

CPI 2024 Results and Serbia

This year's one-point decline in the Corruption Perception Index would not be such a negative and significant indicator, if it were not for the continuation of the eight-year negative trend – stagnation or decline, starting in 2016. Serbia does not only have a problem with the perception of corruption – there is a lack of substantial progress in its suppression, and the legal and institutional mechanisms that should help prevent corruption have been further weakened over the past year. Trends in the eight surveys, on the basis of which the CPI is calculated, show that the impression of external observers about the development of the situation when it comes to corruption and the ability of institutions to deal with it, is mostly negative, which further reduces the possibility that it is only a subjective impression or reaction to individual disputable situations. In addition, the citizens of Serbia also have the impression of the high prevalence of corruption, although the fluctuations in the perception of corruption are significantly higher in these surveys. An even better illustration of the non-functioning of the system is provided by research on the implementation of certain anti-corruption regulations and the findings of international organizations that monitor the situation in certain important areas.

Why the results are substandard and what reduces the chances of improvement

The first factor contributing to this state of affairs is the **lack of importance given to the fight against corruption**. The National Anti-Corruption Strategy was adopted only five and a half years after the previous one (for the period 2013-2018) expired. Unlike in 2013, when it was highlighted in the messages of the political leadership, the adoption of the new Strategy in July 2024 and the Action Plan for the first year of its implementation in December 2024 went almost unnoticed. A much bigger problem is the fact that these documents do not offer adequate solutions to some of the key obstacles to a successful fight against corruption that were identified during its preparation. As a result, even if all planned measures are implemented by 2028, which is unlikely based on previous experience, progress will be limited.

The 2025 Strategy and Action Plan, among other things, do not offer solutions to the following key problems:

- Public prosecutors do not investigate publicly stated and documented suspicions of corruption on their own initiative;
- The Government proposes, and the Assembly adopts, special laws and intergovernmental agreements that exclude the implementation of the Law on Public Procurement;
- Public companies and public administration are managed by illegally appointed officials;
- The government does not publish concluded contracts and other important information on decision-making, leaving numerous doubts about hidden influences;
- Instead of the Assembly exercising effective supervision over the work of the Government, using the reports of independent state bodies, the work of the legislative and executive powers is subordinated

- to the President of the Republic, and the role of independent bodies is marginalized;
- The ability of the media, civil society and citizens to contribute to the fight against corruption is significantly impaired by the treatment of media that raise the issue of accountability as if they were political opposition and the absence of public debates in key decision-making;

It can be assessed as positive that the success of the implementation of this document is assessed on the basis of Serbia's progress within the International Corruption Perceptions Index (CPI). The goal is that by the end of 2028, Serbia reaches at least the global average (43), which it last approached in 2016. This year's CPI shows that we are even further away from this goal than at the time of the adoption of this act. The fight against corruption did not occupy a significant place in the election campaign of the parties that established the government in early 2024. The Prime-minister, who recently resigned, read police statistics *from previous years* in his May 1 exposé, and uttered a few unsubstantiated slogans ("continuation of the zero-tolerance policy"). For the revised Action Plan for Chapter 23 of the negotiations with the EU (2020), which also includes a section on the fight against corruption, no reports related to 2024 have been published.

Mass student and civil protests across the country, starting in November 2024, include a specific demand for the publication of information about an infrastructure project contracted without a tender, but also a general call for transparency, accountability and actions of institutions within their competences. The government responded by publishing numerous documents (repeatedly, each time claiming that everything had been published), while some that are crucial for determining responsible care for public finances related to the railway infrastructure project from Novi Sad to the Hungarian border are still missing. However, there is not even an announcement that the government could change its general practice of non-transparency in concluding and implementing contracts on numerous other projects, which Serbia pays several billion euros every year. As a kind of response to the anti-corruption demands of the public, there was an announcement of "results that will be visible by the end of March 2025", which comes from an unauthorized address (from the president of the state). Even if such an announcement were made by the Chief Prosecutor or the Director of Police (who has not yet been elected), the message would be wrong – it could not be interpreted in any other way than that the investigative bodies already have evidence of a large number of corruption cases, which they did not act upon in a timely manner.

The 2022 judicial reform has not led to a visible improvement in terms of greater independence for public prosecutors in prosecuting corruption. Although **many whistleblowers** receive protection of their labor rights under the law, no state body systematically monitors what results from their reports. In addition, the extremely negative attitude of officials towards certain whistleblowers who publicly warned about corruption and other irregularities, discourages the use of this mechanism. Not only do public prosecutor's offices and other state bodies not act proactively enough, but they also do not communicate information on the outcome of the criminal charges that the complainants have informed the public about.

A long-standing **open disregard** for the rules for the fight against corruption continued, which is most visible in the area of unimplemented professionalization of the management of state-owned enterprises and in the state administration. For a long time, the Government of Serbia has not tried to create even a semblance of legality, rather has appointed acting officers retroactively, more times than the law allows, or simply allows acting officials to do their job without any legal basis. A law that allows the transformation of public companies into capital companies, has become effective and in practice it is evident that one such transformation that has already taken place (EPS AD), has led to a decrease in transparency. This

transformation is accompanied by an additional high risk – due to the unfounded authentic interpretation of the term "public official" from February 2022, which is still applied, members of the shareholders' assembly, supervisory board and directors of the largest state officials are not obliged to submit reports on assets and income. The Constitutional Court has not yet decided, on the initiative of Transparency of Serbia, to assess the constitutionality of provisions that allow the Assembly to arbitrarily and retroactively change the meaning of previously adopted regulations through authentic interpretations.

The budget and other public resources are not protected. Infrastructure priorities, which are financed by increasingly expensive borrowing, are set without a predetermined and adopted plan. At the same time, the citizens who will repay these debts have no influence on the prioritization, and the warnings of the relevant state authorities (the Fiscal Council) are rejected without arguments. In many cases, including the reports of the Anti-Corruption Council, documented cases of harmful and often illegal decisions related to the disposal of public funds, remain unexamined. Contrary to the Fiscal Strategy, before the elections or on other similar occasions, the Government introduces unplanned public expenditures, in order to gain support for the parties that are in power in certain categories of the population at the expense of all citizens. The value of procurements contracted without the implementation of the Law on Public Procurement already exceeds the value of those contracted under its provisions. The dominance of direct agreements instead of tenders, accelerated procedures and adaptation of criteria to a pre-selected strategic partner of the state is particularly visible in large infrastructure works. This trend is further impetuated by a special law for EXPO 2027, which excluded the application of public procurement rules, and thus the possibility for companies that have identified that the procurement was rigged to file a request for the protection of rights. At the beginning of 2024, Serbia submitted an initiative to the Constitutional Court to assess the constitutionality and legality of Article 14 of a special law, which refers to public procurement, according to which, despite the obvious urgency, the Constitutional Court did not make a decision. On top of all this, as a basis for the implementation of large infrastructure projects, the Government cites and promotes the "Leap to the Future – Serbia 2027 program", for which the same Government has officially confirmed that it does not exist.

Not only is **the process of making many important decisions** in Serbia **non-transparent**, but decisions are often made outside the institutions that are responsible for them. In this regard, it is particularly noticeable that many decisions within the competence of the Government, the Assembly and other bodies are essentially made by the President of the Republic. This can be inferred both from his statements and from the statements of nominally responsible officials who do not miss the opportunity to invoke his authority.

The reasons behind the decisions, the interests in making them and the assessment of their impact remain unknown. In the seventh year of implementation of the Law on Lobbying, the influences on decision-making have not become any more visible than before its adoption, and there has been no attempt to extend the scope of this law based on a clear recommendation from GRECO in 2022.

The lack of transparency is significantly contributed by the failure to act on requests for access to information and the Commissioner's decisions, completely ineffective legal protection that is achieved only before the Administrative Court when information is requested from the Government of Serbia, as well as the practice that state authorities do not publish many of the information they have in advance, even when they are obliged to do so.

European integration has not been properly used to fight corruption, and key objections are repeated in each

new report of the European Commission. Even when it happens that a long-standing problem pointed out by the EU is solved (such as the abolition of a special law for line infrastructure), it very quickly turns out that there is no real readiness to implement EU standards (e.g. the adoption of a special law for EXPO 2027).

The recommendations of other international organizations (ODIHR, GRECO) have been mainly ignored in recent years.

Although a Working Group for the Improvement of the Electoral Process was established in the National Assembly in May 2024, with the task of devising solutions to meet all ODIHR recommendations, the government obstructed an attempt to improve the rules before the June local elections. Also, actions contrary to these recommendations continued, both in the June local elections (e.g. in relation to the officials' campaign and its media presentation) and after, which is a particularly striking example of illegality in the process of electing new members of the Council of the Regulatory Authority for Electronic Media. At the end of last year and the beginning of this year, the loss of trust among the participants in this process from the government and the opposition, as well as the gross violation of the established rules when considering the proposal for the audit of the electoral roll by the Parliamentary Committee on Constitutional and Legislative Issues, led to the withdrawal of members, first from five opposition parties, and then from three civil society organizations. As a result, Serbia has entered 2025 with election conditions that have not improved, while at the same time announcing possible new elections.

Failure to comply with the recommendations of GRECO (from the Fifth Round of Evaluation) has led to the fact that we still do not have a functional system for controlling the top of the executive branch, or even basic transparency on some basic issues (e.g. information on ministerial advisors), while the mechanisms of combating corruption within the police have been only slightly improved.

Key recommendations of the TS in the field of political corruption:

- Establishment of safe channels for reporting irregularities related to the misuse of public resources, the use of public office and the electoral process and their promotion by state authorities;
- Urgent investigation of all disclosed violations of the rules before and during the December 2023 and June 2024 election campaigns;
- Legal restriction of the possibility of conducting "official campaigning", i.e., ostensibly regular activities of public officials undertaken for the purpose of political promotion and the establishment of functional independent oversight, as well as legal restriction of public expenditure in the period before and immediately after elections;
- Limiting the costs of the election campaign, specifying the duties of the Agency for the Prevention of Corruption in controlling reports on campaign expenses, providing greater transparency of data during the election campaign;

- Providing greater public influence on the adoption of regulations and individual decisions, whether it is registered lobbying, unregistered lobbying or informal communication, which are not regulated by the Law on Lobbying;
- Respect for constitutional and legal rules and the principle of separation of powers in decision-making.

Key recommendations of the TS regarding anti-corruption planning:

- Determining the reasons for non-achievement of the objectives from the National Anti-Corruption Strategy 2013-2018 and responsibility for non-fulfillment of activities from the Action Plan for Chapter 23;
- Drafting an Action Plan of the Anti-Corruption Strategy for the period 2026-2028, identifying the issues left out of the Strategy and amending it in a procedure that would involve all relevant actors and would be adopted by the National Assembly and not the Government;
- Inclusion of measures for the prevention of corruption in the program of the new Government, with an unambiguous commitment to abandon illegal practices (in particular, in connection with the appointment of acting officials), introduction of the practice of regular conduct in relation to the reports of the Government Anti-Corruption Council and the practice of publishing documents of public interest (contracts, information on the impact on the decision-making process, explanations of by-laws and personnel appointments), the government's conclusions, and so on.

Key recommendations of the TS regarding the prosecution and penalizing of corruption:

- Investigating all cases of suspected corruption in relation to which documents have been disclosed or direct accusations have been made, without the public prosecutor waiting for someone to file a criminal complaint, as well as publishing information on the outcome of the investigation, including the justification in the event that it is established that there is no criminal liability;
- Providing all conditions for the prosecution of corruption by applying special investigative techniques, for conducting financial investigations in parallel with criminal investigations and for proactivity in investigating corruption, including amendments to the Criminal Code, the Criminal Procedure Code and the Law on Organization and Competence of State Authorities in the Suppression of Organized Crime, Terrorism and Corruption in order to more effectively prosecute certain forms of corruption;
- Improvement and comprehensive supervision of the implementation of the Law on Protection of Whistleblowers;

- Publishing information on the current implementation of the Law on Investigation of the Origin of Assets and Special Tax, reviewing its anti-corruption effects (if any), the effects of the control of assets and income of public officials by the Agency for the Prevention of Corruption and opening a debate on the criminalization of "illicit enrichment" in regards to the Article 20 of the UNCAC;

Key recommendations of the TS regarding the prevention of corruption and transparency:

- The Government of Serbia should ensure the execution of the Commissioner's decision and begin to regularly address the requests received;
- The possibility of complaint to the Commissioner should also be introduced in cases where information is withheld by the Government, the National Assembly, the President, the Supreme Court, the Supreme Public Prosecutor's Office, the Constitutional Court and the National Bank;
- The right of access to information must not be diminished by the provisions of other laws, and the exercise of this right should be extended to information held by currently non included entities (e.g. joint ventures within the framework of public-private partnerships);
- Public authorities should publish all information in an open format, and state control bodies should crossreference the data from these databases when determining their work plans and conducting supervision;
- The obligation to prepare and publish an explanation for decisions should be introduced, where it does not currently exist (e.g. certain Government conclusions);
- The National Assembly shall apply the provisions of the Code of Ethics in cases where MPs fail to provide an explanation to the public for their actions.

Key recommendations of the TS regarding public finances:

- Providing complete information regarding the transformation of public enterprises, the impact of unprofessional management on public finances and the possible role of external consultants in future management;
- Conducting supervision over the planning, implementation and execution of public procurements in a far greater number of cases, by the Public Procurement Office, the Budget Inspection and the Commission for Protection of Competition, as well as by the State Audit Institution, when it comes to their expediency;
- Ensuring full transparency in public-private partnerships and the annulment of all contracts that are essentially PPPs that are concluded without the application of the law or other valid legal basis;

- An end to the practice of concluding intergovernmental agreements on the basis of which transparency and competition in connection with the conclusion of public procurement contracts, public-private partnerships and the sale of public property, may be excluded;
- Ending the practice of conducting procurement on the basis of special laws enacted for infrastructure projects and repealing the recently adopted special law for EXPO 2027;
- Increasing the transparency of data on allocations from the budget reserve;
- Providing full explanations for the selection of infrastructure projects, on the profitability of borrowing, as well as on financial support measures;
- Empowering citizens to influence budgetary priorities at the national level;
- Publication of data on the implementation of the budget during the year in a way that enables monitoring by budget beneficiaries and programs;
- Regular review of reports and analyses prepared by the State Audit Institution and the Fiscal Council and acting on their recommendations.

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Note:

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