

# EUROPEAN ANTI-CORRUPTION AGENCIES: KEY PREVENTIVE MECHANISMS

Praxis Case Report  
for the National Agency  
for Prevention of Corruption



This case report summarizes smart practices used by five European anti-corruption agencies operating in Slovenia, Macedonia, Serbia, Latvia and Romania, and presents them for possible application by the National Agency for Prevention of Corruption of Ukraine. Amongst other things, the report concentrates on issues of institutional architecture, provides analysis of key preventive mechanisms, including asset declaration verification, conflict of interest or whistle-blower protection, and offers key lessons learned accumulated over the years. The research results from collaboration of a group of UNDP-commissioned experts.

Opinions, attitudes, and assessments contained in the report do not necessarily reflect those of the United Nations Development Programme, other UN Agencies or the Ministry of Foreign Affairs of Denmark. The publication was designed within the framework of the "Enhanced Public Sector Transparency and Integrity" project, implemented by UNDP Ukraine with financial support from the Ministry of Foreign Affairs of Denmark.



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# ABBREVIATIONS

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ACA	Serbian Anti-Corruption Agency
ANI	Romanian National Integrity Agency
CPC	Slovenian Commission for Prevention of Corruption
ETI	UNDP Enhanced Public Sector Transparency and Integrity Project
KNAB	Latvian Corruption Prevention and Combating Bureau
NABU	National Anti-Corruption Bureau of Ukraine
NAPC	National Agency for Prevention of Corruption of Ukraine
OECD	Organisation for Economic Co-operation and Development
SAPO	Specialized Anti-Corruption Prosecution Office
SCPC	Macedonian State Commission for Prevention of Corruption
SPACA	Specialized Preventive Anti-Corruption Agency
UNCAC	United Nations Convention against Corruption
UNDP	United Nations Development Programme
UNODC	United Nations Office on Drugs and Crime
WB	World Bank

# INTRODUCTION AND EXECUTIVE SUMMARY

The current report and collection of case-studies on specialized preventive anti-corruption bodies, as well as preventive “branches” of combined-purpose anti-corruption institutions was produced for the National Agency for Prevention of Corruption of Ukraine (NAPC) within the framework of the project “Enhanced Public Sector Transparency and Integrity” (ETI) implemented by UNDP Ukraine with support from the Danish Ministry of Foreign Affairs.

The report is one of the tools designed for NAPC as part of the initial institution-building package. Such assistance is called to enable the newly-emerged Ukrainian institution to benefit from experience already accumulated in the area of corruption prevention by similar agencies and structures in Europe. Both the initial cursory review of the selected cases, as well as deeper, detailed analysis have proven one major issue to hold true. Even in cases where 17 out of 20 core tasks envisaged for NAPC were identical to agencies under study, institutional differences, contextual dissimilarities and, at times, a very different methodological take on fulfilling this or that task proved comparisons to be complicated. An almost identical set of fundamentally cognate principles on paper was oftentimes put to practice differently.

Analysis of functions and approaches to handling core tasks, comparison of funding levels, staffing patterns and relations between SPACAs and their institutional peers in respective governments does show that there have, so far, not emerged any universal good practices that could be borrowed in their entirety. This finding reconfirms earlier-made conclusions noted in other research and overviews<sup>1</sup>.

**As the current desk research and interviews for the report progressed, the team tried to respond to some of the following research questions:**

- what has been the experience of establishing specialized preventive anti-corruption agencies (SPACAs), and whether, with time, such bodies in Europe tended to converge into a more unified “ideal-type” architecture;
- what institutional arrangements in terms of independence, on the one side, and accountability, on the other, were pertinent to researched models;
- what were some of the budget-related features of SPACAs, and whether any trends could be traced between the number of employees and the volume and scope of tasks undertaken;
- whether any macro-level similarity could be spotted in terms of organigram composition between agencies;
- what approaches the explored SPACAs have to some of their core mandates, such as assets declarations verification, access to databases of other intuitions, conflict of interest management, whistle-blower protection and institutional integrity plans / risk assessments;

<sup>1</sup>Please see: (Dionisie & Checchi, 2008); (UNDP Bratislava Regional Centre, 2009); (Transparency International Helpdesk, 2015).

This, nonetheless, does not at all mean that certain approaches could not be seen as effective and that pitfalls may not be avoided by learning from previous experience of SPACA establishment and operations. In absence of an “ideal-type” model, it is still possible to rely on experience of the reviewed agencies, even if for realizing whether their performance in this or that area merits further exploration and, possibly, knowledge exchange.

Moreover, absence of identical patterns in SPACA structure and operations does not mean that there are no overall guiding principles whatsoever regarding operations of anti-corruption bodies. As early as 1997, the Council of Europe Resolution “On the twenty guiding principles for the fight against corruption” noted that one of the cornerstones for effective fight against corruption (including the preventive aspect) would necessarily include institutional independence<sup>2</sup>.

8 Subsequently drafted in 1999 (and ratified by Ukraine in 2006<sup>3</sup>), Council of Europe Criminal Law Convention on Corruption continued this principle and specified it even more, including into its Article 20 provisions on independence, autonomy, country obligation to ensure training for such specialized bodies or officials, and adequate funding for effective performance of relevant tasks<sup>4</sup>.

<sup>2</sup> Please refer to Item 3 of Resolution (97) 24 that notes that it is essential “to ensure that those in charge of the prevention, investigation, prosecution and adjudication of corruption offences enjoy the independence and autonomy appropriate to their functions, are free from improper influence and have the effective means for gathering evidence, protecting the persons who help the authorities in combating corruption and preserving the confidentiality of investigations;” (Council of Europe, 1997).

<sup>3</sup> Please refer to the following resource: (Verkhovna Rada of Ukraine, 2006).

<sup>4</sup> Namely, Article 20 stipulates that “Each Party shall adopt such measures as may be necessary to ensure that persons or entities are specialised in the fight against corruption. They shall have the necessary independence in accordance with the fundamental principles of the legal system of the Party, in order for them to be able to carry out their functions effectively and free from any undue pressure. The Party shall ensure that the staff of such entities has adequate training and financial resources for their tasks” (Council of Europe, 1999).

Arguably the most comprehensive and the first global, legally-binding instrument for preventing and combating corruption is the United Nations Convention against Corruption (UNCAC)<sup>5</sup> adopted by the General Assembly on 31 October 2003, entering into force in 2005 (also ratified by Ukraine in 2006<sup>6</sup>). UNCAC and its accompanying Technical Guide to the Convention<sup>7</sup> create one of the most detailed frameworks for existence of an effective preventive architecture in a country.

While giving significant freedom to the countries-parties to the Convention in choosing the best-fit model, UNCAC Technical Guide raises the questions that each country will have to answer for itself, including: establishing of a separate body or mandating an existing one with the relevant functions, putting in place the necessary legal framework, instituting proper coordination mechanisms, ensuring equity and transparency of appointments thereto, securing the tenure for staff and achieving appropriate budget allocations<sup>8</sup>.

Most recently, at the end of 2012, the international practitioner community came up with a summary of internationally-espoused principles as related to operation of anti-corruption agencies (both preventive and repressive). The compendium of such principles dubbed the “Jakarta Statement on Principles for Anti-Corruption Agencies”<sup>9</sup> was adopted in the course of an annual conference and discussion that involved several hundred representatives of anti-corruption bodies from all over the world, high representatives of UNDP, UNODC, WB, OECD as well as Transparency International.

While not legally binding, the Jakarta Statement resembles a comprehensive (while concise) checklist for determining

<sup>5</sup> Please see: (United Nations, 2003).

<sup>6</sup> Please see: (Verkhovna Rada of Ukraine, 2006).

<sup>7</sup> Please see: (United Nations, 2009).

<sup>8</sup> Please refer to detailed explanations and instructions provided in pages 7 – 12 of the Technical Guide specifically related to UNCAC Article 6: Preventive anti-corruption body or bodies (United Nations, 2009).

<sup>9</sup> Please see: (KPK, UNDP, UNODC, 2012).

whether the functioning or intended agency has a strong enough mandate, whether its employees have functional immunity and are appointed and dismissed properly, whether resources at the agency's disposal are adequate and permanent, and whether an agency is performing its duties in terms of internal and external accountability, as well as reporting.

All in all, the body of international conventions, recommendations and guiding principles are strikingly similar in their core messages (in terms of institutional autonomy, mandates, resources and enabling environment). Yet, as noted above, reviewed practice shows that alignment to such principles lies in different practical approaches and means of implementation.

The current report is structured in three core thematic blocks in order to enable ease of reference. The first block summarizes overall observations and recommendations extracted from cases described in the report, as well as from overview of practice of SPACAs elsewhere and the specifically-Ukrainian environment. The recommendations are, wherever possible, aligned and linked to the cases described in the second block.

The second-block case-studies of the Slovenian Commission for Prevention of Corruption (CPC), Macedonian State Commission for Prevention of Corruption (SCPC), Serbian Anti-Corruption Agency (ACA), Latvian Corruption Prevention and Combating Bureau (KNAB) and Romanian National Integrity Agency (ANI) present a general overview ("passport") of the agency, detail its organigram with the relevant number of employees, detail the body's approach to asset declaration verification regime and access to external databases, methods for handling conflict of interest cases, as well as whistleblower protection and creation of institutional risk assessments and integrity plans.

Finally, the third block contains a comparative matrix that elaborates on common and divergent functions between NAPC and its sister-agencies presented in the case-studies.

# LESSONS-LEARNED AND RECOMMENDATIONS PRODUCED FROM CASE-STUDY REVIEW

The summarized lessons-learned and recommendations focus on summaries from five highlighted case studies and attempt to chart a general path towards development of an effective organizational structure and maintenance of NAPC functions.

1

**Whilst there is no ideal-type institution, strengths and successes (as well as weaknesses and failures) of other SPACAs may inform better performance for NAPC**

10

As noted in the introduction, international frameworks (including the UN, Council of Europe and OECD) are strikingly similar in setting general standards and principles for operations of anti-corruption agencies. At the same time, none of the reviewed SPACAs fully meet these criteria, some being closer to them than others at different stages of their life-cycle. Needless to say, differences in legal frameworks, governance traditions and cultural phenomena leave their significant imprint. In absence of ideally-performing institutions closest to NAPC in mandate, one may, nonetheless, talk about effective use of prevention tools by this or that agency.

In this manner, it could be advisable to look deeper into the following mandates performed by reviewed agencies (also, possibly, though establishing a direct contact with them for deeper experience exchange):

- **SLOVENIAN CPC** – reporting on the state of corruption in the country; monitoring and verifying declarations, including operations of the Asset Declaration Register;

elaboration of integrity plans based on institutional corruption risk assessments; cooperating with whistle-blowers; involvement of the civil society and the general public in struggle for the agency rights (including defence against budget cuts);

- **MACEDONIAN SCPC** – training of civil servants; monitoring of party funding; collaboration with the tax authorities in terms of asset declaration verification;
- **SERBIAN ACA** – development and implementation of anti-corruption policy; organization of research on corruption; rendering methodological help to state authorities in spotting corruption risks and elaboration of integrity plans; involvement of civil society into anti-corruption policy-making and monitoring of political party funding;
- **LATVIAN KNAB** – analysing the state of prevention and countering corruption, gathering statistics and policy evidence for drafting strategic anti-corruption documents (Anti-Corruption Strategy and State Program); developing and implementing anti-corruption policy; drafting methodologies; increasing public awareness through campaigns;

- **ROMANIAN ANI** – gathering statistics and evidence-based investigations on assets / interests; conducting administrative investigations; monitoring conflict of interest; verifying declarations, including support to the online Asset Declaration Register; organizing international cooperation and utilization of international support to defend itself against budget cuts.

2

## **Assessment of mandates and proportional comparison of work volumes bring about suggested thresholds for NAPC Secretariat**

Throughout case-study analysis, functions of reviewed agencies, relative success of functional performance, approximate volumes of work envisaged (such as number of declarations or transactions to monitor) as well as budgetary allocations in percentages relative to GDP were considered. While the overall internal classification of functions into this or that department / unit / sector is ultimately up to NAPC members to decide upon, our calculations were grounded in numbers of Ukrainian state officials (as asset declaration filers)<sup>10</sup>. Such rough estimations suggest that for the volume of works envisaged in Ukraine, at least 300 NAPC central Secretariat employees would be desirable with at least 50 staff allocated solely to asset declaration verification and linked lifestyle monitoring considerations. As far as the legislatively-envisioned potential for creation of regional (decentralized) branches is concerned, at this point of time it is advisable to refrain from envisaging regional offices. While it is definitely positive that Ukrainian legislation allows for creation of such decentralized entities, regional experience mostly points out to the fact that regional presence is more natural to mixed or pure law enforcement anti-corruption agencies.

<sup>10</sup> Between 700 000 and 900 000 potential declarants have been quoted as the volume of work for collection of all declarations for Ukraine.

3

## **Strategic planning for internal development of the body is essential when so many functions are launched simultaneously**

Throughout case-study analysis, function packages were analysed for counterpart institutions to match NAPC to each of them. By far, Ukrainian NAPC possesses the widest array of functions if compared to its sister agencies. It was noted throughout review and in informal interviews with representatives of other bodies that with such a wide range of preventive functions, it is impossible to kick-start everything immediately and into full-scale operations. It would therefore be important to start working on a strategic sequencing of function roll-out and operational prioritization as NAPC starts its work. Without that, there is a risk of getting the SPACA swamped in functions, priorities and immediate needs, which may result in confusion and failure of overall operations. Therefore, strong consideration should be given to development of a NAPC internal strategy and operational plan for a year once the core decision-making cadre is in place.

4

## **Apart from declared political and organizational independence, true proof of autonomy comes with funding**

As will be seen from the case-studies presented below, the issue of budgeting crops up in any country and generates especially heated discussions when the SPACA in question launches its first successful anticorruption attacks. Once first significant cases are brought to court, prosecution or media attention, reaction of state authorities is usually rather prompt with topmost politicians and officials trying to cut off the budget of the agency and then strangle the agency with accusations of ineffectiveness (in a situation of lack of budgetary support). In this case, it would be especially advisable to link to experiences of Slovenia and Romania. In both cases, successful administrative investigations probing into

integrity of higher-most officials brought about budget cuts. Again, in both cases, a wider network of support and trust to the institution multiplied by strategic and talented lobbying with international and civic partners allowed the situation to be remedied. In this vein, prompt and solid drive for a wide network of support with national and international partners would be one of the essential safeguards against future budget attacks against the SPACA.

## 5

### **Informing national and international partners of the agency work is not only about good public relations – it is a must for survival and successful functioning**

While it could sound trite to advise on openness, inclusion of media and civil society as well as international partners into the communications and feedback loop, it is still important to emphasize. Any anti-corruption body should not shy away from working proactively with civil society and media to ensure that information about its work is there (even about operational issues such as new units established, new people hired, trainings conducted, etc.). This not only allows the agency to maintain a steady flow of information going to its counterparts (public institutions, media, businesses), but also to manage the discourse. Stable, trustworthy and long-term relations with international partners (not for short-term requests for assistance, but rather longer-term strategic ties) may help out at times of budgetary turmoil or other pressure from the side of unhappy government officials and politicians. Amongst other things, it is important to produce high-quality bilingual materials (including annual or thematic reports) so that international partners could read them and be informed of latest developments, results of work or concerns. Such informational ties with non-governmental and international partners could also, later on, be used as widely-reaching channels of communication to wider audiences – to be used for awareness-raising and advocacy.

## 6

### **Utilization of the “grace period” for picking the low-hanging fruits may cement further positive growth; failure could result in sustained distrust and institutional coma**

In case of NAPC, as in cases of other new-born anticorruption institutions, there likely is going to be a so-called “grace period” of trust and hope for change that could come with agency’s operations. In the particular case of NAPC, this window of opportunity is likely to be smaller than with other institutions – first and foremost due to the fact that it is the last one to be created (and other bodies such as NABU and SAPO have already eaten into public goodwill and patience). The second reason for the shortness of the period are the significant delays in establishment and start of NAPC operations, which could be seen by the public as a factor to be more sceptical of the body’s performance. In this situation, it is crucial to start up operations fast enough to be able to demonstrate first results (and keep the wider community well informed of what is happening inside of the body, including internal institution-building, hiring, training, etc.). If at all possible, also due to legislative limitations, areas should be selected to bring the first positive results fastest (that could be conflict of interest regulations, asset declarations verification or political party funding). If throughout this initial period there is no indication of success, the body may further encounter serious challenges with successful operations. In this case it cannot be emphasized more that expectation management on behalf of NAPC will be crucial.

## 7

### **Corruption indeed may not be tackled (prevented) alone – securing trust from core anti-corruption agencies is a step to shaping an effective system for the country**

Finally, it would be important to mention that both regional and global experience shows that stand-alone anti-corruption

tion efforts may work only in a case when one body combines all stages of anti-corruption work inside of one institution (the prevention – investigation – sanctioning cycle), which in that case raises concerns of such entity's accountability. In all situations that include multiple anti-corruption entities (including SPACAs) in the scheme of things, coordination and building positive working relationships with other anti-corruption partners becomes essential. All of the case studies reviewed showed to a larger or smaller degree prevalence

of cases when mandates are rendered ineffective, cases are lost or information is not exchanged due to competition, turf-wars or simple lack of contact between relevant authorities in the anti-corruption realm. While the overall Ukrainian anti-corruption architecture is not a simple one, NAPC leadership will still have to navigate this landscape and show political shrewdness to make sure that it can retain working relations with NABU, SAPO and other institutions that may appear on the horizon to advocate for synergies and common result.

## CASE-STUDIES

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The cases selected for the present review were picked due to a number of reasons. Firstly, there was an attempt to concentrate on those bodies that would resemble NAPC in terms of functions. The functional consideration was accompanied with a geographical one – as Ukraine's aspirations lie with European integration, choice was made in favour of agencies within EU member-states (Slovenian CPC, Latvian KNAB, Romanian ANI) and candidate-states (Macedonian SCPC, Serbian ACA). Analysis of the case-studies was performed through qualitative assessment of respective laws, by-laws, annual reports, professional news-publications presented by the Regional Anti-Corruption Initiative (RAI) and International Anti-Corruption Academy (IACA). Documents and reports of UNODC, GRECO, European Partner Against Corruption (EPAC), and Transparency International were also used. In addition to cabinet research, interviews with select current and former heads and employees of SPACAs were conducted.

All of the cases are presented in the form of a snapshot "passport" for the SPACA in question, a detailed organigram that provides an overview of the agency's internal structure and

staffing, budgeting issues, as well as number of statutory functions that the agency in question has in common with NAPC. Wherever possible, such core functions as asset declarations verification and access to relevant specialized databases ran by other agencies, conflict of interest management, whistle-blower protection, institutional risk assessment and resulting integrity-plan design for state bodies and enterprises are also reviewed.

# SLOVENIAN

## Commission for Prevention of Corruption (CPC)

CPC is an independent collegiate state body with a broad mandate in the field of prevention of corruption, investigation of conflict of interest, and monitoring of illegal lobbying as well as breach of ethics and integrity of public office. It is not part of the law enforcement of Slovenia and its employees do not have typical police powers.

They do, however, have broad legal powers to access and subpoena financial and other documents (regardless of the confidentiality level), interview civil servants and public officials, conduct administrative investigations and proceedings, and instruct different law enforcement bodies (e.g. Anti-Money Laundering Office, Tax Administration etc.) to gather additional information and evidence within the limits of their authority. CPC can also issue fines for different violations (with sanctions imposed by court).

The body came into being in 2004 after the previously-introduced position of a Government Agent for Anti-Corruption (akin to the Ukrainian evolution of anti-corruption institutions) that had been in place since 2002, and was subsequently removed. The current CPC mandate and functions have since then been expanded to its present state due to adoption of the Integrity and Prevention of Corruption Act of 2010. CPC keeps the register of asset declarations, catalogue of gifts, register of lobbyists and more than 30 different registries and databases pursuant to the Integrity Law. The agency is independent in terms of subordination to any executive body or the legislature. Substantive decisions of the CPC (rulings on corruption, conflict of interest, violations of lobbying regulations, etc.)

### AGENCY IN BRIEF



Founded:  
**2014**



Mandate overlap with NAPC:  
**13 out of 20 NAPC tasks coincide (65%)**



Budget:  
**USD 2.5 million**  
(0,0045% of nominal GDP)



Leadership:  
**Chief Commissioner,  
2 Deputy Chief Commissioners**



Cases considered per year:  
**1237** (data for 2011)



Overall staff:  
**up to 40 persons**



Regional branches:  
**none and not envisaged**



Public sector employees in country:  
**158 000**  
(Country population - 2 million)



Civil servants in the country:  
**18 100**



Asset declarations:  
**14 000 annually**

are adopted by the body itself, while some of the decisions may also be subject to judicial review by the High Administrative Court. In terms of accountability and transparency of its work, CPC has to pass periodic external audits which result in reports tabled before the Parliament and the President, afterwards becoming public. Annual reports are also presented to the Parliament. In addition, all CPC decisions (with a few rare exceptions) have to be published online to raise the public awareness about the SPACA work and findings.

While in the recent years the number of CPC staff has increased from 29 to 40 employees

As far as budgetary autonomy and security go, CPC has the power to reallocate and re-channel the funding that it receives from the Parliament annually as it may see fit. At the same time, the seeming freedom is elusive, as annual budget fluctuations undermine security of tenure at CPC and have a direct detrimental effect on the body's efficiency of performance. The budget noose also seems to be abused to keep CPC at bay if the latter starts overly active investigations. Thus, for instance, in May 2005 the budget of the CPC was considerably restricted by the government, demonstrating lack of political support. Especially in the light of extended mandates for CPC after the 2010-2011 amendments, the underfunding results in underperformance in functions and, at times, as much as operational closure of the agency.

While in the recent years the number of CPC staff has increased from 29 to 40 employees, this is seen internally and by external peer-review mechanisms (including GRECO) as insufficient in terms of full-fledged performance in areas of asset disclosure, lobbying and conflict of interest management, and has to be increased to avoid risks to its activities in the future.

## INSTITUTIONAL STRUCTURE

CPC organizational structure may be represented as follows:

### COMMISSION

Deputy Chief Commissioner (2)  
Chief Commissioner (1)

40  
employees  
overall

### SECRETARIAT

Legal, financial and human resources functions  
International cooperation and PR  
Unit for analytics, intelligence and information security

### Investigation and oversight bureau

- Investigation of cases of corruption, conflict of interest, lobbying, other administrative investigations;
- Collection and monitoring of asset declarations;
- Enforcing conflict of interest rules;
- Whistle-blower protection
- Cooperation with law enforcers and prosecution.

### Center for prevention and integrity of public service

- Coordination of the National AC Action-Plan implementation;
- Development of integrity plans (institutional);
- Design and implementation of preventive measures;
- Anti-corruption expert assessment (proofing) of legislation
- Cooperation with CSOs, academia, researchers.

As seen above, CPC is composed of its topmost leadership (a collegiate commission with one Chief Commissioner and two Deputy Chief Commissioners), the Secretariat and two institutional subdivisions: the Investigation and Oversight Bureau and the Centre for Prevention and Integrity of Public Service.

The leadership of the Commission and his/her two deputies are appointed by the President of the Republic following an open recruitment procedure. Similar to the NAPC

case, candidates to become CPC Commissioners have to meet high professional and integrity standards, and are interviewed by a selection panel that represents Government, the National Assembly (lower house of the Parliament), CSOs, Independent Judicial Council and Independent Council of Officials.

Slovenian CPC members are selected to serve a maximum of 6 (for the Head) or 5 (for Deputies) years. Prior to expiration of the mandate, these troika members may only be dismissed from the office by the President (on his/her own motion or on the motion of the Parliament) if CPC members allegedly act in breach of the Constitution or the law.

Again, similarly to the NAPC functionality, the CPC commissioners decide on substantial matters (corruption allegations, conflict of interest, breach of ethics) with a majority of votes. Support services of in-house or external expertise in law, economics, audit, social sciences, information technology or investigations may also be requested by the agency to make an informed decision.

The Secretariat, staffed either through open competition or by relocation of personnel from other state bodies, is responsible for development of the doctrine of anti-corruption and ethics of the public sector, undertakes analysis and research on corruption with the use of ICT tools, carries out anti-corruption legislation screening, is responsible for international activities of the CPC and public relations, as well as administrative, personnel, logistical and financial functions for the CPC.

The Investigation and Oversight Bureau collects and monitors assets declarations of high-ranking public officials, investigates cases of corruption, conflict of interest, violations of lobbying regulations and other violations under the jurisdiction of the CPC.

The Centre for Prevention and Integrity of Public Service performs, *inter alia*, anti-corruption expert assessments (corruption proofing), designs and implements a wide array of preventive measures, works on awareness-raising, assists state institutions and entities in preparing integrity plans, cooperates with the civil society, academic and research institutions etc.

## ASSET DECLARATION VERIFICATION

CPC is the core institution that is currently in charge of collecting and verifying assets declarations for the country's officials. Slovenia has a long tradition of asset disclosure system dating back to 1994. During its first year of operation back in 2004, the Commission, taking into account the previous experience of Slovenia in utilizing this tool, developed and introduced a comprehensive system of income and asset declaring for public officials at national and local levels, including prosecutors and judges. Most resistance to the new declaration system was encountered at the local level, and yet the system was somewhat successfully deployed.

The declaration system in place now pertains to a wide range of public officials (14 000 positions<sup>11</sup>), including high - level, central and local, elected and appointed authorities. Declarations are submitted when an individual takes up and leaves public office as well as regularly throughout their tenure. The officials shall also declare any change to the situation with assets that takes place while they hold public office. Members of the National Council (upper house of the Parliament) who are elected indirectly by local communities and interest

<sup>11</sup> Please see: (World Bank, 2013)

groups (employers, employees, farmers, crafts, trade, etc.) do not submit asset declarations.

Only from 2011 the public officials are asked to submit the asset declarations online. The Slovenian E-Asset Declaration System allows to cross-check the data with other state databases and rosters (as is also the envisaged design of the NAPC-ran system), and a large portion of asset declaration data is openly available at the CPC website. Full publication of asset declarations is not permitted due to a Constitutional Court decision issued in 2007.

Closely related to the issue of asset declaration verification is the issue of lifestyle monitoring that allows discrepancies to be spotted between the real lifestyle of a civil servant and the one that could be sustained with the assets declared. Slovenian legislation on asset recovery

**Slovenian legislation on asset recovery states that any suspicion of unjustified wealth of public officials exceeding EUR 50 000 shall be investigated by the prosecutor**



states that any suspicion of unjustified wealth of public officials exceeding EUR 50 000 shall be investigated by the prosecutor. At the same time, this legislation does not allow for reversal of the burden of proof in cases regarding such wealth (the prosecutor would still have to prove that the asset is illicit, instead of making the suspect produce proof of asset legitimacy).

In addition to checking veracity of assets declarations of the public officials, CPC may request additional data on assets of public official relatives, where it can be reasonably concluded

that assets were transferred to family members to avoid being declared. Recently, CPC has been calling for further legislative changes to mitigate corruption-related risks including facilitating access to the data concerning assets transferred to third parties.

Despite all the positive sides, the scope of sanctions imposed in case of the breach of asset disclosure regulations include only small fines for the failure to declare assets or in case of incomplete or false data. If a public official fails to submit the required data within the time-limit set by the law, the CPC can ask the employer to cut this official's salary by 10%. If an official is found to have a considerable and unjustified difference between his\her income and actual wealth and is unable to reasonably explain the discrepancy, the CPC will notify the official's institution and, if other irregularities or offences are suspected, any other competent law enforcement authorities.

Should violations of the assets declarations regime be uncovered, the official's institution may (not obliged) start disciplinary procedures for dismissal or termination of office. The CPC may also request respective authorities (law enforcement, tax, financial investigation unit etc.) to take precautionary measures to interrupt transactions or seize assets if there is a reasonable risk that such assets may be hidden or transferred)<sup>12</sup>.

Despite the rather weak sanctions for non-compliance with asset declaration regime, the CPC has masterfully used the power of "naming and shaming". For instance, it widely publicized breach of asset declarations regime in 2012 by the Prime-Minister, holders of public offices, heads of seven political parties in the Parliament and the mayor of Ljubljana. After a vociferous campaign in the public and media, some of these officials stepped down from their positions<sup>13</sup>.

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<sup>12</sup> Please see: (European Union, 2014)

<sup>13</sup> Ibid.

## CONFLICT OF INTEREST

The conflict of interest legislation in Slovenia imposes restrictions on business activities, including provisions on businesses of officials' family members. The CPC issues its guidelines on avoiding and managing conflict of interest, including such issues as retention of business while in public office, influencing decision-making processes in public institutions, and cancelling awarded public contracts or decisions taken in conflict of interest situations. The Commission also regulates such issues as gifts, as well as provisions on preventing non-elected officials from protecting business interests and avoiding the "revolving door" (pan-touflage).

## SUMMING UP

The CPC is a well-established anti-corruption prevention body with developed internal structure and strong legitimacy in the Slovenian society which is proved by a high credit of trust to it. Among the Commission strengths are monitoring of asset declarations, including its online checks, utilizing the methodology of integrity plans in the public and private sector; responsiveness to business and private sector corruption. It is one of the first institutions to have started dealing with illegal lobbying, while maintaining a respective database. At the same time, the conflict of interest practices have weak control mechanisms, and there is a downward trend in the number of whistle-blowers that is mostly conditioned by the legislative gaps.

## WHISTLE-BLOWER PROTECTION

18

The legal framework on whistle-blower protection in Slovenia is rather contradictory and CPC recognizes that so far only few results of implementation of whistle-blower law have been reached. To encourage the reporting of corruption offences, the Commission and the police accept anonymous and online reports. The Commission provides information about whistle-blower protection on its website and carries out numerous trainings for civil servants on whistle-blower protection. CPC also holds regular meetings with the law enforcement authorities and is allowed to share and receive information with and from whistle-blowers to further strengthen witness protection, and include experts into protection measures. At the same time, the CPC implemented only 33 requests for protection of whistle-blowers in 2011 and 22 in 2012.

# MACEDONIAN

## State Commission for Prevention of Corruption (SCPC)

The State Commission for Prevention of Corruption (SCPC) is the main anti-corruption body in Macedonia. It reviews all reported cases on corruption suspicions, whether based on its own intelligence, mass media monitoring or received complaints / whistle-blower reports.

SCPC functions as a specialized anti-corruption institution responsible for prevention of corruption and conflict of interest in the public administration without any investigative or prosecutorial powers<sup>14</sup>. Additionally, this SPACA is entrusted with implementing the State Anticorruption Programme, running lifestyle monitoring, alarming relevant authorities to possible violations in political party funding, issuing opinions that suggest discharging, replacing, criminally prosecuting or applying other measures of responsibility to elected or appointed civil servants in cases linked to corruption offences, collecting and studying assets declarations and declarations of interest.

SCPC was established as a dedicated SPACA in November 2002 in line with the Law on Prevention of Corruption that came into being in the summer of the same year. Upon adoption of a dedicated law on Law on Prevention of Conflict of Interest in 2007, SCPC mandate was significantly expanded, and once more enhanced in 2009 with extension of the agency's mandate to include monitoring of lobbying within the country.

### AGENCY IN BRIEF



Founded:  
**2002**



Mandate overlap with NAPC:  
**11 out of 20 NAPC  
tasks coincide (55%)**



Budget:  
**USD 0.4 million**  
(0,0035% of nominal GDP)



Leadership:  
**Commission Chairperson  
+ 6 Members**



Cases considered per year:  
**over 1300** (data for 2014)



Overall staff:  
**26** (ceiling set at 45  
as per staff structure)



Regional branches:  
**none and not envisaged**



Public sector employees in country:  
**160 000**  
(Country population - 2 million)



Civil servants in the country:  
**4 000 annually**



Asset declarations:  
**4 000 annually**

<sup>14</sup> Please see: (Regional Anti-Corruption Initiative, 2015)

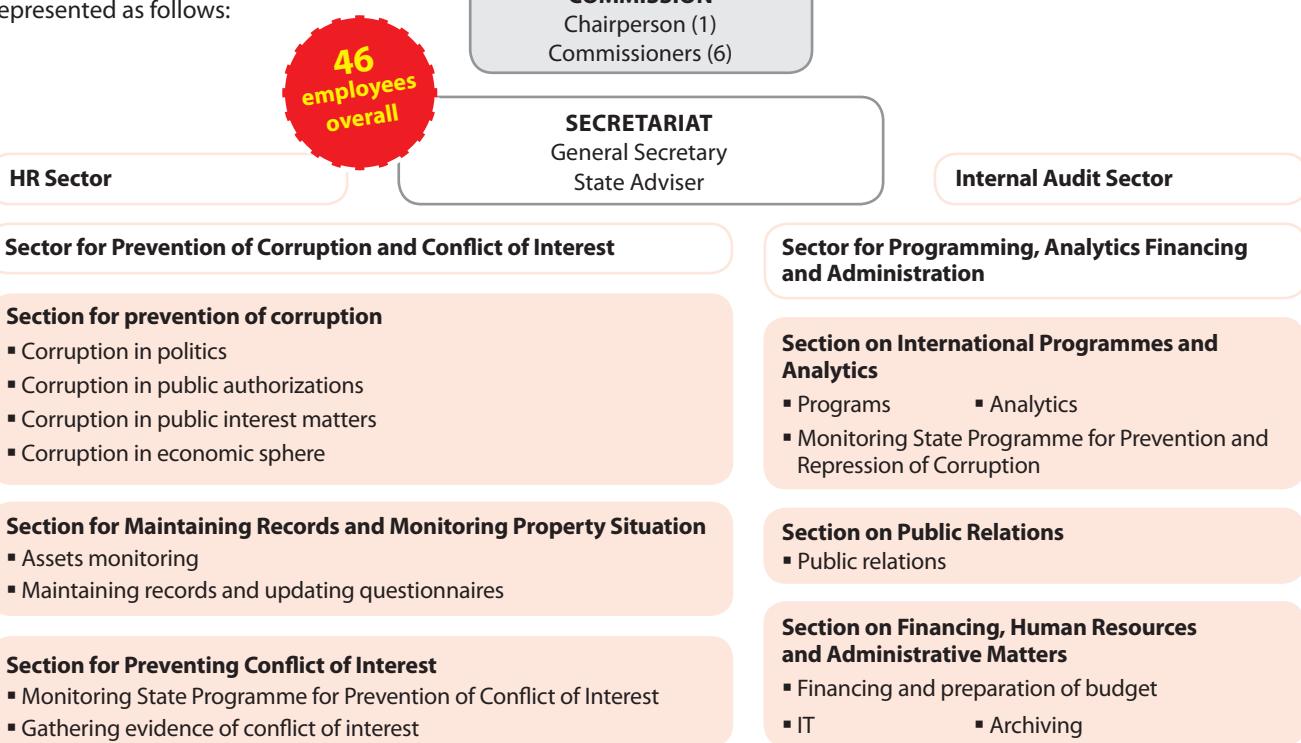
In terms of lines of reporting, SCPC is accountable to the Assembly (Parliament) and submits the Annual report to the Assembly, the Government, and the Supreme Court, in addition to announcing it in the media. The Annual Report for the respective year is adopted in one package with the State Programme for Prevention and Repression of Corruption and Prevention and Reduction of Conflict of Interest.

Despite nominal authority, SCPC is not truly autonomous and independent in performing its mandate. While it does have a special status, being detached from the government and other power branches, due to changes in institutional

arrangements, SCPC was acting without a proper legal status within the state system for some time. This, inevitably, decreased the SPACA effectiveness and imposed restrictions onto its work. In November 2010 the agency was officially registered as a state body. As of recent, the Commission was losing its independence, visibility and potential to influence the anti-corruption realm in the country. In a situation similar to the case of CPC, the Macedonian Commission suffers budgetary complications and its current status of unfilled vacancies further suggests reduced staff effectiveness due to gaps in the organigram (currently, out of 45 staff positions (excluding 7 Commissioners) 26 vacancies are filled).

## INSTITUTIONAL STRUCTURE

SCPC organizational structure may be represented as follows:



As noted on the diagram, SCPC is composed of the Commission itself, as well as the Secretariat that is, in turn, broken down into 4 thematic sectors, dealing with issues of preventing corruption and conflict of interest, analysis, monitoring of state programmes, as well as technology, administration and HR.

The 7 Commissioners on SCPC are selected by the Parliament for a term of four years, without the right to reappointment. Pursuant to the law on Prevention of Corruption, the members of the State Commission shall be appointed from among the distinguished experts in the legal and economic field and who fit the profile for the office. However, the Parliament often violates the selection criteria prescribed in the law due to political reasoning.

The State Commission shall elect a Chairperson from among its members appointed for a term of one year, without the right to re-election. Decisions are made with the majority of votes of the total number of members. The Book of Procedures governs the manner of work of the State Commission. The State Commission performs tasks within its sphere of competence at sessions that shall have more than one half of members present.

The Secretariat functions are subdivided into thematic sectors, one of them dealing with corruption in politics, public administration, economy and private sectors. This sector is also responsible for collecting and monitoring asset declarations, enforcing the conflict of interest rules, maintaining the registers for the conflict of interest statements and asset declarations. The relevant unit has 9 employees that need to deal with 4000 asset declarations and the same number of statements of interest. The second of the two major thematic sectors deals with preparation and monitoring of the State Program for the Prevention of Corruption and composition of the SCPC budget for the next year.

#### ASSET DECLARATION VERIFICATION

SCPC is responsible for collecting and verifying assets declarations of public officials which, in turn, fall under two categories. The first category comprises elected and appointed officials, responsible persons within the public enterprises, and other legal entities which are financed by state capital. These officials declare their assets and property along with information on the assets and property belonging to their family members who reside at the same address. In addition to the declaration, these officials are obliged to deposit a statement certified by a notary for waiving bank secrecy in regard to all domestic and foreign<sup>15</sup> bank accounts. The asset declaration is submitted within 30 days of the election or appointment date, at the latest. Also, officials must submit their asset declaration within 30 days of the termination of office. Such declarations are handled by SCPC and the Public Revenue Office.

The other category of officials comprises civil servants, who shall submit, within 30 days of the date of their employment in state bodies or in the municipal administration, their completed asset declaration form. The form details a list of property owned by themselves or members of their families and the grounds for the acquisition of the declared assets. They are also bound to submit the asset declaration within 30 days of the termination of their employment and when there is an increase in assets exceeding 20 average monthly net salaries. The asset declarations for this category of officials shall be submitted to the respective state body where the individual is employed. They are maintained in special records and in electronic format within the employing institution. The state body shall submit this asset declaration to SCPC at the request of the latter, providing that SCPC acts upon a concrete cause of action for the respective official.

<sup>15</sup> *It should be noted, though, that data from foreign bank accounts can only be obtained through mutual legal assistance mechanism (via the Ministry of Justice).*

Declarations in the first category pass administrative verification: completeness of basic necessary data – first name and surname, title, address, unique citizen ID number, date of appointment / termination of mandate, date of submission of the asset declaration and signature. At the same time, SCPC may launch a procedure for comprehensive verification if the following conditions are in place:

- if there is a notification / complaint proving that the official possesses assets not listed in the asset declaration. Any legal or natural person may report to SCPC or the Public Revenue Office any suspicions concerning the official's asset status (especially on property and vehicles). In practice so far, SCPC has not yet carried out on-site inspections to check the reported allegations (buildings, their size and exterior and similar issues);
- acting upon cases giving grounds for suspicion of corruption against a concrete public official.

The asset declarations registry for Macedonia is well-established, constantly updated, transparent, easily-accessible and searchable<sup>16</sup>. At the same time, the registry is a result of tedious manual processing, since asset declarations are submitted to SCPC exclusively as a hard copy. Once the hardcopy asset declarations coming to SCPC have been registered in the record book (which is not public), complete data is entered into the SCPC electronic database. Afterwards, the data is processed in accordance with the Law on Personal Data Protection, and items which are not protected under the Law are published on the relevant website. Also, all reported changes in the official's asset status are published, by updating the basic data which was previously submitted.

The public has access only to the asset declarations published on the SCPC's website.

The percentage of declarations actually going through a plausibility check (full verification) is not large, though. In 2012, for instance, a total of 99 asset declarations (roughly 2.5%) were subjected to comprehensive review. Out of this number, 14 declarations were checked based on notifications for unreported assets<sup>17</sup>.



The system of asset declaration verification is reliant not only on SCPC through. The SPACA has to cooperate with the Public Revenue Office. The public officials are obliged to submit asset declarations to the SCPC and Public Revenue Office simultaneously because the last one is empowered to validate the data in declarations against tax data, and conduct investigations if needed. The Public Revenue Office may, in turn, act either on its own initiative or upon the request of SCPC. State bodies, local governments, banks and individuals and legal entities at the request of the Office and within a certain deadline are obliged to provide information necessary to determine the actual status of assets that raise concerns.

Another challenge for the asset verification system, apart from the duality of control over the declarations, lies in absence of a baseline roster of elected and appointed officials. This, in essence, means that it is hard to determine whether someone should have submitted a declaration but failed to do so. The SCPC, therefore, has to make an additional effort to monitor those who violated the law. Establishment of such a roster is envisaged in the State Programme for Prevention and Repression of Corruption and Conflict of

<sup>16</sup> Please see: (State Commission for Prevention of Corruption, 2015)

<sup>17</sup> Please see: (ReSPA – Network for Ethics and Integrity, 2013)

Interest (Action Plan for 2011–2015). In addition to this, there is no roster of family members of officials in question, and hence SCPC relies only on the information submitted within the declaration itself<sup>18</sup>.

Despite no direct link between SCPC and the Public Revenue Office regarding raw data exchange, SCPC has been able to tap into databases of certain institutions (the Cadastre, Central Registry and Central Depository for Securities), which enables the SPACA to access data and run quick checks on a specific official. The full verification as ran by SCPC heavily relies on collection and matching of data from the Ministry of Internal Affairs (vehicles), the Real Estate Cadastre Agency (real estate), the Central Registry (founding and ownership rights in companies), and the Central Depository for Securities (securities and shares). Despite access to the data, verification is done manually and conducted by the SCPC service.

As far as sanctions for breach of asset verification rules are concerned, the punishment envisaged may be considered extremely mild. Should an official fail to comply with the submission of the asset declaration within 30 days of the deadline or fail to report change in the declaration, SCPC initiates a misdemeanour procedure. The court, in turn, may impose a fine of only EUR 500 – 1000, which is far from being an effective deterrent for public servants or parliamentarians.

#### CONFLICT OF INTEREST

SCPC runs a system whereby statements of interest have to be submitted by elected or appointed officials, and public servants. A statement like this contains information about public authorization and duty, ownership, partnership, membership in steering or supervisory boards of companies,

membership in any association of citizens or foundation, as well as such engagements of (closely) related persons.

Should an official fail to submit a statement of interest, he/she will be charged with a fine of EUR 1000 – 3000, and no sanctions for relatives are envisaged. This integrity tool is also limited by the absence of clear deadline when to submit the statement, a large scope of persons who are obliged to submit the declarations, and no clear procedures for checking / verification of data in the statements of interest<sup>19</sup>.

**SCPC managed to obtain wide public support that provided societal legitimacy of its actions**

#### SUMMING UP

In the beginning of its work SCPC managed to obtain wide public support that provided societal legitimacy of its actions. However, after the 2007 due to the increase of the political influence on the body, it lost its visibility and role. In comparison to the NAPC, the SCPC mandate is quite limited and focuses only on the implementation and monitoring of Anti-Corruption Strategy, monitoring the changes in the property ownership, occasional trainings of public servants, international cooperation and cooperation with other state bodies. The shortcomings that surround the institution are weak legislation and limited control mechanisms like low fines, no annual deadline for asset declaration submission, no clear list of public officials, no comprehensive system of online submission of declarations and full-scale automated integration with other state registers for declaration verification.

<sup>18</sup> Please see: (ReSPA – Network for Ethics and Integrity, 2013)

<sup>19</sup> Please see: (Georgiev & Mojoski, 2011)

# SERBIAN

## Anti-Corruption Agency (ACA)

Serbia's Anti-Corruption Agency (ACA) is a dedicated corruption prevention body established as an autonomous and independent entity with the relevant legal status. This SPACA has power to conduct administrative investigations and analyse administrative cases

When information collected by the office reveals facts that suffice for an offence, ACA transfers the issue immediately to the public prosecutor. In December 2014 after a strategic review of ACA responsibilities, priority was given to strengthening of ACA control activities in the area of income and asset declarations, financing of political organizations and reacting to citizen reports.

ACA was launched on 1 January 2010 based on the provisions of the Anti-Corruption Agency Act that governs establishment, legal status, competencies, organisation and operation of ACA. In 2011 after the adoption of the Law on Financing of Political Organisations, ACA received the mandate for oversight for political party funding.

ACA is institutionally accountable to the Serbian National Assembly (Parliament), to which it submits an annual report, a report on implementation of the State Anticorruption Strategy, Action Plan and Sector Action Plans. Such reports are also in parallel submitted to the Government, and additional information may be publicized by ACA at its own initiative or upon request of the Parliament.

### AGENCY IN BRIEF



Founded:  
**2010**



Mandate overlap with NAPC:  
**17 out of 20 NAPC tasks coincide (85%)**



Budget:  
**USD 2 million**  
(0,0043% of nominal GDP)



Leadership:  
**Director**



Cases considered per year:  
**1 402** (conflict of interest, incompatibility of office; data for 2013)



Overall staff:  
**132**



Regional branches:  
**none but potentially envisaged**



Public sector employees in country:  
**41 530**  
(Country population - 7 million)



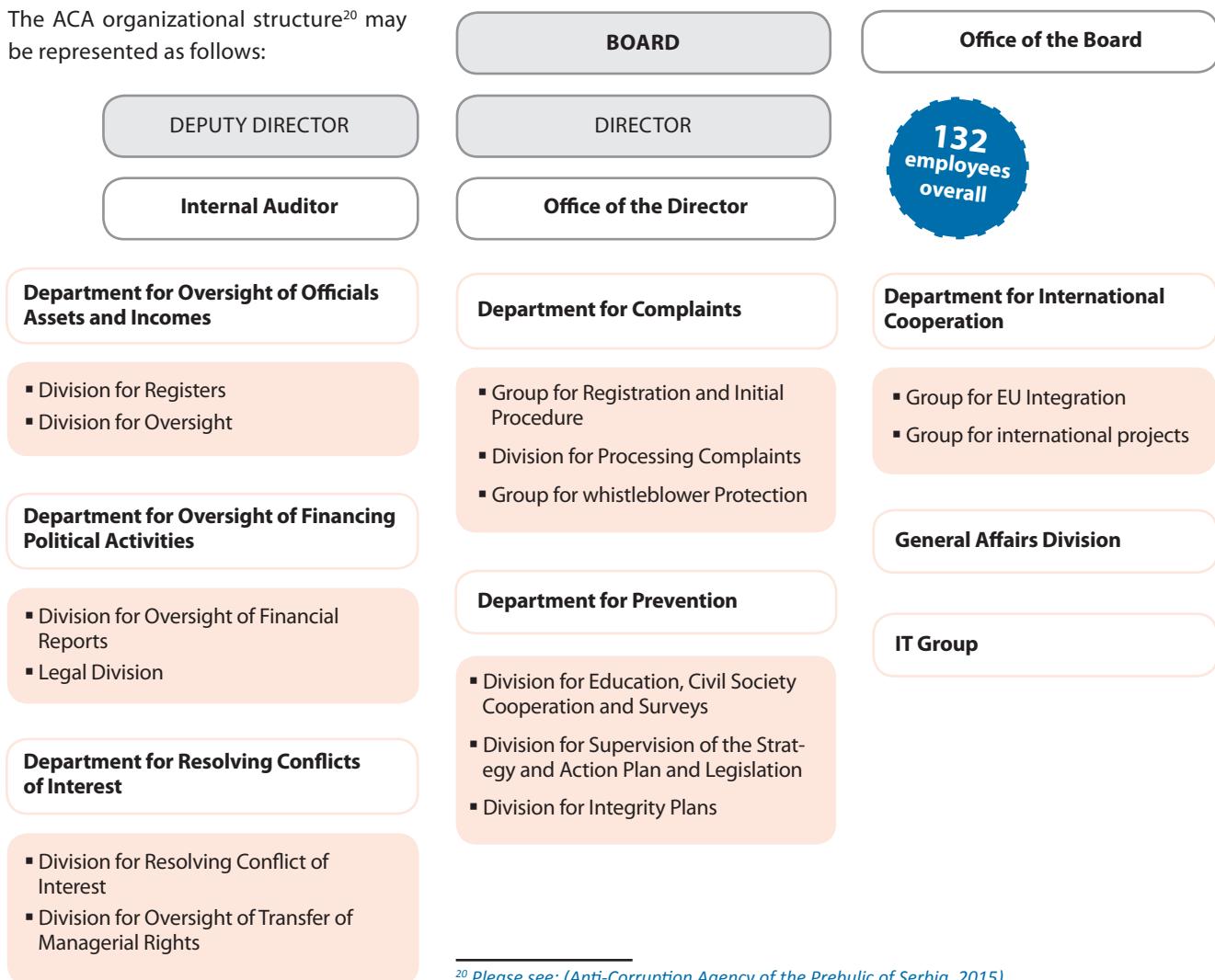
Asset declarations:  
**5 953 accepted for the year, 7 881 processed** (data for 2013)

As far as budget autonomy is concerned, funds for operation of the Agency are be provided in the state budget at the proposal of the Agency, as well as from other sources. The Agency autonomously utilizes the funds of its budget.

Overall, the agency is seen as being relatively well secured in terms of sufficient number of staff and budget. According to law, ACA is entitled to establish its regional non-autonomous organizational units, yet none have been put into place so far.

## INSTITUTIONAL STRUCTURE

The ACA organizational structure<sup>20</sup> may be represented as follows:



<sup>20</sup> Please see: (Anti-Corruption Agency of the Prebulic of Serbia, 2015)

The core decision-bodies of ACA are its Board and Director. The 9-strong Board (at this point of time has 7 members) appoints and dismisses the Director of the Agency, decides on his / her salary, considers appeals against decisions of the director, adopts the annual report on operation of ACA to be further submitted to the Parliament, and drafts a budget proposal for ACA. The Board may also, at the proposal of the Director, establish advisory or working bodies of the Agency.

The Director (with a term in office of five years) manages everyday operations, is responsible for ACA's lawful and efficient discharge of functions, decides on the rights, duties and responsibilities of the Agency staff, enforces decisions of the Board and performs other tasks determined by the relevant law. Remuneration for serving as Director is set equal to the base salary of a judge of Supreme Court of Cassation, and may be increased by up to 20% at the decision of the Board.

26

ACA is also equipped with a substantial Secretariat that is managed by the Director. Rules for internal organization and classification of positions within the Secretariat are identical to those of any other line ministry (unless certain operational procedures at the Agency require different type of set-up). Identically, regulations pertaining to civil servants and nominated officials shall also apply to the Secretariat employees.

The Secretariat is entrusted with bulk of the thematic work related to ACA mandate, including issues of National Strategy implementation, issuing rulings on conflict of interest situations, overseeing political party finance, overall coordination of state bodies in the area of anti-corruption, running the state registry of public officials and the registry of such officials' property and income, issuing guidelines for developing integrity plans in the public and private sector, organizing research, monitoring and analysing statistical and other data on the status of corruption within the country.

#### ASSET DECLARATION VERIFICATION

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All public officials in Serbia who are elected, appointed or nominated to state bodies, local self-government units, bodies of public enterprises and companies, institutions and other organizations with a state share, or any other person elected by the National Assembly have an obligation to declare their property and income<sup>20</sup>. At the same time, most of the civil servants fall through the cracks as they are not "elected, appointed or nominated".

The declaration template is a comprehensive document that includes information on property rights for real estate in-country and beyond, property rights to high-value movables (valuables, collections, art, etc.), deposits in banks, shares

in 2012 about 3,950 representatives of the state bodies passed such integrity plan training with an estimated 4 483 institutions

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in legal entities, income from discharge of public office, or public functions, entitlement to use immovable property for official purposes, etc.

ACA receives the declarations in both written and electronic form. According to the procedure, a public official submits the report electronically first. As the declaration is submitted, the system records the date of submission and publishes the file on the website of the Anti-Corruption Agency<sup>21</sup>. In return, the declarant receives a computer-generated code confirming electronic registration of the declaration and, within 8 days after receiving the code, he or she is to send the hardcopy. Upon receiving the report of submission, the ACA Sector

<sup>20</sup> According to the ACA Annual Report for 2014 there were 41 530 officials in the registry of officials of Serbia.

<sup>21</sup> Please see: (ReSPA – Network for Ethics and Integrity, 2013)

Operations Division registers the new arrival and allocates an ID number to the file. After this, the Sector employees check formal accuracy of the electronic and paper form of the declaration. All declaration contents are stored in an electronic database.

While processing of declarations is still in its early stages, there are plans to improve it already, including full-scale access to databases of other government agencies for obtaining information from third parties on the data contained in the declaration. In addition to this, there currently is no full-scale linkage with the Registry of Officials and the Registry of Property and Income of public officials.

The Department for Oversight of Officials' Assets and Incomes has a dedicated unit in charge of running the electronic systems. The unit receives notifications about public officials assuming and terminating public office, takes in assets and incomes declarations, checks compliance with deadlines and completion of formal requirements of declarations, archives and stores such declarations, maintains the registry of public officials and performs other related tasks.

#### CONDUCTING INSTITUTIONAL RISK ASSESSMENTS AND CREATION OF INTEGRITY PLANS

The anti-corruption regulations of Serbia envisage that the ministries and other state agencies and enterprises are to elaborate anticorruption plans for the sector (for instance, health, education) or for their operations. Such anti-corruption sector plans / integrity plans embody a preventive mechanism that responds to the identified corruption risks and irregularities that had been identified in the course of an institutional risk assessment.

Throughout the preparatory stage (assessment), the institution would run a self-diagnosis to elicit possible threats and problems that may lead to corruption. ACA, in turn, assists

the state agencies through Guidelines for preparation and implementation of integrity plans. This SPACA also conducts the training for persons assigned to prepare integrity plans in state institutions – in 2012 about 3,950 representatives of the state bodies passed such integrity plan training with an estimated 4 483 institutions in need of such planning in the country.

To ensure quality preparation and implementation of integrity plans, ACA developed 69 models of integrity plans available for various types of state bodies.

#### SUMMING UP

The ACA is considered to be a proactive body with a high profile in the media and PR campaigns which resulted in higher public awareness about its prevention and oversight mechanisms. At the same time, this also resulted in excessive expectations from the work of the agency. Being conceived as a strong prevention institution, ACA is oftentimes missing real powers and opportunities to prevent corruption. One of its large vulnerabilities is the legal framework, which does not provide grounds for more effective communication and cooperation with other institutions. Due to the absence of direct legislative provisions to provide information from the registers kept by other state entities, progress in this regard has so far been slow. Such limitations impact the capacity of the body to conduct checks and investigations on corrupt behaviour reported in complaints and lowers its efficiency. At the same time, as of recent, progress was achieved in linking to databases ran by other institutions due to donor assistance. Another obstacle on the way towards ACA efficiency is the fact that it does not have an authority to act upon anonymous complaints, being able to only forward them to other competent authorities. Slow reaction of relevant authorities results in failing to meet deadlines for reaction on complaints, and decreases the public trust to the agency.



# LATVIAN

## Corruption Prevention and Combating Bureau (KNAB)

The Corruption Prevention and Combating Bureau of Latvia (KNAB) is a public authority under the supervision of the government, which performs combined functions of corruption prevention and repression

KNAB is also a pre-trial investigatory body and has traditional police powers, as well as legal initiative (reviewing legislation and initiating regulatory amendments). In addition to traditional investigative and preventive functions (modelled on the Hong Kong ICAC experience of a comprehensive approach to corruption prevention and combating<sup>23</sup>), KNAB is entrusted with controlling political party funding.

The agency was established in October 2002, in accordance with the relevant law, and became fully operational in February of 2003. Apart from that foundational legislation, the mandate of the body was shaped by the Law on Financing Political Organizations and the Law on Prevention of Conflict of Interest of Public Officials. As of today, the agency is empowered with the following mandates in the area of corruption prevention: developing a national Strategy and Programme, coordinating other institutions in implementing the Programme, managing conflict of interest, review complaints, assisting state and local government entities with developing preventive measures, raising awareness of the society, examining the declarations of public officials within the scope specified by the Law On Prevention of Conflict of Interest in Actions of Public Officials.

### AGENCY IN BRIEF



Founded:  
**2002** (fully operational since 2003)



Mandate overlap with NAPC:  
**12 out of 20 NAPC tasks coincide (60%)**



Budget:  
**USD 5.4 million**  
(0,0017% of nominal GDP)



Leadership:  
**Director,**  
**2 Deputy Directors**



Cases considered per year:  
**1005** (data for 2014)



Overall staff:  
**132 persons**  
(including 25 investigators)



Regional branches:  
**envisioned 5 regional branches**  
(without status of a legal person)



Public sector employees in country:  
**241 500**  
(Country population - 2 million)



Asset declarations:  
**1 344** (those verified by KNAB in 2014)

<sup>23</sup> In this case study, the focus will be made on the preventive aspects of KNAB work.

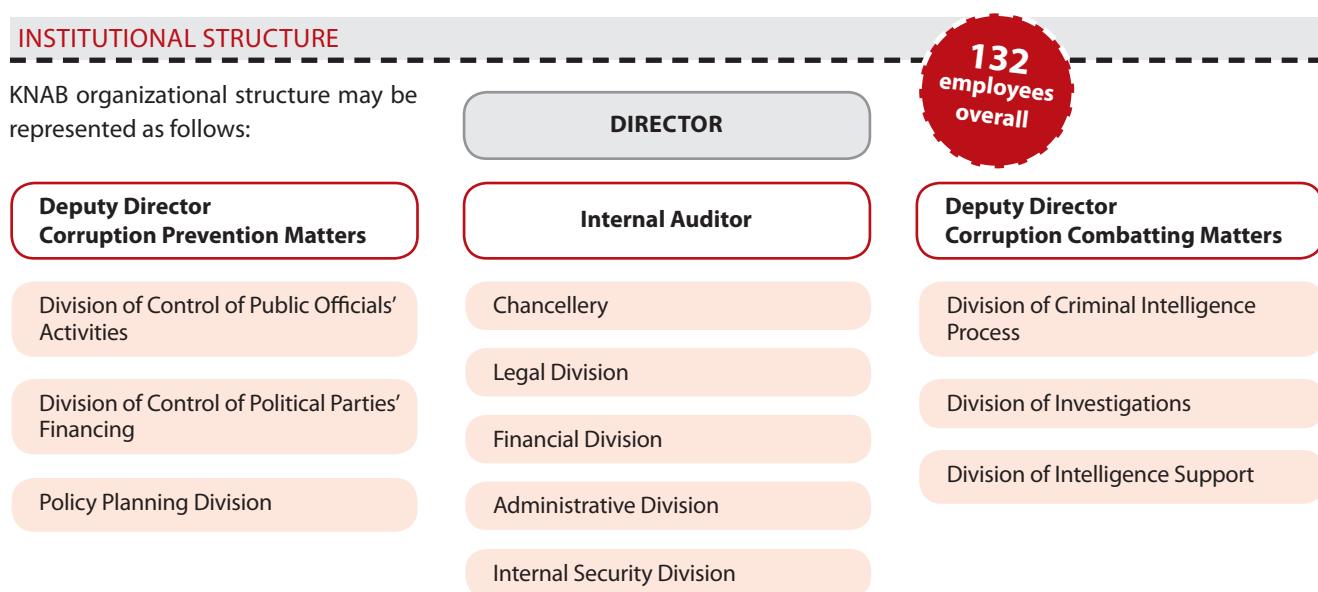
KNAB is accountable to the Government of the Republic of Latvia (the Cabinet of Ministers) and reports to the Prime Minister. Initially the Bureau was under supervision of the Ministry of Justice but was later upgraded in status. Annually the head of the Bureau drafts and submits to the Cabinet a project for requesting necessary funding from the State budget. At the same time, funding issues have, as in many other cases proven to be problematic and for several years Latvia imposed budget cuts on the architecture for fighting

and preventing corruption, which could not but impact institutional performance.

Throughout 2015, the government has also been considering significant structural reforms to the country's anti-corruption agency in order to address some public turmoil surrounding the agency's leadership, to build upon the agency's legacy of prior achievements, and better ensure its independence.

## INSTITUTIONAL STRUCTURE

KNAB organizational structure may be represented as follows:



KNAB is managed by the Director of the Bureau, who is appointed through an open competition for a term of five years by the Parliament on the recommendation of the Cabinet of Ministers, and may be dismissed in a similar manner.

An interesting feature in terms of KNAB oversight needs to be noted: whereas the body works under the oversight of the Public Advisory Council, it also has an international group as its counterpart, namely Foreign Advisory Panel (FAP), a forum

of diplomatic representations, international organizations and foreign businesses working in Latvia to exchange information with KNAB.

As seen from the organigram above, the preventive branch of KNAB is in charge of control of public officials (conflict of interest), control of financing of political parties, development of analysis and countermeasures to corruption and education of public officials and the public about corruption.

## ASSET DECLARATION VERIFICATION

KNAB is not the government focal point responsible for running the declarations' registry or storage of declaration files. While all assets declarations that are submitted by public officials in Latvia are public (including some personal data contained therein), KNAB, alongside the Constitution Protection Bureau, State Revenue Service and Prime Minister's Office, may request additional information to verify claims made on the declaration.

## ANTICORRUPTION PLANNING

Lately, KNAB participated proactively in drafting a medium-term policy document entitled "Guidelines for Corruption Prevention and Combating 2015 – 2020" (combined mid-term Strategy and Action Plan) which could be of specific interest for the NAPC mandate of developing drafts of Anticorruption Strategy and relevant State Programme. Such Guidelines serve as a logical continuation of the previously adopted framework policy priority document for 2009-2013 but this time based on a comprehensive assessment Latvian institutional system compliance with the requirements of UNCAC<sup>24</sup>. Generally, the document, both in terms of its comprehensiveness and coherence, is seen as a positive example that may be considered for deeper study.

## CONFLICT OF INTEREST MANAGEMENT

KNAB is the state institution that exerts control over potential conflict of interest situations and monitors compliance with anticorruption legislation in this realm. Should the agency determine that a public official repeatedly and intentionally violated conflict of interest restrictions, or that substantial harm was caused to public interest, the offender may be brought to criminal liability. Amongst most commonly examined is-

sues addressed by KNAB in relation to the conflict of interest, one should note parallel employment of a civil servant, reception of incomes other than the state salary (for instance, from shares, stocks and securities), decision-making regarding him or herself (including supervision or imposing sanctions or benefits), relatives or counterparts that may have an impact on good-faith discharge of functions by the official and other similar situations. In this sense, the KNAB mandate resembles closely the scope of issues covered by the Ukrainian Law on Corruption Prevention in terms of conflict of interest prevention and rules of ethical behaviour.

## DELIVERY OF TRAININGS AND PUBLIC AWARENESS

An average year of KNAB's Corruption Prevention Division performance includes several dozen trainings (92 trainings organized in 2010). The majority of such workshops are devoted to raising public officials' awareness of the anticorruption legal frameworks, professional ethics, as well as internal institutional compliance mechanisms that may be implemented by bodies in question. Apart from working with the public officials, KNAB is also in charge of raising awareness of the public on trends in corruption, as well as steps taken to prevent corruption and enforcement of law<sup>25</sup>. In this vein, KNAB conducts social campaigns and publishes newsletters devoted to different issues of prevention on a regular basis.

## SUMMING UP

While KNAB may not be considered a direct counterpart of NAPC *per se* – first and foremost due to its institutional organization and presence of a law enforcement mandate – some of the preventive areas that it covers may be of use looking into. Areas that could serve as sources of good practices by the agency in the preventive realm include anticorruption strategizing, conflict of interest management, as well as delivery of trainings.

<sup>24</sup> Please see: (Cabinet of Ministers of Latvia, 2015)

<sup>25</sup> Please see: (Corruption Prevention and Combating Bureau, 2011)



# ROMANIAN

## State Commission for Prevention of Corruption (SCPC)

ANI is an autonomous administrative authority with a special legal status that is entrusted with verifying wealth and interest statements, controlling timely completion and submission of such statements, assessing cases of failure to follow conflict of interest regulations, and formulating complaints to the criminal investigation bodies if there is evidence or solid clues regarding existence of such activity

ANI is entrusted with conducting administrative type of investigations and is subject to judicial control (all claims go to court). Originally the body was created as a response to the requirements of the EU Anti-Corruption Report Cooperation and Verification Mechanism throughout the country's EU accession process. European integration conditionality originally included necessity to introduce a better regulatory framework with regard to control of wealth and adoption of an efficient mechanism to verify asset disclosure. ANI was launched to satisfy the criteria motioned forward by the European partnership. Formal launch of the institution was held in May 2007, yet it became fully operational only in April 2008 when the first integrity inspectors were hired.

ANI activities are monitored by the National Integrity Council, a representative body with non-permanent activities, appointed by Romania's Senate. The Council structure takes into consideration the principle of equal representation of all categories of persons who could be subject to ANI verifications (representatives

### AGENCY IN BRIEF

! Founded:  
**2007**

shake hands icon Mandate overlap with NAPC:  
**8 out of 20 NAPC tasks coincide (40%)**

\$ Budget:  
**USD 2.3 million**  
(0,0029% of nominal GDP)

location pin icon Leadership:  
**President**  
**and Vice-President**

document icon Cases considered per year:  
**2 100 on average**  
(13 000 investigation files opened since 2010)

person icon Overall staff:  
**116 persons**

people icon Regional branches:  
**none and not envisaged**

briefcase icon Public sector employees in country:  
**128 910 – data for 2011**  
(Country population - 20 million)

document icon Asset declarations:  
**350 000 per year** (1 million if it is an election year)

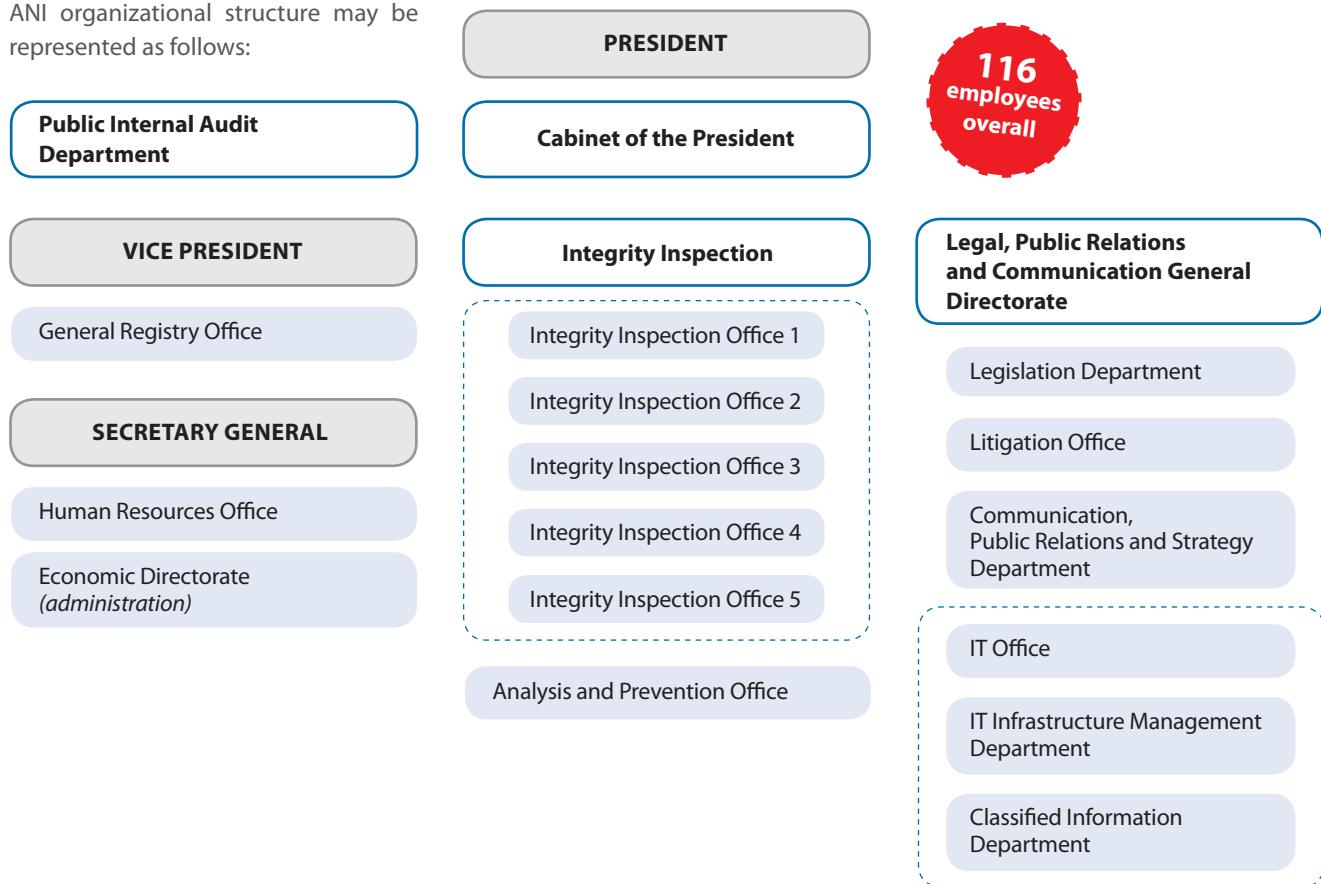
of by each parliamentary group in the Senate, Ministry of Justice, Ministry of Public Finance, National Union of County Councils in Romania, Association of Municipalities in Romania, Association of Towns in Romania, Association of Communes in Romania, National Agency of Civil Servants, associations of magistrates, as well as the civil society).

As in all previous cases, the issue of budgetary autonomy is a very sensitive issue for ANI. There have been multiple at-

tempts through the years to reduce and temper with budgetary considerations regarding the body. One of the tools that has so far been effectively used to fend off such attacks or, at least, minimize damage, was appeal to the European Commission – thus, for instance, in December 2010 an attempt to reduce the budget for the agency was spotted by the European Commission and depicted in the relevant Anti-Corruption Report. Subsequently, the originally-requested budget sum was reinstated through budget revision.

## INSTITUTIONAL STRUCTURE

ANI organizational structure may be represented as follows:



Two of the leading positions at ANI (the President and the Vice-President) are elected through a public procedure (including examination) arranged by the National Integrity Council. These officials may be removed from office through a rather standard volume of circumstances, including wilful step-down, confirmed conviction of a criminal offence, breach of legal provisions on conflict of interest, amongst them.

ANI's integrity inspectors are operationally independent, and are appointed through competition. Their duties refer to data processing, assessment, preparation of reports and application of sanctions. The inspectors evaluate asset disclosures, documents and information on existing wealth as well as the changes in assets that occur during the exercise of public mandate, track conflict of interest situations.

Not included into the organigram is a system of decentralized officials within the institutions (state bodies) that are in charge of collecting the employees' income / interest statements, and who are answerable directly to the head of the institution they work in.

## ASSET DECLARATION AND CONFLICT

### OF INTEREST VERIFICATION

As in many cases considered above, the Romanian system for asset declaration verification was started back in the nineties (1996). Asset disclosure forms became public documents in 2003, yet oversight mechanisms were cumbersome and investigations were never exercised systematically. Not until the launch of ANI in 2007 did the system start showing first considerable signs of effectiveness. The agency itself notes that at least a 6-year period was required, between 2008 and 2014, to build a solid and mature system for asset declaration and conflict of interest verification<sup>26</sup>. Currently, over 5.5 mil-

lion declarations are stored at the Public Portal of Assets and Interests Disclosures filed over the period of time from 2008 until 2015, with the search results available to the public<sup>27</sup>.

In order to initiate an investigation, ANI may receive information from the media, designated persons within institutions (see above), from own research and intelligence, or whistle-blower notifications from individuals or private entities

As per current rules, each relevant declarant shall submit 2 declaration forms to ANI: the one on asset disclosure (real estate, financial assets, debts, incomes, movables, gifts) and one on interest disclosure (positions held within public or private environment, contracts signed with the state). In order to initiate an investigation, ANI may receive information from the media, designated persons within institutions (see above), from own research and intelligence, or whistle-blower notifications from individuals or private entities.

The current system of assets / interest declarations collection and verification rests on the pillars of the electronic system launched for the first time in 2012 and updated in 2014. The IT system of Integrated Management for Assets and Interests Declarations (SIMIDAI)<sup>28</sup> is the core working tool for integrity inspectors conducting their everyday activities. This system has a series of operational modules including random allocation distribution module, intelligent data analysis, workflow (creation, document-route monitoring and status), investigation checklist, early warning, audit, registry upkeep, etc. The system's further development and operation is a strategic priority of the Agency, and is seen as a core instrument to improve the operative level of activity conducted by integrity inspectors.

<sup>26</sup> Please see: (National Integrity Agency (ANI), 2014)

<sup>27</sup> Please see: (National Integrity Agency (ANI), 2015)

<sup>28</sup> Please see: (Deloitte, 2013)

By law, ANI has access to all documents / records from public authorities or any other public or private persons to fulfil its functions. As of today, it signed cooperation protocols with a wide number of state institutions, most importantly the Prosecutor General's Office, Trade Registrar and Tax Administration. Information is also gathered routinely from open sources and databases (population records; trade registrar; vehicle registrar; land registrar, etc.).

It also is mandated with evaluating activities ex-officio or upon notification by any individual or legal entity.

Assessment of wealth, conflict of interest monitoring and tracking of other inconsistencies is performed during the mandate of public dignitaries and within three years after it expires.

In order to ensure seamless access to the information required for cross-checking, ANI has recently launched an ambitious information project aimed at collecting data about the elected and assigned civil servants and performing cross-verifications with other state databases, such as the trade registry or fiscal administration, in order to detect asset-declaration inconsistencies and potential conflict of interest situations.

According to procedures, ANI may launch an inquiry into an assets case if there is evidence that there is at least EUR 10 000 EUR difference between income sources of the person under question and his or her cumulative wealth. A conflict of interest investigation is launched when reports come in of a person making a decision or participating in a decision-making process that generates or could be seen to generate an advantage for himself or his first-degree relatives or second-degree relatives. This could result in both administrative and criminal liability, if proven. An "incompatibilities" investigation occurs when there is a fact that a person holds simultaneously two or more public offices and these may not,

according to regulation be combined – similar to Ukrainian regulations on ban of parallel employment.

In case of assets declarations, an assessment report drafted based on the evidence collected is sent by an ANI inspector to the Wealth Investigation Commissions under the Court of Appeals. The court trial shall continue for no longer than 3 months and the ruling may have two outcomes, where one of them is stacking a case (if it shows that assets in question were acquired in a justified manner) and the other one being a submission to the relevant prosecutor's office (if there is good proof of unjustified acquisition of assets).

The results of ANI inquiries and investigations on assets declarations, conflict of interest situations and position incompatibilities may be termed rather impressive. As reported in 2015<sup>29</sup>, ANI has been able to prove 124 cases of unjustified assets worth EUR 25 million and ensure return EUR 2.5 million to the budget. In the area of conflict of interest, 564 cases have been found rightfully uncovered by ANI (as one of the results, 20 Members of Parliament got a prison sentence for hiring their relatives). In over 1200 cases, incompatible functions were uncovered and MPs, high-rank government officials and public servants lost their mandates with a 3-year ban on holding public office<sup>30</sup>. As far as the rate of success of proving ANI accusations, the statistics is remarkable as well – in cases of unjustified assets 83% of ANI cases won (17% lost), in cases of conflict of interest – 92% won (8% lost), and as far as incompatibilities are concerned, ANI succeeded in 94% of the cases (lost in 6%).

At the same time, despite some of the successes, the work of ANI in the area of asset declaration verification and conflict of

<sup>29</sup> Please see: (Popa, 2015)

<sup>30</sup> Ibid.



ANI has been able to prove 124 cases of unjustified assets worth EUR 25 million and ensure return EUR 2.5 million to the budget

interest management is facing some difficulties as well. Despite the rather advanced analytical systems in place for verification of the declarations submitted, there still is a need to retain the paper declarations, as only the paper version with a handwritten signature is treated as an official document. Hence, the additional stage of compatibility of data between the printed and the electronic version has to be included into the business-process. In addition to this, the procedure for cancellation of documents signed and decisions made in a

Romanian ANI is a unique institution of its kind that concentrates heavily on issues of asset / interest declarations and detection of situations with incompatibility of positions



situation of a conflict of interest is ineffective. Apart from that, there are ongoing attempts from the legislature to modify the laws and weaken the oversight instruments for corruption prevention in the country due to "too much success" in anticorruption work.

## SUMMING UP

Romanian ANI is a unique institution of its kind that concentrates heavily on issues of asset / interest declarations and detection of situations with incompatibility of positions. Despite its relative success as depicted in the percentages of court decisions taken in its favour, as well as initiated process of asset recovery into the state budget, the body faces some of the difficulties that are not unique to SPACAs, such as: budgetary constraints, regulatory collisions that preclude effective work, as well as attempts to sabotage its performance through change of procedures and laws. Despite all of this, ANI experience in verifying declarations and handling cases of conflict of interest, and upholding them until conviction or sanctions are imposed, is definitely worth looking into.

# ANNEX 1

## FUNCTIONAL COMPATIBILITY BETWEEN NAPC AND THE FIVE REVIEWED AGENCIES

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	UKRAINIAN NAPC FUNCTIONS	CPC Slovenia	SCPC Macedonia	ACA Serbia	KNAB Latvia	ANI Romania
1	Analysis of the state of prevention and countering corruption and local self-government; statistics, results of studies etc.	X		X	X (analysing experiences of other countries)	X (statistical analysis)
2	Drafting Anti-Corruption Strategy and State Program of its implementation, monitoring the coordination and evaluation	X (drafting only the Program)	X (only Action Plan adoption; implementation)	X (only implementation)	X	
3	Preparing National report on the implementation of the grounds of anti-corruption policy	X	X (Annual report)	X (Annual report)		
4	Development and implementation of anti-corruption policy, drafting of legal acts on these issues	X (only implementation)	X (only opinions)	X (regulations)	X	
5	Organization of research on the issues of exploring the situation with corruption	X		X	X	X
6	Monitoring and control over implementation of legislation on ethical behaviour, the prevention and settlement of conflicts of interest (administrative investigations)	X	X	X	X	X
7	Coordination and rendering methodological help in detection corruption risks in the activities of state authorities, including the preparation and implementation of anti-corruption programs	X		X		

	UKRAINIAN NAPC FUNCTIONS	CPC Slovenia	SCPC Macedonia	ACA Serbia	KNAB Latvia	ANI Romania
8	Monitoring and verification of declarations (storage and disclosure of such declarations, monitoring lifestyle)	X	X (only lifestyle monitoring)	X	X (only verification)	X
9	Ensuring that the Unified State Register of declarations	X (online)	X	X		X
10	Approval of ethical conduct for civil servants and local self-government officials	X (drafting & implementation)				
11	Methodological support and performing analysis of the efficiency of the anti-corruption authorized units				X	
12	Approval of anti-corruption programs of state authorities, elaboration of a typical form of the anti-corruption program of a legal entity (integrity plans)	X		X		
13	Cooperation with whistle-blowers, their legal and other protection, prosecution of perpetrators	X		X		X
14	Trainings of civil servants	X	X	X	X	X
15	Providing clarification, guidance and consulting on issues of ethical conduct, prevention and settlement of conflicts of interest	X	X	X	X	X
16	Informing the public, forming public awareness of the negative attitude to corruption		X (only via media annually)	X (printing)	X	X
17	Civil society involvement in making, implementation and monitoring of anti-corruption policy	X		X		
18	Coordination of international obligations performance in the field of development and implementation of anti-corruption policy; cooperation with state authorities, non-governmental organizations of foreign states and international organizations within its competence	X	X	X	X	X
19	Exchange of information with the competent authorities of foreign states and international organizations					
20	Monitoring of Party Funding		X	X	X (+ Pre-election campaign)	

	ADDITIONAL FUNCTIONS NOT COVERED BY NAPC	CPC Slovenia	SCPC Macedonia	ACA Serbia	KNAB Latvia	ANI Romania
1	Monitoring of lobbying activity and holding register of lobbyists	X	X			
2	Holding catalogue of gifts provided to public servants	X		X		
3	Keeping a register of the officials and property			X		
4	Providing expert assistance in the field of combating corruption			X		
5	Acting on complaints submitted by legal entities and natural persons		X	X	X	
6	Developing and introduce a public relations strategy				X	
7	Evaluating the content and results of inspections performed by other institutions					X

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### **UNDP in Ukraine**

1, Klovskiy uзвіз

Tel.: +38 (044) 253- 93-63

Fax: +38 (044) 253-26 -07

[www.ua.undp.org](http://www.ua.undp.org)