



# **Transparency Serbia**

**Overview of activities**

**July 2018.**



**Newsletter number 27/2018**



## *Activities*

Program Director Nemanja Nenadić participated at the meeting of non-governmental organizations from Serbia on the 2nd of July with representatives of the European Commission - Directorate for internal market, industry, entrepreneurship and small and medium enterprises, Industry, Entrepreneurship and SMEs Unit for Access to Procurement Markets GROW). DG GROW was attended by Mr. Bonifacio Garcia Porras, Head of the Department and Mr. Laszlo Kojnok, Legal Advisor.

Topics covered issues of public procurement regulations, NGO experience in monitoring the implementation of these regulations, institutional framework for public procurement, irregularities, corruption. Nenadić informed the representatives of DG GROW about the findings of the TS regarding the implementation of the Law on Public Procurement and key problems, and most of the time it is dedicated to exemptions from the application of the Law and their detrimental effect on the entire public procurement system, including procurements based on interstate agreements, procurement of media services and others. In addition, he pointed to the weaknesses in the functioning of the supervision over the implementation of the law and the complete absence of punish ability due to non-compliance with the rules on misdemeanor proceedings. There were also delays in the implementation of the activities from AP 23, as well as the unpublished shift at the head of the Public Procurement Directorate, which was learned that day. It is particularly important that the representatives of the DG GROW pointed out that Serbia is not obliged to include in its legislation all the exceptions from the EU directives, which is particularly significant in terms of current inconsistent solutions for advertising in electronic and print media.

Zlatko Minic, the associate of TS, was on July 3<sup>rd</sup> with the representatives of four other associations (Yukom, Judges Association, CRTA and Humanitarian Law Center) at a meeting with H.E. French Ambassador Frederic Mondoloni, Director of the French Institute Jean-Baptist Kison and First Secretary of the Embassy, Maxim Reno. The main topic of the discussion was the state of the rule of law in Serbia, in the context of chapters 23 and 24 of European integration. In particular, the amendments to the Serbian Constitution regarding the position of judges and prosecutors, as well as the position of independent bodies, were also in the focus.

During July (July 5 - 24), a public debate was organized by the Ministry of State Administration and Local Self-Government, announcing the draft amendments to the Law on Civil Servants. Transparency Serbia has submitted comments, in particular with regard to the amended provisions related to the prevention and resolution of conflicts of interest. The analysis can be downloaded from our site, and we publish the excerpt in this issue of the Bulletin.



On July 10 and 11, a seminar was held in Belgrade on the topic of detecting and preventing money laundering, as well as financial investigations in such cases. Participants of the seminar were addressed by the representatives of CEMI from Podgorica, ADI from Sarajevo and Transparency Serbia from Belgrade, who jointly implement a regional project on financial investigations. The lecturers were Vladimir Čeklić, Assistant Director of the Directorate for Seized Property Management, the Ministry of Justice of the Republic of Serbia, and Bojan Branković, a permanent judicial expert in the economic and financial profession. Participants in the seminar were representatives of the police, public prosecutor's offices and courts from all three countries of the region.

In the introductory part of this meeting, the representative of TS, program director Nemanja Nenadić, spoke about the current issues of combating money laundering, both at the global level and in our region. Among other things, he recalled the inadequate reaction of the authorities of the Republic of Serbia after the discovery of global data on the use of taxation countries for the business of a large number of companies and influential individuals, as well as the reasons that led Serbia to be on the "gray list" of FATF and undertaken activities to solve these problems. In addition, he pointed to the importance given to the prevention of money laundering under Chapter 24 of the EU Integration of the Republic of Serbia.

Zlatko Minic attended the regional conference on small hydropower plants in Podgorica on July 18th, organized by the Network for the Promotion of the Non-Governmental Sector (MANS). The issue was captured state and creating benefits for investors associated with the authorities in the countries of the region.

Nemanja Nenadić participated as a lecturer at two meetings on free access to information of public importance and protection of personal data that the Commissioner organized - in Zrenjanin, on July 3 and 4, and in Vranje on July 17 and 18. He spoke about the anti-corruption effects of the Law on Free Access to Information of Public Importance to the representatives of local self-government, public companies and public institutions from Zrenjanin and the municipalities of Sečanj and Žitište, as well as on the proactive publication of information on the work of the authorities. In addition to the implementation of the Law on Free Access to Information of Public Importance, he pointed out the important provisions of other regulations governing the publication of information, such as the Law on Public Procurement and others, and there were also the recent amendments to the Law on Local Self-Government.

At the second meeting, representatives of local self-government, public enterprises and public institutions from Vranje and the municipalities of Bujanovac, Preševo, Vladičin Han and Surdulica, in addition to the above-mentioned topics, also spoke about the findings of the research of the TS Index of transparency of local self-government, and the reasons that contributed to the good placement of some of the municipalities from the south of Serbia on that ranking.



In July, Transparency Serbia received official announcements from the Anti-Corruption Agency that our project "Support to the preparation of the Local Anti-Corruption Plan and the establishment of a body for monitoring the implementation of LAP in the City of Novi Pazar" was approved at the competition. Work on the project should begin in August.

The Advocacy and Legal Advice Centre (ALAC) of Transparency Serbia had 72 new cases - 39 on the basis of free telephone calls to 0800 081 081, and 33 based on the information received at the e-mails [ts@transparentnost.org.rs](mailto:ts@transparentnost.org.rs) and [savetovaliste@transparentnost.org.rs](mailto:savetovaliste@transparentnost.org.rs), based on direct contact or on the basis of information found in press clipping and on the Internet. In the bulletin we present three cases from the practice of the Counseling Center.

The most calls to the ALAC relate to the work of the judicial authorities. Citizens are mostly dissatisfied with the manner in which the judge acted, the absence of the reaction of prosecutors, or, on the other hand, the suspicious nudge of lawyers who represented them.

From last month, we highlight a citizen's report in which she complains about the way in which the acting judge in one of the Belgrade courts ruled in the concrete case. She says she ignored certain evidence, she did not respect the written and oral proposals of the party, did not allow the parties to present evidence at the oral hearing, and selectively determined what should be entered into the minutes at the hearings on which the party orally and in writing presented and applied the evidence.

On all of this, the judge did not deliver the minutes so that the party does not have its copy of the minutes and claims that it has never been delivered. Volunteers and counseling attorneys will gather as much evidence as possible about the judge's actions in the particular case, firstly in order to determine the allegations of the citizen who reported us the case, and then to make a conclusion about the impact on the case and possible abuse of judicial office.

In July, 110 news or articles were published about the activities of our organization, i.e. news outlining the positions of representatives of the TS. Among them, we highlight the hosting of our associate Zlata Djordjevic on TV N1. You can view the video on our [YouTube channel](#).



## Under the magnifying glass

July 27<sup>th</sup> 2018.

### They have money

"Where is Drobnjak? Drobnjak, find a way, you got the money! Roads (SOE "Putevi") have money, it has got a billion and 200,000 dinars of dinars," Vucic said on March 30th and ordered to build a kilometer road to the house of the villager who complained about the mud. The promise is fulfilled. Of course, it is nice that asphaltting this village section makes life easier for a number of fellow citizens.

But the problem is that a state-owned company illegally uses money to build a local road.

If this has been done because the director of a company was bribed or because he wanted to raise himself an endowment in his hometown, it would just be corruption. If this decision was made in such a way that for the one-time fulfillment of the private interest regulations were changed, that would be the capture of the state. When the decision about what the public funds will be used is brought upon the mercy of the ruler, regardless of what is written in the regulations, and then some of the important features of the state disappear.

In the [case](#) of the construction of a village road in the village of Donji Banjani, the hamlet of Petrići, the value of the works is known, but the legal basis to lead to them isn't. It is undisputed that the works were financed or even carried out by SOE Roads of Serbia (Putevi Srbija). However, this company has no legal basis to carry out the work of local roads, but it is under the jurisdiction of local self-governments.

Contradictory information was recorded on the origin of funds for the execution of these works, but they are not particularly important.

It doesn't matter whether the road was paid from a toll or from a budget loan; the essence is that JP Serbia Roads should never have used it for this purpose.

It is not entirely clear whether some acts were changed due to this violation of laws, but according to the officials' statements and available material, they don't appear to be. Namely, we were unable to find any information about this procurement at the [Public Procurement Portal](#). Donji Banjani is mentioned, but only as a point on the route of the future highway. There is no indication that the status of a rural

### Na obećanje Vučića dobio put, nejasno ko ga je platio

Autor

teksta:



Maja Nikolić

f 463

t

g 0

in 0

A1

E-mail

11 isinomer

Kilometar seoskog puta u selu Donji Banjani, do kuće Slobodana Petrića, našao se u žiži javnosti nakon što je predsednik države Aleksandar Vučić lično dao natog za njegovu izradu, a onda i obišao to domaćinstvo po završetku radova.



Izvor: N1



road has changed, for example, in the regional road, in order to have the competence of the republic public asphaltting company established.

What is known and is undoubtedly relevant to this story is that on March 30, at the ceremony on the breakthrough of the tunnel on the corridor 11, president Vucic was met by a local citizen Slobodan Peric who complained that there was no asphalt in the village and promised him that the road would be asphalted by Roads (Putevi) because 1.2 billion dinars were transferred to it: "Where is Drobnjak? Drobnjak, find a way, you got the money!" This promise has been fulfilled. Of course, it is nice that asphaltting this village section makes life easier for a number of fellow citizens.

The problem is that help on one side inevitably means it will not be possible to help someone else. If the Roads of Serbia (Putevi Srbije) asphalt the roads in the surrounding villages instead of the highway, it would help many, but it would again be justified to raise the issue of priorities and order. That is why there are plans, so that answers to these questions can always be clear.

## **Financing the referendum campaign**

July 5th 2018.

Serbia expects a referendum as some of the provisions of the Constitution for which this type of affirmation is required, are being changed. Although political issues are often decided at a referendum, funding of a referendum campaign has never been covered by laws relating to the financing of political parties.

When a political party carries out a referendum campaign, it doesn't specially report on the revenue sources and the cost structure, as it has to do after the elections, but only includes them in the annual financial report.



The Anti-Corruption Agency does not receive the funds to control the financing of this campaign, unlike the electoral, when it organizes monitoring of expenditure through an observer. An even bigger problem with financing the campaign is that there are no specific rules for funding coming from state authorities, and then general rules can be interpreted in different ways.

There are also no rules for financing a referendum campaign that would take place through business entities, formal and informal groups from Serbia or abroad.

The implications are the unlimited possibility of misusing the public resources for the promotion of the ideas behind the government, the ability to use the sources of funds that are strictly forbidden when it



comes to the election campaign, such as public enterprise funds, foreign donations, contributions companies that organize games of chance or produce excise products, as well as lack of supervision and much less transparency of the entire process. Transparency Serbia asked for this issue to be settled 12 years ago when a campaign for the adoption of the current Constitution was organized. We have also made concrete proposals on how to do this, in 2011, when the debate on the draft of the new Law on Referendum and People's Initiative was opened, but this act has not been adapted to date.

## **Amendments to the Law on local Self-Government**

July 2nd 2018.

The Assembly adopted long anticipated amendments to the Law on Local Self-Government, among which are some useful innovation in the fight against corruption.

Changes related to the extension of the circle of issues that are regulated by the statute of local self-government are obliged to implement the public hearing in the adoption of some acts, while for others it is optional. The most important thing is that debates will be mandatory at least at the work of the budget (planning of investments), and that is the part in which the opinion of the citizens is naturally the priority, and it can influence the final decision on what the funds will be spent on.

The essential problem is that the legal rules on how to hold a public hearing are not envisaged, but it is left to the statutes, so there are no guarantees that they will be organized in a way that the participants have all the necessary information and sufficient time to influence the process of budgeting and other decisions. In this regard, public debates at the local level needed to be at least as good as the discussions that are being held in the preparation of the law (when the rules of the Law on State Administration and the Rules of Procedure are respected), with the obligation to publish the report on the public hearing, minimum maintenance period, publication of information on the website. You can download the whole analysis (in Serbian) from the [TS site](#).

