs/wp-content/uploads/2022/10/Stanje-demokratije-2022-DIGITAL.pdf?fbclid=IwAR0nbaEMseJ4dQaE0mgLwFD9Gqn-B6duN6y5e66B-RMm5PLYDfcUW0-8>

¹⁷¹⁷ SBRA, Accessed on 30 September 2023, <https://apr.gov.rs/home.1435.html>

with issues related to anti-corruption, such as the rule of law, democracy and citizens' participation, distribution of budget funds, environmental protection, among others.

In the last 10 years, many NGOs suspected of being closely related to the current government have been registered.¹⁷¹⁸ In Serbia, such organisations are established primarily to simulate support for the ruling structures and extract money that is awarded to citizens' associations for their projects.¹⁷¹⁹ It has often happened that, just a few months after their establishment, some of these citizen associations received large amounts of funds in tenders announced by national, provincial or city authorities.¹⁷²⁰ According to research by Citizen Initiatives, government-organised non-governmental organisations (GONGOs) most active in the field of corruption are the Council for Monitoring, Human Rights and the Fight against Corruption – Transparentnost and the Institute for the Fight against Corruption. According to Lidija Komlen Nikolić, deputy of the public appellate prosecutor's office and president of the Association of Public Prosecutors and Deputy Public Prosecutors of the Republic of Serbia, there are GONGO associations in the judiciary as well.¹⁷²¹ A typical example is the Association of Judges and Prosecutors (UST),¹⁷²² a classic GONGO organisation.¹⁷²³

Capacity

13.1.1. Resources (law)

To what extent does the legal framework provide an environment conducive to civil society?



SCORE: 75/100

The legal framework enables the organisation of CSOs and offers some possibilities for implementing their role. However, there are no favourable taxation rules for CSOs.

The legal framework does not hinder the establishment, registration and working of CSOs. The Serbian constitution¹⁷²⁴ and the Law on Associations¹⁷²⁵ guarantee freedom of association. Associations can work without being entered in the registry, but they do not have a legal entity status in this case. Registration at the SBRA is not complicated and not expensive;¹⁷²⁶ it costs RSD 6,500 (EUR 55).¹⁷²⁷

There are no legal obstacles to CSOs engaging in advocacy and criticising the government. Secret and paramilitary associations are forbidden. The constitutional court may ban only those associations whose activities aim at the violent overthrow of the constitutional order, violation of guaranteed human and minority rights, and inciting racial, national or religious hatred.¹⁷²⁸

1718 Nova, [nova.rs](https://nova.rs/vesti/politika/institut-za-evropske-poslove-ngo-ili-gongo-to-je-pitanje/). 2021. "Institut za evropske poslove: NGO ili GONGO – to je pitanje" (Institute for European Affairs: NGO or GONGO – that is the question), <https://nova.rs/vesti/politika/institut-za-evropske-poslove-ngo-ili-gongo-to-je-pitanje/>

1719 Nova, [nova.rs](https://nova.rs/vesti/politika/institut-za-evropske-poslove-ngo-ili-gongo-to-je-pitanje/). "Institut za evropske poslove: NGO ili GONGO – to je pitanje". Also, in the Agency for Business Registers, apart from the name of the authorised person, no details (website address, e-mail address, phone number) are given, and often there is even a personal connection of the founder with the authorities. Only by searching the data and the names of the association's representatives is it possible to find people connected to the parties in power in Belgrade. Ibid.

1720 "Through public tenders, last year the state distributed RSD 6.8 billion (almost €58 million). This money was often spent for no purpose and regularly financed GONGOs and tabloids", BIRN and Gradske Inicijative. 2023. "Public about public tenders: Overview of project funding in the fields of media, civil society, culture and youth in 2022", gradjanske.org, Javne nabavke: podjeljene milijarde, Transparentnosti i nema (Gadanske Inicijative: Public tenders: Divided billions, no transparency), <https://www.gradjanske.org/javni-konkursi-podeljene-milijarde-transparentnosti-nema/>

1721 Južne vesti, Vlast ima svoja nevladina udruženja koja ne rade u javnom interesu (The government has its own non-governmental associations that do not work in the public interest), <https://www.juznevesti.com/Drushtvo/Vlasti-ima-svoja-nevladina-udruzjenja-koja-ne-rade-u-javnom-interesu.sr.html>

1722 UST – Association of Public Prosecutors and Deputy Public Prosecutors of Serbia <https://uts.org.rs/home/?lang=en>

1723 Peščanik. 2019. Kako GONGO organizacije urušavaju pravosude, (How GONGO organizations are collapsing the judiciary), <https://pescanik.net/kako-gongo-organizacije-urusavaju-pravosudje/>

1724 Serbian Constitution, Article 55.

1725 The Law on Association, Article 3. Official Gazette RS, no. 51/2009, 99/2011 – other laws and 44/2018 – other law, https://www.paragraf.rs/propisi/zakon_o_udruzenjima.html

1726 SBRA, <https://www.apr.gov.rs/registri/udruzenja/uputstva/osnivanje.2218.html>

1727 SBRA, <https://www.apr.gov.rs/registri/udru%C5%87enja/naknade.2224.html>

1728 Serbian Constitution, Article 55. The procedure to ban an association can be initiated upon the proposal of the government, the republic public prosecutor, the ministry in charge of administration, the ministry in charge of the area of the association's objectives or the registry. There is no appeal against the final decision of the constitutional court, law on associations, Article 51.

According to the law, an association may acquire assets from membership fees, contributions, donations and gifts (in cash or goods), financial subsidies, legacies, interest on deposits, rents and dividends. Associations may engage in for-profit activities related to its statutory objectives.¹⁷²⁹

The taxation system makes no difference between non-profit and for-profit organisations and provides no incentives for NGO actions.¹⁷³⁰ The Law on Income Tax of Legal Persons stipulates that the expenditures on health, education, scientific, charity, religious, environmental and sporting activities are recognised as an expense of up to 5% of total revenue.¹⁷³¹

The Serbian government adopted the strategy for the creation of a stimulating environment for the development of civil society in Serbia for 2022-2030.¹⁷³² However, many problems remained.¹⁷³³ The lack of a single comprehensive document that would regulate state support for institutional development for CSOs, project based financing and EU project co-financing and some elements of the existing framework for open calls indicate that legislation only partially satisfies standards. Primary civil society laws and other documents directly reference project based financing of sectoral CSOs in some areas. The details of the procedure for allocating these funds are prescribed by a central government regulation, which most national, provincial and local institutions apply.¹⁷³⁴ However, two core national institutions that fund youth and culture implement other by-laws, which provide a different procedure. More specifically, the procedure for project co-financing in the youth sector does not allow participants to lodge appeals in the open call.¹⁷³⁵

The Law on Accounting and Auditing¹⁷³⁶ and the new rulebook on the content and structure of financial report forms, adopted on 25 June 2020, enable a more detailed overview of the financial structure of CSOs.¹⁷³⁷

13.1.2. Resources (practice)

To what extent do CSOs have adequate financial and human resources to function and operate effectively?



SCORE: 50/100

In general, civil society organisations lack human and financial resources.

The lack of institutional funding hinders CSOs' sustainability: bilateral and multilateral donors and foreign private foundations¹⁷³⁸ are still crucial financial resources for CSOs.¹⁷³⁹ There is still a lack of government funding for independent CSOs (at both the local and national levels), and the available public resources are redirected toward government-organised NGOs (GONGOs) and political-party-organised NGOs (PONGOs). There has been an increase in funding by local governments and citizens and a decrease in financing by domestic donor organisations.¹⁷⁴⁰ There is also a new trend of regranting and consolidating grants given to big CSOs to distribute them further to smaller

1729 The Law on Associations, Articles 36 and 37.

1730 USAID. 2023. *Civil Society Organization Sustainability Index for Central and Eastern Europe and Eurasia 25th edition*, p.204

1731 Gradanske Inicijative, Civic initiatives and Balkan Civil society Development Network: *Monitoring Matrix on Enabling Environment for Civil Society Development – Country Brief for Serbia 2021*, <https://www.gradanske.org/en/monitoring-matrix-on-enabling-environment-for-civil-society-development-country-brief-for-serbia-2021/> . "No clear indicators establish what can be considered a donation for each of these purposes. It is determined on a case-by-case basis, which doesn't have a stimulating effect on corporate donors," from an interview with Tara Petrović.

1732 Government of Serbia. 2022. "Strategy for the development of civil society adopted", <https://www.srbija.gov.rs/vest/609292/usvojena-strategija-za-razvoj-civilnog-drustva.php>

1733 Despite this declarative support for CSOs, the shadow report on the state of democracy in Serbia 2022, published by the Center for Contemporary Politics (CSP) in early October, warns that in Serbia, "the trend of narrowing their activities continues, as well as pressure, intimidation and verbal attacks aimed at activists and members of non-governmental organisations." Belgrade Open School, Centre of Contemporary Politics (European Western Balkans). 2022. "On paper, the cooperation of the state with civil society, in practice, attacks, insults and punishments"

1734 Gradanske Inicijative/Civi Initiatives. *Monitoring Matrix on Enabling Environment for Civil Society Development, Country Brief for Serbia 2021*, p.10.

1735 Gradanske Inicijative/Civi Initiatives, 2021, p.10.

1736 Paragaf. The Law on Accounting. Official Gazette of RS, No. 73/2019 and 44/2021 – other law, http://www.paragraf.rs/propisi/zakon_o_racunovodstvu.html

1737 New elements include the average number of engaged volunteers per month, monitoring of cash payments from the pay desk as well as the amount of VAT payments and funds exempt from VAT in the reporting period. Monitoring Matrix on Enabling Environment for Civil Society Development: Country Report for Serbia 2020 https://www.balkancsd.net/novo/wp-content/uploads/2022/03/65-5-Serbia-MM-Report-2020_Final.pdf

1738 Such as USAID, EU, Norway, Switzerland.

1739 USAID. 2023. *Civil Society Organization Sustainability Index for Central and Eastern Europe and Eurasia 25th edition*, p.205.

1740 A significant difference can be noted regarding funding sources when they are compared to those from 2011: there has been an increase in funding by local government (from 33% in 2011 to 42% in 2019) and citizens (11% in 2011 to 23% in 2019), and a decrease in financing by domestic donor organisations (from 21% in 2011 to 13% in 2019) and ministries (16% in 2011 to 10% in 2019), CSO Sector in Serbia. 2019. *Assessment of the Situation in the Civil Society Organisation Sector in Serbia*, https://act.org.rs/wp-content/uploads/2020/01/CSO-Sector-in-Serbia-2019_Full-study_FINAL.pdf

CSOs. According to Tara Petrović, lead researcher at Civic Initiatives, it is not clear whether this is a positive or negative development and whether it makes support more available.¹⁷⁴¹

Compared to 2020, when companies suspended most of their corporate social responsibility initiatives due to the COVID-19 pandemic, philanthropy slowly returned to its previous dynamic.¹⁷⁴² Still, the business sector is not likely to support CSOs that deal with “sensitive issues”, such as corruption, human rights or transitional justice.¹⁷⁴³

Only larger organisations have permanent staff. Many CSOs have reported staff burn-out since the onset of the pandemic, indicating a new need for capacity building support.¹⁷⁴⁴ According to Bojana, a researcher at the Institute for Philosophy and Social Theory, volunteerism is underdeveloped in Serbia.¹⁷⁴⁵ Some larger CSOs have protocols for volunteers and volunteering programmes. Still, with its significant administrative procedures for the longer-term engagement of volunteers, the Law on Volunteerism¹⁷⁴⁶ seems to discourage CSOs from seeking them. Local CSOs, particularly in rural areas, still face challenges mobilising citizens online.

The number of employees in the civil society sector is quite low. In 2020, there were 8,712 employees in this sector, representing 0.30% of the average number of employees in relation to their total number.¹⁷⁴⁷

13.1.3. Independence (law)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of CSOs?



SCORE: 75/100

The legal framework guarantees the independence of CSOs in their activities.

Regardless of the field of activities, the independence of the CSOs is assured.¹⁷⁴⁸ The constitution guarantees freedom of any form of association and the right to stay out of any association. Associations are formed without prior approval and entered in a register kept by a state body under the law.¹⁷⁴⁹

Secret and paramilitary associations are prohibited. The state can intervene in the work of civil associations only if its activity is aimed at the violent overthrow of constitutional order, violation of guaranteed human or minority rights, or inciting racial, national or religious hatred.¹⁷⁵⁰

The state cannot have representatives among the boards of CSOs. State control of CSOs is limited to financial statements that the organisations must submit when they receive money from public sources.¹⁷⁵¹

Several other significant events in the last couple of years revealed the situation in which civil society in Serbia operates, such as Europride,¹⁷⁵² environmental protests against lithium mining¹⁷⁵³ and the protests for the removal

1741 Interview with Tara Petrović, lead research at the NGO Civil Initiatives, 28 March 2023.

1742 USAID. 2023. *Civil Society Organization Sustainability Index for Central and Eastern Europe and Eurasia 25th edition*, p.206.

1743 Belgrade Open School. Guide “*Initiatives for a sustainable Future – Innovative Approaches for Cooperation of the Civil and Business Sector*” <https://www.bos.rs/rs/vesti/2110315/predstavljen-vodic-za-saradnju-poslovnog-i-civilnog-sektora.html>

1744 USAID. 2023. *Civil Society Organization Sustainability Index for Central and Eastern Europe and Eurasia 25th edition*, p.205.

1745 Bojana Radovanović. 2019. *Volunteering and Helping in Serbia: Main Characteristics*, (Belgrade, Sociologija, Volume 61 2019), <https://doiserbia.nb.rs/Article.aspx?ID=0038-03181901133R>

1746 Law on Volunteering Official Gazette, No. 36/2010, Art. 3, p.8, Art. 10, p.6, Art.14. p. 3, http://demo.paragraf.rs/demo/combined/Old/t/t2010_08/t08_0181.htm. Official Herald of the Republic of Serbia, No. 36/2010. Government of Serbia, *Labour Law and Other Laws Regulating the Field of Work, section Volunteering*, <https://www.srbija.gov.rs/tekst/en/130019/labour-law-and-other-laws-regulating-the-field-of-work.php>; http://demo.paragraf.rs/demo/combined/Old/t/t2010_08/t08_0181.htm Official Herald of the Republic of Serbia, No. 36/2010.

1747 Strategy for Creating a Stimulating Environment for the Development of Civil Society in the Republic of Serbia for the period from 2022-2030, p.6.

1748 SBRA. Registration, <https://apr.gov.rs/registers/associations/about-register.1626.html>

1749 Constitution of Serbia, article 55.

1750 Constitution of Serbia, article 55; Law on Associations, article 3.

1751 Interview with Tara Petrović, lead researcher at the NGO Civil Initiatives, 28 March 2023.

1752 On the recommendation of the President of the Republic, Aleksandar Vučić, the Ministry of Internal Affairs banned the Pride protest march for “security reasons”, contrary to the Law on Free Assembly and earlier rulings of the constitutional court. The organisers filed an appeal, but the administrative court in Belgrade refused and decided that the ban on walking within the event was justified. Slobodna Evropa. 2022. “The administrative court rejected the appeal against the ban on the Europride walk in Belgrade”.

1753 Business and Human Rights Resource Centre. 2022. “Serbia: Thousands protest against Rio Tinto lithium mine project and new draft laws allegedly designed to benefit business”, <https://www.business-humanrights.org/en/latest-news/serbians-are-protesting-against-lithium-mine-and-new-draft-laws-which-allegedly-benefit-business/>

of the Ratko Mladić mural in Belgrade,¹⁷⁵⁴ which were marked by attacks on activists and the lack of an adequate reaction by state authorities.

At the same time, CSOs and activists also face an increasing number of SLAPP¹⁷⁵⁵ lawsuits. Public officials, public figures and other powerful entities in Serbia bring SLAPP type cases to respond to criticism of their activities. Most lawsuits against non-media public watchdogs, such as activists and civil society organisations, are brought under Article 198 of the Law on Contracts and Torts and the concept of harm of honour. Serbian courts failed to apply international and regional standards that required public officials to tolerate greater criticism and intrusion into their rights due to the nature of their official function.

13.1.4. Independence (practice)

To what extent can civil society exist and function without undue external interference?



SCORE: 75/100

In general, CSOs are free to operate independently of the government. Still, there are many attempts by the government and political parties to win over NGOs or manipulate them for their interests.

CSOs deal with sensitive issues, such as corruption, abuse of public funds and environmental protection. CSOs operating at the local level are more often subject to verbal attacks, pressure and negative campaigns in pro-government media. According to Civic Initiative, as of 24 November 2022, through the regular monitoring process, they recorded 119 violations of human rights and fundamental freedoms, of which 76 were violations of freedom of expression, 29 of freedom of association and 14 of freedom of assembly.¹⁷⁵⁶

The trend of decreased government accountability, the closing of media and the weakness of political opposition have led to the situation where watchdog NGOs are effectively considered political enemies of those in power. This situation was built gradually, through statements from high state officials, institutional and financial pressures that threaten the reputation and existence of the organisations, activists and media, the creation of parallel “governmental, non-governmental organisations”, and through tolerating verbal and physical attacks by the (in) action of institutions.¹⁷⁵⁷

Cases of direct manipulation exist in many instances in which relatives of party functionaries, public officials and the parties' employees have their non-governmental organisations competing for funding from public sources and supporting local authorities at public events. For example, in 2021, there was a case in Zrenjanin where the local authorities ordered the long-term users – the associations Dečiji centar and L-Down – to move out of premises owned by the city.¹⁷⁵⁸ In the 2020, case known as Spisak (The List),¹⁷⁵⁹ the government misused the Law on the Prevention of Money Laundering and the Financing of Terrorism to restrict or coerce civil society actors for their work and criticism of the government.¹⁷⁶⁰

1754 On the day of the fight against fascism in 2022, at the CSOs and citizens' protest against the mural of the war criminal Ratko Mladić, the police arrested two activists who threw eggs at the mural on a building in the centre of Belgrade. Two women were released after few hours, but protests by several NGOs, human rights activists and citizens continued.

1755 CASE. 2023. SLAPPs: A threat to democracy continue to grow, Updated report, <https://www.the-case.eu/wp-content/uploads/2023/08/20230703-CASE-UPDATE-REPORT-2023-1.pdf> ; CASE coalition: Serbia is 10th in Europe in number of SLAPP lawsuits; “These lawsuits, which are systematically used by the authorities in order to intimidate organisations and activists with lengthy court proceedings or punishments, are known in authoritarian regimes in the world, but we are only now noticing an increase in these lawsuits and pressure on activists in this way,” Maja Stojanović, Gradske inicijative CEO, interview for Center of Contemporary Politics, EU-RS, 21 October 2022 (for the “On paper, the cooperation of the state with civil society, in practice attacks, insults and punishments”).

1756 “Of this number, 33 were physical attacks, 38 were verbal attacks, and 48 were pressure cases. This number does not include the figures recorded during the pre-election period, from 15 February to 31 March (reports Elections under Scrutiny). In this period alone, we recorded 84 cases of violation of fundamental human rights and freedoms, bringing the total number to 203 cases. It means they have already far exceeded the total number of violations compared to 2021, which is 162,” Interview with Tara Petrović; Freedom House, Nation in Transit: Serbia 2022: Chapter Civil Society.

1757 Civil Society for the Accession of Serbia to the EU. 2021. “The hostile atmosphere towards civil society organizations does not stop”, Jelena Pejić Nikic, coordinator of the prEUgovor Coalition and researcher at the Belgrade Centre for Security Policy, <https://transformator.bos.rs/vesti/1377/neprnjateljska-atmosfera-prema-organizacijama-civilnog-drustva-ne-prestaje.html>; Vreme. 2021. “Parallel Reality of Civil Society”; “Just as it stifles critical media, the progressive government tries to stifle critical non-governmental organisations by creating “governmental non-governmental”, so-called gong organisations.”

1758 BBC, News in Serbian. 2021; Zaječar, gradski prostor i deca: “Za dečija udruženja više nema mesta u gradskim prostorima (“Zaječar, City Space and Children: There is no more place for children's associations in city spaces), <https://www.bbc.com/serbian/lat/srbija-57352632>

1759 Radio Free Europe. 2021. “Allegations about connections between terrorists, media and NGOs in Serbia for a year without evidence”. In June 2020, the directorate for the prevention of money laundering requested from the banks an insight into the financial transactions of 37 organisations and 20 individuals from Serbia, including CSOs. USAID. 2023. *Civil Society Organization Sustainability Index for Central and Eastern Europe and Eurasia 25th edition*, p.202.

1760 European Commission. *Serbia Report 2021*, p.12.

Governance

13.2.1. Transparency (practice)

To what extent is there transparency in CSOs?



There is still limited transparency in the work of CSOs.

Data transparency remains a burning issue that, among other things, affects citizens' trust in CSOs.¹⁷⁶¹ Most NGOs do not publish annual reports or financial statements on their websites.¹⁷⁶² Lately, an increasing number of them have opted to publish programme and financial data on the new website dedicated to non-profit organisations, but they are still unknown to the broader public.¹⁷⁶³

The law stipulates¹⁷⁶⁴ that associations funded from the budget must publish a report on their work and use of these funds, and submit this report to the fund provider. The law also stipulates that the association's work should be public. In general, there are provisions for transparency in major NGOs' regulations,¹⁷⁶⁵ including fines for breaching the provisions.¹⁷⁶⁶

Regarding internal management structures, there is progress, but CSOs are still not fully functional and transparent. Transparent management selection procedures and a clear division of responsibilities within organisations are still missing. Also, the lack of joint self-regulatory initiatives in Serbian civil society is visible. Only 10% of CSOs said they were part of any self-regulatory initiatives in transparency and accountability, while 43.3% said they did not know such initiatives existed.¹⁷⁶⁷

In terms of public funding of civil society, the 2023 EC report notes that the transparency and fairness of award procedures need to be significantly improved,¹⁷⁶⁸ given the lack of consultations with CSOs when planning priority activities, discretionary decisions of managers in funding procedures, the lack of transparent criteria for approving financial and non-financial support to CSOs and insufficient transparency of public authorities in the reporting of spent funds on an annual basis.

Board member data is increasingly available on CSOs' websites, including most organisations implementing international donor supported projects and being visible to the public. Data about people representing CSOs are on the SBRA website.¹⁷⁶⁹

13.2.2. Accountability (practice)

To what extent are CSOs answerable to their constituencies?



In general, the CSO leader is the key decision-maker on a daily basis and responsible for programme implementation, although the managing board has become increasingly involved in organisational activities.

According to a 2019 study by Civic Initiatives, in most CSOs, the managing board (63%) and the assembly (34%) make strategic decisions. There has been a shift toward managing boards as key decision-makers, replacing the assembly. Interestingly, the director makes strategic decisions in 27% of CSOs with budgets exceeding €20,001.¹⁷⁷⁰

1761 Interview with Tara Petrović.

1762 "The latest available research showed that most CSOs, 67% of them, do not publish their financial reports on their websites, on Facebook or on any other social network", interview with Tara Petrović. These data show that transparency of CSO financial reporting is very low.

1763 Nefrofitne, <https://neprofitne.rs/still>. The database contains data on over 29,900 NGOs of over 37,000 registered.

1764 Law on Associations, Article 38.

1765 Desk research conducted by Transparency Serbia, December 2022.

1766 Fine is between RSD 50,000 and 500,000 (€415 to 4,150); Law on Civic Associations, article 74; (still, there is no record that any NGO has ever been fined).

1767 Interview with Tara Petrović; Data is based on the Civil Initiatives research "Needs Assessment Report for 2022".

1768 EC. Serbia Report 2023, p.15

1769 SBRA, <http://www.apr.gov.rs/eng/Registers/Associations.aspx>

1770 CSO Sector in Serbia. 2020. "Assessment of the Situation in the Civil Society Organisation Sector in Serbia", Civic Initiatives, https://act.org.rs/wp-content/uploads/2020/01/CSO-Sector-in-Serbia-2019_Full-study_FINAL.pdf, pp.35-38

The managing board (52%) and the president (27%) make decisions related to daily activities in most CSOs.¹⁷⁷¹ As in the case of strategic decisions, decision-making, even on the operational level, has shifted toward the managing boards. Persons managing CSOs, either as presidents or directors, decide on the organisation's daily activities in 37% of the cases. Most CSOs (70%) do not make information that concerns their managing structure publicly available; less than one-quarter publish it on their websites, while around one-tenth (11%) do so on Facebook or other social networks.¹⁷⁷²

There is significant room for improvement regarding the transparency of the boards. For instance, founders or members of governing boards remain obscure, and the published databases do not contain information on legal representatives (only the registers do). How often the datasets are updated is not clear.¹⁷⁷³

The composition of the boards depends on the statute of each organisation.

13.2.3. Integrity (practice)

To what extent is the integrity of CSOs ensured in practice?



There have been several successful self-regulatory initiatives within the Serbian NGO sector.

Over the years, CSOs introduced several successful self-regulatory initiatives in the Serbian NGO sector, starting with a code of ethics for CSOs through the then-active Federation of NGOs in Serbia (FeNS), an umbrella organisation of CSOs with over 550 members. The code was opened to signing in 2011, and still is open, by filling out a form.¹⁷⁷⁴ TRAG Foundation and five other partner foundations in the Western Balkans region partnered to develop regional standards for transparency in fundraising based on the principles valid in 11 countries of the European Union and consultations with non-profit organisations that contributed to adapting the document to the situation in the region.¹⁷⁷⁵ Neprofitne.rs¹⁷⁷⁶ is an information service/self-regulatory tool owned and run by Catalyst Balkans. Organisations earn a badge that confirms their transparency by publishing their programme, project and financial data on this public online platform.¹⁷⁷⁷

Based on the Slovenian model of the NGO Quality Assurance System developed by CNVOS¹⁷⁷⁸ and combined with some existing elements in Serbia, civic initiatives continue adapting and developing quality assurance standards for CSOs in Serbia. It includes developing verification tools, establishing a verification body and direct support for CSOs to expand their capacities for the implementation of standards.¹⁷⁷⁹

1771 Ibid.

1772 CSO Sector in Serbia, "Assessment of the Situation in the Civil Society Organisation Sector in Serbia", p.39.

1773 Open Government Partnership: Open Data Reports on CSOs, Serbia, Report 2020. According to a CSO representative, there is significant room for improvement when it comes to transparency of the organisations that are registered. For instance, founders or members of governing boards remain obscure and the published databases do not contain information on legal representatives (only the registers do). It is also unclear how often the datasets are updated in the open data portal.

1774 Code of ethics of civil society organisations, Serbia, <https://www.gradjanske.org/wpcontent/uploads/2013/01/Eticky-kodeks-organizacija-civilnog-drustva.pdf>; Signing on to the code, CSOs pledge to adhere to key principles of respecting human rights, social change and not-for-profit character, activism and responsibility. CSOs must also follow laws and regulations, provide the highest quality management, have a clear policy to prevent conflict of interest, make activities, results and financial information available to the public, etc.

1775 SIGN network, <https://tragfondacija.org/en/sign-network/>. These standards intend to establish the principles of good practice in the fundraising process, which will increase citizens' trust in the activities of NPOs and improve their legitimacy, sustainability and impact. The final version of the standard was published in mid-2014 and has been signed by over 130 NPOs from all Western Balkans countries.

1776 Neprofitne, <https://neprofitne.rs/>

1777 Three levels of badges (white, grey and blue) correspond to different levels of transparency. In order to acquire the highest transparency badge, the NPO must publish all programmatic and financial data for the past three years.

1778 CNVOS, <https://www.cnvos.si/en/about/>

1779 Interview with Tara Petrović.

Role

13.3.1. Hold government accountable

To what extent is civil society active and successful in holding government accountable for its actions?



SCORE: 50/100

Civil society is increasingly active as public watchdogs and, although successful in some cases, they have very little influence on creating policies and regulations.

Civil society has very little influence on creating policies and regulations. At the same time, formal mechanisms of inclusion serve more to simulate democracy than to improve communication and cooperation.¹⁷⁸⁰ Some mechanisms for participation in decision-making exist, but GONGOs and PONGOs usually dominate these processes.¹⁷⁸¹ CSOs use, whenever possible, the opportunity to influence the government's actions through public hearings, public groups or public consultations.¹⁷⁸² Several CSOs engaged in laws, politics and anti-corruption are particularly active in sending initiatives, suggestions and appeals.¹⁷⁸³

In 2021, the government took a step back and accepted citizens' demands for the first time since the ruling party came to power and withdrew the Law on Expropriation from the parliamentary procedure.¹⁷⁸⁴ After that, due to opposition from CSOs and professional associations, the government also withdrew other draft laws, including on waters, consumer protection, obligations, and protection of financial services users.

One of the very successful examples of mobilisation of some of the key CSOs that monitored the attempt by the Serbian Ministry of Interior to push through a new Law on Internal Affairs in 2022 alerted the public on time; the government backed down and withdrew the draft law from parliamentary procedure.¹⁷⁸⁵ This most recent example demonstrates that open and public confrontation with the government remains the only option for the civil society sector in Serbia.¹⁷⁸⁶

Anti-corruption activism is primarily reflected in pointing out corruption cases by addressing anti-corruption bodies, organising protests, starting petitions and addressing the media.¹⁷⁸⁷

13.3.2. Policy reform

To what extent is civil society actively engaged in policy reform initiatives on anti-corruption?



SCORE: 50/100

CSOs are active in proposing and initiating regulation changes, but they are rarely accepted.

CSOs are mainly involved in drafting laws or strategies and improving the legal framework. CSOs, for example, have been either included or engaged "from the outside" in developing suggestions or amendments in drafting or adopting laws¹⁷⁸⁸ or changes to laws related to the Agency for the Prevention of Corruption, financing political activities, whistleblowers and public procurements. A Transparency Serbia representative was a working group member in drafting the National Anti-Corruption Strategy and several anti-corruption laws. The agency is open

1780 Danas. 2021, Jelena Loncar, "Civil society; A voice that still bothers".

1781 USAID. 2023. *Civil Society Organization Sustainability Index for Central and Eastern Europe and Eurasia 25th edition*, p.202.

1782 Coalition for Access to Information, for example, is one of the most persistent watchdog group of CSOs, <https://spikoalicija.rs/#>

1783 Among them are Coalition PreEugovor, Praktične politike, CRTA, Transparency Serbia.

1784 Radio Free Europe. 2021. "The government withdrew the Expropriation Law, one of the reasons for the protests in Serbia".

1785 Insajder. 2022. Insajder Team, "The draft law on the police has been withdrawn from the procedure twice in a year" – <https://insajder.net/teme/nacrt-zakona-o-policiji-za-godinu-dana-dvaput-povucen-iz-procedure-video>. European Western Balkans. 2023. Katarina Tadic, "Who are the allies of the civil society in Serbia?" – <https://europeanwesternbalkans.com/2023/03/13/who-are-the-allies-of-the-civil-society-in-serbia/>

1786 European Western Balkans. 2023. "Who are the allies of the civil society in Serbia?"

1787 BIRODI. Society against corruption, <https://www.birodi.rs/drustvo-protiv-korupcije/>

1788 PreEugovor. 2021. "Intensified Reform Activities Are Still a Form without Substance", <https://preugovor.org/News/1644/Intensified-Reform-Activities-Are-Still-a-Form.shtml>

to cooperation with CSOs – not only through projects funded by the agency¹⁷⁸⁹ but also by accepting CSOs' suggestions and initialising law changes with ministries and the government.¹⁷⁹⁰

Beyond that, MPs accepted very few amendments initiated by CSOs. The government or ministries' representatives seldom accept CSOs' proposals in working groups,¹⁷⁹¹ while public officials in public appearances diminish the significance of CSOs' contribution to anti-corruption efforts. At the same time, international watchdog organisations – such as GRECO or ODIHR – often use these initiatives for their reports, and then the government is more willing to accept them.

13.3.3. Gender

To what extent are CSO programmes gender-sensitive?



SCORE: 50/100

CSO programmes take into account gender considerations but not consistently and only sometimes collect gender-disaggregated data.

How much attention Serbian CSOs pay to beneficiaries' gender-related needs depends mainly on the project requirements set by the donors. No data is available yet about the reach and impact of CSO events and projects concerning gender issues, but there is an evident growing trend in the projects' demands to take this into account.

Serbian donors are paying increasing attention to gender equality issues as one of the crucial criteria when announcing competitions. In 2022, Agency for the Prevention of Corruption introduced a gender dimension into the procedure for awarding funds to CSOs for the first time.¹⁷⁹²

In 2022, six CSOs received RSD 20.2 million from the Ministry of European Integration to implement projects to eliminate gender stereotypes in various areas.¹⁷⁹³

To strengthen the partnerships, provide a platform for dialogue and influence the national, regional and global gender equality agenda, UN Women Serbia is establishing a civil society engagement group, inviting all interested representatives of civil society, media and academia.¹⁷⁹⁴

After adopting a strategy and action plan on gender equality, the government re-established the coordination body for gender equality in October 2022,¹⁷⁹⁵ consisting of representatives of both public authorities and CSOs. The council for gender equality was established in April 2023.¹⁷⁹⁶ Several provisions of the Law on Gender Equality, including reporting and data collection obligations and funding specialised services, will enter into force in 2024. According to the 2023 EC report, no progress has yet been demonstrated in enforcing the Law on Gender Equality as regards the obligations of educational institutions to include a gender perspective and remove gender stereotypes from curricula, textbooks and learning material.¹⁷⁹⁷

1789 ACAS. Allocation of funds to CSOs, https://www.acas.rs/cyr/page_with_sidebar/civilno_drustvo/#

1790 Coalition for Free Access to Information.

1791 "Working groups' decisions and the topics they address do not reflect the worsening reality in the country", USAID. 2023. *Civil Society Organization Sustainability Index for Central and Eastern Europe and Eurasia 25th edition*, p.202.

1792 For example, the agency for prevention of corruption announced a competition for the allocation of financial resources to CSOs for the implementation of projects in the field of corruption prevention for the year 2022. The specific objectives of the competition are to provide support to CSOs in activities to prevent corruption in the areas of environmental protection, integrating gender-responsive and non-discriminatory measures; the Ministry of Human and Minority Rights and Social Dialogue announced earlier in 2023 the public competition Gender Equality of Public Policies for the Development of the Republic of Serbia for programmes in the field of promoting gender equality in the Republic of Serbia; the Ministry of Education and Technological Development launched last year a competition for high school students, All Together for Gender Equality, the goal being the prevention of gender stereotypes and all forms of gender-based violence and discrimination.

1793 Ministry of European Integration, <https://www.mei.gov.rs/eng/news/1660/more/w/0/RSD-20-2-million-for-six-civil-society-organisations/>

1794 UN Women in Serbia, <https://serbia.un.org/en/185190-un-women-civil-society-engagement-group-serbia>

1795 The government established the coordination body for gender equality in 2014 for the first time.

1796 The council is chaired by the prime minister, Ana Brnabić, and the members are representatives of competent state administration bodies for the implementation of the Law on Gender Equality of the ministerial level and representatives of 10 civil society organisations, chosen through a public call for election to the membership of this government body.

1797 European Commission. Serbia Report 2023, p.47, https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_695_Serbia.pdf

Interactions

Cooperation between the business and civil sectors in Serbia has a predominantly philanthropic character.¹⁷⁹⁸ Although a few Serbian NGOs strongly initiate the fight against corruption, businesses stay away from financially or even declaratively supporting their activities. Improving the business environment for micro, small and medium-sized enterprises is one of the spheres that the representatives of these two sectors recognised as being of common interest (see 14.3.2).¹⁷⁹⁹

The ombudsperson and many CSOs operate in the same area, which is why their cooperation is extremely important. It is not rare that CSOs criticise the ombudsperson for ignoring or not reacting properly to their initiatives. Such complaints are occasionally responded to by the ombudsperson, who points to a lack of evidence or understanding of the matter in question on the CSO side (see 8.3.1 and 8.3.2).

Pillar Recommendations

- The government needs to improve and systematise the legal framework that regulates its cooperation with CSOs and ensures the implementation of the existing consultative mechanisms, including:
 - » the Law on the Planning System and by-laws so that public consultations are held on all important acts, that all relevant information is presented to the participants, that all proposals are discussed and the responses are explained, and ensure responsibility for all the above
 - » establishing clear rules in the Law on the Budgetary System or one of the aforementioned acts that would refer to consultations with budgetary priorities
 - » ensure compliance with procedures in preparation of legislation as regulated in the Law on State Administration and Rules of Procedure of the National Assembly
- CSOs should expand their activity in fighting corruption to regional, national and local levels and initiate and strengthen cooperation with interested parties from CSOs whose primary areas of interest are not anti-corruption, the business sector and state bodies.
- The government should ensure a more transparent distribution of budget funds for CSO programmes of public interest and more effective supervision over implementing such programmes.
- The government and parliament should amend tax regulations to enable more significant resources for CSOs for policy-making advocacy and oversight of public authorities and to stimulate corporate philanthropy for CSOs dealing with these issues.
- CSOs should establish or strengthen their internal control and integrity mechanisms, by:
 - » introducing or supplementing internal structures with a clear distribution of responsibilities
 - » ensure reliability and regular financial reporting and monitoring
 - » ensuring transparency of insight into their work and responsibility towards stakeholders
 - » adopting ethical standards of behaviour
 - » securing compliance with applicable regulations

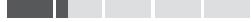
¹⁷⁹⁸ Belgrade Open School, Guide “*Initiatives for a sustainable future – innovative approaches for cooperation between the civil and business sectors*”

¹⁷⁹⁹ Milena Vujoovic, Interview for portal [Biznis.rs](#), 21 December, 2021.

14. Business

Summary

OVERALL PILLAR SCORE: 46.5/100

DIMENSION	INDICATOR	LAW	PRACTICE
CAPACITY  56.2/100	RESOURCES	75	50
	INDEPENDENCE	75	25
GOVERNANCE  58.3/100	TRANSPARENCY	75	50
	ACCOUNTABILITY	100	25
	INTEGRITY	50	50
ROLE  25/100	GENDER	50	
	AC POLICY ENGAGEMENT	25	
	SUPPORT FOR/ENGAGEMENT WITH CIVIL SOCIETY	25	

Serbia has slowly improved its business environment as several heavy bureaucratic procedures have been simplified and costs reduced, but the business environment is still considered weak.¹⁸⁰⁰ There is a considerable discrepancy between legislation and practice in the business sector in Serbia.

The implementation of the action plan for the simplification of administrative procedures further advanced through digitalisation and the establishment of a single public register. However, regulatory uncertainty for individuals and businesses remains due to persistent delays in aligning sector based legislation with the law on general administrative procedures. The law introduced the e-fiscal system,¹⁸⁰¹ enabling the tax administration to better monitor and counter tax evasion.

The Law on Companies determines the types of enterprises or business associations.¹⁸⁰² Companies in Serbia are private or state-owned. At the end of 2022, there were 528 large, 2,092 medium, 13,172 small and 93,062 micro-companies.¹⁸⁰³ The Serbian Business Register Agency (SBRA) is responsible for registering the companies. As of the end of September, over 136,600 companies and 325,000 entrepreneurs were registered at SBRA.¹⁸⁰⁴

¹⁸⁰⁰ European Commission. 2022. *Serbia 2022 Report*, Brussels, p.72, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Serbia%20Report%202022.pdf>

¹⁸⁰¹ Taxpayers fully adopted the e-fiscal system by 1 May 2022.

¹⁸⁰² The law on companies describes five basic legal forms: entrepreneur; registered partnership; limited partnership; limited liability company; joint-stock company. Additionally, both foreign and domestic companies in Serbia can form branches and representative offices.

¹⁸⁰³ Large companies in Serbia achieved more than half of the positive net result in 2022: the total profit was RSD 455.8 billion (€3.89 billion) an increase of 66.1% compared to 2021, and there was an increase in the number of employees. Small companies had a profit of RSD 168.8 billion (€1.44 billion), an increase of 5.1%, while medium-sized companies recorded a 15.9% lower positive net result. The number of employees in SMEs decreased.

¹⁸⁰⁴ SBRA. Data (as of end of September 2023).

Small and medium-sized enterprises (SMEs) form the backbone of the economy.¹⁸⁰⁵ They account for about 60% (€14 billion) of the business sector, excluding agriculture.¹⁸⁰⁶ SMEs create 60% of added value and 66% of employment and account for 45% of total exports. Although the government adopted regulations to support this sector in January 2022,¹⁸⁰⁷ and there is a solid institutional infrastructure to support the development of SMEs and entrepreneurs, the SME sector does not enjoy the same attention and support as large enterprises.¹⁸⁰⁸ A new 2023-2027 strategy for developing SMEs and entrepreneurs, was expected by the end of 2022 and then postponed at the end of 2023, has been left for the following year.¹⁸⁰⁹

State presence in the economy is significant. Although the private sector contributes more to GDP generation and employment (according to the 2022 statistical yearbook, 2.1 million people work in private companies, representing 73.4% of total employees in Serbia),¹⁸¹⁰ the state has a prominent role in the economy, with numerous state-owned enterprises (SOEs) in strategic sectors,¹⁸¹¹ such as energy, machinery, mining and agriculture. At the same time, the private sector is underdeveloped and hampered by weaknesses in the rule of law, particularly corruption and judicial inefficiency, and deficiencies in enforcing fair competition.¹⁸¹²

Numerous mechanisms and legal frameworks for ensuring integrity in the business sector exist but are not fully applied. The business sector is not active in initiating actions to fight corruption, and its support for civil society anti-corruption efforts is practically non-existent.

Capacity

14.1.1. Resources (law)

To what extent does the legal framework offer an enabling environment for the formation and operation of individual businesses?

 SCORE: 75/100

There are no obstacles to establishing, registering and closing a business. However, small loopholes remain, such as the absence of limited liability partners in a partnership and the lifting of the corporate veil.

Company law regulates the legal status of businesses, associations and entrepreneurs, and other issues from conditions for their establishment and operation to rules for shutting down the company.¹⁸¹³ The latest amendments to the law were in November 2021, the seventh change since it became applicable in 2012. The latest 2021 amendments concerning registration mean that: a shareholder may file for registration of the dismissal of the representative; founding of a limited liability company can be done electronically, which significantly simplified the procedure; companies may have only legal entities as directors (instead of at least one natural person as before); gender is mandatory as registration data; among others.¹⁸¹⁴ According to Foreign Investor Council, there are still issues unresolved, such as the absence of the concept of limited liability partners in a partnership, insufficiently clear reasons for “lifting the corporate veil”,¹⁸¹⁵ a vague explanation of the procedures and conditions for the

1805 CEVES (Centre for Higher Economic Studies) MSP Srbije. 2030. Razvoj veština kao preduslov razvoja domaće privrede (SMEs of Serbia 2030: Development of skills as a prerequisite for the development of the domestic economy), online conference – <https://ceves.org.rs/category/archive/?lang=SR>

1806 Nova ekonomija. 2022. Small and medium-sized enterprises as the driver of the new Serbian economy, <https://novaekonomija.rs/vesti-iz-zemlje/mala-i-srednja-preduzeca-kao-pokretac-nove-srpske-privrede-2>

1807 Government, News. 2022. Government adopts set of regulations on systemic support to SME sector, <https://www.srbija.gov.rs/vest/en/183526/government-adopts-set-of-regulations-on-systemic-support-to-sme-sector.php>

1808 CEVES, 3 March 2023.

1809 A dialogue on the new strategy was organised in June 2022, in SCCI, focusing on digitisation and the green agenda, innovation, sources of financing, etc, <https://pks.rs/vesti/digitalizacija-i-zelena-agenda-klijuchi-u-novoj-strategiji-razvoja-msp-sektora-6618>. On 30 January 2023, the Ministry of Economy invited the public to participate in the public debate (30 January to 20 February 2023) on the draft strategy and corresponding action plan, <https://privreda.gov.rs/lat/dokumenta/propisi/u-pripremi/javni-poziv-za-ucesce-u-javnoj-raspravi-o-predlogu-strategije-za-razvoj-mspp-za-period-od-2023-do-2027>

1810 Statistical Office of Republic of Serbia. *Statistical Yearbook of the Republic of Serbia 2022*, p.82, <https://publikacije.stat.gov.rs/G2022/Pdf/G20222055.pdf>

1811 BTI Transformation Index. 2022. *Serbia country report 2022*, section: private property, <https://bti-project.org/en/reports/country-report/SRB> ; For more about state-owned companies, see the State Owned Enterprises pillar.

1812 European Commission. 2022. *Serbia 2022 Report*, p.7, <https://www.stat.gov.rs/media/358410/srbia-report-2022-1.pdf>

1813 Companies Act of Serbia (hereafter company law). Official Gazette of RS, Nos. 36/2011, 99/2011, 83/2014 – other law, 5/2015, 44/2018, 95/2018, 91/2019 and 109/2021, <https://www.paragraf.rs/propisi/companies-act-of-serbia.html>; Foreign Investors Council (FIC). *White Book 2022, Proposals for improvement of the business environment in Serbia*, <https://fic.org.rs/wp-content/uploads/2022/11/White-Book-2022.pdf>

1814 FIC. *White Book 2022*, p.88.

1815 FIC. *White Book 2022*.

increase in a company's share capital through a debt-for-equity swap. One of the insufficiently clear parts of the law is "lifting the corporate veil". When stating the reasons for the application of the related provisions, legislators made a clumsy formulation creating a dilemma on whether those reasons are the only applicable ones or are given "exempli causa".¹⁸¹⁶

The registration of a company is not demanding or time-consuming.¹⁸¹⁷ According to the Law on the Registration Procedure with the SBRA, registration is initiated by submitting an application to the agency, and it can also be initiated by official duty.¹⁸¹⁸ The provisions include how to start the procedure, who is authorised¹⁸¹⁹ and how it is possible to submit the application,¹⁸²⁰ procedures upon submitting application¹⁸²¹ and deadlines for accepting or rejecting the application.¹⁸²² The law also includes legal means, that is, a possibility of an appeal against the register's decision,¹⁸²³ which should be submitted to the minister responsible for deciding the appeal, through the SBRA, within 30 days from the date of publication of the decision.¹⁸²⁴

The protection of intellectual property competencies belongs to the intellectual property office (IPO). A set of laws regulates the field of intellectual property protection.¹⁸²⁵ The most significant pieces of legislation were amended in the past few years, bringing significant improvements; changes occurred in the areas of copyright, patents, trademark and topographies of semiconductor products (see 14.2.1 & 14.2.3).¹⁸²⁶ On the other hand, even though the relevant intellectual property legislation has already been in place in Serbia for several years, its enforcement is still unsatisfactory.¹⁸²⁷

14.1.2. Resources (practice)

To what extent are individual businesses able in practice, to form and operate effectively?



SCORE: 50/100

Legal provisions are thoroughly followed in forming a business, but operating it is not so effective due to persistent delays in aligning sector based legislation with laws.

In general, there are several steps in establishing and registering a business in Serbia, all available in detail on the SBRA portal, based on the type of business.¹⁸²⁸ Since 2018, the SBRA has made electronic registration available for entrepreneurs.¹⁸²⁹ Since mid-May 2023, companies have used an entirely electronic incorporation process using their qualified electronic signature.¹⁸³⁰

It is possible to submit a complaint against the registrar's decision through the agency within 30 days from the date of publication of the decision. The agency publishes information about received complaints on its website.¹⁸³¹ Based

1816 FIC. *White Book* 2022, pp.89 and 90.

1817 UHY. *Doing Business in Serbia*, p.14, <https://www.uhy.com/wp-content/uploads/Doing-Business-in-Serbia.pdf>

1818 The Law on the Procedure of Registration with the Serbian Business Registers Agency, Articles 5 – 24. Official Gazette of RS, no. 99/2011, 83/2014, 31/2019 i 105/2021.

1819 Ibid, Article 5a.

1820 Ibid, Article 9.

1821 Ibid, Articles 14-18.

1822 Ibid, Articles 10, 15, 19, 23.

1823 Ibid, section: legal means, Articles 25-32.

1824 Ibid, Article 25.

1825 Laws that regulate the area of intellectual property: Law on Patents, Law on Trademarks, Law on Legal Protection of Industrial Design, Law on Indications of Geographical Origin, Law on Copyright and Related Acts, Law on Optical Discs, Law on Protection of Topography of Integrated Circuits, <https://www.zis.gov.rs/en/about-us/documents/laws-and-regulations/>; FIC. *White Book* 2022, p.97

1826 FIC. *White Book* 2020, section: intellectual property, p.97, <https://fic.org.rs/wp-content/uploads/2022/11/17-Intellectual-property.pdf>; Previously, amendments to the Law on Patents introduced more precise rules on innovations created during the employment; the Copyright Act has introduced provisions that regulate software interoperability and gave new rights to creators data base; the Law on Trademarks introduced a system of objections in the procedure of trademark examination.

1827 FIC. *White Book* 2022, p.99; European Commission. Report 2022, p.95: suggests harmonisation of copyright and related rights legislation with the EU directives on collective rights management and orphan works.

1828 SBRA. How to register, <https://apr.gov.rs/registraci/preduzetnici/uputstva/osnivanje.2058.html>

1829 Government. *Registration of entrepreneurs and companies*, <https://www.srbija.gov.rs/tekst/en/130039/registration-of-entrepreneurs-and-companies.php>

1830 SBRA. *New SBRA eService: Registration of Incorporation of Business Entities Has Been Launched* – <https://apr.gov.rs/news.3018.html?newsId=3658>

1831 Law on the Procedure of Registration with the SBRA. Official Gazette of RS, N° 99/2011, 83/2014 and 31/2019), Articles 15 & 26

on SBRA data, there were 701 complaints in 2022, of which 12 were adopted (887 complaints in 2021, 142 adopted) on different grounds.¹⁸³² If the complaint is rejected, one can file an administrative dispute, but this rarely happens.

The opinion of the majority of business people and economic experts is united in that SMEs are neglected in Serbia, that they do not have nearly as much support from the state as large companies, especially those owned by foreigners¹⁸³³ (such as those exempt from profit tax on investment, lack of adequate institutional support in international financial transactions, export insurance and guarantees) and that some of the difficulties in their functioning are related to tax credit.¹⁸³⁴ According to Radojka Nikolić, economic analyst, the private sector is also hampered by high burdens, which include, apart from taxes, various contributions, fees, lengthy and expensive procedures for obtaining various permits, and the like.¹⁸³⁵ Many economic and legal experts point to some laws preventing the effective operation of the business sector, including the law that regulates conversion: the Law on Amendments to the Law on Planning and Construction¹⁸³⁶ (local business people, associations of foreign investors and companies asked for the repeal of that law for years, the council for the prevention of corruption requested the abolition of the disputed provisions in the law on the amendments to the existing law,¹⁸³⁷ but the new act was passed intact at the end of July 2023).

According to the former governor of the national bank and professor of the faculty of economics, Dejan Šoškić, and the president of the fiscal council, Pavle Petrović, the only way out of such an unfavourable economic climate is, above all, the rule of law, the absence of corruption and strong institutions.¹⁸³⁸

There is also a critical problem of uneven opportunities in the private sector created by the authorities and their networks. As the Global Organised Crime Index Analysis states, mafia groups in Serbia enjoy protection from political figures and are used as an extended arm in the control of the private sector.¹⁸³⁹

The government's role in unduly restricting businesses is particularly pronounced in public procurement: it often directly contracts jobs, adopts special laws, sets discriminatory conditions by contracting parties,¹⁸⁴⁰ and, as a consequence, the number of bidders in public procurement is decreasing: 51% of all tenders in Serbia have only one bidder.¹⁸⁴¹

1832 SBRA. *Annual Report 2022*, p.4 https://apr.gov.rs/upload/Portals/0/interna%20dokumenta/06_Godisnji_izvestaj_o_radu_APB_za_2022.pdf

1833 Nemanja Šormaz, director of the Center for Advanced Economic Studies (CEVES), at the panel organised by CEVES and SCIC, 2 March 2023: "It is time for SMEs". Instead of the giving subsidies to foreign companies, it would be better that the state direct it to domestic companies, according to economist Milan Kovačević, foreign investment expert; "The problem is investments in the domestic private sector, in SMEs... state institutions and the problem in the rule of law influence the weak growth of such enterprises", according to the president of the fiscal council and professor at the faculty of economics in Belgrade Pavle Petrović.

1834 "The fact is that most SMEs cannot exceed the threshold of half a million euros of investment and 200 employees, which is necessary to be approved for tax credits", Dušan Šarković, CEO, DMV Control Systems, <https://dpv.rs/odrzana-izlozba-panel-diskusija-vreme-je-za-msp/>

1835 Interview with Radojka Nikolić: By paying taxes and contributions, small and medium-sized enterprises finance 40% of the state's work; *E-KAPIJA, ekapija.com*. 2022. Šta su najveći problemi malih i srednjih preduzeća u Srbiji (What are the biggest problems of small and medium enterprises in Serbia?), <https://www.ekapija.com/ba/news/3956313/sta-su-najveci-problemi-malih-i-srednjih-preduzeaca-u-srbiji/#komentari> heading; European Commission, Serbia 2022 Report, p.19; Ibid, Administrative procedures are still numerous and burdensome especially for small and medium enterprises (SMEs), p.72; Ibid, Business associations continue to emphasise the need for further improving processes for public consultations, including on specific fiscal secondary legislation. The numerous para-fiscal charges remain high and non-transparent, lacking rationalisation, and thus undermining the predictability and stability of Serbia's tax system. This is an impediment for local economic development, p.105

1836 Paragraf. *Proposal of the law on amendments and supplements to the Law on Planning and Construction*: "The most controversial in the public is the provision on the abolition of the fee for land conversion: companies that had the right to use land during privatisation will receive hectares as a gift, which is 'unacceptable and unfair', according to economists", - <https://www.paragraf.rs/dnevne-vesti/120523/120523-vest10.html>; Nova Ekonomija. 2023. To whom hectares are given free of charge, <https://novaekonomija.rs/vesti-iz-zemlje/kome-se-poklanaju-hektari-bez-naknade>; Transparentnost Srbija, Press release. 2023. Corrupt risks of free conversion not taken into account, "Amendments to the Law on Planning and Construction carry a high corruption risk because the state is giving up potential public revenues in favour of individual companies and, at the same time, threatens legal certainty and equality before the law". There are economists and experts who think that the law on conversion is good for business, that it is good decision: "There will be more money to invest. The abolition of conversion for a fee, foreseen by the amendments to the Law on Planning and Construction, will speed up construction and facilitate the work of the economy, which will be able to put money in in new investments, thereby creating new jobs and stimulating economic growth", interview with Miša Brkić, long-time economic journalist and editor, now columnist in daily Danas and weekly Nedeljnik, June 2023.

1837 N1. 2023. "Anti-corruption council: Government to cancel the decision to cancel the conversion", <https://n1info.rs/biznis/savet-za-borbu-protiv-korupcije-vlada-da-ponisti-odluku-o-ukidanju-konverzije/>

1838 Ujedinjeni granski sindikati Nezavisnost/United Branch Unions Independence. 2023. Zašto su mala i srednja preduzeća zanemareni motor srpske privrede (Why small and medium-sized enterprises are the neglected engine of the Serbian economy), <https://nezavisnost.org/zasto-su-mala-i-srednja-preduzece-zanemareni-motor-privrede-srbije/>; Danas. 2023. Pavle Petrović: Za privatni sektor ključni vladavina prava, odsustvo korupcije i jake institucije (Pavle Petrović: The Key for private sector are the rule of law, absence of corruption and strong institutions), <https://www.danas.rs/vesti/ekonomija/pavle-petrovic-za-privatni-sektor-kljucni-vladavina-prava-odsustvo-korupcije-i-jake-institucije/>

1839 Global Organised Crime Index. 2023. Section 7: criminal actors, para 2, <https://ocindex.net/country-serbia>

1840 Danas. 2021. Država voli „lend rovere“ i „škode“ koje prodaju ljudi bliski SNS (The State loves "Land Rovers" and "Skodas" sold by people close to the SNS. For example, 021, 021.rs. 2023. The Government of Serbia, in the public call for participation in the construction of solar power plants published on 28 July under unusual conditions, relying on the Law on Renewable Energy Sources, practically pre-selected potential builders, <https://www.021.rs/story/Info/Biznis-i-ekonomija/358169/Evropska-komisija-Vise-od-polovine-svih-tendera-u-Srbiji-samo-s-jednim-ponudjacem.html>

1841 EC, Serbia report 2023, p.87.

14.1.3. Independence (law)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of private businesses?



SCORE: 75/100

The provisions of the existing laws mostly prevent external interference in private business activities. However, the Law on Lobbying lacks clarity in defining lobbying and who qualifies as a lobbyist.

According to the constitution, the economy in Serbia is based on an open and free market, freedom of entrepreneurs, independence of businesses and equality of private property and other forms of property.¹⁸⁴² Everybody has equal legal positions in the market and acts that limit free competition and create or abuse monopolies or dominant positions contrary to the law are forbidden. No other law can diminish rights claimed by investing capital based on the law.¹⁸⁴³

Business in the private sector is defined by a series of laws and by-laws, depending on the area in which the business entity operates.

Undue influence in the form of conflicts of interest between the private and public sectors is prohibited by law and controlled to a certain extent. Conflict of interest is broadly defined as a private interest that affects or may affect or may be perceived to affect actions of an official so as to endanger the public interest.¹⁸⁴⁴

As for undue external interference in business operations, requesting compensation through regular court procedures is possible. The Law on Contracts and Torts and the Criminal Code¹⁸⁴⁵ regulate these procedures.

The Law on Lobbying does not give a sufficiently clear answer to the question of what is considered lobbying and who is a lobbyist. According to the law,¹⁸⁴⁶ lobbying is considered an activity that exerts influence on the authorities in Serbia during the adoption of laws and other acts within the jurisdiction of those authorities to achieve the interests of lobbying users. However, The following law article states, among other things, that the activities of persons who publicly express their views or explain proposed legal solutions, as well as civil initiatives are not lobbying".¹⁸⁴⁷ According to experts who deal with corruption research, private companies – national and foreign – which participate in drafting laws in the areas where these companies operate should also be registered as lobbyists.¹⁸⁴⁸

14.1.4. Independence (practice)

To what extent is the business sector free from unwarranted external interference in its work in practice?



SCORE: 25/100

The weak rule of law, a slow-moving judicial system subject to political pressure, legislative and regulatory unpredictability, corruption and an opaque tendering process are some of the most common forms of unwarranted state interference in the business sector.

According to the 2022 EU report on Serbia, the state retains a strong footprint in the economy, while the private sector is underdeveloped and hampered by weaknesses in the rule of law, particularly corruption and judicial inefficiency, and the enforcement of fair competition.¹⁸⁴⁹ According to Dušan Šarković, director of DMV company,

1842 Constitution of Serbia, Article 82.

1843 Constitution of Serbia, Article 84.

1844 The Law on the Anti-Corruption Agency. Official Gazette RS, No. 35/2019, 88/2019, 11/2021 – authentic interpretation, 94/2021 and 14/2022, Article 2.

1845 The Law on Contracts and Torts. Official Gazette SFRY, No. 29/78, 39/85, 45/89 – decision USJ and 57/89, Official Gazette SRY, No. 31/93, Official Gazette SCG, No. 1/2003 – Constitutional Charter and Official Gazette RS, No. 18/2020 Subsection 4; Criminal Code. Official Gazette RS, No. 85/2005, 88/2005 – ispr, 107/2005 – ispr, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 and 35/2019.

1846 Law on Lobbying, article 2.

1847 Law on Lobbying, article 3 Also: Article 24 of the law stipulates that the ACA maintains registers of foreign natural and legal persons, in which they can be entered only with confirmation that they are registered as lobbyists in their country. However, there is no guaranteed reciprocity for Serbian registered lobbyists. Politika. 2022. Opinion: Radoslav Petrović, registered lobbyist in Serbia, <https://www.politika.rs/sr/clanak/513346/Lobiranje-legalna-legitimna-i-eticcka-aktivnost>

1848 Radio Free Europe. 2021. Lobiranje ili savetovanje? Uloga privatnih kompanija u izradi zakona Srbije (Lobbying or consulting? The role of private companies in the drafting of Serbian laws), <https://www.slobodnaevropa.org/a/lobiranje-ili-savetovanje-privatne-kompanije-u-srbiji-u-%C4%8Destvuju-u-izradi-zakona/31190989.html>

1849 European Commission, Serbia 2022 Report, p.8; BTI Transformation Index. 2022. Serbia Country Report 2022.

other problems that have been weakening the private sector are that the state gave equal chances to national and foreign investors, who “sucked” the management staff from small private companies, and shortcomings in the system of low value state aid of – “de minimis”.¹⁸⁵⁰

The privileged position of companies close to the authorities is most visible in public procurement.¹⁸⁵¹ According to the economic journalist Miša Brkić, there are many examples of the abuse of state power to gain access to private sector assets or resources, including selling the media¹⁸⁵² or land¹⁸⁵³ to business people from the private sector close to the authorities. The same situation exists in the infrastructure and agriculture sector, among others. In 2023, the investigative portal BIRN disclosed that representatives of the city of Belgrade asked the Turkish company Kentkart to set up a tender for a new job.¹⁸⁵⁴

Among examples of how the government abuses its rights and favours foreign and domestic investors close to the ruling party to obtain lucrative jobs and locations¹⁸⁵⁵ are the Milenijum Team jobs¹⁸⁵⁶ and the Galens Company¹⁸⁵⁷ in construction and real estate in the last few years. Recent examples of external influence is the 2023 case of the Law on Amendments to the Law on Planning and Construction (the so-called law on conversion), which, according to the previous opinion of the anti-corruption council¹⁸⁵⁸ and the Serbian opposition¹⁸⁵⁹ is that it is unconstitutional, and the opposition had no opportunity to request an assessment of the constitutionality at the constitutional court.¹⁸⁶⁰ In mid-October 2023, the government adopted and referred parliament to adopt the Law on Special Procedures for the Realisation of EXPO 2027, which provides that the works for constructing EXPO facilities and the national stadium – which could cost €1 billion – will be contracted without applying the Law on Public Procurement.¹⁸⁶¹

Thus, the laws exist, but the state does not respect or selectively apply them – it makes decisions and ordinances, practically, as Brkić noted, without hiding that it interferes in various spheres of private business to suit its own and not businesses' interests.¹⁸⁶²

The Serbian Progressive Party (SNS), which has been in power for the past decade, is a key player with interests in SOEs, the management of public procurement processes and national private capital, and connects all these actors and processes for its own benefit and to gain an advantage over other political parties. In recent years, several dozen stories about business deals between the state and individuals close to the SNS were published by investigative journalists. For example, in 2020, the company managed by a brother of Prime Minister Ana Brnabić (SNS) won a public tender to install a system to introduce the national payment card – Dina. The National Bank

1850 DMW, [dmw.rs](https://www.dmw.rs/30-kopaonik-biznis-forum/). 2023. Kopaonik Business Forum, <https://www.dmw.rs/30-kopaonik-biznis-forum/>

1851 021, 021.s – Out of 100 public procurements in Serbia, 75 were “fixed”, with only one bidder, 29 May 2021. – <https://www.021.rs/story/Info/Srbija/275251/Od-100-javnih-nabavki-u-Srbiji-75-namesteno-samo-jedan-ponudjac.html>

1852 TVs Prva and O2, News agency Tanjug; TV Prva and O2 were bought by the brother of a ruling party member – NOVA. 202. “Who are the (real) media owners in Serbia?”, <https://nova.rs/vesti/politika/ko-su-vlasnici-medija-u-srbiji/>. Tanjug: Danas. 2022. “The new owners of Tanjug received benefits from the state to create a media empire”, <https://www.danas.rs/vesti/drustvo/savet-novi-vlasnici-tanjuga-dobili-pogodnosti-od-drzave-da-stvore-medijsku-imperiju/>

1853 The most known example of this is the Savamala case, the unlawful demolition of private buildings in the Savamala Neighbourhood in Belgrade (in 2016), for which no one has been held accountable for. In March 2023, Serbian president Vučić said that he was the one who ordered the demolition and the construction of Belgrade Waterfront. BTI.2022. *Serbia Country Report 2022*, section: private property, para 1, and Danas. 2023. “Vučić: I made the decision about the demolition in Savamala”, <https://www.danas.rs/vesti/politika/vucic-ja-sam-doneo-odluku-o-rusenju-u-savamali/>

1854 Kentkart was offered a set-up-tender for the maintenance and improvement of the ticket collection system and management of vehicles in public city transport, if they agree to the mutual termination of the existing contract from 2021. If not, Kentkart will be accused of “ruining public transport in Belgrade”. The Turkish company did not accept – BIRN. 2023. Snimci otkrivaju da je Šapićev šef kabineta nudio nameštanje tendera Kentkartu (The recordings reveal that Šapić's chief of staff offered to rig the tender to Kentkart), <https://birn.rs/nudjeno-namestanje-tendera-kentkartu/>

1855 Interview with Miša Brkić.

1856 KRIK. 2022. Država “Milenijum timu” prošle godine dala poslove vredne gotovo 12 miliona evra (Last year, the state gave jobs worth almost 12 million euros to the “Millennium Team”), <https://www.krik.rs/drzava-milenijum-timu-prosle-godine-dala-poslove-vredne-gotovo-12-miliona-evra/>; NOVA. 2021. Millennium team – SNS octopus for all jobs, <https://nova.rs/vesti/biznis/milenijum-tim-naprednjacka-hobotnica-za-sve-poslove/>

1857 NOVA, [nova.rs](https://nova.rs/2020/11/03/pljaka-godine-ciji-novac-stoji-iza-kompanije-galens/). 2020. Pljaka godine: Čiji novac stoji iza kompanije “Galens” (Robbery of the year: Whose money is behind the company “Galens”); NOVA, [nova.rs](https://nova.rs/2021/01/04/sta-sve-poseduje-galens-omiljeni-sns-neimar-u-vojvodini/). 2021. Šta sve poseduje Galens, omiljeni SNS neimar u Vojvodini (What does Galens own, the favourite SNS builder in Vojvodina), <https://nova.rs/vesti/drustvo/sta-sve-poseduje-galens-omiljeni-sns-neimar-u-vojvodini/>

1858 Beta. 2023. Savet za borbu protiv korupcije: Ukinanje naknade za konverziju zemljišta, protivustavno (Anti-corruption council: Abolition of land conversion fee, unconstitutional), <https://beta.rs/content/182361-savet-za-borbu-protiv-korupcije-ukidanje-naknade-za-konverziju-zemljišta-protivustavno>

1859 Danas. 2023. SSP: Vučić potpisao Zakon o izmenama i dopunama zakona o planiranju i izgradnji iako je on neustavan (SSP: Vučić signed the Law on Amendments to the Law on Planning and Construction, even though it is unconstitutional),

1860 Just one day after the adoption of amendments to the law, the president of Serbia had already promulgated this law by decree, which means that the opposition cannot now submit a request for an assessment of the constitutionality of that law to the constitutional court, which in that case would have to give its opinion within seven days. TV NOVA S. 2023. Vučić has already announced the law on free land conversion: “He was in a hurry to fulfil the promise made to the tycoons”, <https://nova.rs/vesti/politika/vucic-vec-proglasio-zakon-o-besplatnoj-konverziji-zemljišta/>

1861 Radio Slobodna Evropa. 2023. Lex specialis za EXPO 2027 i Nacionalni stadion u Srbiji (Lex specialis for EXPO 2027 and the National Stadium in Serbia), <https://www.slobodnaevropa.org/a/srbija-zakon-lex-specialis-expo-stadion-javne-nabavke/32633173.html>; Vreme. 2023. EXPO 2027: Lex specialis je legalizovanje korupcije (EXPO 2027: Lex specialis is the legalization of corruption), <https://www.vreme.com/kolumna/expo-2027-lex-specialis-je-legalizovanje-korupcije/>

1862 Interview with Miša Brkić. Dragan Nalović (from the party Green-Left Front) – personal opinion: “By disobeying the law, the current government commits premeditated criminal acts”.

of Serbia (governed by high-profile SNS politician Jorgovanka Tabaković) launched this card and imposed it as mandatory for all owners of bank accounts in Serbia, although its performance and range were less than existing international cards, such as Visa or Mastercard. The use of this card was stimulated by allowing payments only with this card in certain public enterprises providing services to citizens; for example, since 2022, it is only possible to buy bus tickets at the Belgrade bus station with cash or this card.¹⁸⁶³

On the other hand, the Serbian Socialist Party, the coalition partner of SNS, has an even longer tradition of clientelism and connections with mostly Russian capital. For example, one of the single most significant Russian investments in Serbia is the NIS Group – a company partially owned by the state and run by officials of the Serbian Socialist Party.¹⁸⁶⁴

Governance

14.2.1. Transparency (law)

To what extent are there provisions to ensure transparency in the activities of the business sector?



SCORE: 75/100

The legal framework ensures transparency in business sector activities, but the accounting chamber requires changes to some provisions, fearing a possible increase in the grey market.

The new financial reporting rules stipulated in the Law on Accounting became applicable in 2021. For the first time, companies must compile financial statements in line with the new provisions of the law and its secondary legislation and submit them to the SBRA. From the beginning of 2022, the law regulates the submission of financial statements for public disclosure, including changes in deadlines and requirements.¹⁸⁶⁵

Under the law, companies averaging more than 500 employees annually must prepare non-financial statements on sustainability or corporate responsibility.¹⁸⁶⁶ The securities commission, established as the sole public audit oversight body by the law on auditing, prepared guidelines for imposing measures on audit firms and licenced auditors, authorised in May 2022.¹⁸⁶⁷

According to the law,¹⁸⁶⁸ companies and entrepreneurs must draw annual financial statements and deliver them to the SBRA. Legal persons or sole proprietors should submit the annual financial statements for the reporting year to the agency for public release no later than 30 June of the following year.¹⁸⁶⁹ The agency must publish reports on its website within 60 days of receipt.¹⁸⁷⁰

The audit is mandatory¹⁸⁷¹ for annual financial statements of large and medium-sized legal entities and all legal entities and entrepreneurs whose total income over the previous financial year exceeds €4,400,000 in RSD equivalent.

The Accounting Chamber of Serbia requested amendments to the law in 2022 due to some provisions relating to legal uncertainty for legal representatives and accountants and the quality of financial and tax reports, which is, they believe, a substantial uncertainty for the Serbian budget.¹⁸⁷² There is legal uncertainty, especially in with SMEs. As Boris Stojanović, a legal representative in the private sector, noticed, some business people are again

¹⁸⁶³ Nova. 2022. See how the citizens were forced to pour money into the pocket of Ana Brnabić's brother, <https://nova.rs/vesti/biznis/pogledajte-kako-sugradjani-naterani-da-sipaju-pare-u-dzep-brata-ane-brnabic/>

¹⁸⁶⁴ Nova Ekonomija. 2021. Krediti, naoružanje i meka moć (Investments, loans, weapons and soft power), <https://novaekonomija.rs/vesti-iz-zemlje/ruske-investicije-u-srbiji-krediti-naoruzanje-i-meka-moc>

¹⁸⁶⁵ SBRA, News. 2022. "Changed Deadlines and Requirements for Submitting Financial Statements in accordance with the Law on Accounting", <https://apr.gov.rs/news.3018.html?newsId=3455>

¹⁸⁶⁶ The Law on Accounting. Official Gazette of the Republic of Serbia, no. 73/2019 and 44/2021 – other laws, Article 37.

¹⁸⁶⁷ European Commission, Serbia 2022 Report, p.95-96.

¹⁸⁶⁸ Law on Accounting Articles 33.

¹⁸⁶⁹ Law on Accounting, Article 45.

¹⁸⁷⁰ Law on Accounting, Article 44.

¹⁸⁷¹ Law on Audit, Article 26.

¹⁸⁷² Nova ekonomija. 2022. "Without changes to the Law on Accounting, the development of the grey market threatens", <https://novaekonomija.rs/vesti-iz-zemlje/bez-izmena-zakona-o-racunovodstvu-preti-razvoj-sivog-trzista>

being “pushed” into the grey zone of business, and there is no support from the state. An identified issue is the potential scenario in which legal representatives may face criminal liability, not just for offences they were aware of but also for those they were unaware of or unfamiliar with. Although the Law on Tax Procedure and Tax Administration stipulates that the tax administration offers free legal assistance, the absence of such assistance creates a discrepancy. Divergent interpretations of regulations between ministries and the tax administration contribute to legal uncertainty for business operators.¹⁸⁷³

The code of professional ethics of auditors is based on the code of ethics for professional accountants of the International Federation of Accountants (IFAC),¹⁸⁷⁴ and accountants must adhere to international financial reporting standards (IFRS).¹⁸⁷⁵

The Serbian parliament adopted the Law on Ultimate Beneficial Owners Central Registry in 2018 and amended it several times,¹⁸⁷⁶ harmonising Serbian legislation with international standards. The law introduced a single, public, electronic database maintained by the SBRA, containing information on natural persons who are the companies' ultimate beneficial owners. The central registry is a public, unique, central, electronic database on natural persons who are the real beneficial owners of the registered entity.¹⁸⁷⁷

14.2.2. Transparency (practice)

To what extent is there transparency in the business sector in practice?



SCORE: 50/100

While businesses usually disclose basic data on their activities, the reliability of the financial statements is disputed.

The general data on registered companies is available on the SBRA website.¹⁸⁷⁸ The agency does not verify the data¹⁸⁷⁹ but follows the Law on the Procedure of Registration with the SBRA, which says that the registration procedure is based on principles of formality, according to which the registrar makes decisions based on the facts from the application, attached documents and registered data without examining the accuracy of the facts from the application, the credibility of the attached documents and the regularity and legality of the procedures in which the documents were made.¹⁸⁸⁰

The central records of beneficial owners¹⁸⁸¹ was established in the SBRA as a public database at the end of 2018 under the law of the same name.¹⁸⁸² Still, it is available only to users with a qualified certificate for electronic signature issued by a Serbian certification authority, an installed electronic card reader, an electronic signing application and a user account in the SBRA system.¹⁸⁸³

Annual financial reports are public by law¹⁸⁸⁴ and published on the website of the business registers agency, which means that they are publicly accessible.¹⁸⁸⁵ The question often asked is: are these reports are valid. For example,

1873 Business. 2022. Accountants demand an urgent amendment to the accounting act, initiative submitted to the Ministry of Finance; Boris Stojanović, legal representative in the private sector, <https://biznis.rs/preduzetnik/poslovanje/racunovodje-traze-hitnu-izmenu-zakona-o-racunovodstvu/>

1874 Law on Audit, Article 2, para 19.

1875 The Law on Accounting. Article 2.

1876 The Law on Ultimate Beneficial Owners Central Registry. Official Gazette, no. 41 from 31 May 2018, 91 from 24 December 2019, 105 from 8 November 2021, 17 from 2 March 2023. https://www.apr.gov.rs/upload/Portals/0/zakoni%20uredbe%20pravilnici/Zakoni/Zakon_o_centralnoj_evidenciji_stvarnih_vlasnika.pdf

1877 The Law on Ultimate Beneficial Owners Central Registry, Article 3.

1878 The general data such as title, date of establishment, ID number, tax identification number, address, names of founders and representatives of companies, information on financial reports, amount of assets invested, fundamental data from financial reports, etc.) are available at the SBRA website, under section “companies”, <https://www.apr.gov.rs/registers/companies.1786.html>

1879 Interviews with SBRA representatives.

1880 the Law on the Procedure of Registration with the SBRA, Article 3, p.3.

1881 Serbia has a well functioning central record of beneficial owners. In 2021, the SBRA filed a total of 2,726 (compared with 1,900 in 2020) requests to institute misdemeanour proceedings, and the relevant misdemeanour courts rendered 502 decisions.

1882 The Law on the Central Records of Beneficial Owners. Official Gazette of RS, No. 41/2018, 91/2019 and 105/2021.

1883 SBRA, Registers, Central Records of Beneficial Owners, <https://apr.gov.rs/registri/centralna-evidencija-stvarnih-vlasnika/uputstva.2401.html>

1884 According to the Serbian audit law, a mandatory external audit is required for the regular annual financial reports of large and medium-sized legal entities, as well as entrepreneurs whose total revenue in the previous financial year exceeds RSD 6 million. BICA, p.80.

1885 During the search of taxpayer's records, status data on the taxpayer as of the balance sheet date, data on current legal representatives and other data on the taxpayer important for submitting the report for 2022 are displayed (size of the taxpayer business, obligation to perform an audit, accounting regulations and forms on which the taxpayer compiles reports). SBRA, section: financial reports, <https://www.apr.gov.rs/registri/finansijski-izve%C5%A1taji/pretraga-javno-objavljenih-finansijskih-izve%C5%A1taja.2092.html>

there are cases when an entrepreneur or company withdraws money from the tax system through a lump-sum company¹⁸⁸⁶ or extracts profits from the company through related parties.¹⁸⁸⁷ It is believed that with the introduced e-fiscal system, there will be no more fiddling with fiscal accounts.¹⁸⁸⁸

Corporations with foreign capital publish non-financial reports. Since the new law has only been in effect from the beginning of 2022, it is still too early to assess how many national companies will publish them.

Over 70% of the companies in Serbia that publish sustainability reports are privately owned and multinational.¹⁸⁸⁹ Although the accounting law stipulates the obligation for non-financial reporting, (sustainability reporting for large companies) the regulations are not clear or precise, and the manner of reporting is arbitrary – the law does not prescribe the form of reporting, and the information on non-financial operations are not complete.¹⁸⁹⁰

14.2.3. Accountability (law)

To what extent are there rules and laws governing oversight of the business sector and governing corporate governance of individual companies?



Legal provisions for appropriate oversight of corporate governance are established, including rules on how companies should be governed, formation of companies, roles of the board, management and owners, insolvency and dissolution.

The primary sources of corporate governance in Serbia are the Law on Companies and the Law on Capital Market. There are two essential corporate governance codes (CGC): one issued by the Belgrade stock exchange,¹⁸⁹¹ which applies only to listed companies, and the other by the Chamber of Commerce and Industry of Serbia (SCCI), which targets all companies, but its principles are recommended, not binding.¹⁸⁹² The implementation of CGC of the Belgrade Stock Exchange is voluntary.

The statement of application of a corporate governance code is an integral part of each company's annual report. This report shall be prepared by public joint-stock companies (JSCs) and published in accordance with the law on the capital market.¹⁸⁹³

Joint-stock companies must have a general assembly and a director or the board of directors.¹⁸⁹⁴ Businesses (regardless of size) may be organised through a one-tier or two-tier corporate governance system. The former has one or more directors and an assembly which supervises the work of the director. In case of a two-tier management system, a company also has a supervisory board, which supervises the work of the director.¹⁸⁹⁵ Commissions of

1886 Kurir. 2022. Razotkrivena šema fantomskih firmi za utaju poreza i pranja para! (*The scheme of phantom companies for tax evasion and money laundering exposed*), <https://www.kurir.rs/vesti/drustvo/3922543/razotkrivena-sema-fantomskih-firmi-za-utaju-poreza-i-pranja-par-foto>

1887 BBC in Serbian. 2021. Srbija, poreski rajevi i ofšor kompanije: Šta su i kako funkcionišu (Serbia, tax havens and offshore companies: What they are and how they work), <https://www.bbc.com/serbian/lat/srbija-58876119>

1888 Kurir. 2023. Interview with professor Goran Radosavljević at FEFA, Metropolitan University Belgrade.

1889 "Special reports on sustainability are published by only 21 of the 50 largest companies in Serbia by number of employees, of which only five are in the Serbian language", according to the announcement of the Belgrade Open School (BOŠ); Nova Ekonomija. 2022. "Da li su izveštaji kompanija o održivosti u skladu sa poslovanjem u praksi? (Are companies' sustainability reports consistent with business practices?"), <https://novaekonomija.rs/vesti-iz-zemlje-da-li-su-izvestaji-kompanija-o-odrzivosti-u-skladu-sa-poslovanjem-u-praksi>

1890 The Centre for Contemporary Politics in cooperation with the Belgrade Open School and the Chamber of Commerce of Serbia. 2022. Izveštavanje o održivosti: 50 najvećih kompanija u Srbiji (sa posebnim osvrtom na ESG) / Sustainability Report: 50 largest companies in Serbia (with special reference to ESG), <https://www.bos.rs/ekz/uploaded/Analiza-istraz%CC%8Civanja-o-izves%CC%8Ctavanju-o-odrz%CC%8Civosti-50-najvec%CC%81ih-kompanija-u-Srbiji-2.pdf>, p.4 & 24.

1891 Corporate governance code of the Belgrade stock exchange, aimed to improve corporate governance practices. This is particularly expressed in the structure of the code through the recommendations based on the comply or explain rule and provisions indicating more closely the desirable practice of corporate governance and methods for an efficient realisation of the recommendations' objectives. The implementation of the code is based on the voluntary principle and the comply or explain rule, <https://www.ecgi.global/code/corporate-governance-code-belgrade-stock-exchange>

1892 Corporate governance code of the Serbian Chamber of Industry and Commerce, which targets all companies in Serbia and is predominantly based on EU best practices and OECD principles. Companies may directly implement the principles and recommendations of the code by adopting a decision of the competent body of the company or, if needed, elaborate them by adopting their own corporate governance code or by adopting other internal bylaws of the company, <https://www.paragraf.rs/propisi/kodeks-korporativnog-upravljanja-republika-srbija.html>

1893 Law on Companies, Article 368.

1894 Law on Companies, Articles 326, 437, 451 – if they are listed in the stock market, they must have at least three executive directors (and an executive board), a supervisory board with at least one independent supervisory board member and an internal auditor who complies with the eligibility requirements for internal auditors laid down by the laws on accounting and auditing.

1895 Law on Companies, Article 228.

the board of directors report to the board of directors about their operation.¹⁸⁹⁶ A person who manages internal supervision regularly reports to the audit commission about the supervision, and in the companies that do not have an audit commission, to the board of directors (supervisory board).¹⁸⁹⁷ The supervisory board reports to the assembly of shareholders on the accounting practices, qualifications, independence of the company's auditors and compliance of the company's operations with the law.

The securities commission oversees the work of the stock market as an independent organisation. The commission is comprised of the chair and three commissioners elected by parliament.¹⁸⁹⁸ In order to enhance monitoring and oversight of the activities of market organisers, investment companies and other participants, the securities commission prepared new forms in August 2023, which will serve as crucial tools for collecting relevant information in corresponding procedures.¹⁸⁹⁹

14.2.4. Accountability (practice)

To what extent is there effective corporate governance in companies in practice?



SCORE: 25/100

In practice, the implementation of the existing legal provisions is poor.

Even though Serbia does not lack corporate governance rules – mainly through the mandatory internal structure of the economic entities, the obligation to conduct an external audit and the protection of shareholder rights¹⁹⁰⁰ – corporate governance practice seems very poor due to a range of obstacles, including understanding these rules as bureaucratic requirements, formal compliance and incompatibility with some of the widespread cultural models that influence business in the country. Serbia is an economy characterised by certain features of national culture such as a low index of individualism (attachment to groups) or a high index of uncertainty avoidance (risk intolerance).¹⁹⁰¹

One general exception are foreign companies in Serbia, which generally abide by the rules of good corporate behaviour.¹⁹⁰²

The corporate governance code, primarily based on EU best practices and OSCE principles, targets all Serbian companies, but since it is only recommended (particularly to the SCCI members), it is up to companies to decide whether to adopt it.¹⁹⁰³ Companies may directly implement the principles and recommendations of the code by adopting a decision of the competent body of the company or, if needed, elaborate them by adopting their own CGC or other internal company by-laws.

Implementation of the Belgrade Stock Exchange's CGC is voluntary, and the number of JSCs which have adopted their corporate governance codes is still relatively modest.¹⁹⁰⁴

The state does not incentivise companies to disclose anti-corruption information. The fight against corruption is not even among the priorities of the new government. However, it was one of the main tasks of previous governments,¹⁹⁰⁵ even if declaratively.

1896 Ibid, Article 408.

1897 Ibid, Article 452.

1898 Republic of Serbia, Commission for Securities, <https://www.sec.gov.rs/index.php/en/about-us/general-information/legal-position,-powers-and-authorities/83-about-us>

1899 Republic of Serbia Security Commission. 2023. New forms relating to investment companies, market organizers and commodity exchanges, <https://www.sec.gov.rs/index.php/en/news/actual/823-new-forms-relating-to-investment-companies,-market-organizers-and-commodity-exchanges>

1900 Transparency Serbia. BICA, p.15.

1901 Transparency Serbia. BICA, p.15, 73: "Large and medium-sized companies often lack appropriate corporate governance. Economic analysis shows that in order to boost productivity Serbia should primarily focus on improving governance, applying more inclusive employment practices and enhancing the quality of infrastructure as well as energy efficiency"; EBRD. 2018. *Serbia Diagnostics: Assessing Progress and Challenges in Developing a Sustainable Market Economy*, p.4; Serbia is an economy characterised by certain features of national culture such as a low index of individualism (attachment to groups) or a high index of uncertainty avoidance (risk intolerance); Gardašević Jovana Brkanlić Sandra, Kostić Jelena, Ekonomija, Teorija i praksa, *Preduzetništvo, nacionalna kultura i Republika Srbija*, (Economy, Theory and Practice, *Entrepreneurship, national culture and the Republic of Serbia*), 2021, <https://scindeks-clanci.ceon.rs/data/pdf/2217-5458/2020/2217-54582001085G.pdf>, p.7.

1902 FIC. *White Book* 2022, p.18.

1903 CEE Legal Matters. 2023. *Corporate Governance in Serbia*, <https://ceelegal matters.com/corporate-governance-2023/corporate-governance-serbia-2023>

1904 Ibid.

1905 Government. 2018. News, *Fight against corruption one of government's priorities*, <https://www.srbija.gov.rs/vest/en/127986/fight-against-corruption-one-of-governments-priorities.php>

14.2.5. Integrity mechanisms (Law)

To what extent are there mechanisms to ensure the integrity of all those acting in the business sector?



SCORE: 50/100

Numerous mechanisms and legal frameworks exist to ensure integrity in the business sector, but no regulations would require companies to have internal anti-corruption systems and programmes.

The Serbian Chamber of Commerce and Industry (SCCI) adopted codes of business ethics and corporate management. The code of business ethics determines principles and rules of business ethics for companies, members of the SCCI and foreign companies that do business on the territory of Serbia. The principles and recommendations contained in the latter are not binding but recommended to all capital companies, especially to members of the SCCI.¹⁹⁰⁶ The law envisages that public joint-stock companies must include a statement on the code of corporate management they implement within the annual report.¹⁹⁰⁷

The Criminal Code contains detailed provisions on accepting or soliciting and giving bribes, gifts, other material gains or other benefits in conducting business activities, including meaningful sanctions.¹⁹⁰⁸ Interestingly, the crime of receiving or giving a bribe while doing business in the private sector does not fall within the jurisdiction of the prosecution of organised crime or anti-corruption but within the jurisdiction of general prosecution.¹⁹⁰⁹

The Law on Criminal Liability of Legal Entities¹⁹¹⁰ regulates the responsibility of legal entities for criminal acts and procedural rules when ruling on liability, imposing penal sanctions, passing a decision on rehabilitation, terminating security measures or legal consequences of the conviction, and enforcing court decisions.¹⁹¹¹ This law's provisions also apply to domestic legal entities responsible for a criminal offence committed abroad.¹⁹¹²

The Law on the Protection of Whistleblowers regulates whistleblowing, obligations of the state and other authorities and organisations, and legal and natural persons. The law also applies to those associated with whistleblowers¹⁹¹³ who suffer adverse consequences. It provides complete protection to those who report suspected corruption or abuse of public interest.¹⁹¹⁴

Public procurement law provides general measures for preventing corruption, conflict of interest and corresponding compliance mechanisms.¹⁹¹⁵ The contracting authority is obliged to regulate in a special act the way of planning, implementing the public procurement procedure and monitoring the execution of public procurement contracts, the way of planning and implementation of procurements to which the law does not apply, and procurement of social and other special services, and to publish this on its website.¹⁹¹⁶

In the field of corruption prevention, no regulations have been adopted that would require companies to have internal anti-corruption systems and programmes.¹⁹¹⁷

1906 OHCHR, *Republic of Serbia Legal Framework, Addendum*, <https://www.ohchr.org/sites/default/files/Documents/Issues/Corruption/Challenges/Serbia.pdf>

1907 Law on Companies, Article 368.

1908 Criminal code, Article 230, 366-369.

1909 Global Legal Insight. 2023. Bribery & Corruption Laws and Regulations, Serbia, Section 1. *Brief overview of the law and enforcement regime*, <https://www.globallegalinsights.com/practice-areas/bribery-and-corruption-laws-and-regulations-serbia>

1910 The Law on Liability of Legal Entities for Criminal Offenses. Official Gazette of RS, No. 97/2008), https://www.paragraf.rs/propisi/zakon_o_odegovornosti_pravnih_lica_za_krivicna_dela.html

1911 The Law on Criminal Liability of Legal Entities, Article 1.

1912 The Law on Criminal Liability of Legal Entities, Article 4, para 1,2,3.

1913 The Law on the Protection on Whistleblowers. Official Gazette of RS, No. 128/2014, Article 6.

1914 Ibid, Article 21-36.

1915 Public Procurement Law. Official Gazette of RS No. 91/ 2019, Articles 49, 50, 90 and 94.

1916 Ibid, Article 49.

1917 GLI. 2023. Bribery and Corruption Laws and Regulations, Serbia, <https://www.globallegalinsights.com/practice-areas/bribery-and-corruption-laws-and-regulations-serbia>

14.2.6. Integrity Mechanisms (practice)

To what extent is the integrity of those working in the business sector ensured in practice?



SCORE: 50/100

The existing framework for ensuring integrity in the business sector is not fully applied due to the strong influence of the public sector on the national economy and the dependence of businesses on connections with those in power.

There is public odium towards corruption throughout the private sector, but it is still not articulated into action in the common interest. In part, such a situation is the consequence of the strong influence of the public sector on the national economy and the dependence of businesses on connections with those in power, particularly when it comes to small enterprises at the local level.¹⁹¹⁸

The existing codes are not enforced; they are voluntary for Serbian companies. The situation is different regarding foreign companies, which, according to FIC, promote highly ethical business conduct.¹⁹¹⁹ Some examples include Deloitte Serbia,¹⁹²⁰ Schneider Electric,¹⁹²¹ Siemens,¹⁹²² and Coca-Cola.¹⁹²³

Despite the relatively good laws, Serbia has made no significant attempts to address so-called grand corruption. The fight against corruption still focuses mainly on bribery and a few cases of economic crime, yet, according to all research, Serbia is still one of the most corrupt societies in Europe.¹⁹²⁴

Serbia is placed 100 on the Global Business Bribery Risk Index¹⁹²⁵ with a score of 51 and a medium risk level. For anti-bribery deterrence and enforcement, Serbia receives a poor score of 64 based on the low quality of anti-bribery dissuasion and anti-bribery enforcement.¹⁹²⁶

The application of the Law on Whistleblower Protection is highly disputed. There are several high-profile cases but no support from institutions.¹⁹²⁷ Whistleblowers have reported some of the biggest corruption scandals in Serbia, but they were exposed to retaliation instead of being protected.¹⁹²⁸

As for money laundering, Serbia is no longer on the grey list of the Financial Action Task Force (FATF).¹⁹²⁹ According to the latest Council of Europe's (Moneyval) report, Serbia made some progress in amending the laws and adopting the necessary regulations.¹⁹³⁰ As BIRN reported in October 2023, Serbia has adopted a series of regulations to improve the fight against money laundering, but their implementation is not controlled, and experts estimate that there are between €1 billion and €2.5 billion of laundered money in the country.¹⁹³¹

1918 Transparency Serbia. BICA, p.73, https://www.transparentnost.org.rs/images/publikacije/BICA_ENG_ONLINE!.pdf

1919 FIC. *White Book* 2023, p.9.

1920 Deloitte Serbia. Code of Conduct 2022, <https://www2.deloitte.com/rs/en/pages/about-deloitte/articles/code-of-conduct-deloitte-serbia.html>

1921 Schneider Electric Serbia. Trust charter, code of conduct, https://www.se.com/us/en/download/document/SchneiderElectric_TrustCharter/

1922 Siemens Serbia. Code of Conduct, <https://assets.new.siemens.com/siemens/assets/api/uuid:8af5cf0f-1a45-4966-9957-73a20ef38644/CoC-V4-Serbian.pdf>

1923 Coca-Cola Serbia. Corporate governance policies: Code of business conduct, <https://www.coca-colahellenic.com/en/about-us/corporate-governance/policies/code-of-business-conduct>

1924 Vreme. 2021. Borba protiv korupcije: Izmedu želja i stvarnosti (*The fight against corruption – between wishes and reality*), Aleksandra Radosavljević, deputy public prosecutor in the higher public prosecutor's office in Niš, special department for suppression of corruption, and member of the board of directors of the Association of Prosecutors of Serbia, <https://www.vreme.com/vreme/borba-protiv-korupcije-izmedju-zelja-i-stvarnosti/>

1925 TRACE Global Business Bribery Risk Index. 2022. Serbia, <https://www.traceinternational.org/trace-matrix>

1926 TRACE, <https://tiwwwprodstorage.blob.core.windows.net/uploads/MatrixFiles/2022/Reports/Serbia%20-%20TRACE%20Matrix%202022.pdf?sv=2018-03-28&sr=b&sig=t2GPvzaocAwF%2B4MQ8D3jCq8JO7Jrk26Yr7e8VlQE%3D&st=2023-07-19T14%3A17%3A58Z&se=2023-07-19T14%3A23%3A58Z&sp=r>

1927 European Western Balkans, <https://europeanwesternbalkans.com/2022/10/18/whistleblowers-in-serbia-high-profile-cases-but-no-support-of-the-institutions/>, Vuk Z. Cvijić. 2021. *Whistleblowers in Serbia*, p.3, <https://bezbednost.org/wp-content/uploads/2021/05/Uzbrunjaci-u-Srbiji.pdf>

1928 Ibid.

1929 Serbia was on the FATF grey list from February 2018 to June 2019.

1930 Council of Europe. 2021. Committee of experts on the evaluation of anti-money laundering measures and the financing of terrorism (Moneyval), Report, Serbia, 4th Enhanced Follow-up Report & Technical Compliance Re-Rating, <https://www.fatf-gafi.org/content/dam/fatf-gafi/fsrb-fur/MONEYVAL-FUR-Serbia-Dec-2021.pdf.coredownload.inline.pdf>

1931 BIRN. 2023. Pranje novca na Balkanu: Dug put do primene zakona – Srbija (*Money laundering in the Balkans: A long way to law enforcement*), <https://birn.rs/pranje-novca-na-balkanu/>

14.2.7. Gender representation

To what extent do women have a fair share of business sector leadership?



SCORE: 50/100

There are constant improvements in gender equality: women occupy around one-third of leadership positions in business associations. However, only one-quarter of board of directors members are women.

According to the latest data from the SCCI, women own about 35% of the total number of registered companies in Serbia.¹⁹³² The representation of women in company ownership is at the level of the world average and Europe (33%).¹⁹³³

In October 2021, the government adopted the gender equality strategy for 2021-2030,¹⁹³⁴ the aim of which is to overcome the gender gap. But there are still no systematically and regularly collected gender statistics on women's entrepreneurship, as Sanja Popović, president of the Association of Business Women in Serbia (ABWS)¹⁹³⁵ noted.¹⁹³⁶ She also said that in approximately 10% of companies, the principle of gender equality regarding top management positions is applied consistently and improved yearly. Regarding business associations, 90% of Serbian/foreign chambers of commerce are headed by women (director/presidential positions), Popović added.

SBRA introduced business demography in entrepreneurship management (with gender being mandatory as registration data for the first time in 2022, but not for corporate boards). Based on that data, women own over a third of companies in Serbia, and about 25% of company owners and directors are women.¹⁹³⁷ One-quarter of the board of director members are women, one-third of executive boards, and 30.2% are members of supervisory boards.¹⁹³⁸

Serbia's gender equality index in 2021 was 58.0, showing an improvement of 2.2 points¹⁹³⁹ compared to the previous one. The most significant progress was made in the "domain of power" (an increase of 18.5 points compared to 2014). This improvement is a result of considerable progress in social power due to the inclusion of women, for example, on the boards of organisations.¹⁹⁴⁰

Role

14.3.1. Anti-corruption policy engagement

To what extent is the business sector active in engaging the domestic government on anti-corruption?



SCORE: 25/100

The business sector is not active in directly engaging the national government on anti-corruption.

Serbian company law does not specifically address business integrity and the management of corruption risks. General oversight principles are prescribed, such as the duty of a joint-stock company's supervisory board to perform the management's internal supervision. In public joint-stock companies, at least one dedicated person is

¹⁹³² BIZNIS, *Business.rs*. 2023. Strengthen yourself – Go in business, a new campaign dedicated to women's entrepreneurship, <https://magazinbiznis.rs/pks-i-generalni-osiguranje/>; In March 2023, SCCI stated that 31% of entrepreneurs are women. Business, *Business.rs*. 2023. *Support for female entrepreneurship – "Women in Business" powered by Biznis.rs*, <https://biznis.rs/vesti/srbija/zene-u-biznisu-powered-by-biznis-rs/>

¹⁹³³ SBRA and World Bank. 2023. *Women, Business and the Law* 2023.

¹⁹³⁴ Government of Serbia, Statements of Government. 2021. "2021-2030 Gender Equality Strategy adopted", <https://www.srbija.gov.rs/vest/en/179692/2021-2030-gender-equality-strategy-adopted.php>

¹⁹³⁵ Association of Business Women of Serbia has been operating for 25 years, has 300 members and 900 members from partner organisations, <https://poslovnezene.org.rs/>

¹⁹³⁶ Interview with Sanja Popović, president of the Association of Business Women in Serbia, December 2022.

¹⁹³⁷ SBRA. N1, <https://rs.ntinfo.com/biznis/zene-u-biznisu-medju-preduzetnicima-svaka-treca-na-celu-firmi-svaka-cetvrtka/> (as of March 2022).

¹⁹³⁸ SBRA. Infographic "Representation of women in business entities" as of 1 March 2023.

¹⁹³⁹ Gender equality index for the Republic of Serbia 2021, <https://serbia.un.org/sites/default/files/2021-10/Gender%20Equality%20Index%20for%20Serbia%202021.pdf>

¹⁹⁴⁰ Ibid, p.12.

responsible for the internal supervision of operations and subject to specific elaborated requirement procedures. However, there is not yet any designated institution or reporting mechanism, such as a hotline, for anonymous reporting of corrupt practices or a business ombuds institution that would receive complaints from entrepreneurs, individuals and companies about corruption related matters in businesses, except from the Agency for Prevention of Corruption (APC).¹⁹⁴¹

Despite the existing hostility against corruption throughout the private sector, there has still been no action.

According to Miša Brkić, corruption troubles foreign companies the most. Associations such as the FIC¹⁹⁴² or the American Chamber of Commerce emphasised the problem of high corruption and proposed ways to fight it. Still, the government turned a deaf ear to all these initiatives, noted Brkić.¹⁹⁴³ As for domestic entrepreneurs, he added, some arose in connection with corruption with the government and only know how to do business through public procurement organised by the state.¹⁹⁴⁴ Another part of the national business community carries out its fight against corruption by not participating in deals with the state. As of the end of October 2023, the UN Global Compact has 46 members from Serbia, of which 15 are companies and 11 SMEs.¹⁹⁴⁵

14.3.2. Support for/engagement with civil society

To what extent does the business sector engage with/provide support to civil society on its task of combating corruption?



SCORE: 25/100

While the business sector occasionally cooperates with CSOs on anti-corruption reform initiatives, its role is generally reactive and symbolic.

There has been almost no public campaign against corruption initiated by or with the involvement of the private sector. Some companies are only indirectly involved in anti-corruption initiatives, although many have stated their commitment to them in their codes of ethics.¹⁹⁴⁶

The level of support provided by business associations to private companies in the fight against corruption is not sufficiently developed and is mainly related to the preparation of some training material and the organisation of events related to anti-corruption.¹⁹⁴⁷

Almost 80% of projects in between the business and civil sectors in Serbia have a philanthropic character; that is, the business sector plays the role of a donor.¹⁹⁴⁸ These mainly concern financial support for research and publications dealing with the fight against corruption.¹⁹⁴⁹

Some business associations participate in joint initiatives, recommendations or research and work with CSOs that call on the government to fight corruption or insist on resolving some prominent high corruption cases (such as AmCham, NALED, Global Network). The CSO sector does the main work but does not significantly affect it.¹⁹⁵⁰ According to Miša Brkić, corruption is deeply embedded in the social being of ordinary people. On the other hand, the state is a generator of high corruption into which it has drawn citizens and entrepreneurs.¹⁹⁵¹ The private sector

1941 OECD. Fair Market Conditions for Competitiveness in the Adriatic Region – Serbia Country Profile, <https://t4.oecd.org/south-east-europe/programme/Serbia-Country-Profile.pdf>

1942 FIC. White Book 2022, pp.124 & 159.

1943 Interview with Miša Brkić. FIC. White Book, 2022: "In the previous year, no progress was made in the fight against corruption and integrity in the field of public procurement", p. 124.

1944 See some examples in 14.1.4.

1945 UN Global Compact. Serbia, members, <https://unglobalcompact.org/engage-locally/europe/serbia>

1946 Transparency Serbia. BICA, p.87.

1947 Transparency Serbia. BICA, p.89: "However, business associations in general do not seek to be recognised as champions in fighting corruption in a way that could generate overt criticism of the government, even if they might be aware of government corruption. They rather seek to establish and maintain cooperation with decision-makers and to at least achieve a good balance between criticism and praise of government efforts and achievements".

1948 Belgrade Open School. Guide "Initiatives for a sustainable future – innovative approaches for cooperation between the civil and business sectors", https://bos.rs/rs/uploaded/1_Vodi%C4%8D%20final_veb.pdf

1949 For example, AmCham, <https://amcham.rs/other-important-documents/>

1950 Interview with Miša Brkić.

1951 Interview with Miša Brkić.

is no exception. According to Ernst & Young's research, as many as 83% of managers in Serbia believe that there is no business without corruption.¹⁹⁵²

Improving the business environment for micro, small and medium-sized enterprises is one of the spheres that the representatives of these two sectors recognise as being of common interest.¹⁹⁵³

Belgrade Open School recognised and offered practical advice through the guide Initiatives for a Sustainable Future: Innovative Approaches for Cooperation between the Civil and Business Sectors.¹⁹⁵⁴ How long it will take to become practice remains to be seen.

Interactions

The government regulates laws and by-laws and thus influences business operations. However, there is a considerable discrepancy between legislation and practice in Serbia's business sector.¹⁹⁵⁵ The private sector is hampered by weaknesses in the rule of law,¹⁹⁵⁶ particularly in corruption and judicial inefficiency and in enforcing fair competition (as the state's most common forms of interference). The business sector is not active enough in initiating the authority on anti-corruption actions and provides practically no support to the anti-corruption efforts of civil society organisations.

The Agency for Prevention of Corruption remains the only body for companies to report corrupt practices or send corruption related complaints. Cooperation between the business and civil sectors in Serbia has a predominantly philanthropic character.¹⁹⁵⁷ Although a few Serbian NGOs strongly initiate the fight against corruption, businesses stay away from financially supporting their activities or even declaratively supporting them. Improving the business environment for micro, small and medium-sized enterprises is one of the spheres that the representatives of these two sectors recognised as being of common interest.¹⁹⁵⁸

The fight against corruption is not among the priorities of the government and therefore neither of the National Assembly, which serves only as a "rubber stamp" for the government's decisions; it is not at all or hardly independent of the influence of the Serbian president and the executive branch.¹⁹⁵⁹ It is reflected in the absence of mechanisms for implementing laws that largely affect and negatively influence the functioning of the private sector. Enforcing the existing and often thoroughly set legal provisions is poor in practice.

Pillar Recommendations

- The government and the National Assembly need to change the entire legal framework related to the business in order to promote integrity in the sector by:
 - » introducing transparent supervision over its implementation, starting with prescribing obligatory values and a code of conduct, introducing integrity policies, resources and systems, integrity risk management;
 - » ensuring the promotion of integrity in the private sector while preventing, detecting and managing fraud and corruption, starting with strengthening the laws that regulate public procurement by "closing" the legal loopholes that the government uses to rig the tenders; in other words, the government should cease the practice of using an exception based on interstate agreements for all big jobs;
 - » discontinuing the dependence of businesses on their connections with those in power, in particular when it comes to small enterprises at the local level and tenders by:

¹⁹⁵² KAMATICA, [kamatica.rs](https://www.kamatica.com/vesti/biznis-u-srbiji-bez-mita-nema-ni-posla). 2013. "Biznis": U Srbiji bez mita nema ni posla (*Biznis: There is no jobs in Serbia without a bribe*), <https://www.kamatica.com/vesti/biznis-u-srbiji-bez-mita-nema-ni-posla/9841>

¹⁹⁵³ Milena Vujović, Coordinator of Cooperation with the Business Sector at the Belgrade Open School, interview for portal [Biznis.rs](https://biznis.rs/vesti/kako-ostvariti-saradnju-izmedju-poslovnog-i-civilnog-sektora/), 21 December, 2021, <https://biznis.rs/vesti/kako-ostvariti-saradnju-izmedju-poslovnog-i-civilnog-sektora/>

¹⁹⁵⁴ Initiatives for a Sustainable Future: Innovative Approaches for Cooperation between the Civil and Business Sectors.

¹⁹⁵⁵ European Commission, *Serbia 2022 Report*, p.72.

¹⁹⁵⁶ European Commission (EC), Commission Staff Working Report, *Serbia 2022 Report*, p.7.

¹⁹⁵⁷ Belgrade Open School, Guide "Initiatives for a sustainable future – innovative approaches for cooperation between the civil and business sectors".

¹⁹⁵⁸ Milena Vujović, Interview for portal [Biznis.rs](https://biznis.rs), 21 December, 2021.

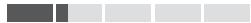
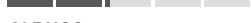
¹⁹⁵⁹ Interview with MPs Branko Stefanović and Radomir Lazović, and journalists Suzana Trninić and Mirjana Nikolić.

- » selecting projects based on identified needs and public interest;
- » estimating costs and benefits based on evidence;
- » having the SAI audit regularly.
- The chamber of commerce and other company associations should strengthen the role of the private sector in preventing corruption by:
 - » introducing incentives and supporting companies in the sector's anti-corruption activities and their relations with CSOs and state bodies;
 - » promoting the principles of good governance, particularly the rule of law, transparency, accountability and integrity through training provided by experts and using practical examples of good practices;
 - » designing the proper conduct of a risk assessment that companies could apply.
- In order to introduce an anti-corruption programme and expect it to be effective, the company's leadership needs to provide support and determined to implement it by:
 - » designing and presenting it to employees through various workshops focusing on a clear policy prohibiting corruption;
 - » designing a clear guidance to detect and report violations;
 - » introducing internal control and record keeping;
 - » mapping the risk of corruption and the factors of these risks in companies.
- Companies must provide secure and accessible channels for whistleblowers by setting up precise, safe and diversified reporting mechanisms on suspected corruption, including:
 - » reporting in person, by designated email address, by an online platform such as an intranet or external channel if no internal one is available or safe;
 - » the possibility of anonymous reporting;
 - » ensuring the reporting process's confidentiality (of the content and the whistleblower) and defining what "confidentiality" means;
 - » supporting and protecting reporting persons and preventing retaliation against them.

15. State-Owned Enterprises

Summary

OVERALL PILLAR SCORE: 33.3/100

DIMENSION	INDICATOR	LAW	PRACTICE
CAPACITY  /100	RESOURCES	–	–
25/100	INDEPENDENCE	50	0
GOVERNANCE  /100	TRANSPARENCY	75	25
41.7/100	ACCOUNTABILITY	75	25
	INTEGRITY	25	25
ROLE N/A	N/A		N/A

There are several types of the SOEs in Serbia, depending to their legal status. Public enterprises (PE), whose work is regulated through the Law on Public Enterprises (2016) may be established by the state, province, city or municipality to perform activity of public interest. In most of the cases, public enterprises are utilities (such as garbage management, city public transportation, electricity company, water supply company), but may be active in other areas as well (for example, Official Gazette, Serbian Posts, Serbia Roads). PEs are controlled by the government or a provincial or local assembly. Those institutions should appoint supervisory board members (three or five) and directors (upon public competition), approve work programmes and receive reports.

The 2023 data from the Ministry of Economy state that there are 59 such enterprises in the process of privatisation.¹⁹⁶⁰

According to preliminary data from the strategy on state ownership and management of enterprises from 2021 to 2027, the Republic of Serbia has 270 active business entities in its portfolio, of which: limited liability companies (DOO) – 157; joint-stock companies (AD) – 82; public enterprises (PE) – 26; other – 5.¹⁹⁶¹ Serbian Agency for Business Registers also keeps track of all the companies in which the state has ownership¹⁹⁶² (264 active companies as of 31 March 2023), but it does not include indirectly state-owned companies). A total of 569 public companies were obliged to submit a regular annual financial report for 2022 to the business register agency.¹⁹⁶³

Data from the statistical office for the second trimester of 2023 show that 143,148 persons were employed in PEs – 83,026 in state PE and 60,122 in local PEs.¹⁹⁶⁴

1960 The adoption of the Law on Privatisation, which became effective in August 2014, was intended to rectify the impossibility of effectively completing the privatisation process for over 500 privatisation subjects, within the previous legal framework. On the day of entry into force of the new Law on Privatisation, 556 companies were in the process of privatisation. Ministry of Economy, <https://privatizacija.privreda.gov.rs/Naslovna>

1961 Strategy on state ownership and management of enterprises owned by the Republic of Serbia for the period from 2021 to 2027, p.8, <https://privreda.gov.rs/sites/default/files/documents/2021-08/Strategija-Drzavno-Vlasnistvo-003.pdf>

1962 The list is managed by the agency for business registers: <https://pretraga2.apr.gov.rs/EvidencijaPSRS>

1963 Business register agency, *Annual Report on Business 2022*, p.31, https://apr.gov.rs/upload/Portals/0/GFI_2023/Godisnji_izvestaj_o_poslovanju_privrede_u_2022.pdf

1964 Statistical office of the Republic of Serbia, *Employment Register, II trimester of 2023*, <https://publikacije.stat.gov.rs/G2023/Html/G20231209.html>

When it comes to profitability, business register agency data show that in 2022, public companies achieved total revenues of RSD 988.227 million (€8.5 million), with an annual growth of 18.2%. On the other hand, they record total expenditures of RSD 1,063,453 million (€9 million), 26.3% more. Although public companies make up only 0.5% of the total number of companies, they participated with 8.6% of the total number of employees and realised 5.5% of business revenues. However, they have the most pronounced share in the net loss from the economy – 24.2% (previous year 9.5%), while their participation in the net profit of the economy was only 1.3% (2.0% in the previous year). As for financial capacities, 13.8% of business assets and 17.0% of the economy's capital refers to public companies, which at the same time generated 14.8% of the loss.¹⁹⁶⁵ The total fiscal deficit of Serbia in 2022 was €1.9 billion, 3.1% of GDP; almost the entire deficit is the result of the losses from EPS and Srbijagas. Without these costs, the deficit would be only around 0.4% of GDP.¹⁹⁶⁶

State-owned enterprises (SOEs) are not exempt from any general rules and regulations which apply to private sector companies, while some special rules are also in place. According to the legal framework, the government does not interfere with the day-to-day operation of the SOEs. In practice, however, the supervisory boards and directors of SOEs in most cases operate under the direct control of political parties or individual ministries. The knowledge and skills of board members could be brought into question. In most public enterprises at the republic level, mechanisms which are expected to reduce political influence and to lead to the professionalisation of management, including open recruitment procedures for the appointment of directors, as stipulated by the law, have not been applied.

The majority of the SOEs are managed by discretionally appointed “acting directors” or persons appointed politically. Furthermore, they are managing companies illegally by continuing after the expiration of their mandate, which is tolerated by the government and judiciary.

Regulations envisage relatively high standards of transparency for companies. Practice, however, does not match these standards. Documents and information stipulated by law are not published on the SOEs' websites. SOEs frequently violate other rules as well (such as public procurement and accounting).

There is no central government unit to publish information about the SOEs or about the government's strategic policy regarding SOEs. Supervisory boards' work proves that the system of accountability, set by the legal framework, does not function fully in practice.

Integrity of the SOEs is not ensured in practice as they are indirectly controlled by political parties. There has even been backsliding in the legal framework with the adoption of an authentic interpretation of the definition of public official, thereby exempting representatives of the state of Serbia in the assembly of shareholders, presidents and members of supervisory boards, directors and acting directors from the obligation to submit an asset report and the obligation to report potential conflicts of interest.

¹⁹⁶⁵ Business Register Agency. *Annual Report on Business 2022*, p.31, https://apr.gov.rs/upload/Portals/0/GFI_2023/Godisnji_izvestaj_o_poslovanju_pivrede_u_2022.pdf

¹⁹⁶⁶ Fiscal Council. 2023. *Fiscal stabilisation: This time accompanied with the reforms of EPS?*, slide 4, https://www.fiskalnisavet.rs/doc/analize-stavovi-predlozi/2023/Prezentacija-KBF_2023_final.pptx

Capacity

15.1.1. Independence (law)

To what extent does the legal and regulatory framework for SOEs protect the independent operation of SOEs and ensure a level-playing field between SOEs and private sector companies?



SCORE: 50/100

While a number of laws exist that ensure the independence of the supervisory boards and directors and the day-to-day operation of the SOE, there is no centralised ownership of SOEs.

According to the strategy on state ownership and management of enterprises owned by the Republic of Serbia from 2021 to 2027, the review of the legal and institutional framework found that none of the state institutions exercise the three main powers of ownership in terms of control, responsibilities and management. Currently, ownership and management over SOEs is performed by the Ministry of Economy, the Ministry of Finance and other authorised ministries. There is no consistent and uniform system of monitoring, control and supervision of SOEs' work, and management and control is particularly limited when it comes to SOEs outside the scope of these ministries.¹⁹⁶⁷ The review, identified the absence of a centralised ownership entity, responsible for management of SOEs, that should, among others: perform the ownership function through its representative in the assembly of the SOE; be responsible for coordination with authorised ministries; set general goals for strategic and operational planning; supervise the implementation of these goals; ensure the efficiency of the financial system, management and control; and comply with the framework of corporate governance.¹⁹⁶⁸

According to the provisions of the Law on Public Enterprises, the government cannot interfere with day-to-day operation of the SOE. SOEs are not exempt from any general laws and regulations which apply to private sector companies. Supervisory boards¹⁹⁶⁹ and directors¹⁹⁷⁰ have independence and responsibility for running the SOEs. The supervisory board determines the business strategy and business objectives, and takes care of their implementation, adopts a report on the degree of implementation of operations, adopts the annual business programme and supervises the work of the director. The director represents a public company, organises and manages the work process, proposes the annual business plan and takes measures for its implementation.¹⁹⁷¹ The government gives consent to business plans, and it can dismiss the supervisory board if the SOE does not fulfil its annual business plan, or the director if responsible for "a significant deviation from achieving the basic goals of the business of the PE, or of the business plan of the PE".¹⁹⁷²

Other state-owned enterprises are regulated as private owned companies, on the basis of company law. These companies are governed by shareholder assembly. The government appoints its representatives to the company's shareholders assembly. The assembly elects the supervisory board and board of executive directors, while the supervisory board elects a director. If the company is organised as unicameral, the assembly elects a director.¹⁹⁷³

1967 *Strategy on state ownership and management of enterprises owned by the Republic of Serbia from 2021 to 2027*, p.4, <https://privreda.gov.rs/sites/default/files/documents/2021-08/Strategija-Drzavno-Vlasnistvo-003.pdf>

1968 *Ibid*, p.14.

1969 The government (or other public body, such as province or municipality) appoints members of the supervisory board and director of the SOE. The supervisory board consists of five members proposed by the founder, one of them being an "independent member", and one representative of employees. All members are supposed to have appropriate knowledge and skills within the field of operation of the public enterprise, and there are some additional requests for an independent member, who should not be related with the SOE and must not be member of a political party. Members of the supervisory boards are elected for a period of four years. They have to have at least five years' experience in positions and have higher education and at least three years in positions related to the specific SOE and possess expertise in corporate management and finances. The Law on Public Enterprises Official Gazette no. 15/2016 and 88/2019, https://www.paragraf.rs/propisi/zakon_o_javnim_preduzecima.html

1970 The director is appointed after public competition, conducted by government's commission for appointment. The commission makes a shortlist with three candidates and proposes it to the government, which can choose anyone or no-one from the list. However, there are no clear criteria on which the commission makes the final selection of the candidates who meet all the prescribed requirements. The Law on Public Enterprises Official Gazette no. 15/2016 and 88/2019, https://www.paragraf.rs/propisi/zakon_o_javnim_preduzecima.html

1971 The Law on Public Enterprises. Official Gazette no. 15/2016 and 88/2019, article 26, https://www.paragraf.rs/propisi/zakon_o_javnim_preduzecima.html

1972 *Ibid*, Article 49.

1973 The Law on Business Associations. Official Gazette no. 36/2011, 99/2011, 83/2014 – other law 5/2015, 44/2018, 95/2018, 91/2019 i 109/2021, articles 219, 228, 329, 384, 434, 441, https://www.paragraf.rs/propisi/zakon_o_privrednim_drustvima.html

SOEs, performing services of general economic interest, are excluded from some rules regarding state aid.¹⁹⁷⁴ According to the regulation on rules for state aid granting, conditions include the requirement that a market participant is officially assigned the duty, through a formal act like a law, decision or contract, to provide a specific service of general economic interest. The scope and content of this service must be clearly defined.¹⁹⁷⁵

An important aspect of independence is pricing. Some SOE's are free to set their own prices at market levels while others are somehow regulated, either directly by the government, by municipal assembly or by an independent regulator.¹⁹⁷⁶

15.1.2. Independence (practice)

To what extent are the day-to-day operations of SOEs performed independently of state interference in practice?

 SCORE: 0/100

Management of SOEs is dependent on the influence of certain centres of power related to political parties that helped appoint them and many have neither sufficient professional capacities nor the liberty to make their own decisions.

High-level politicians do not hesitate to declare publicly that managing SOEs represents party spoils. In 2020, a coalition partner of the largest political party – Serbian Progressive Party, Ivica Dačić (Socialist Party of Serbia – SPS) – stated just after the election that the name of the director of the SOE Srbijagas was never called into question and that Bajatović (also member of the SPS) will remain at the head of that company and that “SPS will also be in charge of another large public company”.¹⁹⁷⁷ According to a professor at the faculty of banking, insurance and finance at Union University in Belgrade, the appointments of directors and members of supervisory boards are made behind the scenes. These decisions, often referred to as the “division of spoils”, involve agreements on the distribution of positions among different sectors. The selection of candidates is not transparent, as there is a hidden selection process preceding any formal competition. This lack of openness and public discussion about the decision-making process raises concerns about transparency and fairness.¹⁹⁷⁸ The electric power company, EPS, changed its status according to a decision of the supervisory committee on 4 April 2023, by changing the statute and founding act of the enterprise which lead to the election of the new supervisory board that was performed by the sole member of the shareholders assembly, the minister of mining and energy. There are no publicly available data on the reasons and the procedure for electing those members and whether there were other candidates involved.¹⁹⁷⁹

This politicisation has led to the fact that profit losses are often accompanied by an increase in the number of employees and their salaries, funding various projects that have nothing to do with the work of the company, involving political interests in decision-making, overtaking ownership of failed companies, involvement in politically related sponsorship and harmful contracts that are likely accompanied by corruption.¹⁹⁸⁰ A report from the agency for business registers shows that Telekom Serbia debts telecommunications company, increased significantly by €350 million in 2022. It is expected that this debt will soon reach €3 billion. Telekom is buying private companies owned by individuals who closely connected to the ruling majority, raising public suspicion of such acquisitions being made to remunerate these individuals for businesses they owned but which were terminated for other reasons (for example, the early termination of a reality programme promoting violence due to mass protests by citizens).¹⁹⁸¹ In October 2021, Telekom Serbia paid €100 million rights to broadcast the Premier League which was 700% higher than the arrangement made by other countries and the previous price. The reason behind such overspending is fierce competition between Telekom Serbia and United Media, the only cable operator that provides access to media critical of the current ruling coalition.¹⁹⁸²

1974 The Law on Control of State Aid. Official Gazette no. 73/2019), article 6, https://www.paragraf.rs/propisi/zakon_o_kontroli_drzavne_pomoci.html

1975 Ibid, article 6, para 1, point 1. It should be noted, however, that this applies to all business entities performing services of general economic interest, which could include private companies granted concessions for performing such services.

1976 Comment by Marko Paunović, economist.

1977 Radiotelevision of Serbia. 2020. *Dačić: Bajatović remains at the head of Srbijagas, SPS has another company*, https://www.rts.rs/vesti/politika/4126299_dacic-bajatovic-srbijagas-.html?fbclid=IwAR3BsQf0aNCPYV74ZJ3UpfYpeJL8UBQY-u54zzJF1SrbjwXoyrNtWQ9Mb8

1978 Interview with Božo Drašković, economist, professor at the faculty of banking, insurance and finance, Union University in Belgrade, 3 October 2023.

1979 Transparency Serbia. 2023. *Initiative for improvement of legal framework for the election of governing bodies of EPS*, https://transparentnost.org.rs/images/dokumenti_uz_vesti/Inicijativa_-izbor_organa_EPS_ad.pdf

1980 Fiscal Council, *Analysis of State-Owned Enterprises: Fiscal Aspect*, https://www.fiskalnisavet.rs/doc/ocene-i-misljenja/rezime-analiza_preduzeca_u_drzavnom_vlasnistvu-fiskalni_aspekt.pdf

1981 Nova. 2023. *After the rumours about the termination of “Zadruga”: “Telekom” confirmed that it is buying the company of Željko Mitrović and the co-owner of Kentkart*, <https://nova.rs/vesti/politika/telekom-potvrdio-da-kupuje-firmu-zeljka-mitrovica-i-suvlasnika-kentkarta/>

1982 N1. 2021. *Telekom Srbija paid for the rights to the Premier League with an increase of more than 700%*, <https://n1info.rs/biznis/sportbusiness-o-telekomu-i-kupovini-prava-za-premijer-ligu/>

Restructuring of SOEs and improvement of management is a key part of the reform that the government undertook within the arrangement with the IMF “with the goal to establish corporate governance in companies in order to achieve more efficiency in business management”.

The majority of SOE directors still have acting director status, of which many are illegal because their mandate expired long ago. Even the SAI report for 2021 found, within the three auditing subjects whose founder is a local government unit, that the acting director had performed that duty for more than one year and/or the same person had been appointed acting director twice. The SAI issued a recommendation to competent authorities to analyse the situation and take measures to appoint someone in compliance with the law in public companies of which they are the founders.¹⁹⁸³ In legal terms, this means that decisions made and documents signed by such leaders are legally non-binding. By keeping the SOE directors in acting status, the governing majority can easily influence their decisions as their post is dependent on their decision (that is, a decision of the founding entity where they represent majority). According to 2021 research by Transparency Serbia, there are at least 16 state-owned enterprises (out of 34 observed) which, after the adoption of the Law on Public Enterprises, did not have directors elected in public competitions. Out of a sample of 34 sample SOEs, just 8 directors were elected through competitive procedure, as much as 18 acting directors had expired their mandate and 5 were appointed without public competition or their status is unknown.¹⁹⁸⁴

One of the most prominent examples of how the management over SOEs is being exercised is the change of status of public electricity supplier, EPS¹⁹⁸⁵, to joint-stock company in April 2023, through changes of the founding act and the statute, initiated by the supervisory committee, according to which the company no longer applies the Law on Public Enterprises. One of the most significant consequences of this is that there is no longer an obligation to elect the director through public competition. Moreover, even if the competition is announced, the rules of the Law on Public Enterprises do not apply. Ever since the change, the only member of the shareholders assembly is the minister of energy and mining who elected the new members of the supervisory committee herself.

Some years ago, the government announced reforms of the state-owned enterprises to reduce their dependence on the state budget and consequently remove (or at least minimise) irrational subsidies. The fiscal council called on the government to develop a concrete reform plan in the revised fiscal strategy and at least enumerate in principles all the steps it plans to implement to solve the key problems in state-owned enterprises. This applies not only to the 37 energy companies where the problems are currently the most visible (EPS, Srbijagas, Resavica) but also to all others, such as railway companies and local public companies.¹⁹⁸⁶

Governance

15.2.1. Transparency (law)

To what extent are there provisions to ensure transparency in the activities of SOEs?



SCORE: 75/100

*The legal framework foresees relatively high standards in terms of transparency. This, however, also includes exceptions as well. On the other hand, there are some additional requirements for public enterprises, such as producing and publishing quarterly reports on the implementation of the annual business programme.*¹⁹⁸⁷

The Law on Public Enterprises has a section dedicated to “work transparency”. PEs are required to publish on their website: the biographies of supervisory board members, directors and executive directors; organisational structure; annual or three-year business programme as well as all its amendments and additions, or an extract from that

1983 State Audit Institution. 2022 annual report, p.136, <https://www.dri.rs/storage/newaudits/ИзвештајорадуДРИза2022.годинудопуњено.pdf>

1984 Transparency Serbia. 2021. *Public enterprises in Serbia 2021 – transparency, expertise managers and illegally acting state* p.5 https://transparentnost.org.rs/images/dokumenti_uz_vesti/Razresenje_vd_stanja_u_javnim_preduzecima_-_sazetak.pdf

1985 Poor business performance of non-reformed public companies from the energy sector (EPS and Srbijagas) was the biggest fiscal problem in the previous two years. The fiscal council sees domestic reason for this rather than international factors. In other words: i) EPS collapsed due to long-term poor management and lack of investments; ii) if Srbijagas expanded and better managed the existing gas storage in time; and iii) if the government was not so late with the necessary increase in the final price of gas and electricity energy. The costs to these companies would then be much lower if there were any at all. See: Fiscal Council. 2023. *The Opinion on the Draft Fiscal Strategy for 2024 with Projections for 2025 and 2026*, pp.5-6, https://www.fiskalnisavet.rs/doc/FS_%20Misljenje-na-Nacrt-Fiskalne-strategije-2024-2026_090623.pdf

1986 Ibid, pp.36-37.

1987 The Law on Public Enterprises. Official Gazette no. 15/2016 and 88/2019, Article 63, https://www.paragraf.rs/propisi/zakon_o_javnim_preduzecima.html

programme if the public company has competition on the market; quarterly reports on the implementation of the annual or three-year business programme; annual financial report with the opinion of the authorised auditor; and other information of importance to the public. Additionally, the government can also determine other elements of the public company's operations that will be published, which are of particular importance to the public. Failure to fulfil this obligation can result in a fine of RSD 50,000 to 150,000 (€425 to 1,280) for a responsible person in a public company.¹⁹⁸⁸

There is, however, no centralised coordinating unit which would be in charge of developing consistent and aggregate reporting on SOEs and publishing annual aggregate reports on them. According to the Law on Ministries, the Ministry of Economy is in charge of all the SOEs, regarding their quarterly reports and annual plans, but there is no legal requirement to publish those documents on the ministry's website.¹⁹⁸⁹ According to the strategy on state ownership and management of enterprises owned by the Republic of Serbia from 2021 to 2027, the current regulations do not provide a framework for a uniform disclosure and transparency policy for all SOEs.¹⁹⁹⁰

Apart from the obligation stipulated in the Law on PE to publish financial statements on their websites, SOEs are obliged by the Law on Accounting to submit their financial statement to the business registries agency. The agency publishes this data on its website, in the register of financial statements.¹⁹⁹¹

There is no obligation for the SOE to report on their prospective anti-corruption programmes.

15.2.2. Transparency (practice)

To what extent is there transparency in SOEs in practice?



SCORE: 25/100

There is some, but not sufficient transparency of SOEs in practice. SOEs in most cases fail to fulfil all of their obligations regarding transparency, stipulated by the Law on Public Enterprises. SOEs also occasionally fail to fulfil obligations regarding free access to information of public interest.

The web pages of SOEs either do not provide or provide scarce information about their ownership structure and data on beneficial ownership. However, agency for business registers provides detailed data on the ownership structure and enables search according to these criteria.¹⁹⁹²

Research done by Transparency Serbia showed that SOEs increasingly have a special section on their websites with information about their work: 89.7% in 2022, compared to 82% in 2021 and 70% in 2020. However, there is still a large number of observed SOEs without a website (15%), although the legal obligation to publish certain information and documents has been in place since 2012. Comprehensive documentation on the selection process for directors of SOEs can be found on several local governments websites (7.6% compared to 4.1% in 2021), and at least some documents can be found in 17% of cases.¹⁹⁹³

The Public Enterprises Transparency Index for 2021 showed that just one SOE, from the research sample of 33, is considered as completely transparent, with 82% of criteria met, which represents an improvement compared to 2019 when none of the SOEs from the research sample reached this rank. The average score is 53.2%. The highest ranked indicator is for the publication of the company's price list, data on the number of employees (which is part of the work plans and quarterly reports), financial plans and work programmes. The worst situation is in the areas of publishing contracts for legal services (0%), rulebook on representation expenses and minutes from supervisory board meetings.¹⁹⁹⁴

Most SOEs publish financial plans/budgets (93.9%) along with annual work plans (89.4%) on their web pages. This percentage decreases when it comes to publishing financial statements. Annual reports are published by around

1988 Ibid, Article 71.

1989 The Law on Ministries. Official Gazette no. 128/2020 and 116/2022, Article 4, https://www.paragraf.rs/propisi/zakon_o_ministarstvima.html

1990 *The strategy on state ownership and management of enterprises owned by the Republic of Serbia for the period from 2021 to 2027*, p.21, <https://privreda.gov.rs/sites/default/files/documents/2021-08/Strategija-Drzavno-Vlasnistvo-003.pdf>

1991 Ibid, Article 44, para 1.

1992 The list is managed by the agency for business registers: <https://pretraga2.apr.gov.rs/EvidencijaPSRS>

1993 Transparency Serbia. 2022. *Local Self-Government Transparency Index 2022*, p.19, https://transparentnost.org.rs/images/dokumenti_uz_vesti/LTI_2022_ENG_final_report_May_2022.pdf

1994 Transparency Serbia. 2021. *PETRA – Public Enterprises Transparency Index – 2021*, pp.8-14, https://www.transparentnost.org.rs/images/dokumenti_uz_vesti/PETRA_2021_izvetaj.pdf

three-quarters of sample SOEs (74.2%). Audit reports could be found on the web pages of 62.1% of enterprises. Data on debt and credit are available in 89.4% of those examined and data on debt claims on 34.8%.¹⁹⁹⁵ The agency for business registers provides financial statements of SOEs within its register. Although these statements provide general division of incomes and expenditures generated in the domestic or international market; there are no publicly available data on a country-by-country basis for SOEs that operate internationally.

SOEs also lack transparency in the field of free access to information of public importance. According to the Commissioner for Information of Public Importance's 2022 annual report,¹⁹⁹⁶ 16% of all appeals were against SOEs (1,389 out of 9,219 appeals) for not providing requested documents or information. Other research showed that public and capital companies in Serbia, in the majority of cases, do not act on requests for free access to information of public importance, or reject requests on the grounds that the information about the company's work is confidential.¹⁹⁹⁷

When it comes to publishing information booklets, the database of the Commissioner for Free Access to Information of Public Importance shows that 50 out of 53 verified SOEs have information booklets. However, only 13 were updated in line with legal requirements, and 15 were last updated in 2022.¹⁹⁹⁸

15.2.3. Accountability (law)

To what extent are there rules and laws governing oversight of SOEs?



SCORE: 75/100

Comprehensive legal provisions for the appropriate oversight of SOEs exist internally (through the board) and externally (through the submission of quarterly reports to the relevant ministries). However, there is no centralised and independent coordinating unit for the oversight of SOEs.

A public enterprise, according to the Law on Public Enterprises, is obliged to submit quarterly reports to the ministry responsible for the specific enterprise (Ministry of Economy, Ministry of Finance, and other authorised ministries) on the implementation of the annual or three-year business programme, 30 days from the end of the quarter.¹⁹⁹⁹ On the basis of these reports, the ministry compiles and submits to the government information on the level of compliance of planned and implemented activities within 60 days after the calendar year has expired.²⁰⁰⁰

SOEs are subject to the same accounting and auditing standards as private companies.²⁰⁰¹ According to the Law on Accounting²⁰⁰² legal entities are required to produce an annual report on operations (the annual business report) which includes description of the business and organisational structure of the legal person, view of development, financial position and results of operations of the legal person, including financial and non-financial indicators relevant to the specific type of business activity, as well as information on personnel matters, information on investments in environmental protection, any significant events after the end of the financial year, planned future development, research and development activities, information on the acquisition of treasury shares or shares, existence of affiliations, which financial instruments are used if significant for the evaluation of financial status and business success, the objectives and policies for managing financial risks, together with the policy of protection of each significant type of planned transaction for which protection is used, exposure to price risk, credit risk, liquidity risk and cash flow strategy for the management of these risks and evaluating their effectiveness. Unlike the previous version of the law, the current one exempts companies of public interest from the exception for micro and small-sized enterprises that are not required to produce an annual report on operations.²⁰⁰³

1995 Ibid.

1996 Commissioner for Information of Public Importance and Protection of Personal Data. 2022 Annual Report on Work, p.80, https://www.poverenik.rs/images/stories/dokumentacija-nova/izvestajiPoverenika/2022/Godi%C5%A1nji_izve%C5%A1taj_2022 - 16_03_2023.docx

1997 Partneri Srbija. Alternative sources of official information on the work of state owned companies, p.10, https://www.partners-serbia.org/public/documents/Alternativni_izvori_zvanicnih_informacija_o_radu_drustava_kapitala_i_javnih_preduzeca.pdf

1998 Commissioner for Information of Public Importance and Protection of Personal Data, Overview of Information Booklets, <https://informator.poverenik.rs/naslovna>

1999 The Law on Public Enterprises. Official Gazette no. 15/2016 and 88/2019, Article 63, https://www.paragraf.rs/propisi/zakon_o_javnim_preduzecima.html

2000 Ibid, article 64.

2001 The Law on Accounting. Official Gazette no. 73/2019 and 44/2021 – other law, Article 2, para 1, point 2, https://www.paragraf.rs/propisi/zakon_o_racunovodstvu-2020.html and the Law on Auditing. Official Gazette no. 73/2019, Article 26, https://www.paragraf.rs/propisi/zakon_o_reviziji.html

2002 Ibid, Article 34.

2003 Ibid, Article 34, para 5.

The Law on Business Associations and the Law on Public Enterprises outline how businesses, whether private or state-owned, are organised and supervised.²⁰⁰⁴ For SOEs, their supervisory boards are answerable to the government or local assembly.²⁰⁰⁵ Company law envisages unicameral (assembly and director) or bicameral (assembly, supervisory board, director) management of the limited liability company.²⁰⁰⁶ In the case of a joint-stock company, there can be a board of directors instead of a director (unicameral) and an executive board (bicameral).²⁰⁰⁷ The supervisory board is authorised to appoint, oversee and dismiss the director²⁰⁰⁸ and to convene a session of the Assembly.²⁰⁰⁹ Powers of the supervisory board cannot be transferred to the directors of the company.²⁰¹⁰

According to the law,²⁰¹¹ the supervisory board should determine the company's business strategy, appoint and dismiss directors and determine directors' salaries, supervise the work of the director (executive directors) and approve directors' reports, perform internal supervision of the company, supervise the legality of the company's business, establish the accounting and risk management policy, order audits of the annual financial statements, propose the selection of auditors, control profit distribution and other payments to company members.

Unless otherwise specified by the founding act or decision of the assembly, the supervisory board gives prior approval for the acquisition and alienation of shares and the shares that the company owns in other legal entities, the acquisition, alienation and encumbrance of property, and taking out a loan, lending, giving sureties, guarantees and security for the obligations of third parties.²⁰¹² The Law on Public Enterprises envisages a similar organisation as in company law.²⁰¹³ The Law on Public Enterprises also envisages accountability of the supervisory board (SB): the chair and members of the board will be dismissed if: the supervisory board fails to deliver an annual business programme to the founder by designated deadlines; the SB fails to take the necessary action before the competent authorities in case of suspicion that the responsible person operated to the detriment of the PE; and if it is determined that the SB operates to the detriment of the SOE or is sentenced to a conditional or unconditional prison sentence during the mandate.²⁰¹⁴

15.2.4. Accountability (practice)

To what extent is there effective oversight of SOEs in practice?

 SCORE: 25/100

The Ministry of Economy has shown limited effectiveness in overseeing public enterprises. Cases of SOE directors involved in scandals or corruption are infrequent, raising concerns about the proper processing of director actions. There are significant challenges, with issues such as the non-publication of quarterly reports, limited expertise among supervisory committee members and the ineffectiveness of internal audits. However, a new software system for supervision was introduced in January 2023.

No information on the submission of quarterly reports or their consideration could be found on the website of the Ministry of Economy. According to Božo Drašković, economist and professor at the faculty of banking, insurance and finance, Union University in Belgrade, supervisory boards often fail to share their business reports publicly, and accountability is limited to public scandals.²⁰¹⁵ For example, in the case of Air Serbia, the national airport company, much of the information about its operating remained unknown to the public. It was established in 2013 in partnership with Etihad under a strategic agreement that remained a business secret. There are no publicly available data on how much the partners invested over the years and whether the latest declared profit comes

2004 The Law on Business Associations. Official Gazette no. 36/2011, 99/2011, 83/2014 – other law 5/2015, 44/2018, 95/2018, 91/2019 and 109/2021, Article 198 – 237, https://www.paragraf.rs/propisi/zakon_o_privrednim_drustvima.html

2005 The Law on Public Enterprises. Official Gazette no. 15/2016 and 88/2019, Article 59 and 63, https://www.paragraf.rs/propisi/zakon_o_javnim_preduzecima.html

2006 The Law on Business Associations. Official Gazette no. 36/2011, 99/2011, 83/2014 – other law 5/2015, 44/2018, 95/2018, 91/2019 and 109/2021, Article 198, https://www.paragraf.rs/propisi/zakon_o_privrednim_drustvima.html

2007 Ibid, Articles 326, 417.

2008 Ibid. Articles 219, 220, 228.

2009 Ibid, Article 202.

2010 Ibid, Article 232, 441.

2011 Ibid, Article 232, 441.

2012 Ibid, Article 232.

2013 The Law on Public Enterprises. Official Gazette no. 15/2016 and 88/2019, Article 15 https://www.paragraf.rs/propisi/zakon_o_javnim_preduzecima.html

2014 The Law on Public Enterprises. Official Gazette no. 15/2016 and 88/2019, Article 21, https://www.paragraf.rs/propisi/zakon_o_javnim_preduzecima.html

2015 Interview with economist, professor at the faculty of banking, insurance and finance, Union University in Belgrade, 3 October 2023.

from the state subventions or business success. In November 2023, Etihad withdrew from strategic partnership for unknown reasons.²⁰¹⁶ According to Katarina Đulić, even the existing method of monitoring public enterprises through quarterly financial reports is criticised for its limitations. Members of supervisory committees, who are supposed to oversee these reports, often lack the necessary expertise in financial analysis. Despite having higher education, their qualifications may not be relevant to effectively fulfil their monitoring roles.²⁰¹⁷

The supreme audit report for 2022 showed that only four of the revised SOEs when it comes to their financial audit, received a positive opinion from the SAI, three received a negative score and 27 were classified as approved with reserve.²⁰¹⁸ Furthermore, in 2021, SAI conducted an audit of the expediency of operations in the Belgrade power plant called Consumer Protection in the Field of Heat Energy Supply. While most of the findings were negative and indicate poor management of this SOE,²⁰¹⁹ its director, Rade Basta, was afterwards appointed minister of economy in 2022.

According to Božo Drašković, large companies have internal audits as required by law, but their effectiveness is restricted by the director and the supervisory committee. These internal control units exist, but their ability to take action is limited.²⁰²⁰

The accountability of directors' of SOEs for their actions was not properly processed in practice. The directors who were involved in corruption or other scandals rarely faced legal consequences. The acting director of the Corridors of Serbia, Zoran Babić, resigned after he was involved in a fatal traffic accident with his company vehicle in February 2019. However, after the SOE accepted his resignation, the government, which was supposed to approve it, only did so in November 2020, almost two years after his resignation. During that time, Zoran Babić continued to appear at official government events and to receive his salary as acting director.²⁰²¹ In December 2021, the acting head of the electric power company of Serbia, Milorad Grčić, resigned from the position due to the energy collapse that left tens of thousands of households without electricity. This occurred after he was directly criticised by the president of the republic and the president of the ruling political party Aleksandar Vučić.²⁰²² However, one year earlier, during the election campaign, President Vučić called Grčić on the phone in front of the cameras to ask for an electricity transformer station in a village in south of Serbia to satisfy the needs of the citizens that surrounded him at that moment. By that time Grčić had illegal acting director status for four years, since his mandate expired in 2017.

Research by Transparency Serbia²⁰²³ on acting directors recorded three arrests of acting directors for the abuse of their official post and accepting a bribe. The most controversial case involved the SOE for underground coal mining, Resavica, where its director Vladan Milošević, in the post since October 2012, was arrested under the charges of accepting a bribe and was dismissed in February 2015. He was sentenced to a four years in prison.²⁰²⁴ His position was taken by Stevan Dželatović, who remained acting director for two years when he was arrested in April 2017 for requesting a bribe. Even though the public competition for the election of the director of this enterprise was initiated just a month before his arrest, it was never finalised. Stevan Dželatović was replaced by another acting director in May 2017. Another acting director of a public enterprise, Infrastructure of the Railways of Serbia, was accused of accepting a bribe. Miroljub Jevtić was appointed acting director in September 2017 and was arrested in January 2020 for accepting a bribe and later sentenced to one year in prison. He is also being tried, along with a former state secretary, in another process for abuse of public procurements.²⁰²⁵

2016 Radio Free Europe, 15 November 2023, <https://www.slobodnaevropa.org/a/srbija-air-serbia-etihad-povlacenje/32685837.html>

2017 Statement of Katarina Đulić, associate professor of economy, FEFA. 2023. Conference: "Public enterprise: Public support is necessary for the reform of the "corruption hotspots", Nova Ekonomija, <https://www.youtube.com/watch?v=NJoLFAIH1s0>

2018 State Audit Institution. 2022 annual report, p.13, <https://www.dri.rs/storage/upload/documents/revision/2022/2021-4-SV%20Za%C5%A1tit%C2%80%20potro%C5%A1a%C4%8Da%20u%20oblasti%20tolpotne%20enrgije.pdf>

2019 State Audit Institution. "Consumer protection in the field of heat energy supply", p.2, <https://www.dri.rs/storage/upload/documents/revision/2022/2021-4-SV%20Za%C5%A1tit%C2%80%20potro%C5%A1a%C4%8Da%20u%20oblasti%20tolpotne%20enrgije.pdf>

2020 Interview with Božo Drašković, economist, professor at the faculty of banking, insurance and finance, Union University in Belgrade, 3 October 2023.

2021 Acting director of the Corridors of Serbia, Zoran Babić, resigned after he participated with his company vehicle in a traffic accident which resulted in the death of one person, 021. Babić, who "resigned" at today's signing of the contract for the construction of the corridor, 5 December 2019, <https://www.021.rs/story/Info/Srbija/229235/Babic-koji-je-podneo-ostavku-i-na-danasnjem-potpisivanju-ugovora-za-izgradnju-koridora.html>

2022 Nova.rs. 2023, <https://nova.rs/vesti/politika/video-kako-su-igrali-sa-eps-vucic-zove-grcica-i-sredjuje-trafo-stanicu/>

2023 Transparency Serbia. 2021. Overview of the status in republic's public enterprises, AD and DOO, to which to the issue of the election of directors, the Law on Public Enterprises applies, since the adoption of the Law on Public Enterprises from December 2012 to December 17, 2021, p.2 and 12, https://transparentnost.org.rs/images/dokumenti_uz_vesti/Konkursi_vd_stanje_izbor_direktora_-_republi%C4%8Dka_JP_i_preduze%C4%87a_u_dr%C5%BEavnom_vlasni%C5%A1tvu_decembar_2021.pdf

2024 Krik. 2016. Former director of "Resavica" and SNS official convicted for accepting bribes, <https://www.krik.rs/tag/vladan-milosevic/>

2025 Krik. 2021. Former director of "Serbian Railway Infrastructure" was sentenced to one year in prison for bribery, <https://www.krik.rs/bivsem-direktoru-infrastrukture-zeleznice-srbije-godinu-dana-zatvora-zbog-mita/>; Transparency Serbia. 2021. Overview of the status in republic's public enterprises, AD and DOO, to which to the issue of the election of directors, the Law on Public Enterprises applies, since the adoption of the Law on Public Enterprises from December 2012 to December 17, 2021, p. 2 and 12, https://transparentnost.org.rs/images/dokumenti_uz_vesti/Konkursi_vd_stanje_izbor_direktora_-_republi%C4%8Dka_JP_i_preduze%C4%87a_u_dr%C5%BEavnom_vlasni%C5%A1tvu_decembar_2021.pdf

According to Nova Ekonomija, a magazine on economic issues, the state as the owner does not have effective control over public enterprises. Seven years ago, the Ministry of Economy established a sector for public companies, which was supposed to monitor the operations of 37 “republic” companies. That body has not proven to be overly effective in controlling public companies, which is not surprising since it has only a dozen servants. Public enterprises are also controlled by authorised ministries, which have a decisive influence on personnel policy and exercise operational control. Party influence on the management of public companies has so far proven to be the biggest brake on their efficient work.²⁰²⁶

In 2020, the government established a committee for public sector economics to control SOEs; however, by August 2022, it had not held any sessions.²⁰²⁷ From 1 January 2023, the supervision of all public companies in the Republic of Serbia is carried out through software developed on the initiative of the Ministry of Economy within the project Reform of Local Public Finances II supported by the government of Switzerland.²⁰²⁸

15.2.5. Integrity Mechanisms (law)

To what extent are there mechanisms to ensure the integrity of SOEs?



SCORE: 25/100

There is no corporate code for SOEs. While a number of laws on conflict of interest, bribery, etc. exist, there are possibilities for some SOEs to effectively skip public procurement rules, when procuring for “further sale”. Also, an attempt by the government to change the interpretation of “public official” and thereby exclude key roles in SOEs from the obligations under the Law on the Prevention of Corruption raises concerns about further government efforts to reduce integrity mechanisms.

There is no corporate code for the SOEs. However the newly adopted Law on Managing State-Owned Companies (adopted in September 2023, which enters into effect in September 2024) introduced the obligation of a corporate code.²⁰²⁹ The government, at the proposal of the ministry, will adopt the code and the company is obliged to report to the ministry on the implementation of the code, no later than the end of the first quarter of the current year, for the previous year.²⁰³⁰

Rules on conflicts of interest are stipulated by company law and the Law on the Prevention of Corruption. Those rules (the law on the Prevention of Corruption and previously the law on the anti-corruption agency) apply to all public officials, which used to include representatives of the state in shareholder assemblies, members of supervisory boards, executive boards and directors.²⁰³¹

The new draft law on the management of state-owned companies in Serbia faced strong public criticism, leading to its withdrawal from parliamentary proceedings. If this law is eventually adopted and the authentic interpretation of “public official” from the Law on the Prevention of Corruption remains, key figures in state-owned companies will not be considered public officials. This exempts them from reporting assets, following gift rules, disclosing conflicts of interest, and subjects them to limited accountability. Eliminating corruption risks in state-owned enterprises requires either repealing the interpretation or amending the Law on the Prevention of Corruption. The draft law on the management of state-owned companies, which was re-adopted by the government in August 2023, includes a significant improvement based on civil society feedback. The government decided to amend the Law on the Prevention of Corruption to maintain the status of public officials for directors, acting directors, members of supervisory boards, and the assembly of shareholders in state-owned companies. This change addresses concerns

2026 Nova Ekonomija. 2021. *Public enterprises: A treasure or a nightmare*, <https://javnapreduzeca.rs/01-2021-javna-preduze%C4%87a-blago-ili-no%C4%87n-mora.php>

2027 Information obtained through freedom of information request, <https://transparentnost.org.rs/images/stories/inicijative/analize/Odgovor%20Vlade%20RS%20-%20Odbor%20za%20ekonomiju%20javnog%20sektora.pdf>

2028 Ministry of Economy of the Republic of Serbia website <https://privreda.gov.rs/aktuelno/vesti-i-saopstenja/nadzor-svih-javnih-preduzeca-od-1-januara-2023-godine-putem-softvera>

2029 The Law on Managing State Owned Companies. Official Gazette no. 76/2023, article 32, <https://www.paragraf.rs/propisi/zakon-o-upravljanju-privednim-drustvima-koja-su-u-vlasnistvu-republike-srbije.html>

2030 Ibid, article 33.

2031 The Law on Corruption Prevention. Official Gazette no. 35/2019, 88/2019, 11/2021 – authentic interpretation, 94/2021 and 14/2022, article 2, para 1, point 3 <https://www.paragraf.rs/propisi/zakon-o-sprecavanju-korupcije.html>

raised by civil society, ensuring that these individuals remain subject to the obligations and regulations applicable to public officials in terms of transparency and accountability.²⁰³²

The law forbids the supervisory board members and directors to use company assets for their own purposes, or use the information they have obtained in their function, which is not otherwise publicly available, to abuse their position in the company or use the opportunities to conclude deals related to the company.²⁰³³ They are obliged to inform the board of directors or the supervisory board of personal interests in transactions which the company concludes in the legal actions undertaken by the company.²⁰³⁴ Company law envisages fine or imprisonment up to one year for violation of the duty to avoid conflicts of interest,²⁰³⁵ or up to five years if company suffered damage which exceeds RSD 10 million (€100,000).²⁰³⁶

Bribery, as well as trading in influence is treated by the Criminal Code. The code envisages imprisonment up to 10 years for trading in influence,²⁰³⁷ up to 15 years for accepting a bribe²⁰³⁸ and up to five years for giving a bribe.²⁰³⁹ The Criminal Code also covers the criminal act of abuse in relation to public procurement, with potential imprisonment of up to 10 years.²⁰⁴⁰

SOEs have a “double” role in public procurements. They have to implement public procurement rules, as with any other public body. However, those competing on the market may effectively skip public procurement rules when procuring for “further sale”. On the other hand, SOE’s may compete in tenders with private companies, as bidders. In rare situations, the SOE can be exclusive providers of some goods and services.²⁰⁴¹

SOEs are forbidden to donate political parties, either in money or in services. The Law on Financing Political Activities forbids financing of political entities, among other forbidden funding sources, from public institutions, public enterprises, companies and entrepreneurs who perform services of general interest; institutions and enterprises with state capital; other organisations exercising public authority.²⁰⁴²

15.2.6. Integrity Mechanisms (practice)

To what extent is the integrity of SOEs ensured in practice?



SCORE: 25/100

While almost all SOEs have drafted integrity plans to address corruption risks, the Agency for the Prevention of Corruption received 11 complaints in 2022 and highlights irregularities in SOE practices. Scrutiny of SOE directors' assets by the agency peaked in 2019, with subsequent years showing varying levels of examination. Also, the competence of supervisory committee members is questionable, with concerns over their qualifications and low remuneration, and lack of interest in training. Integrity of SOEs is further questioned due to the strong influence of ruling parties (see 15.1.2).

All public bodies, including SOEs, were obliged to draft integrity plans – to recognise risks of corruption and make plans to reduce those risks, and as much as 99% off all public bodies implemented this obligation.²⁰⁴³

2032 Transparency Serbia. *Initiative to eliminate serious corruption risks in the Draft Law on the Management of Companies in the Ownership of the Republic of Serbia and the authentic interpretation of the Law on Corruption Prevention*, p.8-9, https://transparentnost.org.rs/images/dokumenti_uz_vesti/TS_predlozi_-_Konsultacije_o_Predlogu_zakona_o_upravljanju_privrednim_dru%C5%A1tvima_u_vlasni%C5%A1tvu_Srbije.pdf; Transparency Serbia. 2023. *Amendments are also needed in the new draft law on the management of state-owned enterprises*, Press Release, <https://transparentnost.org.rs/sr/aktivnosti-2/naslovna/12511-potrebne-dopune-i-u-novom-predlogu-zakona-o-upravljanju-drzavnim-preduzecima>; the Draft Law on Amendments to the Law on Prevention of Corruption was subjected to a public debate in August 2023. <https://www.mpravde.gov.rs/sr/sekcija/53/radne-verzije-propisa.php>

2033 The Law on Business Associations. Official Gazette no. 36/2011, 99/2011, 83/2014 – other law, 5/2015, 44/2018, 95/2018, 91/2019 and 109/2021, article 69, https://www.paragraf.rs/propisi/zakon_o_privrednim_drustvima.html

2034 Ibid, Article 65, para 1.

2035 Ibid, article 583.

2036 Two of the largest SOEs operate in the status of joint-stock companies, Elektroprivreda Srbije ad (the energy supply company changed its status in April 2023) and Telekom Srbija ad (telecommunications operator), thereby falling under the regulation of company law and not the Law on Public Enterprises.

2037 The Criminal Code. Official Gazette no. 85/2005, 88/2005 – correction 107/2005 – correction 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 and 35/2019, article 366, <https://www.paragraf.rs/propisi/krivicni-zakonik-2019.html>

2038 Ibid, article 367.

2039 Ibid, article 368.

2040 Ibid, article 2228.

2041 The Law on Public Procurements. Official Gazette no. 91/2019, article 3, <https://www.paragraf.rs/propisi/zakon-o-javnim-nabavkama.html>

2042 The Law on Financing Political Activities. Official Gazette no. 14/2022, https://www.paragraf.rs/propisi/zakon_o_finansiranju_politickih_aktivnosti.html

2043 List of institutions that developed an integrity plan and placed a decision on its adoption in the application (date of last update 20 June 2023), https://www.acas.rs/storage/page_files/14.%20Sistem%20javnih%20preduze%C4%87a_15.xlsx; Agency for Prevention of Corruption. 2022 annual report, p.27 https://www.acas.rs/storage/page_files/Izve%C5%A1taj%20o%20radu%20za%202022.%20Agencije%20za%20spre%C4%8Davanje%20korupcije_1.pdf

However, in 2022, the Agency for the Prevention of Corruption received 11 complaints from citizens about the work of SOEs, pointing to irregularities that create circumstances for corruption in the public sector; this was out of a total of 213 complaints received.²⁰⁴⁴ An illustrative example is the case of the director of the SOE Roads of Serbia. During the 2020 election campaign, a Serbian village's election boycott, prompted by unfulfilled promises from the 2017 presidential election, led to the director, Zoran Drobnjak, to visit and promise construction. Simultaneously, in front of cameras, he urged citizens to vote. Criminal charges against him for alleged bribery were initially dismissed by the supreme public prosecution, citing a lack of clear connection between his call for voting and the road commitment, but the appellate public prosecution later deemed this dismissal incorrect during a legality review.²⁰⁴⁵ When it comes to resolving a conflict of interest, the Agency for the Prevention of Corruption initiated public recommendations for dismissal from public office of two directors of local SOEs.²⁰⁴⁶

The Agency for the Prevention of Corruption scrutinised SOE directors' assets in 2019, where the annual plan for verifying reports on public assets and revenues of public officials envisaged scrutiny over 170 directors, acting directors and former directors of national and local public enterprises. In 2020, there were no such checks, while in 2021 the verification covered two and, in 2022, seven acting directors of local public enterprises.²⁰⁴⁷

The competencies and the determination of the members of the supervisory committees to perform their function are questionable. According to the Law on Public Enterprises, the candidate for supervisory committee member, among other criteria, must be introduced to corporate management or finances.²⁰⁴⁸ However, it remained up to the candidates to determine how they should gain their knowledge in these areas. According to research by Transparency Serbia, all sorts of documents were delivered as a proof, most often as diplomas of courses in corporate management.²⁰⁴⁹ There were some initiatives by experts and civil sector specialists to organise courses for already active committee members to improve their capacities for proper supervising, however, it turned out that interest in such courses was almost nonexistent.²⁰⁵⁰ Another barrier to competent supervision is the question of low remuneration. According to Katarina Đulić, associate professor of economy at the FEFA, compensation of RSD 2,000 (€17) per month for the supervisory committee members raises concerns: firstly, it signals a lack of expectation for responsibility and managerial duties; secondly, it discourages qualified individuals from applying; and thirdly, it emphasises the importance of creating conditions for independent decision-making, as low compensation may lead to dependence on external instructions, as observed in some directors' behaviour.²⁰⁵¹

Interactions

The intertwining of the public sector and SOEs is reflected in the role that the public sector plays in the management and supervision of the work of SOEs. Ministries, primarily of the economy, but others such as the Ministry of Finance, Energy and Transport, supervise SOEs. However, there is still no centralised system of supervision, which is why there is no consistent and comprehensive reporting on their work.

State-owned enterprises are subject to audits from the SAI and the SAI has always conducted such audits. As a result, numerous wrongdoings have been identified in areas such as public procurement and other contracting, employment, assets disposal and donations. Despite these reports, some problems persist.

2044 Agency for Prevention of Corruption. 2022 annual report, p.46, https://www.acas.rs/storage/page_files/Izve%C5%A1taj%20o%20radu%20za%202022.%20Agencije%20za%20spre%C4%8Davanje%20korupcije_1.pdf

2045 Transparency Serbia. 2021. Press release, *The prosecutor from Niš did not investigate whether Drobnjak abused his position in Kukulovci*, <https://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/saopstenja/11650-niski-tuzilac-nije-ispitao-da-li-je-drobnjak-zloupotrebio-polozaj-u-ukulovcima>; Transparency Serbia. 2020. Press release, *The decision to dismiss the criminal complaint in the case of "Kukulovce" was irregular*, <https://transparentnost.org.rs/index.php/sr/aktivnosti-2/saopstenja/11715-odluka-o-odbacivanju-krivicne-prijave-u-slucaju-kukulovce-je-bila-nepravilna>

2046 Ibid, p.14.

2047 Agency for Prevention of Corruption. Annual Plans for Verifying Reports on Public Assets and Revenues of Public Officials, https://www.acas.rs/cyr/page_with_sidebar/plan_provere

2048 The Law on Public Enterprises. Official Gazette no. 15/2016 and 88/2019, article 18, para 1, point 5 https://www.paragraf.rs/propisi/zakon_o_javnim_preduzecima.html

2049 Transparency Serbia. 2021. *Dismissal of acting status in public enterprises: final report*, pp.7-9, <https://transparentnost.org.rs/images/publikacije/Razresenje%20v.d.%20stanja.pdf>

2050 Katarina Đulić, an associate professor of economics, suggests minimising damage by enhancing the knowledge and skills of individuals, especially in corporate management. She proposes organising specialised programmes to improve competencies, emphasising that political aspirants often resist attending such training sessions. Đulić speculates that introducing tests or exams after the training could increase participation standards. Many politicians, she notes, lack awareness of their legal responsibilities and potential accountability if something goes wrong in a company. The role and responsibilities in this regard are often poorly understood. This statement was made during the conference on public enterprises, discussing the need for public support in reforming corruption-prone areas. See: Statement of Katarina Đulić, associate professor of economy, FEFA, Conference: "Public enterprise: Public support is necessary for the reform of the 'corruption hotspots'", Nova Ekonomija, 2023, <https://www.youtube.com/watch?v=NJoLFAIH1s0>

2051 Statement of Katarina Đulić, associate professor of economy, FEFA, Conference: "Public enterprise: Public support is necessary for the reform of the 'corruption hotspots'", Nova Ekonomija, 2023, <https://www.youtube.com/watch?v=NJoLFAIH1s0>

For more than a decade, public enterprises should have been managed by professionals, according to the law, but this did not happen. In practice, directors or acting directors of such enterprises are people who enjoy support of the government or individual ministers. While it was more visible in the past, in coalition governments, it is clear also now that such enterprises are part of coalition members' spoils.

Pillar Recommendations

- The government should establish a centralised coordination unit to monitor, control and supervise state-owned enterprises, and the data from that system should be available to the public.
- The government should ensure greater independence in business operations, especially from political influence, by ending the practice of appointing acting directors and to announce competitions for the selection of directors of public companies for all companies managed by legal or illegal (expired mandate) acting directors. After the start of the implementation of the Law on the Management of Companies Owned by the Republic of Serbia, legality should be ensured by the representative state supervisory boards and state representatives in shareholders' assemblies.
- The government and the assembly should prepare and adopt amendments to the Law on the Prevention of Corruption to invalidate the authentic interpretation of the definition of the term public functionary and ensure that directors, acting directors, supervisory board members and shareholder meetings of state-owned enterprises have the status of public officials and are subjected to asset and income verification and conflict of interest regulation.
- The government and the assembly should prepare and adopt amendments to the Law on Public Enterprises and the Law on the Management of Companies Owned by the Republic of Serbia to reduce the possibility of abuse of the resources of these companies for political promotion or goals not related to the company's field of work.
- The government should specify, to the extent possible, the criteria for determining whether directors performed their duties unprofessionally and negligently and whether there was (significant) deviation from the achievement of the basic goals of work for the public company, that is from its business plan.

Conclusion/Policy Recommendations

Even though there was, and still partly exists, a favourable environment for achieving significantly better results in the fight against corruption, over the last two decades progress has been achieved almost exclusively at the level of normative and institutional solutions, as well as in terms of citizens' awareness of the various forms of corruption and ways to prevent it, and much less in the practice of applying regulations, if we exclude the positive developments that are the result of technological progress. Moreover, the situation has worsened in many areas. In Transparency International's global ranking, the result worsened after many years of stagnation, so Serbia in 2022 had its worst rating in more than a decade. Other international reports give similar evaluations. This fact is all the more worrying because the fight against corruption was considered one of the priorities at the time.

A favourable environment for the fight against corruption was, and still is, partially formed by the high degree of general interest from citizens for solutions to corruption as a problem (most often in public opinion surveys ranked third on the list of priorities when asked, for example, about problems in society), treating the fight against corruption as one of the government's proclaimed priorities in certain periods, the high degree of interest from international organisations, including the EU, in reforms in this area and the readiness to help with those reforms, and, during the last decade, the stable support for the government, which could have been used for more effective implementation of anti-corruption reforms and politics.

Such a favourable environment was not used to create a system that would enable the prevention, suppression and punishment of corruption. Citizens and businesspeople who are ready to point out cases of corruption and violations of anti-corruption preventive regulations or systemic corruption problems, as well as associations and media that investigate these phenomena, do not receive the encouragement from the state authorities to do so, which would, first of all, be reflected in their timely and adequate reaction (examination of cases of suspected corruption, elimination of its systemic causes). On the contrary, they often suffer harmful consequences, and the absence of a timely and adequate reaction encourages the continuation and spread of corrupt practices.

The media scene is deeply divided, and it is dominated by those who are not ready to critically examine the government's moves, especially regarding TV stations and daily newspapers with the largest audiences. In the years when there was no opposition in parliament, and to a lesser extent in the last year, the media and organisations that cast doubt on the actions of authorities and public officials or report on possible corruption in practice are treated as political opponents of the government. Officials of the executive and legislative authorities and the pro-government media treated the leaders of independent state bodies in the same way when they, acting within their competence, pointed to the omissions of officials or disputed decisions of the authorities, especially when they actively promoted such views in the public.

The interest in reforms from international organisations has not been adequately utilised, not only because many of their recommendations are only accepted with a significant delay, but also because a formal approach prevails in their acceptance. Moreover, when amending laws, state authorities often reject sound proposals from national actors on the same issue because the changes are limited only to what was proposed by an international organisation or because the law is already "harmonised" with the standards of the EU or other international organisations. Currently, Serbia will not fulfil most of the significant recommendations of GRECO's fifth evaluation round by the deadline. There is also little or no chance to fulfil the key recommendations from last year's European Commission report before the publication of the next one (in October 2023) or to improve regulations related to elections, election campaign financing and abuse of public resources in the campaign based on the recommendations of the ODIHR and the Venice Commission.

The centralisation of political power, especially since 2014, and after a decade of fragile coalitions that facilitated the purchase of political protection from some of the participants in power and slowed down reforms, did result in the adoption of several acts in the fight against corruption, both in the National Assembly and by the government. At the same time, several unforced extraordinary parliamentary elections were held, after which there was an unnecessarily long wait for the formation of the government. On the other hand, the centralisation of power led to a significant weakening of the system of responsibility for implementing adopted laws and public policies, the institutional system of checks and balances and the rule of law as a whole.

The final result is stagnation or deterioration in the ratings of the perception or state of corruption and many related areas. The first factor that leads to an unsatisfactory situation in the fight against corruption is the insufficient importance given to it, where the deterioration has been noticeable in the last few years. Among the most visible

indicators are the absence of a national planning document in the past five years and the decreasing degree of prioritisation that the fight against corruption has in the government's programmes (for example, 2022 and 2020 compared to 2016 and 2014). During the period of validity of the previous strategy, although the Agency for the Fight Against Corruption (now the Agency for the Prevention of Corruption) prepared quality reports on the implementation, those reports were not discussed in the institutions, and even less the determination of responsibility for omissions. Similarly, despite numerous delays, there was no accountability for breaching the commitments from the Chapter 23 action plan of the negotiations with the EU, in which a special sub-chapter is dedicated to the fight against corruption.

Open disregard of anti-corruption rules by the very top of the executive power has far-reaching and severe consequences for the entire anti-corruption system, which is most visible in the examples of unimplemented professionalisation in the management of public enterprises and state administration despite unambiguous legal obligations. Similarly, the unity of the anti-corruption system is threatened by concluding the most valuable contracts for the use of public resources without competition by applying exceptions from interstate agreements or special laws.

The process of making many important decisions is still not transparent, and the real reasons for making these decisions or their content remain unknown. On this subject, there were no positive developments after the adoption of the Law on Lobbying in 2018, based on the recommendations of GRECO. In addition, according to publicly presented information, decisions are not made by the government and other responsible bodies that formally vote on them but by the president of the republic, who is not accountable for such decisions and who, until recently, formally led the strongest political party. The non-transparent reasons for making decisions led to suspicions of corruption within the executive and legislative authorities and in the judiciary (for example, sudden changes in legal understandings in certain cases of great importance).

Meanwhile, the ability of citizens to initiate or influence the content of regulations and decisions is limited by the lack of readiness to have all proposals from public debates and submitted popular initiatives thoroughly considered. Regarding the impact on public expenditure priorities and the budget, the consultation mechanism does not even formally exist at the central level.

Non-compliance with requests for access to information and specific binding orders of the Commissioner for Information of Public Importance to disclose information; completely ineffective legal protection of the right to access data in the possession of the seven highest state authorities, which is exercised only before the administrative court; the practice that state authorities do not disclose a lot of information they publish in advance, even when they are obliged to do so by law; as well as the publication of information in an inaccessible form all significantly contribute to the opacity of decision-making and the work of authorities.

Supervision over the implementation of numerous preventive anti-corruption rules is inadequate for the number of controlled entities and the frequency and scope of the controls. When one adds to this insufficient cooperation between state authorities in using the results of the conducted controls, it is unsurprising that the desired effects of the prescribed obligations are also absent. Weaknesses in supervision can only partly be attributed to insufficient capacities of the state authorities, identified in almost all areas, and partly to possible "self-censorship" and control by managers in particularly "sensitive" cases. One of the indicators of insufficient capacities is the unfilled positions based on the existing acts on systematisation, where those acts do not consider the need for significantly more intensive supervision. Things are similar when it comes to prosecuting corruption and investigative bodies' capacities and methods of action.

Although some whistleblowers have received legal and judicial protection, there is no systematic monitoring of what happens to their reports. In this way, the primary motive for raising the alarm – solving the problem – is jeopardised. Public prosecutors' offices and other state bodies do not act proactively enough, and even those suspicions of corruption that are well documented and made public, including the reports of the government council for combating corruption, remain unexamined. When it comes to the proactivity of corruption research, so far, there have been no visible effects of constitutional reform of the judiciary, which had as its primary goals the liberation of the judiciary from political influence and greater independence of public prosecutors. Positive effects are visible in terms of the publicity of the work of judicial councils. In contrast, in terms of the responsibility of the members of those bodies, the reform actually worsened the situation.

Although there have been visible improvements in the speed of solving corruption cases in recent years, especially with the implementation of plea agreements and the work of special departments for combating corruption, the number of reported cases, indictments and verdicts has not significantly increased. The international organisations' reports and the public point to a very small number of such cases concerning persons in high positions, the imposition of low sentences and the failure to confiscate property acquired through corruption.

When it comes to the repression of corruption, in addition to the already mentioned insufficient proactivity, the problem is also the definitions of certain corrupt criminal acts, the inadequate division of responsibilities among the prosecutors offices for the prosecution of certain criminal acts and perpetrators, the overload of competent prosecutors due to the prosecution of other criminal acts, suspicions of political influence in investigation and prosecution of some instances of possible corruption, disclosure of information on the prosecution of corruption by unauthorised persons, long duration of court proceedings, as well as insufficient publicity of data when the proceedings end with a plea agreement.

Recommendations

- The government should propose and parliament should adopt a new anti-corruption strategy. In addition to the measures specific for selected sectors, this strategy, should address issues that could improve the system as a whole as well as cross-cutting issues, which is not sufficiently the case with the current draft strategy document. Measures envisaged in the egypt should be sufficient to ensure the defined goals can be achieved (also, not the case with the current draft). Indicators of success, both on the goals and activity level should be precisely set and sufficiently ambitious (not the case with the current draft).
- Public prosecution offices should proactively investigate (even if there is no criminal charge submitted) all claims of corruption that are documented and should take a leading role in informing citizens on the suppression of corruption. To enable public prosecution offices to perform that role, the State Prosecutorial Council and the Ministry of Justice should ensure increasing of their capacities and initiate changes in Criminal Code, criminal procedure code, law on the organisation and powers of state bodies in suppression of organised crime, terrorism and corruption that would facilitate such investigations, in particular when it comes to high-level corruption.
- The government and parliament should stop their practice of undermining anti-corruption legislation by adopting special laws for individual projects, excluding the implementation of anti-corruption laws through state-to-state agreements and the adoption of authentic interpretations of the existing legislation.
- The government should stop its practice of illegal appointments of top civil servants in public administration and in public enterprises and ensure appointment of professional managers instead.

All Recommendations

Legislature

- Parliament should be more engaged in reviewing the compliance of draft regulations with the constitution and strategic documents, discussing potential corruption risks with emphasis on interstate agreements and verifying the funds envisaged for implementing specific regulations. Concerning this, parliament should stop adopting authentic interpretations that cause instability in the legal system by amending the Law on the National Assembly and the rules of procedure.
- Parliament should endorse civil society inclusion by:
 - » organising more public hearings on the topics of the utmost public interest, in discussing corruption risks and implementation of recommendations of international organisations (such as ODIHR, GRECO);
 - » inviting civil society representatives and experts to participate in relevant committee sittings and establish more inquiry committees;
 - » reviewing and including civic initiatives in the agenda.
- Parliament should improve the transparency of its work by the timely publishing of amendments, the government's opinions on amendments, documents considered and adopted in committee sessions, budget execution documents (currently available only to MPs) and information on lobbying. Parliament should organise public calls and interviews with candidates for all posts to be elected by parliament.
- Parliament should improve the integrity of its work by:
 - » improving the regulation of conflict of interest by amending the Law on the National Assembly and Code of Conduct to ensure tailor-made rules and clear jurisdiction between the Agency for the prevention of corruption and the self-regulation of the National Assembly;
 - » amending the Code of Conduct to align with practice and presenting the Code to citizens;
 - » publishing a report on the implementation of the Code of Conduct and timely reviewing all reported violations of the Code.

Executive

- The Government needs to develop, in consultations with all relevant stakeholders, a new anti-corruption strategy for 2023-2028 and implement the current strategic anti-corruption documents without further delay.
- The Government needs to implement further international recommendations, including those from the GRECO evaluation and the European Commission's progress reports. Most pressing in this regard are the following actions:
 - » regulating conflicts of interest among advisers to the President, prime minister and ministers and strengthening the system for controlling the reports of executive power officials;
 - » regulation on informal lobbying;
 - » enabling citizens to file a complaint with the Commissioner when the government or president refuse or ignore the request for access to information;
 - » obligation to hold public hearings on all laws;
 - » limiting the immunity of members of the government for corrupt crimes, expanding the jurisdiction of the prosecutor's office for organised crime and strengthening the government's council for the fight against corruption;
 - » further improve its track record on investigations, prosecutions and final court decisions in high-level corruption cases, in particular the seizure and confiscation of criminal assets.

- The government should align and make fully comparable its four-year programme with annual work programmes and reports on their execution.
- The government should enable the public to influence the budget process and to provide explanations on the influence of planned budget expenditures in the fulfilment of legal obligations of state bodies and in the implementation of defined priorities.
- The government should prescribe standards on conflicts of interest that would apply to special advisers in the government and ministries.
- The government should introduce an obligation to publish all of its decisions, except when it is necessary to protect predominant public interest, including legal deadlines for publications.
- The government should allow the media to attend its sessions and publish transcripts of its sessions, except in areas where discussing issues that need to remain confidential; The government should publish a notice of the agenda of the sessions.
- The government should publish professional biographies of candidates it proposes, and to timely publish its decisions on electing, appointing and dismissing with reasons.
- The government should introduce the practice to call for the accountability of government ministers if failure occurs as a delay in fulfilling their obligations; for example, a delay in delivering to the parliament the proposed budget and final account statement, non-compliance with decisions of the commissioner for information of public importance and other agencies, non-compliance with the requests or recommendations of the ombudsperson, Agency for the prevention of corruption, the supreme audit institution and other bodies, failure to pass by-laws and failure to comply with the future anti- corruption strategy and action.
- When setting up each new government, the Government should establish and publish priorities for the fight against corruption; these priorities should be in accordance with the general future Anti-Corruption Strategy and Action Plan for its implementation.

Judiciary

- Parliament should improve the independence and responsibility of the HCJ, through the selection process of so-called prominent lawyers in such a way that they should be elected by the MPs directly and prevent that, due to MPs failure to exercise their powers, the election of these lawyers is then done by the commission.
- The HJC should adopt rules/by-laws on the independence of the judicial budget, build capacities for the implementation of the budget for the judiciary and create mechanisms for their effective application.
- The HJC should conduct a new systematisation analysis to determine the number of judges in accordance with the needs of the judicial system in order to resolve all cases within a reasonable time frame, including current delays.
- The HJC should, following public consultation, pass a by-law on the criteria for election to the position of judge and president of the court.
- Courts should ensure a greater degree of transparency of work through holding regular press conferences and publishing data on the status of proceedings for which there is public interest, as well as through timely and complete processing of requests for access to information in accordance with the legal framework.
- The HJC and the courts should conduct an analysis of the proceedings in cases involving criminal acts related to corruption, which last an extremely long time or end with symbolic sanctions, and present to the public the reasons for such a situation.
- The Ministry and the Government should ensure the right to compensation for victims of corruption, in accordance with the Council of Europe's Civil Law Convention, which was ratified by Serbia.
- The judicial academy should improve the quality of continuous training for judges in corruption especially regarding the prosecution of corrupt criminal acts based on publicly expressed suspicions.

Public Prosecutor

- Parliament should amend the legislation that regulates the work of HCP to provide more independence and responsibility for the HCP, by including that the selection process of so-called prominent lawyers happens in such a way that they are elected directly by MPs and not by the special commission after MPs fail to exercise their powers.
- The government and the HPC should provide the public prosecution with the necessary conditions for work: human resources, office space and equipment. Additionally, they should provide conditions for more financial forensic experts, including possible changes of the legal framework which would enable their employment under market conditions and not for the salaries of civil servants.
- The HPC should improve the system of accountability of prosecutors by providing a transparent system of decision-making on citizens' complaints, decision-making on prosecutors' reports due to illegal influence and evaluation of public prosecutors.
- The HPC and all prosecution offices should increase the number of prosecutors who exclusively investigate corruption cases in order to conduct proactive investigations based on publicly available data on corrupt behaviour.
- The judicial academy should provide a greater number of training sessions where competent public prosecutors can continuously improve their knowledge and skills to fight corruption.
- All prosecution offices should provide a greater degree of proactive transparency, without requiring requests for free access to information; in particular, increase the amount of information on their websites for which there is public interest or about cases for which suspicions of corruption were publicly expressed in the media available and publish clear instructions (on their websites and premises) for persons who want to report corruption: what they should do, what to expect during the procedure, when they can expect information about the course of the procedure, and so on.

Public Sector

- The government should abandon the practice of acting appointments of civil servants in positions, and the Administrative Court should annul the previous illegal decisions in this regard.
- The Agency for the Prevention of Corruption should conduct research on corruption and privileged employment in state administration and, following the research findings, propose measures to eliminate the problem of political influences in the employment process.
- The government and parliament need to make amendments to the regulations related to conflict-of-interest management for employees in the public sector and establish a basis for the wider and more efficient application of this mechanism. These amendments should also include chiefs of cabinet and governmental advisers and advisers to the president, so that they would be obliged to follow asset declaration rules.
- The Law on Whistleblower Protection should be amended to appropriately penalise all forms of retaliation towards whistleblowers and to place one body in charge of general and comprehensive oversight of the law's implementation. Additionally, the Ministry of Justice should analyse the effectiveness of law enforcement and transparency of other bodies in this area. The monitoring should not focus only on the protection granted to the whistleblowers but also on follow-up actions on information provided by them.
- The government should abandon the practice of concluding interstate agreements or proposing special laws aimed at circumventing public procurement regulations.

Law Enforcement Agencies

- The state audit institution should conduct comprehensive audits and evaluations of budget use within the Ministry of Interior. In parallel, prosecutors must actively monitor and closely follow civil society initiatives and investigative journalism reports that shed light on potential instances of budget misuse within the police service. This proactive approach will ensure that any irregularities are promptly identified and addressed.

- The police should take proactive measures to prevent information leaks and respond swiftly when their integrity is questioned by the media to safeguard the integrity of the police service and maintain public trust. This includes: strengthening information security (safeguarding servers, rooms, and entrances and controlling access to ensure the protection of sensitive information from unauthorised access or damage), conduct swift and thorough investigations when allegations arise in the media. And the police should always provide clear and factual information to address any doubts or concerns raised.
- The police should provide clear and comprehensive guidance to individuals who want to report such incidents to encourage reporting of corruption and ensure transparency in the process. This includes: clear instructions on websites and premises; a clear explanation of what individuals can expect during the reporting and investigation process; and the police should commit to providing regular updates and notices to individuals who have reported corruption.
- The police, prosecution and courts should collaborate in preparing and regularly publishing comprehensive statistical overviews annually on an official website. These overviews should contain key data on acts of corruption, providing the public with a clear understanding of the progress and outcomes of related cases. The following steps should be taken: collaboration and data sharing, regular statistical overviews should be prepared and published, presenting aggregated data on various aspects of corruption cases and the published statistical overviews should be easily accessible to the public, such as on the official websites of the police, prosecution and courts, ensuring transparency.
- The internal control sector should assess in an annual report the effectiveness of anti-corruption measures, such as asset declarations and integrity tests, in enhancing police integrity.
- Parliament should play an active role in overseeing the internal control sector by regularly reviewing its annual reports, supervising budgetary and operational fund legality, monitoring special evidentiary actions and integrity tests, ensuring political and ideological neutrality within the police, addressing observed illegalities or irregularities in the ministry's operations, and reporting conclusions and proposals to the National Assembly

Electoral Management Body

- The government should propose and parliament should adopt a new law which would establish the state election commission as a professional and independent state body. The starting point for discussion on the best model for the election of its officials and their independence from political parties should be the draft law on the state electoral committee from 2009. This independent body should dispose with its own budget and should employ its own administration.
- The REC should publish annual procurement plans in accordance with the law (it has not been published since 2019), plus annual reports on expenditures and reports on election expenditures (not published since 2020) on its website at the latest one month after elections.
- The REC should initiate changes for better participation of voters with disabilities including:
 - » providing easier access to polling stations for persons with disabilities
 - » enabling easier movement within the polling station adapted to persons with disabilities
 - » enabling informing and communication with blind and deaf persons by introducing audio, visual and tactile instructions.
- The REC should proactively publish turnout data, data on composition of polling boards and aggregated voting results received from the LECs on its website immediately upon their reception from the LECs in an open data format.

Ombudsperson

- The government should provide a permanent and adequate space for the ombudsperson by executing the existing decision or making a new decision on the allocation of space for permanent use.
- The ombudsperson should undertake all necessary measures and activities to improve its human resources by filling vacant positions in the professional service.

- Parliament should provide an effective and a publicly available mechanism for monitoring the implementation of the ombudsperson's recommendations, as well as the recommendations of the parliamentary committee in connection with the ombudsperson's annual report. That mechanism should ensure the prescription of sanctions for non-reporting on the implementation of recommendations and for unjustified non-implementation of recommendations.
- The government should prepare and parliament should adopt amendments to the Law on the Ombudsperson to: abolish the monopoly of political parties nominating candidates; give full transparency to the election process that enables all candidates to present their work programmes; ensure equal participation of CSOs in the election process, and the selection of the best candidates based on clear, well-known and measurable criteria.
- The ombudsperson should always, when there is increased public interest, initiate proceedings by official duty, especially according legislative competence.
- The ombudsperson should make information about his work available to the public in a timely and complete manner, above all information about control procedures and recommendations made, especially in those cases where there is an expressed public interest.

State Audit Institution

- The state prosecution office should act upon the SAI's submissions and report about the results of its actions during the year.
- The SAI should increase the number of auditors to fill the systematised positions and especially strengthen its performance audit sector to expand the scope and volume of the work.
- The SAI should enforce cooperation with CSOs and citizens to promote channels for reporting irregularities.
- The SAI needs to publish on its website the criteria by which it makes its annual auditing plan.
- The finances committee should follow up quarterly on the fulfilment of the SAI's recommendations in audited institutions, for example, through public hearings on the most strategic issues raised by SAI in its report.

Anti-Corruption Agencies

- The government should amend its rules of procedure and other relevant acts to oblige legislators to seek the agency's opinion on norms that could impact corruption or anti-corruption efforts, and to provide a comprehensive analysis of potential risks in the explanatory note. This should increase the number of acts on which the agency gives an opinion on the risks of corruption.
- Parliamentary committees should be obliged by parliamentary rules of procedure to take into account the agency's analyses of draft legislation and should proactively seek the agency's support in amendments drafting;
- Parliament needs to amend the Law on the ACA to make it mandatory for the agency to publish its opinions, as well as to publish how the proponents of the regulations acted according to the agency's opinion within a legally mandated deadline.
- The agency should proactively publish on its website opinions given to officials regarding the performance of other functions or jobs and other matters without revealing personal data.
- The Laws on FPA should be amended to clearly define the role of the agency in overseeing party and campaign financing by setting deadlines for control based on reports submitted in the election campaign period, defining a minimal set of actions that should be performed when checking the completeness and truthfulness of campaign finance reports, and so on.
- The agency should make all its registers more user-friendly (for example, with the possibility to sort data from asset declarations) and clarify to what extent they are accurate. The agency should also link all public records, or their parts, managed by the agency for an easier search of data.
- Parliament needs to amend the Law on the Prevention of Corruption:
 - » to make it mandatory for public officials to share in their published asset declarations the assets of public officials' firms such as shares in another company and real estates and information about income from allowed private resources.

- » to set a legally prescribed minimum number of controls and minimum content for the control of asset declarations that the agency has to perform and provide sufficient powers and resources for such controls (for example, every official to be checked within four years, or the development of methodologies for risk assessment).
- Parliament needs to amend the Law on the ACA to restore the system of proposing council members by institutions instead of them being elected by parliamentary majority, in a way that may be combined with the current system of candidate testing.
- The agency should strengthen its integrity and accountability mechanisms, including the promotion of whistleblowing procedures and publish (anonymously) data on the handling of petitions (external whistleblowing) and data on measures conducted following internal whistleblowing), on the agency's website.
- Parliament should promptly discuss the agency's reports and call for responsible elected officials when problems identified in previous years' reports from the agency are still unresolved.
- The government and the agency should collaborate in formulating and presenting a comprehensive National Anti-Corruption Strategy, to be subsequently endorsed by parliament, by March 2024.
- The agency should be more active in promoting the results of their work with the public and enabling the exchange of opinions and questions (including discussion on final decisions in individual cases), thus influencing greater compliance with the laws that agency implements and supervises.

Political Parties

- The government should propose and parliament should adopt amendments to the Law on Financing Political Activities to remove identified weaknesses in the system, clearly set out responsibilities of the Agency for Prevention of Corruption 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, at least one year prior to next election.
 - » the law should establish thresholds for the cost of the election campaign per one electoral list/presidential candidate;
 - » the law should redefine the purpose of budget subsidies and their distribution in a way that funds for campaigns are distributed before elections, while the funds for regular party financing may not be used to finance election campaigns;
 - » the law should stipulate the obligation of the Agency for Prevention of Corruption in the control of political parties, related to deadlines, transparency and content of the control reports;
 - » the law should more precisely regulate the purpose of tax administration control of party's donors, in order to prevent abuse;
 - » transparency of financing during the campaign should be regulated by introducing a system of transparent accounts that would enable the timely publishing of political parties' incomes and expenditures;
 - » the law should strengthen regulation of third-party campaigning and financing of activities by candidates and explicitly prohibit all forms of abuse of public assets for the campaign purposes.
- The government should propose and parliament should adopt amendments to other laws to restrict opportunities for the abuse of public office and resources to promote parties in election campaigns, including a ban on the distribution of extraordinary social benefits during the campaign, restrictions on new employment in the public sector during the campaign, restriction on public officials' promotional activities in the campaign.
- Political parties (and the Agency for Prevention of Corruption) should consider measures for improving the integrity of political parties and political life (for example, integrity plans, parliamentary ethical committee).
- The government and parliament should amend the criminal offence set in the Law on Financing of Political Activities to criminalise threats to service providers of political parties and to adequately punish all types of retribution towards both party donors and service providers.
- The Agency for Prevention of Corruption shall, instead of issuing warning measures, enforce adequate sanctions in cases when a political party repeats the law violation.
- The Agency for Prevention of Corruption shall publish the outcomes of initiated proceedings (decision of public prosecutor, criminal or misdemeanour court).

Media

- The government and parliament should respect media strategy and complete the legislative process by amending newly adopted laws, especially regarding media ownership and mechanisms for protecting pluralism by:
 - » respecting media freedom and establishing legal guarantees for it;
 - » ensuring that state ownership will not jeopardise the diversity of media content and removing provisions that allow state-owned companies like Telekom Srbija to own media;
 - » enabling the visibility of all TV channels to all citizens starting at least with awarding the fifth media service licence with national frequency to one of the independent broadcasters;
 - » securing a completely independent functioning of the regulatory body, including:
 - provisions that enable judicial and civil control of REM's actions following complaints from citizens and organisations
 - introducing provisions that prescribe the criteria and methodology on the basis of which REM monitors media reporting during election campaigns in order to avoid abuse of state institutions and functions;
 - » removing all forms of “covert control” through the biased use of budget money in project financing.
- The government and parliament should finally adopt the Law on Public Media Services, in line with the media strategy, and not only periodically change the provisions that continuously extend the payment of the subscription.
- The government should enforce the independence and efficiency of judicial institutions in line with the media strategy and with the adoption of the action plan for 2023-2025, in the protection of journalists and media freedom (attacks, lawsuits, court proceedings or indictments) by:
 - » adopting binding rules for prosecutors to take immediate measures in cases of violence against journalists;
 - » ensuring the conditions for the fast and regular implementation of these measures.
- ACAS and experts in the anti-corruption field should cooperate with the media to arrange and provide continuous training/workshops for journalists on reporting corruption, both at national and local levels.
- Projects within the media and from donors and budgets should be designed to provide comprehensive and continuous support for investigative journalism

Civil Society

- The government needs to improve and systematise the legal framework that regulates its cooperation with CSOs and ensures the implementation of the existing consultative mechanisms, including:
 - » the Law on the Planning System and by-laws so that public consultations are held on all important acts, that all relevant information is presented to the participants, that all proposals are discussed and the responses are explained, and ensure responsibility for all the above;
 - » establishing clear rules in the Law on the Budgetary System or one of the aforementioned acts that would refer to consultations with budgetary priorities;
 - » ensure compliance with procedures in preparation of legislation as regulated in the Law on State Administration and Rules of Procedure of the National Assembly.
- CSOs should expand their activity in fighting corruption to regional, national and local levels and initiate and strengthen cooperation with interested parties from CSOs whose primary areas of interest are not anti-corruption, the business sector and state bodies.
- The government should ensure a more transparent distribution of budget funds for CSO programmes of public interest and more effective supervision over implementing such programmes.
- The government and parliament should amend tax regulations to enable more significant resources for CSOs for policy-making advocacy and oversight of public authorities and to stimulate corporate philanthropy for CSOs dealing with these issues.
- CSOs should establish or strengthen their internal control and integrity mechanisms, by:

- » introducing or supplementing internal structures with a clear distribution of responsibilities;
- » ensure reliability and regular financial reporting and monitoring;
- » ensuring transparency of insight into their work and responsibility towards stakeholders;
- » adopting ethical standards of behaviour;
- » securing compliance with applicable regulations.

Business

- The government and the National Assembly need to change the entire legal framework related to the business in order to promote integrity in the sector by:
 - » introducing transparent supervision over its implementation, starting with prescribing obligatory values and a code of conduct, introducing integrity policies, resources and systems, integrity risk management
 - » ensuring the promotion of integrity in the private sector while preventing, detecting and managing fraud and corruption, starting with strengthening the laws that regulate public procurement by “closing” the legal loopholes that the government uses to rig the tenders; in other words, the government should cease the practice of using an exception based on interstate agreements for all big jobs.
 - » discontinuing the dependence of businesses on their connections with those in power, in particular when it comes to small enterprises at the local level and tenders by:
 - selecting projects based on identified needs and public interest;
 - estimating costs and benefits based on evidence;
 - having the SAI audit regularly.
- The chamber of commerce and other company associations should strengthen the role of the private sector in preventing corruption by:
 - » introducing incentives and supporting companies in the sector’s anti-corruption activities and their relations with CSOs and state bodies;
 - » promoting the principles of good governance, particularly the rule of law, transparency, accountability and integrity through training provided by experts and using practical examples of good practices;
 - » designing the proper conduct of a risk assessment that companies could apply.
- In order to introduce an anti-corruption programme and expect it to be effective, the company’s leadership needs to provide support and determined to implement it by:
 - » designing and presenting it to employees through various workshops focusing on a clear policy prohibiting corruption;
 - » designing a clear guidance to detect and report violations;
 - » introducing internal control and record-keeping;
 - » mapping the risk of corruption and the factors of these risks in companies.
- Companies must provide secure and accessible channels for whistleblowers by setting up precise, safe and diversified reporting mechanisms on suspected corruption, including:
 - » reporting in person, by designated email address, by an online platform such as an intranet or external channel if no internal one is available or safe;
 - » the possibility of anonymous reporting;
 - » ensuring the reporting process’s confidentiality (of the content and the whistleblower) and defining what “confidentiality” means;
 - » supporting and protecting reporting persons and preventing retaliation against them.

State Owned Enterprises

- The government should establish a centralised coordination unit to monitor, control and supervise state-owned enterprises, and the data from that system should be available to the public.
- The government should ensure greater independence in business operations, especially from political influence, by ending the practice of appointing acting directors and to announce competitions for the selection of directors of public companies for all companies managed by legal or illegal (expired mandate) acting directors. After the start of the implementation of the Law on the Management of Companies Owned by the Republic of Serbia, legality should be ensured by the representative state supervisory boards and state representatives in shareholders' assemblies.
- The government and the assembly should prepare and adopt amendments to the Law on the Prevention of Corruption to invalidate the authentic interpretation of the definition of the term public functionary and ensure that directors, acting directors, supervisory board members and shareholder meetings of state-owned enterprises have the status of public officials and are subjected to asset and income verification and conflict of interest regulation.
- The government and the assembly should prepare and adopt amendments to the Law on Public Enterprises and the Law on the Management of Companies Owned by the Republic of Serbia to reduce the possibility of abuse of the resources of these companies for political promotion or goals not related to the company's field of work.
- The government should specify, to the extent possible, the criteria for determining whether directors performed their duties unprofessionally and negligently and whether there was (significant) deviation from the achievement of the basic goals of work for the public company, that is from its business plan.

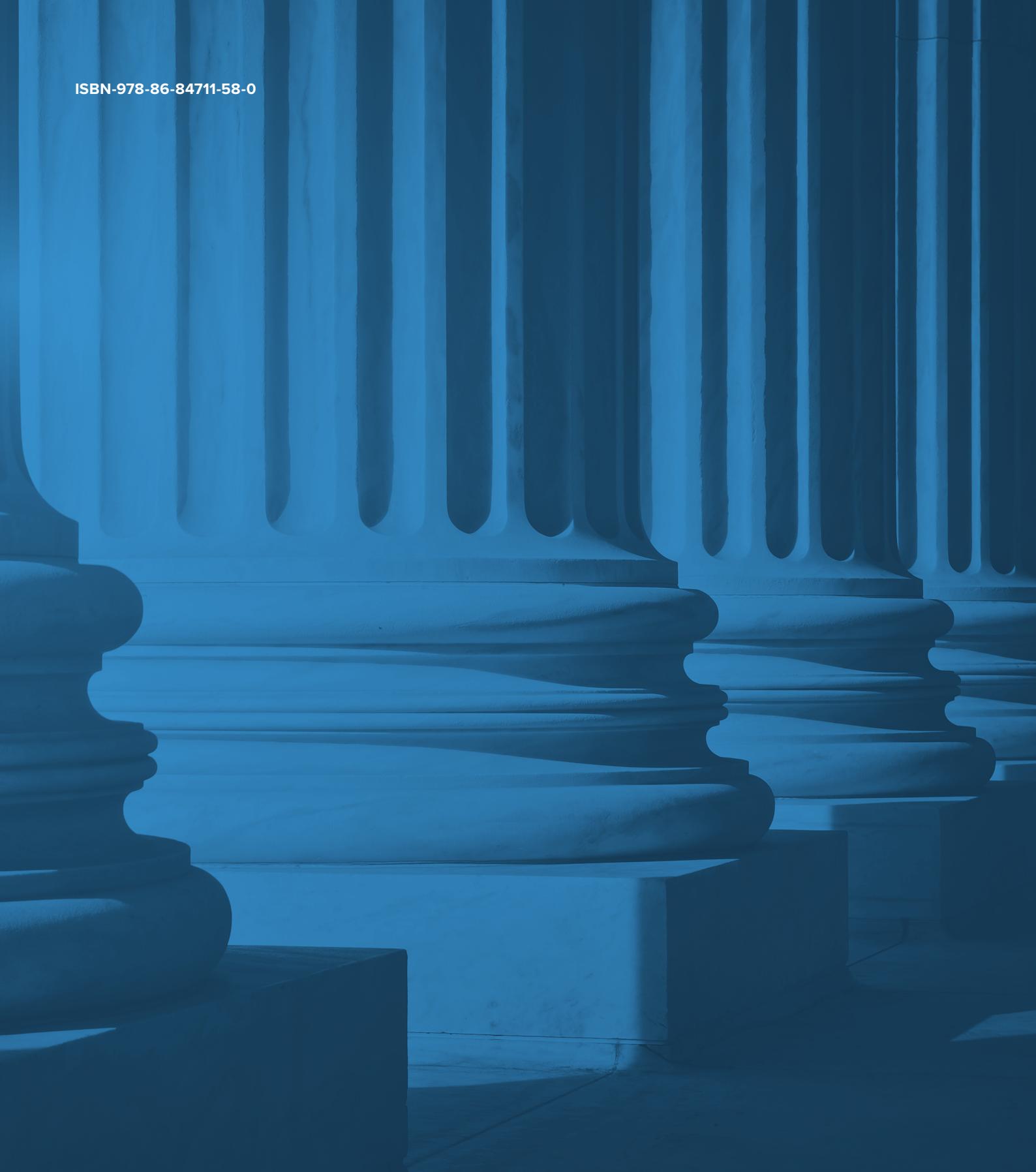
Advisory Group members

1. **Mr. Bojan Klačar**, NGO Center for free elections and democracy (CeSID)
2. **Mrs. Lidiya Komlen Nikolić**, President of the Presidency of the Association of Public Prosecutors and Deputy Public Prosecutors of Serbia and Public Prosecutor in the Appellate Public Prosecutor Office in Belgrade
3. **Mrs. Aleksandra Litričin**, lawyer
4. **Mrs. Tanja Maksić**, NGO Balkan Investigative Reporting Network (BIRN), Programme Coordinator
5. **Mr. Miroslav Miličević**, Anti-corruption Council of the Government of Serbia, President
6. **Mrs. Vida Petrović Škero**, President of the Judicial Research Center CEPRIS, former President of the Supreme Court of Serbia
7. **Mrs. Marijana Obradović**, Agency for the Prevention of Corruption
8. **Mr. Zoran Stojiljković**, political analyst and professor at the Faculty of Political Science, retired
9. **Mr. Rodoljub Šabić** - lawyer, former Commissioner for Information of Public Importance (2004 to 2018)
10. **Mrs. Gordana Todorović**, Serbian Chambre of Commerce and Industry
11. **Mrs. Rada Vasić**, Professor at the Faculty of Law, University of Belgrade (retired)
12. **Mr. Saša Đorđević**, Global Initiative Against Transnational Organised Crime

List of interviewees

1. **Mrs. Marija Babić**, lawyer and analyst in the Independent Journalists Association of Serbia (IJAS)
2. **Mrs. Miša Bojović**, Open Parliament – Crta
3. **Mr. Miša Brkić**, economic journalist, editor, and columnist for the daily newspaper Danas and weekly Nedeljnik
4. **Mrs. Dragana Čabarkapa**, President of the Union of Journalists of Serbia
5. **Mr. Božo Drašković**, Economist, Professor at the Faculty of Banking, Insurance and Finance, Union University in Belgrade
6. **Mr. Miloš Đajić**, the President of the Academy of Women's Leadership
7. **Mr. Saša Đorđević**, an expert who has followed police reform in Serbia for more than a decade
8. **Mr. Bojan Elek**, deputy director of the Belgrade Centre for Security Policy
9. **Mr. Zoran Gavrilović**, director of the Bureau for Social Research (BIRODI)
10. **Mr. Mihajlo Gajić**, economist
11. **Mr. Omer Hadžiomerović**, retired judge of the Court of Appeal Belgrade
12. **Mr. Miloš Janković**, ex-deputy of Ombudsperson
13. **Mrs. Lidiya Komlen Nikolić**, deputy of the Public Appellate Prosecutor's Office and President of the Association of Public Prosecutors and Deputy Public Prosecutors of the Republic of Serbia
14. **Mr. Radmoir Lazović**, parliamentary group and co-president of the Green–Left Front
15. **Mr. Zoran Lutovac**, Deputy Speaker of the Parliament, member of the parliamentary group Democratic party
16. **Mrs. Ružica Mačukat**, deputy register in the Serbian Business Registers Agency
17. **Mrs. Radojka Nikolić**, analyst, editor-in-chief of Biznis magazin and Ekonometar
18. **Mrs. Mirjana Nikolić**, journalist, portal Istinomer
19. **Mrs. Dragana Obradović**, Director of BIRN Serbia
20. **Mrs. Marija Pajić**, deputy register in the Serbian Business Registers Agency
21. **Mrs. Tara Petrović**, lead researcher in NGO "Civic Initiatives"
22. **Mrs. Sanja Popović**, President of the Association of Business Women in Serbia (ABWS)
23. **Mrs. Dragomir Pop Mitić**, an activist from the Užice Center for Human Rights and Democracy
24. **Mrs. Dragana Rakić**, parliamentary group Democratic party
25. **Mr. Borko Stefanović**, parliamentary group United – SSP, PSG, Overturn, Sloga
26. **Mrs. Suzana Trninić**, journalist, TV Insider
27. **Mrs. Nataša Vučković**, former MP in the period from 2006 to 2020
28. **Mrs. Ana Arsenijević Momčilović**, consultant in the area of good governance and anti-corruption
29. **Mr. Jovan Nicić**, consultant in the area of good governance and anti-corruption

CIP - Каталогизација публикације, Народна библиотека Србије



ISBN-978-86-84711-58-0



**Funded by
the European Union**

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