The National Integrity System of the Republic of Serbia

Key recommendations

Transparency - Serbia
Belgrade,
13th September 2011

**Introduction**

These pages contain key findings from the research *National Integrity System of the Republic of Serbia.* This mini-publication is prepared for necessities of conference in which in special focus certain anticorruption pillars – three basic authority branches (legislative, executive and judiciary), state administration, prosecution organs (police and prosecution), as well as five bodies that should be, and in certain cases are independent (Election Commission, Ombudsman, Commissioner for Information, State Audit Institution and specialized anticorruption agency).

The goal of this conference is, among other things, to introduce quality solutions through reviewing of findings and recommendations, we feel, will be of use through formulating of new National Anticorruption Strategy, whose preparation is currently in progress along with its action plans.

**Legislative**

Key findings

* Legal framework allows National Assembly necessary independency in planning need for resources.
* In practice, resources of National Assembly are still insufficient for accomplishing of its role, due to their inadequate increasing by the National Assembly.
* According to regulations, Assembly is independent from other organs, but can be dismissed without the will of parliamentary majority in certain cases.
* In practice, proceeding of National Assembly is largely conditioned and dictated with proceedings of other organs. Almost all adopted laws are from the Government as a proposer and agenda is almost always adapted to priorities and urgency defined by the Government. Assembly as an organ insufficiently supervises Government’s work.
* Publicity of Assembly’s activities is provided in various ways (TV broadcasts, reporting of journalists, web-site, and requests for free access to information). Implementation of certain provisions of Rules of Procedure that should provide more useful information through web-page is delayed.
* Large number of data on National Assembly’s work is available, but not always in a best possible way (submitted amendments aren’t published, transcripts of discussions, biographies of candidates that Assembly appoints to positions and certain reports that are not discussed in the Assembly).
* Immunity guaranteed with Constitution to deputies and other officials is too broad.
* There is no legal obligation to include in consultations before parliamentary committees representatives of interested public, nor there is modality for that.
* In practice, proceeding of Assembly is various. In certain cases, Assembly organizes consultations before adopting of important acts through public meetings (e.g. public hearings). On the other hand, practice to discuss important laws organized in a way that doesn’t allow even deputies to prepare for the debate exists.
* Smaller number of limitations, obligations and prohibitions than to other high officials, which is not always justified (e.g. recently performing of multiple public functions).
* There are no rules on lobbying.
* Deputies are subjected to Anticorruption Agency in regards to performing of other jobs and reports on property. Matter of conflict of interest when deciding in National Assembly was rarely posed and rules on exemption were never implemented.
* National Assembly doesn’t perform efficient supervision over executive authority. There is no practice of reviewing Government’s reports, and possibility of establishing Inquiring Committees is rarely used. Just since recently there is obligation to review reports of independent organs submitted to National Assembly, and problems and recommendations from those reports aren’t being used enough for accomplishing of supervisory role of National Assembly.
* Although National Assembly adopted many anticorruption laws, adoption of provisions that have the opposite effect isn’t rare or to adopt norms that are contrary to Constitution or incompatible in other ways with the rest of legal system although that was already well know at the moment of adoption. Parliament doesn’t monitor implementation of Anticorruption Strategy adopted by it.

**Legislative**

Key recommendations

1. To increase resources of the National Assembly in order to ensure the efficient performance of its functions. After that, National Assembly should actively monitor the:

- Compliance of draft legislation with the Constitution and the rest of the legal system and with the strategic documents adopted by the Assembly;

- explanation of the merits of bills considered by the Assembly, particularly in terms of funding necessary to provide for the application of the Act, compliance with European standards, the analysis of the effects of that regulation should have, the quality previously held consultations on the legal text (if all interested parties were given an opportunity to give an opinion on the proposed text during the public hearing);

- on compliance with the principles of the proposed standard anti-corruption strategies, anticipated effects of proposed solutions to corruption and anti-corruption and anti-corruption stance of independent authority on the matter

1. Part of the resources that are gaining political entities based on their representation in Parliament and other representative bodies, should be used to increase the quality of the parliamentary groups - preparation of draft laws and amendments to the proposed legal solutions
2. In practice, to increase legislative activity of MPs. Amendments to the Rules to ensure that the bills submitted by deputies should be considered within a reasonable time
3. In case of significant changes to proposed legislation during it’s hearing (as a result of accepting or proposing amendments by the government) it should be allowed to facilitate the submission of amendments to the revised text
4. Commit the Government to submit detailed reports to Parliament on its activities, which should include a report on the realization of tasks from anti-corruption strategies and programs related to the fight against corruption
5. To amend the Rules of procedure in order to provide a number of mandatory publication of documents of the Assembly; To ensure full implementation of the provisions of the Rules relating to the provision of information and disclosure of documents through the web-site (e.g., submitted amendments, discussion transcripts, biographies of the candidates elected to the Assembly functions and some reports the Assembly may debate)
6. Amending the Constitution to exclude the applicability of immunity from prosecution for violations of anti-corruption regulations while retaining the concept that the detention is not possible without the approval of the National Assembly.
7. To amend the Rules in order to ensure the inclusion of representatives of interested public in the debates before the parliamentary committees (at least the possibility of making proposals relating to matters under consideration at the meeting of the board, with the guarantee that board members will be introduced with the proposals)
8. Continue the practice of holding public hearings before making important legislation.
9. Abstaining from the practice of the National Assembly to put the bills on the agenda if there was not enough time to deputies prepare for this hearing, as well as to organize joint discussion about bills if there is no common understanding about similarity of their topics.
10. Regulate lobbying (influence or attempt to influence the decision-making) in connection with the adoption of laws and other decisions by the National Assembly
11. Law on the National Assembly and the Rules on Procedure detail the issue of conflict of interest that may occur in people's deputies in connection with their decision-making
12. Adopt a Code of Ethics for Members of Parliament
13. Improve the practice of considering the report of the independent state institution s before National Assembly within the relevant committees and the plenum of the National Assembly. When the Assembly accepts the report that indicates the need to make or change regulations, to initiate proceedings necessary to amend the legislation. When reports indicate a failure of other executive body that controls the Assembly, request the body of the report done and start the process for accountability of managers who do not fulfil their obligations (e.g. ministers)
14. Even when there is no legal obligation to do so, the committees that consider bills and other decisions should seek the opinion of the Anti-corruption and other authorities who are implementing anti-corruption legislation (e.g. the Commissioner for Information of Public Importance of issues related to public work) as to whether the proposal creates an opportunity for corruption, namely, whether contributing to the fight against corruption
15. Provide, within the legislative committees or other bodies of the National Assembly review the constitutionality of proposed regulations and their compliance with the rest of the legal system and not adopt those rules that are not aligned.
16. Prior to the adoption of laws to determine their financial effects on the ability of management to effectively monitor their implementation and to adopt regulations whose implementation and monitoring of the implementation is not possible to provide funds

**Executive**

Key findings

* On the basis of regulations, Government is responsible to the Parliament for policy of the Republic of Serbia, for implementation of laws and other general acts of the Assembly, for status of all areas from Government’s jurisdiction and for the work of state administration organ’s work
* Structure of executive authority (number of members of the Government and number of administrative organs) is variable and dependant on political agreement and not from the necessity of performing functions of executive authority
* Existence of human resources necessary for efficient work of ministries and other administrative organs depending more on political strength of parties and ministers then from actual needs and priorities
* Executive is largely independent from other branches of authority. Legislative has means available for limiting independency of executive authority and there is possibility of court reviewing of certain Government’s decisions
* Supreme executive officials (Prime minister, vice-presidents, ministers) as well as secretary general of the Government and deputy secretary general are obligated to report property and incomes to Anticorruption Agency, which they did according to Agency’s data
* President of the Republic is perceived as power holder that participates in processes in Government’s jurisdiction, through special bodies consisting of Government’s representatives, through appearances where announces measures from Government’s jurisdiction or through submitting of reports on work by ministers from his political party. Similar situation is in other cases when president of political party isn’t at the same time member of the Government
* Party relations can affect independency of decision making process of the Government in such level that many of Government’s decisions are either politically opportunistic or essentially dependant from necessity of keeping media image of coalition partners
* Executive authority according to analysts is under influence of informal centres of power like large business and “key players” in international community
* Government is obligated to publish certain adopted categories of documents (regulations, decisions, rules on procedure, budget memo) in the «Official Gazette», while others (declarations, strategies, conclusions) can, but doesn’t have to publish, even when they organize important matters, sometimes in a way opposite to the laws
* Journalists and other public representatives „as a rule” do not attend sittings; transcripts from sittings and audio material are treated as “official secret strictly confidential”
* Significant part of Government’s activities is insufficiently transparent (data on lobbing, debates from sittings, data on candidates proposed by the Government and persons that are resolved or appointed)
* Public is notified on prepositions and solutions adopted by the Government, which is partially consequence of Government’s acting in public, and partially information obtained by the media or launched by members of the Government informally
* Annual report on work which Government delivers to the Assembly (who doesn’t discuss it, but deputies are merely “informed” on it) isn’t available on Government’s web page
* Documents related to budget realisation (e.g. on public procurements) and undertaking of obligations are not being published in appropriate level, although basic indicators are available («Public finance bulletin»)
* Possibility of control of Government’s work, decisions and acts adopted by the Government, are given to Constitutional Court, Administrative Court and State Audit Institution
* Members of the Government are not obligated to elaborate their personal decision during voting on Government’s sittings, and even the mere fact on how they voted is considered strictly confidential official secret. Since March 2011 it is forbidden to the members of Government that disagree with the decision to publicly express opposite opinions
* Supervision over work of executive authority isn’t sufficient or efficient enough. Even noticed irregularities in the work of executive authority are mainly unsanctioned.
* Reports submitted by the Government (and Ministries to the Government) never serve as basis for initiating procedure for determining probable responsibility for unfulfilment of plans and obligations
* Obligation of public debating on regulations that substantially change organizing of certain matter is in practice most often merely satisfying of form; many important regulation are adopted without organizing any public debates
* Lobbying regarding suggested or adopted decisions by executive authority is completely unorganized
* Executive authority regularly violates regulations regarding deadlines for delivering budget and final account of the budget; for a long time executive authority refused to conduct decisions of Commissioner for Information; Recommendations of independent state organs are ignored
* Normative and institutionally there is detail organized system of employment, assignment, specialization, rewarding and advancing of state servants in state administration system
* Full implementation of regulations regarding depolitisation of state administration was several times delayed, and wasn’t conducted even after expiration of legal deadline (end of 2010) - prevailing logic of division of “political spoils”
* Government made drafts (and Parliament adopted) series of anticorruption laws
* Fight against corruption is high on the Government’s agenda, but the method of such fight isn’t developed in details.
* Government makes election, appointing, as well as resolving of directors of other organs but doesn’t publish reasons for doing so. Although election is made formally by the Government, almost unconditionally are accepted prepositions of coalition members to whom «belongs» certain department.
* Government approves programs of public enterprises and financial plans of other institutions, but that is often done with the delay. Control over work of public enterprises and other organizations is inefficient.
* Government adopts decisions on placing premises at disposal to state organs but is often late with that, process of disposition is not public nor the list of property in disposal of state organs is published
* Government established Anticorruption Council with indefinite mandate of members and limited jurisdiction. Council is very active in public and large number of citizens contacts it. Reports that Council publishes after they are being submitted to the Government, contain often parts that should provoke further proceedings of the Government and other organs, but such reaction often misses.
* Government in 2011 determined Minister of Justice for coordinator of state administration organ activities in fight against corruption and previously signed memo on cooperation with Anticorruption Agency.

**Executive**

Key recommendations

1. Law on Ministries, after a public hearing and approval based on wider political structures to determine the number and structure of line ministries and other public administration bodies in order to avoid frequent changes that are not based on the need for the most efficient performance of state administration, but needs to settle a number of ministerial place during the formation of the government, make the analysis work performed by the ministries, other government bodies, Government departments, public agencies and regulators, determine how much of an overlap of responsibilities and obligations of these bodies and accordingly form a new organizational structure
2. Limit the number of state secretaries in the ministries
3. By enabling the public to influence the budget process and through the provision of broader explanation of the planned budget expenditures to ensure that the allocation of resources in ensuring the fulfilment of legal obligations of state bodies and defined priorities
4. Ensure effective supervision of constitutionality and legality of Government decisions, modifying the Law on the Constitutional Court and the compulsory publication of the conclusions of the Government which had been brought in to replace the provisions of regulations
5. Include an annual control program reports on property and income of all members of the public officials of the Government
6. Prescribe standards on conflicts of interest that would apply to special advisers in government ministries
7. Government is responsible to the National Assembly and other competent authorities in accordance with the Constitution and laws, other state officials and party leaders should refrain from activities of the Government announcement, no matter what influence they have in fact to its members
8. Arrange lobbying (an attempt to influence decision making and establishing a draft decision of the government), providing greater transparency of the Government, the control of political party financing, assets and income of officials and organizing public hearings provided to reduce inappropriate non-institutional influences on the work of the Government
9. The introduction of the obligation to publish all decisions of the Government except where necessary to protect the secrecy to protect predominant interests, including conclusions and other decisions that were previously issued and have effect in practice
10. Allow the media to attend government meetings and publish audio and transcripts of meetings of the Government, except in the area when discussing issues that needed to remain confidential; publish notice of the agenda of the Government
11. Publish data on the candidates proposed by the government, about elected, appointed and dismissed persons, along with the reasons for such decisions
12. Provide greater public disclosure of data of the entire annual report of the Government (made up of reports of the Ministries), the contents of the report include a review of the plans and statutory functions of any administrative bodies as well as consideration of the report by the National Assembly
13. Ensure the publication of more data on budget execution and commitment by the state
14. Precisely define the situation when one must organize public hearings before a law is proposed, the method for public participation and the handling of received proposals to allow all interested parties to submit proposals that improve the quality of regulations and that all proposals be considered argumented
15. The introduction of the practice to call for responsibility of the government ministers if failure occurs as delay in fulfilling the obligations – e.g. the delay in delivering the National Assembly of the proposed budget and final account statement, non-compliance with decisions of the Commissioner for Information of Public Interest and other agencies, non-compliance with the recommendations of the Ombudsman, Anticorruption Agency, the Supreme Audit Institutions and other bodies, failure to pass laws necessary for law enforcement, non-compliance with the anti-corruption strategy and action plan
16. Completion of the appointment of civil servants to a position on the basis of public recruitment process organized
17. When setting up each new government establish and publish the priorities in the fight against corruption and exercise plan that these priorities should be in accordance with the general anti-corruption strategy and action plan for its implementation
18. Legal regulation of the obligations of organizing a public tender for the election of all elected officials, appointed by the Government (e.g., directors of public companies)
19. Timely, thorough and public review of the work of public enterprises and financial plans of other organizations to which the Government gives approval
20. Changing the control of the work of public enterprises and introduction of accountability of members of management and supervisory boards of both for their own illegal acts and omissions in the control of the Director
21. The introduction of the practice review of all reports of the Anti-corruption Council within the competence of government to solve problems that the report indicates. In case of disagreement about the facts or views of the Government with the Council when the Council has already published reports, publication of government positions on the issue and relevant documentation
22. Continue the good practice of co-ordination of activities of public administration in the fight against corruption, with a clear presentation of the government's coordinator responsibilities, to prevent confusion about the role of coordinating the various authorities (in particular, the role of the Anti-Corruption, which is responsible for coordinating the work of state bodies on these issues)

**Judiciary**

Key findings

* Low salaries problem which previously existed with all employees in judiciary, is now mainly resolved when it comes to judges, but still remained with other employees
* Independency of court budget is envisaged with new regulations, but their implementation is delayed
* Permanency of judge’s function is guaranteed by the Constitution, but is problematized with “general election” or „re-election“ from 2009; Judges enjoy other constitutional rights including immunity for expressed opinion and decisions they make, except in a case of criminal act „violation of law by judge“
* Budget for judiciary is increased, but still insufficient for payment of debts to experts, jurors and lawyers; conditions of work in courts are very unequal, lack of premises is often a problem; it turned out that initial estimations in determining decreased number of judges were not completely accurate
* According to the Constitution and law, independency of courts is at high level, although possibility of influencing through participation of other branches’ representatives in the process of re-election of judges
* In reality judiciary is not protected from the influence of external protagonists, although greatest number of decisions is made without external interference. There are examples of uncovered pressures by the Government and other authority organs regarding specific cases
* According to regulations, publicity of courts’ work is provided through publicity of court procedures and publishing of other information, while the process of consultation and voting is secret; however, publicity of certain forms of court work isn’t organized adequately (e.g. public sales conducted by the court), and certain courts still don’t have their web presentations
* Courts practice limiting of access to documents in their possession on the basis of court Rules of Procedure and when documents should be delivered on the basis of Law on Free Access to Information
* Non-transparency of decision making procedure inside Supreme Judiciary Council, on the basis of decisions of that body and non giving of individual explanations for decisions made in the process of general election from 2009 created controversial situation that isn’t resolved until now and therefore didn’t support accomplishing one of the goals of judiciary reform – increase of public trust into independency of judiciary
* Possibility of monitoring case progress in courts is introduced, which indirectly contributes to decrease of possibility for corruption
* There is still large number of cases that have been in procedure for a long time, which represents significant risk for initiating corruption
* New system of judges’ responsibility, with measures of criminal and disciplinary character, is still insufficiently tested in practice; accusations regarding alleged violation of law by non elected judges were not followed by information on initiating criminal procedures
* It is possible to direct complaint to courts work to president or higher court instance, but there are no rules on order of resolving by complaints
* Since the beginning of 2010, judges have the obligation as well as other officials regarding reporting of property and gifts in their possession, besides that norms on exception are implemented in court procedures
* Ethical code adopted by Supreme Judiciary Council was recently adopted and there are no data on its implementation
* Legal possibility of court supervision over work of executive authority exists, but isn’t efficient for small number of judges in Administrative Court
* Long duration of famous cases with large number of participants in corruption is indicator to inefficiency of corruption punishing; extremely small number of prosecution cases for misdemeanours for violation of anticorruption regulations

**Judiciary**

Key recommendations

1. To apply the rules on the independence of the judicial budget
2. Complete the contentious issues surrounding the general election of judges in 2009, rapid examination of the complaint, providing reasons for the individual reasons for non-election
3. Stop the use of illegal decision of the Government by which unelected judges receive the benefit and bring provisions from the “conclusion” to the Law
4. Determine the number of judges as necessary to resolve all cases in legal or a reasonable time, including the procedures that take longer time to reduce the risk of corruption and pay damages for failing to take a decision within a reasonable time
5. Restraint of all state organs and officials of the statements that can be understood as an influence on the conduct of the courts
6. To run procedure for establishing the accountability of judges’ deliberate violations or omissions in the work indicating ignorance of the law or unprofessional conduct
7. Organize adequately publicity of courts’ work, so that the special rights that have parties and other persons in the proceedings do not constitute an obstacle for other persons to exercise their right of access to information to the extent that they are entitled by law
8. Setting up a web-site of all courts, the publication of bulletins about the work with required content, the publication of data on cases in progress, data on public sales and any other data that are published on the “notice board” of the court, the announcement of the trial and the announcement that the trial will be held, legal opinions and other useful information
9. Amendments to the Rules of Court Procedure stressed the responsibility of the president plans to introduce the integrity and enforcement of anticorruption regulations, in addition to powers to review complaints of the parties and the obligation to do so at regular intervals, amend the provisions of notification to the complainant, determine the urgency of the matter and ensure control of compliance with rules "accidental judge" in the registry office and reception services
10. Complete the establishment of a system for monitoring the flow of cases through a database search through the Internet, to include all courts and all types of cases
11. Effective review all complaints against judges, the application of the norms of the criminal nature where appropriate and publication of all decisions on such sanctions on the grounds
12. Increase the capacity of Administrative Court to resolve cases faster and more efficient supervision of the executive
13. Conduct an analysis of procedures in cases where it comes to allegations of corruption crimes, which take a long time and show the public reasons for this
14. Publish statistics on the number of legally adjudicated cases in corruption cases, and excerpts from the verdict
15. Organize a right to compensation for victims of corruption, in accordance with the Council of Europe Civil Law Convention, ratified by Serbia
16. Conduct a specialization in the courts for violations of procedure in cases of violation of anti-corruption legislation

**Public Administration**

Key findings

* Structure of public administration is seriously violated with establishing of new and sometimes insufficiently clearly defined organizational forms of public sector whose duties partially overlap with those performed by ministries and special organizations as well as classic organs of state administration
* Planning of necessary human resources is not clearly related tasks that public administration should perform. Allocation for certain organs depends on available resources and political power of minister, rather than from objectively determined needs, criteria and priorities. Salaries in public sector are over the country average, but are not simulative enough for personnel from labour market.
* There are norms that protect state servants from inappropriate influences and illegal layoff.
* Norms on professionalization of public administration are not completely implemented. There is informal influence of political factors in employment and prospering.
* Norms on conflict of interest refer to civil servants, but there is no obligation of reporting property. There are rules from the Law on Public Servants and Code of Conduct that deal with matters of accepting gifts, using of entrusted assets, additional work, using of information and conflict of interest. Rules regarding future employment aren’t developed, neither special norms on conflict of interest regarding deciding on public procurements.
* There is no systemic verification of respecting norms, they are implemented retrospectively and very rare. There are trainings and consultations regarding implementation of ethical rules but they do not comprehend sufficient number of employees. Anticorruption rule from the Public Procurement Law was never implemented.
* There are rules on public procurements, keeping of documentation, employment and prospering in public sector, that could be preventive against corruption, but their implementation is not secured in appropriate level.
* There are cases in which administrative organs unjustifiably refuse to allow access to information, even after they receive executive documents from Commissioner; rules on proactive publication of information (Information Booklets on the basis of Commissioner’s instructions; web-page presentation on the basis of Government’s conclusions from December 2010) aren’t respected sufficiently
* Widely speeded impression on influence of political factors and personal relations in employment, in public administration organs and in the rest of the public sector
* Norms on protection of whistleblowers that exist in Law on Public Servants, Law on Free Access to Information of Public Importance and Law on Anticorruption Agency have very limited scope and do not provide necessary protection so that more servants will dare to use them, neither legally, nor in practice, is not being done systemically in encouraging of servants to indicate to problems inside institutions.
* Obligation of creating reports on administrative organs’ work exists, but is not very useful for ensuring accountablity of their work, since those reports are not being reviewed in Parliament and procedure for determining of liability for lack of implementation is not being initiated
* There is legal obligation of elaborating decisions made by administrative organs and possibility of court and administrative supervision, as well as supervision by independent Ombudsman (Citizens’ Protector). Protection of citizens from lousy work of administration organs is still insufficient – Administrative Court has large number of cases left behind, number of administrative inspectors is a lot smaller than necessary, as well as number of employed in Ombudsman.
* Notification on corruption and fight against it isn’t done systemic; small number of administrative organs adopted their own anticorruption plans; rare administrative organs organize their own programs and allow citizens to assist in curbing corruption.
* Cooperation with Anticorruption Agency exists but so far hasn’t been sufficient (e.g. regarding fulfilment of obligations from anticorruption strategy and action plan)
* Willingness of administration to cooperate with civil society organizations in unbalanced and mostly depends on priorities of administrative organ and financed projects.
* Numerous cases of public procurement rules violation, among which most frequent misdemeanours regarding prescribing of discriminatory conditions and elements of criteria, non publishing of all advertisements in accordance with the law, payment of tender documentation in larger sum, breaking procurements into several smaller ones for avoiding tender procedure, unjustified implementation of emergency and uncompetitive procedures and signing of unjustified annexes to the contracts for additional deliveries and works. Also, numerous are cases in which non transparent procedure of procurement that isn’t contrary to the Law, but omissions of legislator are being used, like in small value procedure where companies already agreed on in advance are being invited without publishing and providing possibility to other companies to submit their bid; problem is in non transparent planning of budget assets that will be spent on public procurements, as well as insufficient control of contract execution.
* Mechanisms of supervision over public procurements are insufficient, because they do not cover all the aspects of this process, because jurisdiction and duties in that process are not clearly divided and because of insufficient capacities of control organs; reviewing of implemented public procurements is sporadically and sanctions are extremely rare, because of which system isn’t protected enough from corruption.

**Public Administration**

Key recommendations

1. Conduct an analysis of responsibilities and tasks performed by the state administration bodies and other public sector organizations in order to determine whether and in what areas of overlap between them have jobs and then determine who will perform these tasks in the future and thus make public administration more efficient and cheaper
2. Perform functional analysis within each of the state administration - to determine the need for human resources to carry out tasks that the government authority has, and change the rules of job classification in accordance with the time
3. Complete the process of setting up holding the position on the basis of public tenders
4. To conduct survey on corruption and privilege in employment in public administration and public services (e.g. testing the correlation between political party affiliation of officers from non-political positions with the political party whose representative was in charge of that institution) and based on the findings of the research carried out further measures
5. To establish plans for integrity in all state administration bodies
6. Expand the range of norms on conflict of interest for civil servants in areas not now covered by the law (log of assets, future employment, special rules for deciding on the procurement, rotation of positions in areas at risk for the occurrence of corruption) and to organize periodic review of application of these standards in every organ of state Administration
7. Ensure full implementation of the Law on free access to information in administration, by ensuring the execution of the Commissioner's decision by the Government, when necessary; to institute proceedings against the managers of administrative bodies that disregarded their obligations
8. To regulate the state administration bodies to set up web site and publish it to the specific content, update them regularly and are responsible for the accuracy and completeness of the information
9. Legal protection of whistleblowers to include the entire public sector, but also other sectors, in cases of suspected corruption and other illegal acts, irrational use of budget or endangering peoples lives, health or environment; protection of individuals who in good faith suggest irregularities in the public interest (whistleblowers) from retaliation, combined with measures that stimulate the reporting of such irregularities by the vigilant citizens and organizations that monitor the work of state organs
10. To ensure consideration of the report on the work of government in the National Assembly and institute proceedings to determine responsibility for the heads of such bodies in case of failures
11. To increase the capacity of the Administrative Court, the Administrative Inspectorate and the Ombudsman to effectively protect citizens from poor performance of public administration and decisions that are not provided in accordance with the law
12. Commit all public administration bodies to participate in the development of sector action plans, to organize its own anti-corruption programs, continuous review of discretionary powers which are used to report to the Agency for the Fight against Corruption of what they have done on the basis of strategic anti-corruption laws and determine (by the Agency) of sanctions for managers who do not fulfil the tasks that are small
13. Create an anti-corruption programs within the state administration and civil society organizations involved in implementing such projects

Public procurements

1. To improve monitoring mechanisms in public procurement, so that each of the institutions that play a role in this system given clear responsibilities and resources to fulfil these tasks
2. In the design principles for combating corruption in public procurement important principles should be:

• Exclusion of unnecessary bureaucratic requirements that open up opportunities for corruption
• Reduce discretionary powers
• Increase transparency of the procedure
• Strengthening public accountability of decision makers

Strengthening oversight mechanisms to which a small number of cases of corruption can remain unnoticed or unpunished. Specific ways to combat corruption in procurement planning are as follows:

1. Standardize the identification of needs for procurement wherever possible. Through setting standards (e.g. purchasing a car will perform after crossing a certain number of kilometres) to avoid arbitrary decision-makers in determining the items and quantities of purchases in a given year or procedure.
2. Required preparation explanation regarding why the planned acquisition is determined, why is planned at a non-competitive process and how to reach a valuation of procurement
3. Internal verification plans for customer purchases
4. Publication of all relevant information known to the procuring entity in connection with the planned procurement at the time of preparation of procurement plans
5. Include known information about the planned procurement of the explanation proposed decision on the budget or proposed financial plan
6. Validation of expenditure items with a planning point of view (not) determine that a particular expense will be realized in the public procurement
7. Legal regulation of public hearings on the budget, so that they can also go in the stage before it is adopted the draft budget for next year
8. Legal regulation of lobbying, or any attempt to influence decision makers

Corruption in conducting of public procurement process

Starting from general principles to combat corruption in public procurement, measures to be undertaken can be divided into several groups:

1. Reducing the arbitrariness in determining customers' requirements to be met by procuring the elements of criteria, weighting of values ​​for individual elements, the required references, proof of financial and technical qualifications and other requirements. Arbitrariness can be prevented by setting standards by-law (e.g. in terms of how much weight can carry up to allow deferred payment of delivered goods, goods and services), introducing the obligation to take a decision on setting up certain conditions and explain about it - examination of the merits and decisions.
2. Edit individual parts of the proceedings that have not been regulated or not adequately, including the method of keeping the negotiating process, the method of collecting data on potential bidders for the procurement of low value of which will be asked for bids and other actions that are perceived as problematic during the public hearing of this Strategy.
3. Exclusion and reduce the impact of "human factors" in the public procurement procedure or individual actions, mandatory use of electronic procurement and electronic auctions, whenever technically feasible and legal conditions for it
4. Identifying, reporting and effective resolution of conflicts of interest for all persons involved in the procurement
5. Publication of names of companies owned by public officials on the webpage of the Anti-Corruption and customers' cooperation with the Agency in connection with fulfilling the obligations that such companies are entitled under the Law on the Anti-Corruption
6. Enabling of proceedings for the protection of public interest in public procurement procedures (with the limitation of the suspensive effect of such procedures) to any interested party
7. Introduction of effective mechanisms of legal protection for whistleblowers in the public and the private sector, which includes protection in the event of irregularities within the warning on the body or organization, information external oversight bodies and the general public in certain cases
8. The introduction of the criminal offence of "illegal enrichment" under Article 20, the UN Convention against corruption in the legal system and the subjection of persons involved in procurement procedures as possible responsibility for the crime (increase in property that can not be explained by the lawful income)

Corruption after signing of the contract

Starting from the general anti-corruption principles, activities could be divided into the following groups:

1. The introduction of purchasing entity obligation to conclude a public procurement contract with the successful bidder, after the proceedings were implemented.
2. Legal refinement as to which the provisions of public procurement contracts is prohibited to change, and that provisions may be changed under any circumstances. Instead of additional non-competitive procurement of goods, works and services from the same provider, to implement a simplified procedure with negotiation in which they can participate and other qualified bidders. Changes to the contract price due to changes in the relevant market should be used only if it was foreseen by the tender documentation and if established mechanism for determining the price changed.
3. Standardize procedures for checking compliance with the contract prior to payment and must leave a trace that such checks is performed. Edit internal control systems for clients before payment is approved and completed.
4. Limitation of advance payment before work, services and goods are delivered.
5. Removal of uncertainty in the payment of contractual obligations by the contracting authorities, in order to avoid creating incentives for corruption to certain obligations to the bidder will be filled before they are filled with others.
6. Compile a report on implemented procurement and the achievement of objectives, and their publication in the Final Account, Report on the Work or a separate document.
7. Termination options discretion in the realization of assets of financial security for non-fulfilment of contractual obligations.
8. Publication of data on bidders who have not implemented public procurement contract as it had been planned in a way that will make them available to all clients in the future.
9. The introduction of the obligation to report situations in which a public procurement contract should be found invalid and the obligations the institution of proceedings to advertise the contract null and void by each authority that receives a notice about it.
10. Introduction of checking regularity and appropriateness of public procurement in the mandatory part of the annual work program of the State Audit Institution
11. Increasing the number of inspectors and the introduction of budgetary obligations to investigate every case when they reported a violation of the rules on public procurement.
12. Detailed disclosure of all expenditures which are paid from the budget expenditure items that, by their very nature, may constitute a procurement, but are not implemented in the public procurement in order to unfairly exclude from the application of the Law has become more easily visible
13. The training of police and public prosecution in connection with public procurement, to conduct more effective investigations of criminal offences
14. Amend the Law on misdemeanours so as to provide a longer period of limitation for offences under the Law on Public Procurement
15. Training of magistrates for more efficient conduct of proceedings for offences under the Law on Public Procurement

**Law enforcement agencies: Police and Prosecution**

Key findings

* Having in mind widespreadness of corruption, existing capacities can not be considered sufficient. If the number of reported corruption cases would be increased that disbalance would become more obvious
* There is specialization inside organizational structure of police and prosecution for criminal acts with elements of corruption (that partially overlaps with structure regarding fight against organized crime)
* Regulations guarantee independency in investigative organs’ work, and other organs have no authorities to order the prosecutor not to prosecute criminally for corruption in some case; however, practice shows that procedures on corruption cases involving people close to the government are not being lead, although regarding them there are some information, as long as it becomes certain that political support for that will be provided; after several years, during last 12 months procedures for several cases reported about in media are initiated; also, public pressure influences work of law enforcement agencies.
* Criteria for election and prospering of prosecutors exist, but are not completely objective.
* Election of judges in 2009 was non transparent, so it wasn’t certain in which way criteria were being implemented and what data were taken into consideration; This matter is still note entirely resolved.
* There is an obligation to report property for all prosecutors, as well as members of police units working in special departments for fight against organized crime; there is limitation for employment of prosecutors after leaving their function and for members of police special limitations regarding performing of other jobs
* Police and prosecution are subjected to Law on Free Access to Information; There are cases of unjustified denying of information by prosecution and police, even after decision of Commissioner for Information
* Regulations on information that police and prosecution should publish on their work even when there are no requests are not sufficiently precise
* Prosecutors have the obligation to elaborate their decisions on whether they will initiate prosecution; there is legal mechanism for complaints to police work; there is sector of internal control in Police; immunity of prosecutors exists; elaborations of prosecutors’ decisions are not always available;
* Legal possibilities for efficient prosecution of corruption exist, including possibility of using special investigative techniques in certain cases, but such possibilities are insufficiently used. For example, for two years there is possibility of using special investigative techniques by Prosecution for Organized Crime in al cases when suspected corruption by high official, but so far there were no examples of conducting such investigations.
* Measures from the Law on Criminal Procedure could increase efficiency of prosecutor’s work, and therefore prosecution of corruption, but these measures carry danger from corruption (e.g. plea bargaining)
* Seizing of property obtained by performing criminal acts and inverting of burden of proving regarding legality of obtaining property of suspect or defendant represent strong means in fight against crime, but also intensify, already present danger from selective implementation of law
* Number of discovered corruption cases is increasing each year, but still doesn’t represent more than 1% of petty corruption cases that occur every year, having in mind researches of citizens’ experience with corruption (e.g. Global Corruption Barometer, UNDP research)

**Law enforcement agencies: police and prosecution**

Key recommendations

1. Increase the number of prosecutors and police officers who investigate cases of corruption in order to conduct proactive investigations on the basis of identified forms of corrupt behaviour, which can be assumed or for which there are indications that occur elsewhere
2. To give unambiguous signals from politicians to the issues of corruption and not protected by the police and prosecutors need to do a great job no matter whose nature of interest, it can hurt, providing a measure of protection for prosecutors and police officers indicating that someone has put pressure in connection with investigations carried out by them.
3. To resolve all disputed cases (non) election of prosecutors in 2009; the transparent procedure and the rationale for decisions taken
4. Include in the annual financial checks program of the Anti-corruption Agency a number of public prosecutors; such control for prosecutors and members of police units working to combat organized crime to be carried out at least once every two years
5. Provide access to information about work of public prosecutors and police in accordance with the Law on Free Access to Information, and to provide for certain information without request on prosecution's and police web presentations
6. On web-presentations of the police and prosecution authorities and in their premisses, to post a clear explanation for persons wishing to report corruption – what one need to do, what to expect in further proceedings, when will receive further notice of the proceedings and so on.
7. Commit the police and prosecutors to act on anonymous complaints if they are accompanied with the sufficient evidence that the data has been committed or will be committed the offence with the element of corruption, i.e., a violation of some other anti-corruption legislation which is threatened with criminal or misdemeanour prosecution
8. Publish a regular overview of statistical information the prosecution and the police on the number of filed criminal complaints and indictments for criminal acts with elements of corruption
9. Organize statistical evidence about criminal acts of corruption so that it can identify not only the title of the criminal offence, but also an area where there has been corruption (e.g. health, procurement, judiciary)
10. Organize a targeted examination of possible corruption by the internal controls in connection with transactions that are most at risk of corruption
11. Ensure the publication of decisions of public prosecutors on waiver of prosecution
12. Encourage more involvement of police and prosecutors in misdemeanour prosecution for violating anti-corruption regulations adequate evaluation of their work in this field
13. Use of special investigative techniques by the prosecution of organized crime in all cases of suspected corruption by senior public officials
14. Provide a separate control for the concluded plea bargaining agreements as a high risk from the standpoint of the possibility of corruption
15. Based on experiences in the implementation of the confiscation of assets and the provisions of Article 20 of the UN Convention against Corruption, to examine options for making it a crime of illegal enrichment in the legal system
16. Conduct regular monitoring to ensure an impartial investigation and implementation of financial measures to non-selective use of temporary / permanent seizure of the suspects, accused and convicted of offences
17. Consider measures that would best serve the increasing number of reported crimes of corruption and apply them to that number closer to the actual incidence of these crimes (e.g., release of liability of participants in the illicit transaction, which is the first report, giving awards for cases detected major abuse of a prisoner after being deprived of property or illegally acquired funds to be returned to the budget, etc.).

**Body in charge of elections – Republic Election Commission**

Key findings

* Republic Election Commission doesn’t have special budget nor capacities, but uses assets of National Assembly. There are conditions in regards to expertise for election into REC, but main criteria in elections are political.
* Legal status of REC is not clearly defined and doesn’t provide politically impartial proceedings.
* REC is not independent from political influences, but responsibility is partially accomplished through mutual control of party representatives
* Regulations provide publishing of most important decisions of REC and monitoring of sittings of this organ.
* Decisions of REC are published in practice. Data on financial management are not being published proactively, but only on request.
* There is possibility of court contestation of REC decisions; there are no norms on obligation of financial control and audit of spent assets by REC, or submitting of special reports on work.
* In practice, decisions of REC are subjected to court control to the request of interested parties; financial management of REC is insufficiently transparent because of inexistence of special budget allocation.
* There are no special rules on conflict of interest and accepting of gifts for members of REC, although they are in status of official and have obligations on the basis of Anticorruption Agency Law.
* There were discovered cases of violation of rule on incompatible functions and good management with financial resources principle in practice, but, besides political, there were no other forms of responsibility. There is no systemic solution for preventing of possible corruptive practice.
* REC is no longer authorized for control of financing of political parties, but even when it was these function was not performed properly. REC has undertaken measures against abuse of public assets by members of election committees.
* REC performs relatively efficient supervision over certain aspects of election process.

**Body in charge of elections – Republic Election Commission**

Key recommendations

1. Adopting the Law on State Election Commission, as it was already envisaged by strategic documents of the Republic in the process of EU integration. Until such law is adopted, it should:
	* Provide special budget line for financing of REC, for greater transparency of its spending and efficient control
	* Clearly define legal status of REC (National Assembly organ or special state organ...)
	* Introduce practice of REC submitting report on work and reviewing of those reports in National Assembly

**Ombudsman (Citizens’ Protector)**

Key findings

* Inexistence of appropriate premises represents most significant limitation of Ombudsman’s work. Lack of premises didn’t allow employment of all necessary and envisaged associates, which lead to significant overburdening of existing personnel. Personnel outflow is 18 percent annually, and employees leave professional service because of unbalanced obligations and rights they can enjoy on the basis of their work.
* Budget of Ombudsman satisfies basic needs for legally envisaged activities. Planning is made restrictively and still depends on significant assistance of international and foreign partners.
* Law on Ombudsman makes this body independent in performing of activities determined by the law and no one has the right to influence its work and proceedings. Ombudsman can not be member of political parties, or can give political statements.
* Parliamentary Rules of Procedure, adopted in July 2010, envisaged, by passing provisions of the Law on Ombudsman and comparative practice, that Assembly should adopt annual report of independent organs, and in case if it doesn’t get adopted, initiate procedure of determining responsibility, which in Ombudsman’s case (and other independent state organs) means resolving. These provisions are changed after the pressure of EU.
* Several recorded cases in Ombudsman’s work could indicate to pressure, but not necessarily question its independency
* Law prescribes that Ombudsman should submit annual report on work in which states data on activities in previous year, on noticed loopholes in administrative organs’ work, as well as prepositions for improvement of work by 15 March of current year to National Assembly and delivers it to media as well as to publish the report in the Official Gazette.
* Ombudsman regularly makes media statements. Specific procedures lead by the Ombudsman made anonymous are presented through web page
* Ombudsman responds for activities of its employees and for its work to National Assembly who decides on its resolving.
* Ombudsman submits regular reports on activities, in accordance with Law on Ombudsman and special reports with special subjects (during 2010 Ombudsman published six special reports)
* Ombudsman doesn’t have special Code, but proceeds in accordance with regulations that contain rules of ethical conduct, and in accordance with Code of Good Management, whose adoption was suggested by him
* Cases of public complaints to work of Ombudsman for possible breaching of rules on confidentiality, naturalness, impartiality, as well as areas defined with ethical provisions implemented, or violation of rules on conflict of interest were not recorded
* During 2010 Ombudsman proceeded to total of 2.545 complaints, out of which 1.929 was resolved. Ombudsman initiated also some procedures without previous complaint of citizens and gave total of 229 recommendations.
* There is large number of initiatives, recommendations and opinions that Ombudsman submitted to the Government. Ombudsman also in agreement with Commissioner for Information of Public Importance, submitted amendment to the Law on Free Access to Information of public importance in the goal of providing protection of whistleblowers, but instead of that amendment parliamentary committee formulated another that stultified intentions of proposer.

**Ombudsman**

Key recommendations

1. Providing permanent and adequate premises for work of Ombudsman
2. Increase number of employees that deal with protection of citizens from mal practice of administrative organs for more efficient proceedings on large number of requests and even greater engaging of Ombudsman to its own initiative
3. Proposing of new and changes of existing laws on the basis of constitutional authority of Ombudsman, and having in mind that corruption leads to serious endangering of human rights
4. Providing of full implementation of Ombudsman’s recommendations from annual report and especially following:

*Recommendations that refer to impartial proceeding of National Assembly*

1. It is necessary that National Assembly should insert into Rules on Procedure provisions on cooperation with Ombudsman and other independent control organs.
2. It is necessary that National Assembly should ask from Supreme Judiciary Council to start executing legally prescribed obligation of cooperation with Ombudsman in procedures from its jurisdiction.
3. It is necessary that National Assembly should review and support implementation of Code of Good Management delivered to it by Ombudsman.
4. It is necessary that National Assembly should review the report on case of „missing babies“ delivered to it by Ombudsman.
5. It is necessary that National Assembly should emphasize significance of full and efficient protection of activists and civil society organizations that plead for promotion of respecting human rights and invite to creating of stimulative atmosphere for their work
6. It is necessary that National Assembly, through public hearing or other suitable method, should estimate whether possibility for employees in public administration organ should stay (state organ, provincial, local authority, public service, organization with public authorities...) without special mechanisms for protection of abuse to work the same type of job additionally (public or private), and that it doesn’t represent conflict of interest.
7. It is necessary that „right to a good management“ should be enlisted among basic civil rights.
8. It is necessary to allow full transparency of ownership over media with changes of the law.

*Recommendations that refer to proceedings of the Government, whose work should be supervised by National Assembly*

1. It is necessary that Government should decide on Ombudsman’s Initiative to change the article 50 of the Law on Culture.
2. It is necessary that Government should review Ombudsman’s initiative for normative elaboration of methods for accomplishing Constitutional provision that stipulates necessary taking care of nationality of citizens and appropriate presence of national minorities when employing in state organs, public services, autonomous province organs and municipality organs
3. It is necessary that future Government shouldn’t propose changes of Ombudsman budget without previously consulting with it and its consent, in accordance with the law.
4. It is necessary that authorized organs should intensify efficiency of investigation and processing of criminal acts of expression and transferring of criminally punishable postures through internet.
5. It is necessary that Government of the Republic of Serbia should more efficiently notify authorized organs and public on its decisions (conclusion etc.) that influence the method of accomplishing civil rights.
6. It is necessary that Government should access creating of draft of general law on restitution (returning of property) without delay
7. It is necessary that authorized inspection organs of the Ministry of Finances and other organs to intensify control of payment of obligatory fees for employees and undertake measures against employers who violate the law.
8. It is necessary that Government should maintain timely and appropriate social dialogue with representatives of employers and employees.
9. It is necessary that authorized ministries should prepare changes of the law that will introduce obligation of making public tenders for employing in all organs and organizations of public sector.
10. It is necessary that Government, through authorized Ministry, review the possibility for prescribing conditions under which civil society organization could be acknowledged status of organizations who perform activities of general interest, and therefore approve tax relieves.

**Commissioner for Information of Public Importance (and Protection of Personal Data)**

Key findings

* Inexistence of appropriate premises significantly limits and enables employing of necessary number of employees
* Law guarantees independency of Commissioner, as state organ. Performing of Commissioner’s activities is partially endangered with provisions of others, regulations adopted later
* Commissioner was exposed to pressures not to proceed in accordance with its authorities; specific forms of pressure: unjustifiable disputing of decisions; ignoring of Government’s obligation to secure executing of Commissioner’s decisions; threatening with dismissal, through ungrounded initiating of re-election procedure after adoption of the new Constitution
* Regular publishing of exhaustive reports which point out to problems in law implementation; frequent public appearances and media releases
* Commissioner is responsible for its work to National Assembly who decides on its resolving. Obligation of submitting of annual report on work and possibility of submitting of extraordinary reports
* Procedure on deciding by complaints is not public; There is court control of Commissioner’s decisions in administrative court that is extremely rarely used
* Large number of received complaints/lateness with resolving of complaints for insufficient number of employees besides large number of cases resolved
* Frequent initiatives by Commissioner regarding regulations or proceedings of authority organs
* Obstacle for better work – impossibility of direct initiating of misdemeanour procedures in spotted cases of law violation
* Adopting of by-law act in regards to proactive publishing of information, as a significant step forward in providing of publicity of authority organs’ work
* Promoting transparency in work through public gatherings, education on right to free access to information and obligation of authority organs and appearances in media – training of right to free access to information as a strong tool for fight against corruption and predominantly in that light
* Promoting of whistleblower cases from the beginning of Commissioner’s work

**Commissioner for Information of Public Importance (and Protection of Personal Data)**

Key recommendations

1. Determine right to free access to information as constitutional right, as well as position of Commissioner as an independent state organ
2. Harmonizing Systematization Act with necessity of resolving on large number of complaints
3. Providing adequate premises for Commissioner’s work
4. Change basis for resolving of Commissioner to depend less from arbitrary interpretations
5. Securing of execution of Commissioners decisions (by the Government) whenever it becomes necessary
6. Providing access to part of data on ongoing procedures, in a way that doesn’t violate personal data protection
7. Determine as an obligation of proponent of the law and creators of by-law acts to ask for Commissioner’s opinion regarding provisions that could influence publicity of authority organ’s work
8. Changes of Law on Free Access to Information of Public Importance that will allow Commissioner initiating of misdemeanour procedures for violation of that law and organize other matters of importance for increase of publicity of authority organs’ work
9. Providing in practice fulfilling of recommendations from annual report of Commissioner and especially:
	* National Assembly should secure unity and consistency of legal system in the area of free access to information of public importance
	* National Assembly should insist in implementation of mechanisms and guarantees for implementing regulations on free access to information in practise
	* National Assembly should insist on responsibility for omissions in work of state organs and state officials in this area
	* To provide appropriate support in creating conditions for full independency in Commissioner’s work
	* Government should secure more intense and more comprehensive supervision over implementation of the Law on Free Access to Information, and consistent with this implementation of specific measures for those that don’t respect the law
	* Government should provide greater level of execution of obligatory and executive decisions of Commissioner
	* Providing of appropriate protection of whistleblowers, with changes of the Law on Free Access to Information of Public Importance, and in compliance with appropriate Resolution of Council of Europe 1729 (2010)
	* Providing of greater level of transparency of authority organs’ work and publishing of information on their work on proactive basis

**Supreme (State) Audit Institution**

Key findings

* SAI is confronted from its establishment with the problem of missing of appropriate premises
* In previous years SAI had problems with employment of auditors for low vages, so recruitments didn't attract enough quality candidates
* SAI didn't have problem with approving of financial plan for 2009, 2010 and 2011, Parliamentary Committee and Ministry of Finances, or Parliament during adoption process
* SAI possesses formal conditions for independency in work that derive from method of election and conditions for resolving president and members of SAI Council
* Law stipulated that SAI should decide independently on subjects of the audit, object, scope and type of audit, beginning and duration of audit
* For resolving of president and members of SAI Council, as well as for their election, necessary is majority of total number of deputies but for initiative for resolving sufficient is as much as 20 from 250 deputies.
* No direct attempts of political influence were recorded to appointing of members of SAI Council and employees, or political interventions to activities of SAI. However, specific form of pressure is minimizing of significance of violations, identified by the SAI, in public statements of controlled organs’ representatives
* State Audit Institution is obligated to publish annual report on work, submitted to the Assembly. Special reports during the year are also submitted to the Parliament, if there is need for that.
* In practice, publicity of SAI work is only partially provided. Web-page became updated only during 2011.
* State Audit Institution is obligated to report the Assembly by submitting annual report on work, special reports during the year, and if there is need for that reports on audit of annual balance sheet of Republic budget, balance sheets of financial plans of obligatory social security organizations and consolidated financial reports of the Republic; SAI is obligated to deliver to National Assembly, as well as to municipality assemblies, reports on audits of subjects in jurisdiction of municipality authorities
* National Assembly can ask for auditing of balance sheet of SAI by an independent audit company, but that wasn’t the case so far
* State auditors and employees are obligated to respect and implement Ethical Code of SAI, certain rules of preventing conflict of interest are regulated with Law on SAI
* Audit made by SAI are still limited in comprehensiveness (number of organs that will be comprehended thorough annual audit program) and depth (for now regularity of management and in future matter of appropriateness of expenditures); during 2011 SAI conducted verifications in certain budget users and public enterprises, besides audit of final account of the budget.
* After implemented audits of balance sheets for 2008 and 2009 budget SAI submitted misdemeanour charges and in 2011 one criminal; requests for resolving of responsible persons weren’t submitted
* Work of SAI did bring to improvement in public finances area (e.g. establishing of internal control units and internal audits in budget users). However, many omissions are repeatedly identified, especially in the area of violation of Public Procurement Law.

**Supreme (State) Audit Institution**

Key recommendations

1. Resolving of matter of premises for work of State Audit Institution permanently and make it independent from National Bank of Serbia, whose premises are currently being used by them
2. Changing conditions for resolving members of SAI Council and length of their mandate, for providing of greater independency
3. Changes of rule book on systematization and employing of larger number of auditors in order to ensure audit of subjects where suspicion is reported to the SAI by whistleblowers of monitoring organizations
4. Comprehending with audit programme of the SAI financing of regular work of political parties and to determine scope of audit so that it doesn’t overlap with the control performed by Anti-corruption Agency, but also in the way that all important aspects of political party financing is covered
5. Comprehending with audit program public procurement planning procedure as soon as possible
6. Strengthening internal audits in budget users
7. Strengthening budget inspections, so that SAI could dedicate to matters of appropriateness of public expenditures more than to the determining of irregularities that inspectors could discover as well
8. Introducing the practice that SAI should submit misdemeanour charges even before it submits report on audit
9. More detail reviewing of reports on budget audit in sittings of Parliamentary Finance Committee – determine whether report indicates to necessity of change or amending certain act, initiating procedure of responsibility against responsible officials and undertaking measures against them
10. Increase the amount of information that SAI publishes in its work, through regular updating of web page and in other ways

**Specialized Anticorruption Body (Anticorruption Agency)**

Key findings

* Budget allocated for the Agency is mostly harmonized with requested, although there were some problems in communication with Ministry of Finances in budget planning
* Increased number of officials that Agency can hire (90 on the basis of new systematization) but its difficult to estimate in what level that number will be sufficient for accomplishing all legal tasks
* Independent state organ, established by the Law; reports on work and implementation of Strategy submits to National Assembly
* Impossibility of direct political influence to election of Agency’s director, since election is done by Agency’s Board and not directly by National Assembly
* Strong resistance and pressures to the Anticorruption Agency regarding implementation of Law’s provisions on „double functions“; pressures on the occasion of initiating procedures against one minister and one National Assembly; disputing of independent acting by the opposition regarding proceeding of the Agency in the case of one company who violated the law owned by the official.
* According to the Law procedure before the Agency is not public; possibility of court control of Agency decisions
* Obligation of publishing register of officials and register with data from officials’ reports, as well as allowing the insight into other data (e.g. on participation of officials’ companies in public procurement procedures); gradual fulfilling of data in officials’ registers after receiving of their reports; reports on property do not contain data on the amount of savings deposit, and register of officials is not created in the same format as property register which complicates the search
* Agency has the obligation to submit annual reports to National Assembly; there is accountability mechanism within the Agency (Board and director)
* Obligation of protection of personal data of officials and petitioners
* Activities related to Strategy and Action Plan implementation: successfulness depends on cooperation of other organs for which there are no legal guarantees and which often times misses in practice
* Monitoring of provisions from other regulations is sporadic (e.g. reaction related to draft regulations from the area of urbanism and construction). Focus is on regulations implemented by the Agency directly.
* Agency is active in education and introducing integrity plans
* Agency performs investigating of accurateness and completeness of officials’ reports according to annual program and in the case of any doubt; in first year of work control of validity of 192 such reports
* Most procedures lead before the Agency refer to conflict of interest, performing of other jobs and other positions and transfer of managerial rights
* Agency can proceed on the basis of citizens’ complaints and can follow other organs’ proceedings
* Verification of reports of party and campaign financing – new authorities since June 2011; before that submitting of misdemeanour applications in small number of cases

**Specialized Anticorruption Body (Anticorruption Agency)**

Key recommendations

1. Reassessing of current plan and structure of employees in the Agency in the sense of accomplishing of all tasks that Agency has to perform, and especially in the context of obligations from newly adopted regulations (Law on Financing of Political Activities, Rulebook on Protection of Whistleblowers), future anticorruption strategy (currently drafted) and large number of regulations whose provisions influence corruption and fight against corruption
2. Providing to proponents of the Law and by-law acts to ask for opinion of the Agency regarding norms that might influence corruption or fight against corruption; increasing activities of the Agency in regards to other regulations even before introducing obligation of asking for opinion
3. Publishing at web presentation of the Agency greater number of opinions given to officials regarding performing of other functions or jobs and other matters, without stating of personal data
4. Publishing in property and income register of officials data on the amount of savings deposits
5. Publishing of information on updating of inserted data in officials’ registries (e.g. whether certain officials besides those whose data are already in, submitted reports) as well as data to which officials’ verification of accurateness and completeness of data was made
6. Linking of all public registers or parts of registers managed by the Agency for easier search of data
7. Providing, through changes of the Law on Agency, accountability of authority organs’ heads for fulfilment of obligations from Strategy and Action plan
8. Initiating misdemeanour procedures against authority organs who don’t deliver wanted data to the Agency and notify the public on that
9. Distribution of jobs between ACA and State Audit Institution in verification of financing of regular work of political subjects, so that no important segment of that financing should stay unverified
10. Adopt by-law act that regulates reporting on incomes and expenditures of political subjects as soon as possible, during the year and in election campaign, so that political subjects would prepare better for implementation of new legal solutions
11. Preparing monitoring plan for the election campaign before calling for elections and plan of monitoring of financing of regular work of political subjects before the beginning of next year