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Institutional Barometer 3.0

Belgrade, April 2023

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INSTITUTIONAL BAROMETER 3.0

April 2023

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CONTENT

Editorial	7
Introduction	9
Agency for Prevention of Corruption	16
Summary	16
Basic information	16
Internal Efficacy	19
Research sample	20
Institutional Legitimacy	29
Commissioner for Information of Public Importance and Personal Data Protection	32
Summary	32
Basic information	33
Internal Efficacy	36
Institutional Embedment	39
Institutional Legitimacy	43
Recommendations	43
The Internal Control Sector of the Ministry of Interior	46
Summary	46
Internal Efficacy	48
Institutional Embedment	52
Institutional Legitimacy	55
Conclusion	57
Recommendations	57
The Commissariat for Refugees and Migration	60
Summary	60
Internal Efficacy	62
Institutional Embedment	74
Institutional Legitimacy	75
Recommendations	76
Centre for Human Trafficking Victims Protection	78
Summary	78
Basic information	79
Internal Efficacy	81
Institutional Embedment	90
Institutional Legitimacy	91
Recommendations	92
Illustration of the “Baskets” of Indicators	96

LIST OF ILLUSTRATIONS

Illustration 1: "Baskets" of indicators	11
Illustration 2: Institutional design analysis in five steps	13
Illustration 3: Institutional map of the Agency for Prevention of Corruption	18
Illustration 4: Institutional map of the Commissioner for Information of Public Importance and Personal Data Protection	35
Illustration 5: Commissioner's acting in cases	36
Illustration 6: Success of the Commissioner's interventions in cases where it was necessary for the institution to make a formal decision (in percentage points)	38
Illustration 7: Review of Commissioner's decisions before the Administrative Court ..	42
Illustration 8: Institutional map of the Mol's Internal Control Sector	47
Illustration 9: Institutional map of the Commissariat for Refugees and Migration ..	61
Illustration 10: Countries of origin of migrants and asylum seekers in 2021 and 2022	63
Illustration 11: Institutional map of the Centre for Human Trafficking Victims Protection	80
Illustration 12: The manner of concluding actions upon reports to the Centre for Human Trafficking Victims' Protection in 2021	85
Illustration 13: Number and structure of referral of human trafficking victims	87
Illustration 14: Indicators of internal efficacy	97
Illustration 15: Indicators of institutional embedment	98
Illustration 16: Indicators of institutional legitimacy	100

LIST OF TABLES

Table 1: Agency for Prevention of Corruption acting upon complaints	26
Table 2: Criminal charges filed against police officers and other employees of the Mol	49
Table 3: Requests of state authorities submitted to the ICS in 2019, 2020 and 2021 ..	55
Table 4: Citizens who contacted the ICS in the period 2019-2021	56
Table 5: Number of people with mental disorders and pregnant women accommodated in reception and asylum centres	68
Table 6: Other significant expenses of the Centre	89
Table 7: Number of identified human trafficking victims per year and overview of the Centre's annual budget	90

LIST OF ABBREVIATIONS

AGDM	Age, Gender and Diversity Mainstreaming
AP23	Action Plan for Chapter 23
AP24	Action Plan for Chapter 24
BCSP	Belgrade Centre for Security Policy
CH23	Chapter 23 (Judiciary and fundamental rights)
CH24	Chapter 24 (Justice, freedom and security)
CSO	Civil society organization
EU	European Union
ICS	Internal Control Sector
IOM	International Organization for Migration
Mol	Ministry of the Interior
NARS	National Assembly of the Republic of Serbia
PPO	Public Prosecutor's Office
RS	Republic of Serbia
SCRM	Commissariat for Refugees and Migration of the Republic of Serbia
UNHCR	United Nations Refugee Agency

Editorial

To monitor the measurable effects of reforms on the ground in the process of European integration of the Republic of Serbia, members of the prEUgovor Coalition decided to analyse the work of five¹ selected institutions with competences in the areas of Chapter 23 (Judiciary and Fundamental Rights) and Chapter 24 (Justice, Freedom, Security), i.e. those that are part of Cluster 1 (Basics) of the Revised Enlargement Methodology for the Western Balkans.² For this purpose, the first methodologies for assessing their effectiveness were developed and applied in 2017 and 2018; for certain institutions, they related to all the actions, while for some they related only to certain tasks within their purviews. The 'pioneering' results of applying the methodologies were presented in the first issue of the Institutional Barometer.³

We formulated indicators that reflected the outcome and process dimensions, with a special emphasis on implementation, which is recognised as the main challenge and is therefore in the focus of monitoring by the European Union as well (hereinafter: EU). The indicators were divided into three different 'baskets' that reflect three dimensions of institutional functioning: internal efficiency, institutional embedment and institutional legitimacy. This approach allowed us to group different types of indicators that reflect the different management dimensions they serve to measure. Defining indicators according to groups allowed us not only to choose, from the multitude of indicators, those that are relevant for a specific institutional design, but also to use different sources of data, i.e. to contrast data on the perception and experience of citizens with those that are purely of administrative nature.

We firmly believe that this methodological approach is unique because three above mentioned 'baskets' which reflect the three dimensions of institutional effectiveness, are mutually balanced to create a unique system of "checks and balances" within the measurement framework, thus narrowing the space for arbitrary interpretation of the obtained results. The results obtained by applying the methodology can be used as a good source of information by various relevant actors, be they decision-makers or civil society actors, to formulate concrete proposals for overcoming key shortcomings and problems, and to improve institutional design.

1 In the first two issues of the Institutional Barometer, the analysis included six institutions.

2 https://www.mei.gov.rs/upload/documents/eu_dokumenta/metodologija_prosirenja-20.pdf

3 *Institutional Barometer*, 2018, Coalition prEUgovor, available at: <https://preugovor.org/Institucionalni-barometri/1480/Institucionalni-barometar.shtml>

After the aforementioned first edition of the Institutional Barometer, the prEUgovor Coalition continued to work diligently on improving the methodology, and the new results of the analysis of the effectiveness of institutions were presented in the second issue of the Barometer.⁴ Finally, during this and last year, we applied the mentioned methodology for the third time, to the following institutions: the Agency for the Prevention of Corruption; the Internal Control Sector of the Ministry of the Interior; the Commissariat for Refugees and Migration; the Centre for the Protection of Victims of Human Trafficking, and the Commissioner for Free Access to Information of Public Importance and Personal Data Protection.

Using the methodological approach described above, we have obtained data that testify to the effectiveness of the institutional setting. By monitoring the indicators in the time period between the first and third editions of the Barometer, we also noted certain trends in the state's actions that are reflected in the improvement or deterioration of the situation in certain areas.

The Institutional Barometer 3.0 represents the continuation of the persistent work of the prEUgovor Coalition, fuelled by the desire to contribute, as much as possible, to reforms and concrete changes in the field with its findings. To that end, in the meantime, we improved certain indicators and formulated new ones in order to be able to analyse the current state of the institutional arrangement and its functioning as completely as possible. We invite you to use the continuation of this report to familiarise yourselves with things that have changed in the area of institutional effectiveness during the period from our first, pioneer edition until today, and to find out what we have learned, where we currently are, and what we can hope for in the future.

4 *Institutional Barometer 2.0*, 2019, Coalition PrEUgovor, available at: <https://preugovor.org/Institucionalni-barometri/1565/Institucionalni-barometar-20.shtml>

Introduction

From the day the EU opened accession negotiations with Serbia, it was obvious that Chapters 23 and 24 were going to be key chapters in the negotiation process: they were opened at the very start of negotiations and will be closed at the very end of negotiations. Opening, interim and closing benchmarks were laid down for each chapter. The benchmarks are based on screening reports and EU's common positions, and they are given in the form of recommendations and de facto transposed into action plans adopted by the Serbian Government.

Although action plans have an array of different planned measures and activities, the assessment of progress is still made solely on the basis of the number of fulfilled concrete measures and activities, and therefore does not reflect adequately the quality, extent, and degree of implemented reforms. The prEUgovor coalition has sent in detailed criticisms and comments on action plans as well as their revised versions, for the areas in which the coalition members possess expert knowledge and have been active many years. One of the biggest objections to the existing action plans had to do with inadequate assignment of result indicators, as well as the lack of adequate sources of information for the purposes of checking the progress in the implementation of specific measures and the achieved results. The formulations in the initial AP23 and AP24, as well as those from the presented revised APs, do not allow an actual analysis of progress made, as the measures reveal very little of the intended or achieved impact, reducing the reporting to either the sheer assessment of adherence to the timeline, or to 'yes/no' answers. Furthermore, a certain number of measures relates to the legislative and institutional design, and not its functioning, which opens the assessment of the quality of the implementation to various arbitrary interpretations, with few specific, precise data that the assessment is based on.

With the aim of monitoring concrete progress, we have developed indicators which include the operation of institutions tasked with conducting specific activities or measures envisaged in the action plans, whose impact can be an indicator of progress, in the sense of testifying clearly to the progress made in specific areas. In addition, we firmly believe that the ongoing and all future revisions of the action plans can and should include some of the developed indicators as indicators of impact for specific measures.

Why institutional effectiveness?

In the past two decades, Serbia has engaged in implementing comprehensive reforms, with mixed success. Serbia's path to EU membership⁵ began way back in 2003, implying fundamental reforms in a number of important areas such as human rights, access to justice, security and comprehensive functioning of democratic institutions. Although Serbia often did implement significant legislative reforms, implementation has been, and still is, the main problem in many areas. After Serbia's membership negotiations with the EU officially opened in January 2014,⁶ the country had to shift its focus from adopting new laws to the appropriate and efficient implementation of existing laws already harmonised with the *acquis communautaire*. However, practice proved to be different as we saw legislative hyperproduction by the Serbian National Assembly. Efficient implementation is still somewhere in the shadow, constantly missing. Yet, the progress made in the implementation of laws and the demonstration of institutional efficiency are of key importance, primarily for a normal and ordered functioning of the state, and then in the process of Serbia's accession to the EU. This is why the stress should be moved from the institutional design to implementing the existing laws and regulations and specifying measures to achieve better implementation that will ensure institutional efficiency.

Measuring institutional effectiveness is a constitutive element of the assessment of state efforts to achieve specific goals, as effective institutions are a prerequisite for successful implementation of specific measures and policies. For example, access to justice does not only depend on the existing legal framework but also on the effectiveness of the justice system, while the transparency level depends on how established and organised institutions are, i.e. whether their work methods and procedures ensure and guarantee free access to information. In other words, institutional effectiveness may be a good way to measure progress in the areas that are hard to measure, such as corruption. The more effective institutions set up to curb corruption or improve public integrity are, the more likely it is that there is a decrease in scale and severity of corruption within the system.

5 In June 2003, at the summit in Thessaloniki, the European future of the Western Balkan countries was confirmed based on the individual progress of each country.

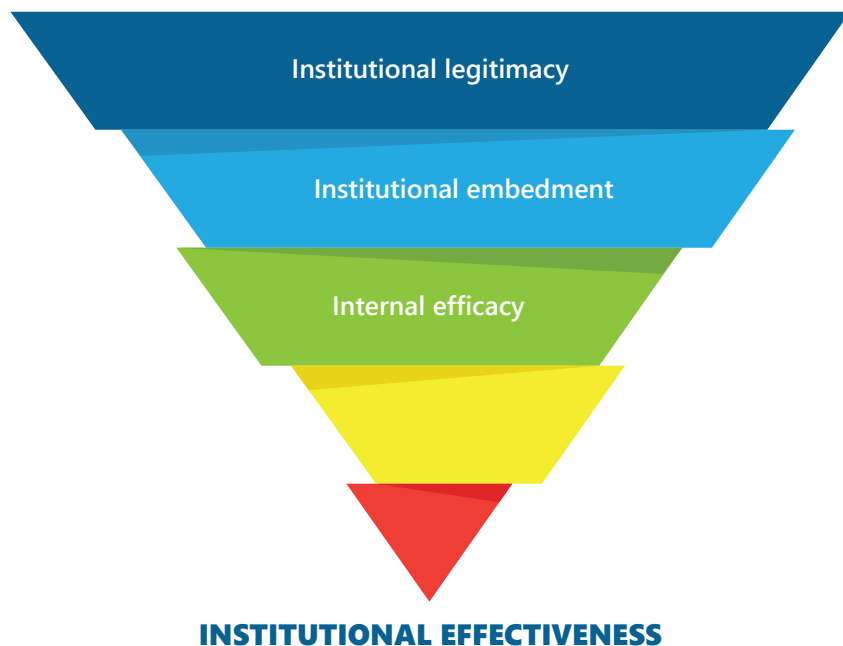
6 On 21 January 2014, Serbia and the EU held their first inter-governmental conference in Brussels, marking the start of accession negotiations on the political level.

The methodological approach

The methodological approach used in our analysis is explained in detail in the first edition of the Institutional Barometer,⁷ and will not be repeated here; rather, we will present the 'indicator baskets' in brief, explain their use, and point out the main advantages of this kind of approach.

“Baskets” of indicators

Illustration 1: “Baskets” of indicators



1) INTERNAL EFFICACY

This “basket” focuses on the internal functioning of the institution and its capacities. Productivity indicators (e.g. funds per employee, time required to handle the case, etc.) reveal the total capacity of the institution (for example, lack/surplus of the workforce or its qualification).

7 *The Institutional Barometer*, 2018, The PrEUgovor Coalition, pp. 15-18, available at: <http://preugovor.org/Publikacije/1486/Institucionalni-barometri.shtml>

Indicators in this basket should give us answers to the following questions:

1. Does the institution have adequate capacities to efficiently perform tasks within its competence?
2. Does the institution use available resources in an adequate manner?

2) INSTITUTIONAL EMBEDMENT

The second “basket” of indicators focuses on the functioning of the observed institution within the institutional arrangement in which it operates. In this basket we measure responsiveness of other institutions, which together with the observed institution constitute an institutional arrangement, on the inputs they receive from the observed institution. In fact, we observe how the other institutions within an institutional arrangement are responding to the “products of work” of the observed institution. The mentioned “products” represent a prerequisite for the further work of other institutions within the system.

By analyzing these “relations” we can accurately locate a problem within the system, i.e. where there is an “interruption point”, whether in the observed institution or in the other parts of the system.

Indicators in this basket should give us answers to the following questions:

1. How much are other institutions within the institutional arrangement responsive to the “products of the work” of the observed institution?
2. How responsive is the observed institution to the “actions” of the other institutions within the institutional arrangement?

3) INSTITUTIONAL LEGITIMACY

The third “basket” of indicators measure the relation between the observed institution and its ultimate “users”, ie, citizens. The basic premise is that effective institutions gain trust, i.e. results gaining trust. This basket has two dimensions – the perception of the citizens about the observed institution and their experience with it.

Indicators in this basket should answer the following questions:

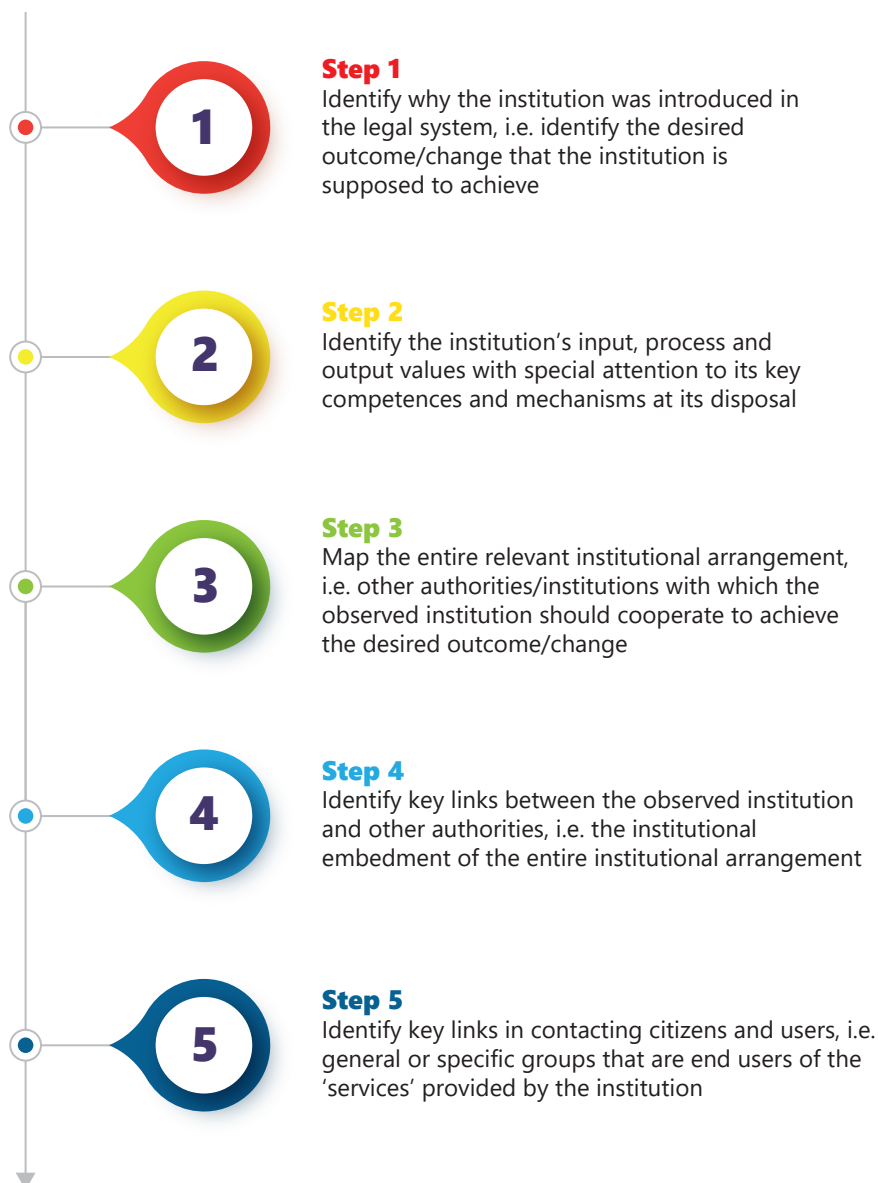
1. Do citizens recognize the institution (are they familiar with its role and responsibilities)?
2. Are citizens satisfied with the work of the observed institution?
3. Do citizens have trust in the observed institution?

Applying the baskets of indicators to specific institution

In order to formulate the best indicators for a specific institution, it is necessary to conduct both qualitative and quantitative analysis of institutional design.

This analysis is conducted in five steps.

Illustration 2: Institutional design analysis in five steps



Main advantages of this approach

Our methodology has many advantages as it has allowed us to combine various indicators: administrative and empirical ones and those concerning citizens' trust in institutions. The main advantages are:

1. It gathers the opinions and experiences of all stakeholders, especially citizens, really addressing the inclusivity and accountability of institutions. Effective institutions create trust in end users (citizens) and other specific actors.
2. "Baskets" of indicators can be modified in order to suit the needs of different institutions in the system, which certainly makes it possible to assess the effectiveness of the overall institutional structure. Consequently, it helps to identify poor institutional design or key defects and problems within it and to formulate specific recommendations and solutions for their overcoming.
3. It represents a robust monitoring and analytical "tool" and the results obtained by its implementation can be a good source of information for various stakeholders, both civil society actors and decision-makers.
4. It combines administrative data with perceptions and experiential data and provides a multidimensional perspective.
5. It narrows the space for arbitrary interpretation of the obtained results. "Baskets" of indicators are mutually balanced in order to avoid focusing on the individual indicator. They reflect the three dimensions of institutional effectiveness and create a "checks and balance" system within the measurement framework.
6. The data for the analysis is already there; the records are already kept – they just need to be used in an adequate manner and to be regularly updated. This means that if the government took the same approach, it would not require any extra funding.

The subject-matter of the analysis

In order to be able to measure concrete progress, we have continued with analysing five out of six institutions selected in the drawing up of the first edition of the Institutional Barometer. As already mentioned, we opted for institutions whose results of measuring institutional effectiveness follow below.

Agency for the Prevention of Corruption

AUTHOR: ZLATA ĐORĐEVIĆ



Agency for Prevention of Corruption

Summary

The Agency for Prevention of Corruption is an autonomous and independent state body, established by law and accountable to the National Assembly. The new Law,⁸ which was adopted on 21 May 2019 and entered into force on 1 September 2020, changed the name of the Anti-Corruption Agency, which was originally founded in 2010, into Agency for the Prevention of Corruption. However, the new Law did not manage to solve the problems that had been observed in practice and pointed out by the interested public almost from the beginning of the Agency's operation. The Law was adopted under emergency procedure, without a debate and ignoring the suggestions that were submitted in the course of it. Although the Law was amended several times (in December 2019, February 2021, September 2021 and February 2022), the observed deficiencies were never eliminated. A new Law on the Financing of Political Activities⁹ was adopted in February 2022, but it too failed to resolve numerous controversial issues. The Agency still does not have sufficient staffing and spatial capacities to perform its duties. Also, in the 12 years of its existence, the Agency has not succeeded in making citizens recognise it as an institution that really works to prevent corruption, or in eliminating the influence of politics. The Agency's decisions on reports about violations of the law that were filed against the ruling party during the 2022 election campaign are particularly questionable.

Basic information

By law, the Agency for Prevention of Corruption has 17 responsibilities in the field of prevention and education, including conflict of interest, control of property of public officials, integrity plans, financing of political entities, lobbying and others. It also maintains several registers – the register of public officials, the register of assets and income of public officials, the register of lobbyists and lobbied persons, the list of legal persons in which public officials own shares or stakes, the catalogue of gifts, annual financial reports, and reports on expenses related to political parties' election campaigns. The Agency has 10 main sectors and two special ones, divided into departments,

8 <http://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2019/35/3/reg>

9 <https://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/4/reg>

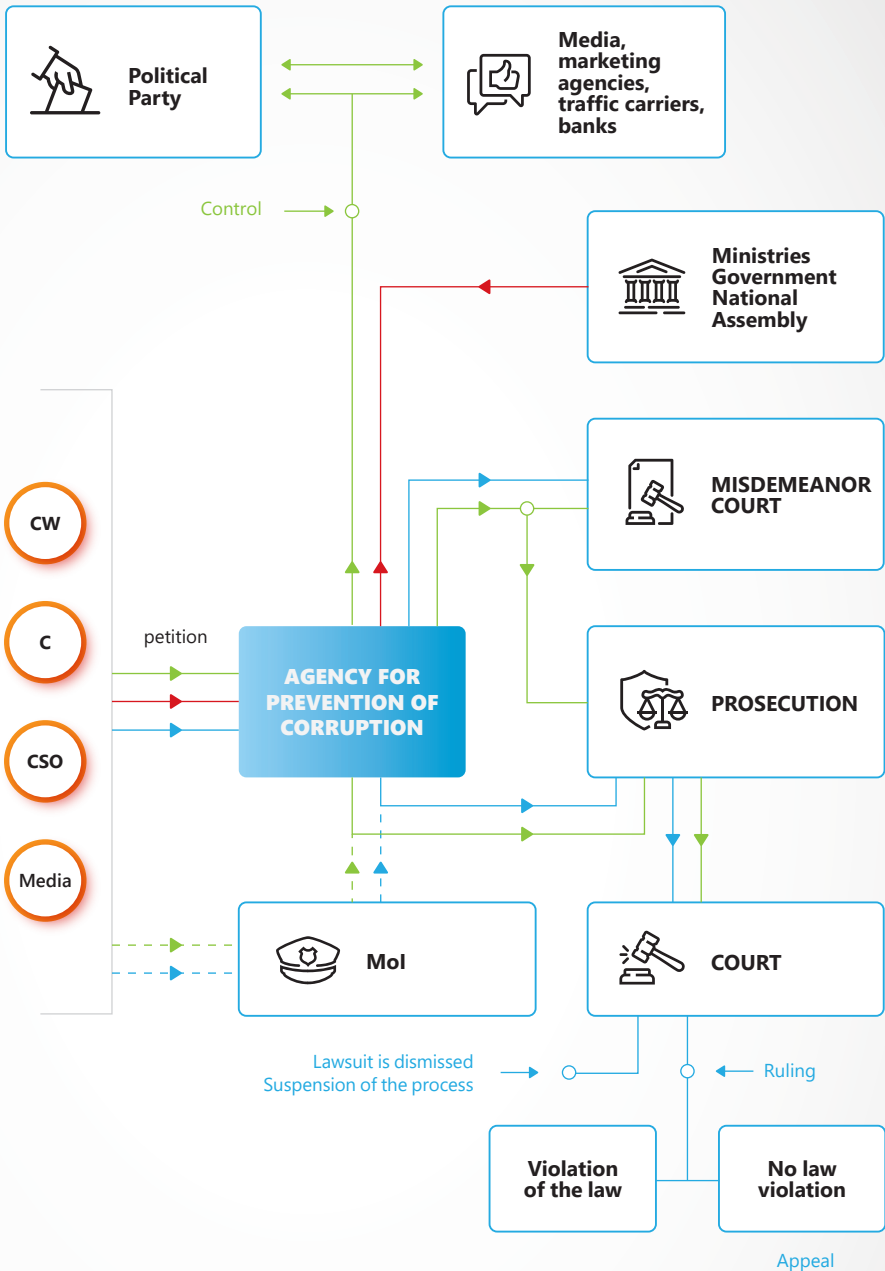
sections and groups as internal units.¹⁰ The Agency can initiate proceedings, impose measures on public officials, and submit reports on violations of the law.

The new Law also changed the method of electing persons to leadership positions – the Director and the Council of the Agency, which now has five members (instead of the earlier Board of the Agency, which used to have 9). The Director and the Council of the Agency are now elected by the National Assembly, following a public competition announced by the Ministry of Justice and conducted by the Judicial Academy. The Committee for the Election of Director tests the candidates. Although a public competition should increase the independence of the management, and the testing should prevent inexperienced persons from ending up at the head of the Agency, the influence of politics has not been eliminated as the Assembly can elect any of the candidates who passed the prescribed minimum threshold of expertise, rather than only those who placed among the first on the ranking list. On 27 February 2023, the Assembly of Serbia elected Dejan Damjanović as the new Director of the Agency. He was the first director elected following a competition, and was elected to this position after serving as Deputy Director. Only six candidates applied for the competition for the Director of the Agency. Only three were tested, which also speaks of the low level of public trust in the work of the Agency. The MPs did vote for Dajmanović. However, they did not interview candidates beforehand and did not explain why they gave him their votes. Previous director Dragan Sikimić, whose election and work were deeply influenced by politics, was also among the candidates. Dragan Sikimić was elected by the Board on 17 January 2018, based on the provisions of the Law on the Anti-Corruption Agency, after the Agency operated for almost a year without a director and with an incomplete Board. Sikimić discharged this office until the end of his mandate, i.e. until January 2023. Until his election to office in 2018, he was a member and financier of the ruling Serbian Progressive Party (SNS), on whose proposal he was also a member of the election commission in the municipality of Zemun. Newspaper Danas reported that its journalists were provided access to a document showing that Sikimić was deleted from membership in SNS on 17 January, that is, on the very day he was elected Director. By law, the director of the Agency cannot be a member of a political party.

The competition for the election of the new director expired in November 2022, but the election process was not completed until the end of February 2023. After the new Law entered into force, the election of the Council was delayed as well. Thus, the Agency operated without a second-instance body for six months, until February 2021.

10 [https://www.acas.rs/storage/page_files/Informator%20o%20radu%20novembar%202022%20\(002\)_1.pdf](https://www.acas.rs/storage/page_files/Informator%20o%20radu%20novembar%202022%20(002)_1.pdf)

Illustration 3: Institutional map of the Agency for Prevention of Corruption



Internal Efficacy

In March 2019, the then Director of the Agency adopted the Act on the Classification of Job Positions which introduced a new structure and increased the number of employees to 162.¹¹ As at 28 November 2022, the Agency had 94 permanent employees, two fixed-period employees and 9 more persons who were engaged based on temporary service agreements. There were also four appointed persons.¹² The earlier Classification of Job Positions, approved at the end of 2014, envisaged 139 employees, while there were actually just 76 (two of whom were employed for a fixed period of time) and seven persons engaged based on special contracts. The staffing capacities are thus filled only to about 60%, which indicates that the Agency – in terms of competences and needs – does not have adequate resources to achieve its objectives in practice. For example, the Agency does not have an employed internal auditor, although the Classification envisages that job position. In addition to the problem of human resources, the Agency also has a problem with office space. In March 2018, the Agency requested that it be provided with adequate space; in the meantime, it was granted space on the ground floor of its own building, which was previously used for commercial purposes.¹³ Funds for the work of the Agency are provided from the budget of the Republic of Serbia, based on the financial plan. Annual budget funds for the operation of the Agency in 2021 amounted to RSD 299.9 million, of which 282.2 million (94 percent) was spent. The budget for 2020 was RSD 292.6 million (EUR 2.5 million), while in 2019 it was RSD 254.6 million (EUR 2.15 million). Almost 90% of the Agency's budget is spent on salaries and regular operating costs.

The Agency's relationship with other state authorities is governed by law and – according to the employees – runs smoothly and with good cooperation. Upon a written and reasoned request of the Agency, public authorities are obliged to provide it with direct access to databases they maintain in electronic form, which the Agency needs to perform tasks within its competence. These obligations also apply to other legal persons, with the exception of banks and other financial institutions. Cooperation is realised primarily through data exchange, but also through the implementation of joint activities, workshops, consultative meetings and trainings.

11 Rulebook on the Internal Organization and Systematization of Workplaces in the Service of the Anti-Corruption Agency, Belgrade, March 2019, <https://bit.ly/433Q2CG>

12 [https://www.acas.rs/storage/page_files/Informator%20o%20radu%20novembar%202022%20\(002\)_1.pdf](https://www.acas.rs/storage/page_files/Informator%20o%20radu%20novembar%202022%20(002)_1.pdf)

13 Information of the Agency for the Prevention of Corruption.

Research sample

As in the previous two Institutional Barometers, we dealt with the efficiency of the Agency in the field of monitoring and controlling the financing of political activities, acting on citizens' complaints, analysing of the risk of corruption in regulations, and monitoring the implementation of strategic documents. Since the previous Barometer, from 2019, Serbia received a new Law on the Financing of Political Activities,¹⁴ which was adopted in February 2022. The new Law is the result of assumed international obligations – recommendations of the ODIHR, the Action Plan for Chapter 23 and the inter-party agreement that was drafted with the mediation of the EU Parliament. Neither the above new Law nor the Law on the Agency for the Prevention of Corruption took into account the recommendations of Transparency Serbia (TS) regarding the control of the financing of political activities¹⁵ and the problem of “public officials’ campaigns”.¹⁶ The new Law was drafted far from the eyes of the public and without consulting it. As many issues and dilemmas remained unsolved, it should be seriously supplemented. A significant novelty is the introduction of deadlines within which the Agency is to control the parties’ financial reports and inform the public thereof. The introduced duty of the Tax Administration to control companies that donated money to the participants in the elections based on the Agency’s report on performed control is potentially dangerous. As regards complaints, an important novelty of the Law on Agency for the Prevention of Corruption is the fact that Agency now also handles those that are anonymous. Also, the proponents of certain acts (draft laws) will have to seek the opinion of the Agency regarding risks of corruption. When it comes to the Action Plan for Chapter 23, the Agency is charged with monitoring the implementation of the section related to the fight against corruption.

Control of the financing of political activities

The Sector for the Control of Financing of Political Activities has 14 employees, although the classification of job positions envisages 20. This means that the Sector is filled to 70% capacity. Only five employees control of the reports that are submitted to the Agency. This number of employees is not sufficient to carry out all the tasks, namely: to control the financing of political entities; publish annual reports on the financing of political entities; publish preliminary and final reports on election campaign expenses; handle and decide cases of violation of the law (impose warning measures, submit requests to initiate

14 <https://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2022/14/4/reg>

15 https://www.transparentnost.org.rs/images/dokumenti_uz_vesti/Inicijativa_z_a_podno%C5%A1enje_amandmana_na_Predlog_zakona_o_finansiranju_politi%C4%8Dkih_aktivnosti.pdf

16 https://www.transparentnost.org.rs/images/dokumenti_uz_vesti/Inicijativa_z_a_podno%C5%A1enje_amandmana_na_Predlog_zakona_o_izmenama_Zakona_o_spre%C4%8Davanju_korupcije.pdf

misdemeanour proceedings); keep records of financial reports of political entities; organise and coordinate election campaign observers; and provide opinions and instructions regarding the implementation of the Law.

The Law on the Financing of Political Activities, adopted less than two months before the April elections in Serbia, brought about certain improvements but did not even come close to solving the problems related to election conditions and monitoring. Based on this Law, the Director of the Agency adopted (in February 2022) a new Rulebook on Records and Reports of Political Entities¹⁷ and the Plan for Controlling Reports on Election Campaign Expenses.¹⁸ To control the election, the Agency received RSD 19 million from the budget of the Republic, spending almost all of it. 133 field observers were engaged, but external experts were not. Reports on the control of campaign financing for the parliamentary,¹⁹ presidential²⁰ and local²¹ (Belgrade) elections were published within the deadline. The analysis of these reports indicates that the Agency for the Prevention of Corruption failed to investigate doubts about the completeness and accuracy of the reports on the financing of election campaigns in 2022, as well as in previous years. The local self-government units, the Treasury Administration and the Republic Election Commission submitted to the Agency all the data required for the preparation of the report. Data were requested also from commercial banks and legal persons that provided services to political entities. The new Law also introduced the obligation to submit preliminary reports on campaign expenses, with the balance as at 15 days before the elections; as a result, a significant part of the expenses was not covered by them, so the expected financing transparency was not achieved. Not only were the preliminary reports published during the period of election silence, but it turned out that they showed only 16% of the total costs of the campaign. The Agency filed 7 requests for the initiation of misdemeanour proceedings due to failure to submit preliminary and final reports. When it comes to the content of the reports, the Agency has yet to decide whether or not to submit requests.

The final report²² of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) states that the Agency for the Prevention of Corruption did not effectively respond to most of the reported violations of the law. For example, the Agency established in several cases that videos spots of the ruling SNS were unlawful due to the use of public resources, but felt that warning measures were sufficient because the (already aired) videos

17 <https://bit.ly/3nDyGw0>

18 <https://bit.ly/3GbTP6P>

19 <https://bit.ly/40waFWe>

20 <https://bit.ly/3h5Wwgx>

21 <https://bit.ly/3NyGYhL>

22 <https://www.osce.org/files/f/documents/0/0/524385.pdf>

spots were removed. However, according to ODIHR, it *“did not adopt any other measures to prevent similar violations”*. The Agency published its decisions²³ regarding 16 reports for violation of the Law during the pre-election campaign, all against the ruling SNS. In 9 of them, it established that there were no grounds for initiating proceedings. The Agency issued four warning measures and announced that it would file misdemeanour charges in three cases. ODIHR recommended that the Agency should be *“obliged by law to identify violations proactively and in a timely manner, and respond to complaints by issuing formal decisions, subject to a judicial review. The law should prescribe expedited deadlines for the entire dispute resolution process related to campaign finance violations”*. This recommendation had to do with the Agency’s practice of rejecting certain reports of violation of rules during the election campaign without making a decision, rejecting them instead in the form of “notices”, against which it was not possible to use any legal remedy.²⁴

Five years of “searching” for evidence

Having controlled the report on campaign expenses relating to the parliamentary elections in 2014, the Anti-Corruption Agency submitted a report to the Higher Public Prosecutor’s Office due to suspicions that SNS, SPS and URS were laundering money. The Prosecutor’s Office, which worked on the case for five years calling it “confidential”, decided in May 2022 that there was no sufficient evidence to initiate criminal proceedings and that the law had not been violated. The Agency dealt with the financing of the ruling SNS and the “unusual” individual donations to the party in an identical amount – 6,500 donations of RSD 40,000 each during the 2014 campaign – but “failed” to turn to the prosecutor’s office after 2016 despite the fact that the same scenario was repeated. In 2014, the Agency established that some of the SNS donors were recipients of social welfare assistance, and that donations of more than 2,000 people were identical. The Agency also believed that the donations paid into the party’s accounts came from illegal activities and that the money did not really belong to the people who paid it. For this reason, the Agency requested the involvement of the Administration for the Prevention of Money Laundering, which established that 135 people paid RSD 40,000 each into their own personal accounts, and that they all transferred the money to the SNS account on the same day.

23 <https://www.acas.rs/cyr/decisions/all>

24 <https://bit.ly/3hcqDDg>

The Agency initiated 20 proceedings in 2021 (there were 55 in 2020), imposed 23 measures (28 in 2020), submitted 209 misdemeanour reports (255 in 2020) and made 13 decisions on the loss of the right to receive funding from public sources (9 in 2020).²⁵ 355 political entities (114 political parties and 211 citizens' groups) had the obligation to submit annual financial reports in 2021, of which 164 did so within the deadline. The Agency filed 122 requests for the initiation of misdemeanour proceedings due to failure to submit the above report. One criminal report was also filed against a responsible person in a political entity, but the competent prosecutor's office assessed that there were no signs of the criminal offence of abuse of official position. In 2022, the Agency held three online trainings for political subjects (political parties and citizens' groups) on the application of the new Law on the Financing of Political Activities and the submission of the Annual Financial Report and the preliminary and final reports on election campaign expenses.

Asphalt in exchange for votes

After the residents of the village of Kukulovce announced that they would not go to the polls due to unfulfilled election promises, the director of Public Company "Putevi Srbije" [Roads of Serbia] Zoran Drobnjak visited the village the very next day (on 10 June 2020), promising that the streets would be promptly asphalted. He said that machinery would arrive on the same day and that everything would be finished in ten days. Two days later, "Roads of Serbia" ordered an emergency intervention in Kukulovce. Having made the promise, on the recording from the meeting Drobnjak can be clearly heard asking the villagers to "now go out and vote". In the 2017 presidential elections, all the residents of Kukulovce voted for SNS candidate Aleksandar Vučić, and the turnout was 97 percent. Due to the well-founded suspicion that Drobnjak's call to the villagers contained elements of the criminal offence of receiving and giving a bribe in connection with voting, which could be concluded because he made a promise in connection with the participation of local residents in the elections, Transparency Serbia submitted a report to the Special Department for the Suppression of Corruption of the Higher Public Prosecutor's Office in Niš. Without any valid arguments, the Higher Public Prosecutor's Office rejected the criminal report of the TS for bribery in connection with voting during the pre-election visit to the village of Kukulovce near Leskovac, as well as the criminal report the organisation CRTA filed regarding the same matter. The case of "Kukulovce" is one of the most illustrative examples (from the last elections) of abuse of public resources for the purposes of the election campaign, which happens to be a problem that was not solved by changes to the regulations despite being listed among the priority recommendations of international and domestic observers. Transparency Serbia requested a statement from the Anti-Corruption Agency, which concerning this case established that there had been no violations of the law.

25 In 2020, elections in Serbia were held at all levels.

Recommendations

1. The Agency for the Prevention of Corruption should initiate a discussion on key issues related to the election campaign and campaign financing. The ODIHR recommendations should be taken as a starting point of the discussion, and the regulations should be amended in a consultative process that will include international and domestic actors (institutions, CSOs, political entities, media, campaign service providers);
2. Increase the transparency of financing during the election campaign by combining the concept of “open accounts” (actual income and expenses) and the obligation to report on assumed financial obligations (contracted services that have not been paid during the campaign);
3. Comprehensively regulate (prohibit or limit) promotional activities of public officials and authorities during the entire campaign (instead of partially regulating reporting on such activities by certain media). The agency should proactively react to these cases, regularly make statements about actions that are prohibited during the campaign, and publish legal positions on possible reports/requests and initiatives;
4. Specify the obligation of the Agency for the Prevention of Corruption to *ex officio* control campaign financing and potential violations;
5. The Agency should publish all cases in which the Agency and the prosecutor’s office initiated criminal or misdemeanour proceedings for violation of election rules and laws, as well as analyses of the application and effectiveness of the penal policy;
6. The Agency should promote the findings of the control of reports on the financing of the election campaign, to enable the public to recognise irregularities.

Acting upon citizens’ complaints

One of the competences of the Agency is to act on the complaints of citizens who point to suspicions of corrupt practices in the work or actions of public authorities, public officials or civil servants. Pursuant to the new Law on the Agency for the Prevention of Corruption, it now also acts on anonymous complaints. All the sectors have their own pages on the Agency’s official website, but there is no information about the work of the complaints department. Although a separate sector existed until 2018, the new organisation of directors assigned this responsibility to the Legal Affairs Sector. According to the Act on the Classification of Job Positions, the sector should have four employees, but only three have been filled. Data on newly received complaints shows that their number is decreasing from one year

to the next, which should be understood as a warning sign that citizens are losing confidence in the Agency, or that they do not believe that the Agency will make sure that their complaint is considered in a proper fashion. The fact that 1,649 complaints were received in 2013, and that in 2020 there were only 320, can serve as a good illustration.

A downward trend was noted also in 2021, when 254 new cases were opened based on complaints filed by individuals and legal persons, while proceedings were completed in 464 cases from the reporting period and the previous years. In the course of 2020, 320 cases were opened based on the complaints of individuals and legal persons, while proceedings were completed in 468 cases from the reporting period and the previous years. Analysing the complaints that were submitted in the reporting period, the Agency noted the following: 47 were from the area of justice, 45 from the area of local self-government, 36 from the area of education, 27 from the area of construction and urban planning, 21 referred to public enterprises, 17 were from the area of public finance, 10 from the area of health, 10 from the field of labour and social policy, 8 referred to the work of the police, 7 were from the field of agriculture, three from the field of culture and information, two from the field of mining and energy, and two from the field of sports. Nineteen were assessed as irregular, and it was established that the Agency was not competent to act on them. In previous years, by far the most (one quarter) complaints were from the field of education, while in the last two years citizens complained the most about the field of justice.

In 2021, the Agency forwarded 161 cases to the competent prosecutor's offices for further processing. According to the law, at the end of the procedure the Agency is obliged to inform the applicant of the outcome of the complaint, submitting all information. Verifying the merits of the complaints, the Agency dispatched 374 letters to the public authorities, mostly competent inspections, so that they would perform control and inform the Agency about the findings related to the controlled entities. In some cases, in order to determine the merits of submitted complaints, the Agency would address the reported public authorities directly, asking them to provide documentation and statements. The Agency sent 73 letters to the special departments of the higher public prosecutor's offices dealing with the fight against corruption and five to the Prosecutor's Office for Organised Crime. The report on undertaken actions is part of the Annual Work Report; however, no data on the number of pending cases were published since 2020.

Table 1: Agency for Prevention of Corruption acting upon complaints

Year	Number of completed cases	Number of pending cases	Number of newly received cases
2013	959	2,302	1,649
2015	831	2,699	750
2017	554	2,502	535
2018	474	1,088	583
2019	680	1,461	373
2020	468		320
2021	464		254

Recommendations

1. Specify the competence of the Agency to monitor the actions of other state authorities in cases of suspected corruption reported thereto;
2. Specify that the complaint also refers to the violations of the laws that fall under the competence of the Agency, and not only to corruption, which falls under the competence of the public prosecutor's offices;
3. The Agency should propose initiatives related to the problems pointed out by complaints submitted to it by citizens.

Analysis of the risk of corruption in regulations

The new Law on Prevention of Corruption expanded the Agency's competences in the area of corruption risk in regulations. All ministries and special organisations are obliged to submit draft laws so that the Agency can provide an opinion on the assessment of the risk of corruption in the following 8 areas: health, taxes, customs, education, local self-government, privatisation, public procurement and the police. However, despite the great importance of this competence of the Agency, TS' analysis²⁶ for 2021 showed that the results of the implementation of the newly introduced obligation were mostly absent. In the year that followed, the situation became even worse. In 2022, the Agency

26 https://www.transparentnost.org.rs/images/publikacije/KORUPTIVNI_RIZICI_U_PROPOSIMA_I_LOBIRANJE.pdf

provided an opinion on only one of the drafts of the Law on Referendum and People's Initiative, and on the changes to the "parent" Law on Prevention of Corruption. In 2021, the Agency had prepared 15 opinions on draft laws and regulations in areas that are particularly susceptible to risks of corruption. In four cases, there were no objections to the text of the draft, while in 11 cases the Agency pointed out risk factors and risks of corruption in the provisions of the regulations and gave recommendations for their elimination. The Ministry of State Administration and Local Self-Government submitted the most requests, i.e. six. The Agency provides opinions based on the Methodology for Assessing the Risk of Corruption in Regulations,²⁷ which it developed in cooperation with the OSCE Mission in Serbia. In addition to reports, the Agency can also initiate the adoption of regulations to eliminate the risk of corruption or align regulations with confirmed international agreements in the field of fight against corruption. In the past (2013-2018), even before the introduction of the statutory obligation to submit draft laws, the Agency used to analyse certain acts from the anti-corruption point of view and publish its findings, on its own initiative or based on requests of institutions. In some cases, analyses were carried out later, but were not published. The TS analysis, presented in December 2022, showed that in most cases in 2022 (just like one year earlier) the competent ministries did not respect even the most basic obligation to submit draft laws to the Agency for opinion.

Recommendations

1. Amend the Law on Prevention of Corruption so as to envisage the obligation to seek opinions not only on draft laws from the listed areas, but for all acts prepared by the ministries;
2. Extend the obligation to seek opinions on the risks of corruption to other stages of the legislative procedure, and to other proponents besides the ministries;
3. The Government of Serbia and the Agency should determine how they will monitor the fulfilment of the obligation of the ministries to submit drafts for opinion and compliance with given recommendations, and should introduce the obligation to explain the reasons for non-compliance with said recommendations;
4. Introduce a statutory obligation to publish opinions the Agency provides on the risks of corruption in regulations, as well as information on the actions undertaken by the ministries based on said opinions; the Agency should also assign greater importance to informing the public about this segment of its work;

27 <https://bit.ly/3ZGfECI>

5. Introduce a statutory obligation of the Agency to act *ex officio* in cases when competent authorities fail to submit draft laws for opinion on risks of corruption.

Monitoring the implementation of strategic documents

The National Strategy for the Fight against Corruption expired in September 2018, and work on the new one began in March 2023. This document should primarily determine the goals of the prevention policy and lay the foundations for a responsible and effective fight against corruption. In its latest report, the European Commission emphasised the adoption of the Strategy as one of the key priorities.²⁸

The Agency is responsible for reporting on the implementation of anti-corruption measures from the Action Plan for Chapter 23. It has developed a good monitoring methodology,²⁹ which differs from that of the Coordinating Body for monitoring the implementation of measures from the Action Plan for Chapter 23. It is more detailed and monitors the implementation by stages, as well as the quality of the fulfilment of measures. In its 2021 report,³⁰ the Agency analysed the sub-chapter “Fight against Corruption” from the Action Plan for Chapter 23, which defined 130 activities. Out of 100 evaluated activities, it stated that 60 were implemented, that 36 were not, and that four measures could not be evaluated. The Government’s Monitoring Coordination Body evaluates the same activities, but its evaluations are different from those of the Agency, i.e. they give a “false image” that the measures have been, or are being, successfully implemented. The Agency pointed out some serious challenges regarding the quality of defining goals in strategic documents, the absence of indicators for measuring influence in risky areas, the absence of base and target values, the absence of periodic research, and so on. Other challenges described by the Agency relate to the problem of collection and quality of data. The Agency also offered a number of justified recommendations for improving reporting on the implementation of the Action Plan.

28 European Commission, Serbia 2022 Report, 12 Oct 2022, https://neighbourhood-enlargement.ec.europa.eu/serbia-report-2022_en

29 <https://bit.ly/3ZGfECI>

30 <https://www.acas.rs/wp-content/uploads/2022/03/IzvestajRAP23.pdf>

Recommendations

1. In cooperation with the Agency and without delay, the Government of Serbia should start drafting a new National Strategy for the Fight against Corruption and a realistic Action Plan with an efficient coordination system for monitoring the implementation of the activities;
2. The Agency should initiate trainings for those subject to the Action Plan on how to report on the implementation of activities;
3. The Government of Serbia should implement the Agency's Methodology for reporting on all Action Plan activities.

Institutional Legitimacy

According to public opinion surveys, in its 12 years of existence the Agency failed to establish itself in the public eye as an institution that truly works to prevent corruption.

The survey "Publicly against Corruption",³¹ published by the Research Centre for Defence and Security in November 2021 with the support of the Agency, showed that only four percent of respondents follow the work of the Agency and that 36 percent are aware of its existence. All of 34 percent did not even know that such an Agency existed. The survey was conducted in the field, on a sample of 1,200 respondents from 12 cities, and on a sample of 3,000 respondents on the Internet.

A survey on how citizens perceive the fight against corruption, conducted by the USAID project Government Accountability Initiative (GAI)³² in October and November 2020, showed that 50% of the citizens believe that the Agency is somewhat or not at all dedicated to the fight against corruption, and that only every the fifth respondent (20%) believes in its true dedication. The fight of the police, the judiciary and local self-governments against corruption is recognised by more than 60% of the surveyed citizens, while institutions that have corruption listed as their competence, or even as part of their very name, are recognised by one third of the citizens (Agency for the Prevention of Corruption) and 29% of the citizens (Council for the Fight against Corruption). In the list of institutions recognised as those that fight corruption, the Agency is placed seventh. Surveys show that citizens do not trust institutions enough, and that they would not report corruption because they do not believe that the authorities would deal with it in an appropriate way, that is, they believe

31 <https://istrazivackicentarob.com/category/vesti/>

32 <https://bit.ly/40RSqdC>

that their involvement would not change a thing. In addition to suspicion of political impartiality, one of the reasons for such a low level of recognition and high level of distrust in the Agency is its insufficient effort to promote the results of its work and good practices.

The above was confirmed by the extremely worrying insufficient response to the competition for the election of the new Director of the Agency. The fact that only three candidates participated in the election process shows, on the one hand, the distrust of the professional and interested public in the competition itself, i.e. that the best candidate will be elected. On the other hand, the reason may also be the lack of confidence of potential candidates that they will be able to do their work independently, without the influence of politics and the will of those in power.

Commissioner for Information of Public Importance and Personal Data Protection

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Commissioner for Information of Public Importance and Personal Data Protection

Summary

Same as in the previous two issues of the Institutional Barometer, the objective of this research is to determine – by applying a predefined methodological framework – the level of internal efficiency, institutional embedment, and legitimacy of the institution of the Commissioner for Information of Public Importance and Personal Data Protection (hereinafter: the Commissioner). The primary time period of the analysis was the year 2021 (with some references to data that was available for 2022). The analysis builds on the periods that were covered in the previous issues of the Institutional Barometer, while data from the earlier analyses were used a few times to express the observed trends. The text starts with the review of the analysis of the internal efficiency of the observed institution, followed by the effectiveness of the institutional arrangement in which the Commissioner operates and exercises its competences. Then, there is a brief overview of the legitimacy of the institution, i.e. its recognition and citizens' trust in its work. Specific recommendations, whose consistent implementation could improve the effectiveness of the Commissioner, are provided at the end of the text.

In the observed year (2021), the institution of the Commissioner improved its internal efficiency compared to 2020. By doing so, it returned to its previous levels, that is, managed to maintain the previous years' high level of efficiency.

As for the problems, which we already pointed out in the first and second Institutional Barometers, there has been some progress, primarily in terms of the human capacities that the institution has at its disposal. Besides that, the Commissioner was entrusted with some new powers. The constant increase in the number of cases is still present, but so is the institution's efficiency in dealing with them. The level of legality of the decisions made by the Commissioner has remained high. The adoption of the Law on Amendments and Supplements to the Law on Free Access to Information managed has to "unblock" at least one of the mechanisms for enforcing the Commissioner's decisions. Violators of both Laws protected by the Commissioner still often go unpunished, which is certainly producing an extremely bad image and sending a bad message. The relationship among the institutions that, together with the observed one, form the institutional arrangement is irresponsible, to say the least, and it is necessary that it be changed as soon as possible.

It is important to say that the institution – despite all the problems it faces, as described in greater detail below – is managing to fulfil its role, that is, to ensure the realisation and protection of the rights of citizens, to work efficiently, and to make decisions exclusively based on the letter of the law. It is precisely for the above reasons that the legitimacy of the institution, its recognition, and the level of citizens' trust in it – reflected above all in the constant increase in the number of people who are turning to it, believing that it can help them realise their rights guaranteed by both the Law on Free Access to Information and the Law on Personal Data Protection – are increasing each year.

Basic information

The Commissioner for Information of Public Importance and Personal Data Protection is an independent and autonomous state body that was established by the Law on Free Access to Information of Public Importance³³ for the purpose of exercising the right to free access to information of public importance in the possession of public authorities. The adoption of the Law on Personal Data Protection³⁴ expanded the scope of the institution's competences; namely, the previous Law on Personal Data Protection explicitly stipulated that *"tasks related to personal data protection shall be performed by the Commissioner for Information of Public Importance and Personal Data Protection"*.

Therefore, in short, we can say that the main tasks of this body are to ensure the public's right to know, on the one hand, and to protect privacy in the narrowest sense of the word (personal data protection), on the other. In the implementation of its competences, the institution of the Commissioner is supposed to find the right balance between the above two rights, i.e. to ensure that the exercise of one right does not violate or interfere with the other (except, of course, in special cases listed in the laws themselves).

The main instruments for the exercise of the institution's function are determined by the competences that the above two Laws prescribe for it.³⁵ In addition to the "main" function, reflected in the monitoring of compliance with the obligations prescribed by both Laws, the Commissioner's handling of complaints in both spheres it covers stand out as the main channels of this body's operation. However, a clear distinction should be made between the actions of the Commissioner in the area of free access to information and the area of protection of personal data. In free access to information of public

33 Law on Free Access to Information of Public Importance ("Official Gazette of the Republic of Serbia [RS]" Nos. 120/2004, 54/2007, 104/2009, 36/2010 and 105/2021).

34 Law on Personal Data Protection ("Official Gazette of the RS" no. 87/2018).

35 Article 35 of the Law on Free Access to Information and Articles 77 and 78 of the Law on Personal Data Protection.

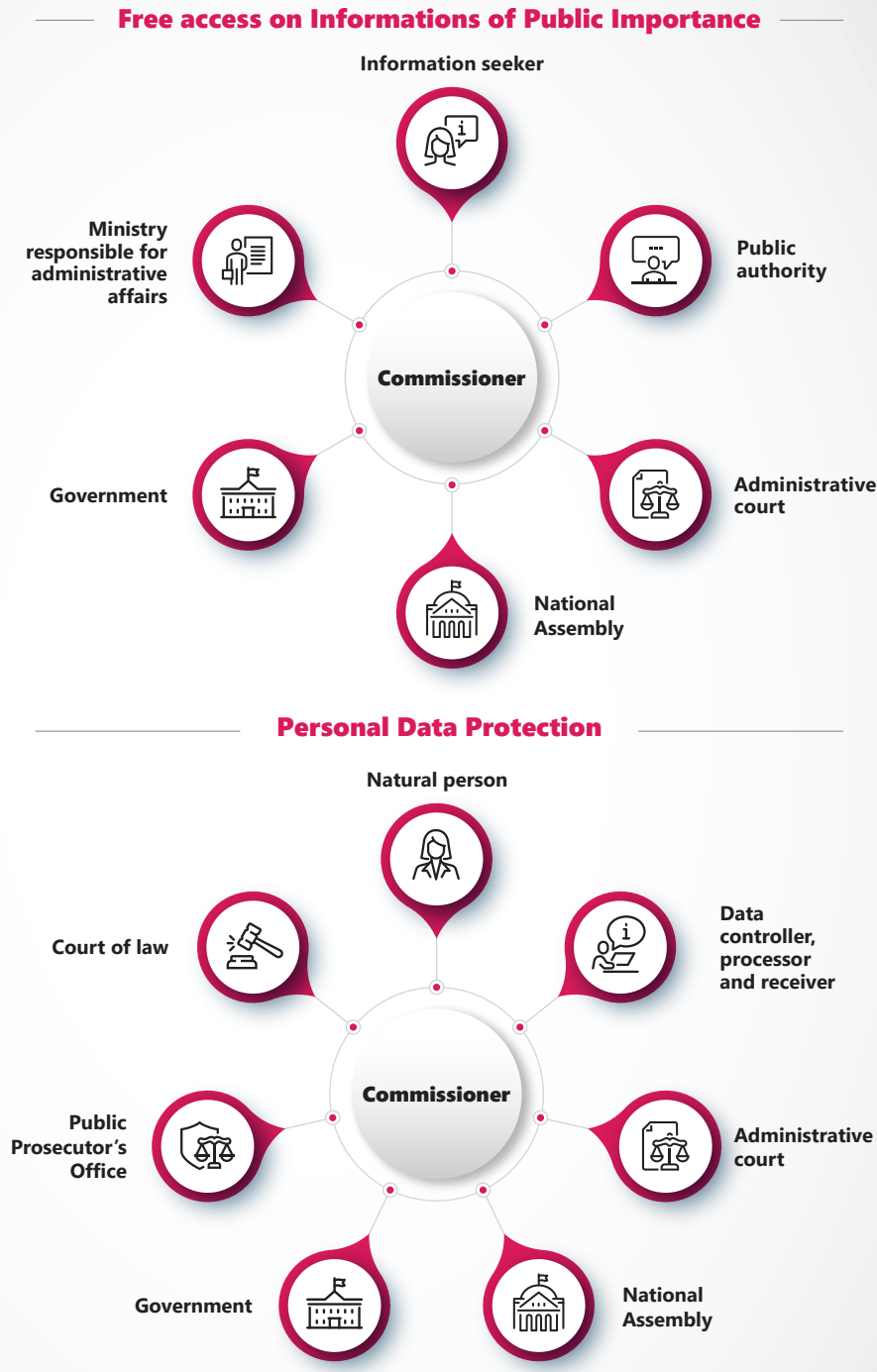
importance, the Commissioner is not allowed to act proactively or *ex officio*, as its action requires the initial act of the information seeker. Specifically, we are talking about a complaint that is submitted to the Commissioner because of the denial of information by their holder (factual denial, but also in cases of “administrative silence”). It is only after a complaint has been received that the Commissioner can make a decision about the right of the information seeker in a specific case. The Commissioner’s decision is binding, final and enforceable, and only an administrative dispute – which, according to the letter of the Law, is to be conducted under an urgent procedure – can be filed against it. The Law also prescribes the mechanisms for enforcing the Commissioner’s decisions by means of indirect coercion (a fine), while as the ultimate mechanism it stipulates enforcement by direct coercion by the Government, at the request of the Commissioner. There is also an additional mechanism that should ensure compliance with the Law on Free Access; namely, it is prescribed that *“control of the implementation of the law is carried out by the ministry responsible for administrative affairs”*, and that inspection control is realised through the administrative inspection of the ministry responsible for administrative affairs. In addition, after the latest amendments of the Law, the Commissioner was given the opportunity to establish offices outside its seat; it was also given the authority to initiate misdemeanour proceedings and can now issue misdemeanour orders in cases prescribed by the Law.

In the area of personal data protection, the actions of the Commissioner are significantly different than those from the area of the right to free access to information. Law on Personal Data Protection explicitly stipulates that the Commissioner is *“an independent and autonomous body established on the basis of law, responsible for the supervision of the implementation of this Law and the performance of other tasks prescribed by the law... The tasks of monitoring the implementation of this Law are performed by the Commissioner in accordance with the prescribed powers...”*³⁶ In the sphere of personal data protection, the Commissioner not only can, but is in fact obliged to react both proactively and *ex officio*. In addition to the regular handling of complaints, the Commissioner acts *ex officio* (opens up the control procedure) in all the cases in which it has noted potential abuse in connection with personal data processing. As a result of its control role, the Commissioner is also authorised to file misdemeanour and criminal charges against violators of the Law on Personal Data Protection.

In addition to all the above, the annual report of the Commissioner on the implementation of both Laws, which this body submits to the National Assembly of the Republic of Serbia for consideration, can be singled out as a special mechanism for exercising the institution’s function.

36 Articles 4 and 73 of the Law on Personal Data Protection (“Official Gazette of the RS” no. 87/2018).

Illustration 4: Institutional map of the Commissioner for Information of Public Importance and Personal Data Protection

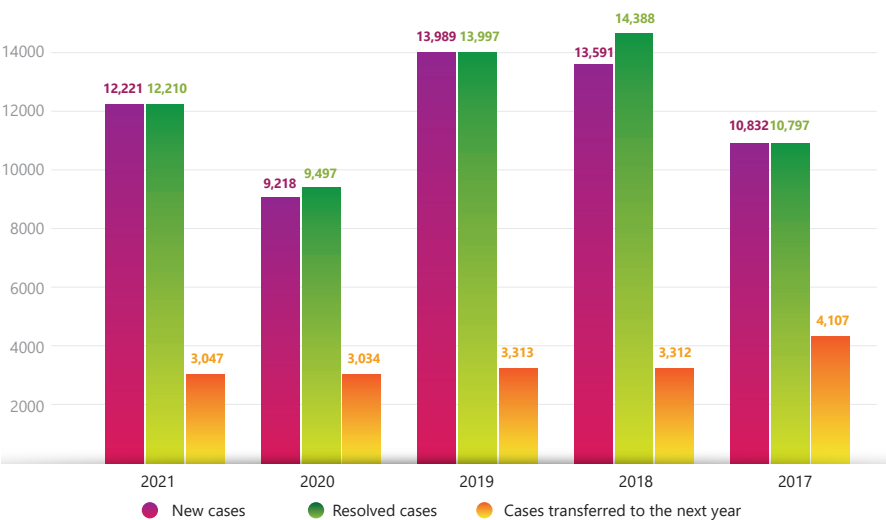


Internal Efficacy

Constant increase in the number of cases

One of the most important criteria for evaluating the internal efficiency of the institution is certainly its efficiency in dealing with cases. As we have described in the previous issues of the Institutional Barometer, and immediately observed while conducting this analysis, the number of cases received by the Commissioner is growing each year. In 2021, the institution received 12,221 new ones; in 2020, the number was 9,218, in 2019 it was 13,989, while in 2018 the institution received 13,591 new cases. For the sake of comparison, the number of cases received in 2017 was 10,832. A comparative overview of the actions of the Commissioner, by year, in the period 2017-2021, is presented in the illustration below. If we view the number of resolved cases against the above numbers, the situation is as follows: in 2021, the institution completed work in 12,210 cases, in 2020 – in 9,497, and in 2019 – in 13,997 cases. For the sake of comparison, in 2018, this number was 14,388, and in 2017 – 10,797 cases. If we look at these data alone, it seems that the situation is almost ideal; however, each year, the institution transfers a certain number of pending cases to the next year, so in 2021 it transferred 3,036 of the pending cases, in 2020 – 3,313. In 2019, the number of such cases was 3,312, in 2018 – 4,107, and in 2017 – 4,040. Having analysed the complete picture, we can see that the situation is not as ideal as it first seemed to be. The institution keeps transferring quite a few cases to the following year; however, after a constant growth trend in the years that were the subject of analysis in the first two Institutional Barometers, the number stopped increasing and we now notice even a slight decline.

Illustration 5: Commissioner’s acting in cases



It is difficult to obtain information without filing a complaint

In the area of free access to information of public importance, the institution received 5,181 complaints in 2021, which is a large increase compared to the year before (by more than 36%) and is at the level of 2019, that is, 5,275 complaints. Although it received a greater number of formally filed complaints, in 2021 the Commissioner resolved about 2,000 more than it did in 2020, i.e. was at the level from 2019 (5,181 complaints were resolved in 2021, 3,286 in 2020, and 5,275 in 2019). Of the above number, 63.55% of the complaints filed in 2021 were founded and almost 40% of the total number were the cases in which the complaint was filed because of the so-called "administration silence". In 27.68% of the total number of founded complaints (1,452), after learning about the submitted complaint, the obligee of the Law proceeded in line with the original request even before the Commissioner made a decision. Having in mind the above, it is more than obvious that a large number of the authorities are unfortunately still guided – 18 years after the Law has been passed – by the logic of "whoever files a complaint will know, and whoever does not will remain blissfully ignorant". As observed in the previous years, the trend of this harmful behaviour is as follows: 37.86% in 2020, 41.33% in 2019, 54.8% in 2018, and all of 61.8% in 2017. Although the numbers are still very high (almost one third), the downward trend is noticeable as well.

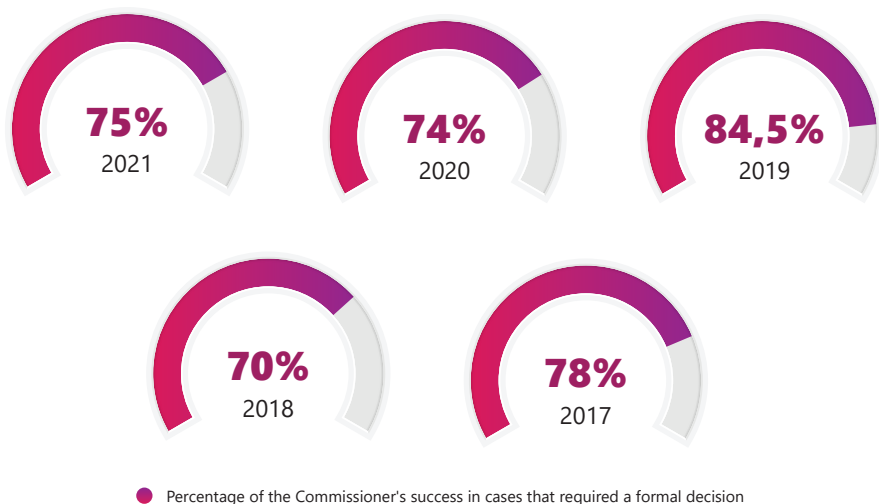
Briefly about the number of employees

As at 31 July 2019, Article 58 of the previous Rulebook on Internal Organisation and Classification of Job Positions in the Service of the Commissioner for Information of Public Importance and Personal Data Protection envisaged 100 job positions, with a total of 129 executors. On 18 February 2022, the Commissioner adopted the new Rulebook envisaging 110 job positions, with a total of 156 executors. Compared with the situation from the past, which remained unchanged for a number of years, this represents a considerable increase. As a reminder, the number of classified job positions in the Commissioner's institution was for many years set at 94; however, in reality, only 50-85% of these positions were filled. With the new classification, the only thing that we can do is monitor whether the situation in practice, i.e. the dynamics of new employment in the institution's Service, will correspond with that which is envisaged "on paper". Bearing in mind that the latest amendments to the Law on Free Access to Information entrusted the institution with some new competences, and the fact which we have already mentioned, i.e. the constant trend of increasing the number of cases, it is logically necessary to strengthen the institution's capacities to enable it to successfully respond to the tasks set before, it while also preserving the achieved level of efficiency. As for the current situation, as at 3 March 2023, the Office of the Commissioner had 104 permanent employees, 8 persons employed for a fixed period of time, and 6 persons who worked based on contracts on temporary and ad hoc employment.

The worrying attitude of those bound by the law towards the decisions of the Commissioner

Despite the above mentioned and described problems that the institution faces in practice, it is extremely important to point out that, in most cases, it does manage to fulfil the role for which it was introduced into the legal system – it ensures the exercise of rights. Although the percentage of the Commissioner’s successful interventions is still high (in 2021, the seekers received information in about 75% of the cases), it is worrying that in one quarter of the cases, those who are bound by law to comply have decided not to act in line with the Commissioner’s binding, final and enforceable decisions. In 2020, the situation was almost identical – in cases where it was necessary to make a formal decision, the percentage of compliance was 74%. In both those years, the percentage was much lower than in 2019, when it was 84.5%. This decline is certainly the result of a complete “blockade” of the mechanisms that should ensure the implementation of the institution’s decision, which was “in force” until the adoption of the Law on Amendments and Supplements to the Law on Free Access to Information. We will discuss this at greater length below. What we can say with certainty is that, if this state of affairs remains, i.e. if not even the above changes manage to lead to a different situation, it will inevitably affect the overall efficiency of the institution, as well as its legitimacy.

Illustration 6: Success of the Commissioner’s interventions in cases where it was necessary for the institution to make a formal decision (in percentage points)



Institutional Embedment

In this section, we will look into how the system presented in the institutional maps “reacts” to the decisions and actions of the Commissioner.

In the area of free access to information, we can first examine the efficiency of the above mechanisms, which according to the letter of the law are available to the Commissioner once an authority turns a deaf ear to one of its decisions. The first possibility is the imposition of fines, i.e. enforcement of the decision through so-called indirect coercion. After a long-term “blockade” of this mechanism,³⁷ by amendments to the Law on Free Access to Information, Article 28b of the Law on Amendments and Supplements to the Law on Free Access to Information explicitly stipulated that the Commissioner will be able to force the authority in question to fulfil the obligations from the Commissioner’s decision by imposing fines. Fines range from RSD 20,000 to 100,000 and may be imposed multiple times. Since the above changes were adopted only at the end of 2021, i.e. their implementation began on 16 February last year, we now have to monitor the situation in practice to see whether the “unblocking” of this coercion mechanism will ensure a greater degree of enforcement by the Commissioner.

The other mechanism – which, at least according to the letter of the law, has been available to the Commissioner for 12 years in cases when, by applying available measures, it was not able to ensure the enforcement of its decisions – is to turn to the Government of the Republic of Serbia, which is legally obliged to ensure enforcement by direct coercion.³⁸ From 2010, when this obligation was prescribed, until the end of 2021, the Commissioner addressed the Government a total of 422 times, of which 82 times in 2021. Not a single time did the Government ensure the enforcement of the Commissioner’s decision.

How other institutions treat the institution of the Commissioner

As for the institution’s relationship with the National Assembly of the Republic of Serbia (NARS), at first glance we might say that it has improved. The NARS is no longer consciously violating both the Law on Free Access to Information and its own Rules of Procedure, as it did in the past when, for four years in a row, it failed to consider in the plenum the annual reports which the Commissioner, respecting its legal obligations, duly kept submitting. Although the situation in practice is now significantly different, and the above-mentioned annual reports the institution submits are considered by the NARS, both in the competent committees and in the plenum, it is difficult to escape the impression that this

37 Described in greater detail in the previous Institutional Barometer 2.0, as well as in the Annual Report of the Commissioner for 2017.

38 Article 28, paragraph 4 of the Law on Free Access to Information of Public Importance (“Official Gazette of the RS” nos. 120/2004, 54/2007, 104/2009, 36/2010 and 105/2021).

is done solely to comply with a statutory obligation, and not as something that is essential and should be viewed as such. We will not waste words on what a debate on a report submitted by the Commissioner should look like, but we can safely say that in practice it could, and should, be “used” in a completely different way, and that it should result in conclusions that would improve the situation in both areas protected by the Commissioner, and not in short, general ones that tell us little about the real situation in these areas, and even less about how to improve it. In addition, it is completely inexplicable why the NARS – as the controller of the executive branch of power, and bearing in mind the already described attitude of the Government towards the institution of the Commissioner – does not feel the need to address this unlawful behaviour in any way and call the Government to account.

The relationship between the institution and the Government is best illustrated by the already described situation, which we will not describe again here; however, the relationship between the Commissioner and the NARS, as well as other with executive bodies is reflected also in the institution’s opinions on legal acts that regulate the areas the institution protects. In 2021, the Commissioner provided more than 50 opinions on draft laws, and almost 40 on drafts and proposals of other acts.

If we look at the relationship with other authorities, primarily those that are obliged to comply with the Law on Free Access to Information, the degree of fulfilment of other obligations they have according to the letter of the law can serve as a good illustration. Here, we are first of all referring to the obligations related to the submission of reports to the Commissioner (43%), the publication of the Information Bulletin on the Work on the internet (27%), and the implementation of trainings (approximately 32%). Bearing in mind that more than 3,800 government bodies were subject to these obligations in 2021, it is obvious that many have consciously chosen to violate their obligations. That situation is largely caused by to the inadequate penal policy, which for many years has been one of the main problems in the areas in which the Commissioner operates, and to which we will devote a separate section of this analysis.

Amendments to the Law on Free Access to Information did not reduce the achieved level of rights

In the course of the preparation of amendments to the Law on Free Access to Information, a wide and lively debate was held among the public about whether said amendments would reduce the achieved level of the right to free access to information. Certain proposed solutions were controversial, causing justified doubts about the legislator’s intention.³⁹ As a result of

39 Described in greater detail in the previous issue of the Institutional Barometer 2.0.

the strong joint action of the civil society, the professional public and the Commissioner's institution itself, controversial solutions were abandoned and the Law on Amendments and Supplements to the Law on Free Access to Information even brought about some improvements. Let us mention a few: the list of authorities to which the Law refers was expanded; the Commissioner was given the opportunity to establish offices outside its seat; it was also given the authority to initiate misdemeanour proceedings and can now issue misdemeanour orders in cases prescribed by the Law. In addition, it has already been noted that the beginning of the implementation of this act has "unblocked" the mechanism of indirect coercion, available to the institution of the Commissioner to enforce its decisions.

Penal policy incentivises law breakers

If we look at how the judiciary reacts to *inputs* it receives from the institution of the Commissioner, the situation is more than worrying. We are encountering flagrant examples of violations of the Law on Personal Data Protection every single day. In this area, the Commissioner is authorised to file both misdemeanour and criminal charges. In the largest number of these cases the proceedings become obsolete, while in the minimal number of cases in which the proceedings were initiated and brought to conclusion, the punishments for the violators were insignificant. Consequently, we can say that, by acting this way, the judiciary stimulates those who violate the Law on Personal Data Protection.⁴⁰

Until the above mentioned amendments to the Law on Free Access to Information entered into force, the situation in the area of free access to information of public importance was such that the Commissioner was not allowed to independently initiate misdemeanour proceedings, and the only thing it could do was to address the Administrative Inspection of the Ministry of State Administration and Local Self-Government with a request that it conduct control and initiate misdemeanour proceedings against violators. The administrative inspection rarely complied with this obligation, and the best illustration for this claim is the fact that, in 2021, said inspection did not submit a single request to the misdemeanour courts to initiate proceedings in relation to 3,334 complaints that the Commissioner established were founded. The situation in practice was similar – in the majority of cases, the proceedings against violators of the Law on Free Access to Information became obsolete, and in the minimal number of cases that received an epilogue before the misdemeanour courts, the imposed sentences were – on average – just slightly higher than the legal minimum. It is precisely the absence of liability

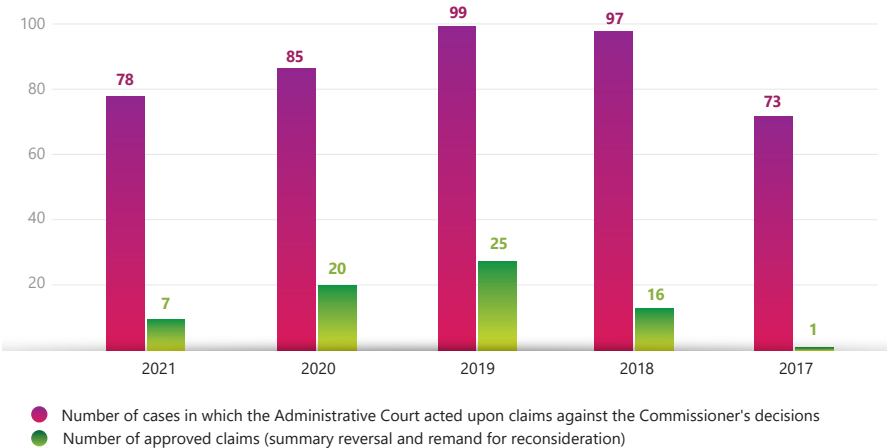
40 Source: Annual reports on the implementation of the Law on Free Access to Information of Public Importance and the Law on Personal Data Protection: <https://www.poverenik.rs/sr-yu/o-nama/godisnji-izvestaji.html>

for the violation of this right – and not just misdemeanour liability – that undoubtedly encourages those responsible in the authorities to continue to behave this way, believing that they will never bear any consequences. In addition, the several years long absence of full responsibility for the violation of rights is the main cause of a very large number of complaints to the Commissioner, which, as we have already pointed out, happens to be increasing from one year to the next. It remains for us to monitor the situation in practice and see whether the above described changes – above all the authorisation of the Commissioner to initiate misdemeanour proceedings – will lead to an improved situation in this area.

Legality of decisions made by the institution

The legality of the decisions made by the Commissioner can be challenged in an administrative dispute initiated against a specific Commissioner's decision. The outcomes of these disputes unequivocally show that the institution of Commissioner firmly adheres to the letter of the law when making decisions. Since the beginning of the work of the Commissioner, in court proceedings to review the legality of its decisions in 1,079 resolved cases, 92.8% or 1,001 of the Commissioner's decisions were confirmed by the court. In 2021, the Administrative Court resolved a total of 78 disputes (of the resolved disputes, 27 were from 2021, while 51 were from the earlier period). The disputes were resolved as follows: 47 claims were dismissed, 12 were rejected, 10 were suspended, 2 were resolved in another way, 3 were accepted, while 4 decisions of the Commissioner were reversed. As can be seen from the chart below, the situation in the previous years was quite similar.

Illustration 7: Review of Commissioner's decisions before the Administrative Court



Institutional Legitimacy

The constant growth in the number of cases before the Commissioner clearly indicates that citizens recognise this institution and believe that it can help them realise their rights. From 270 cases that were filed back in 2005, we have reached more than 15,000 in 2021. Of course, viewed from another perspective, this information is not encouraging at all, because it clearly speaks of the authorities' (lack of) awareness of the need to respect the law. On the other hand, it clearly shows that citizens are determined to enjoy their rights, that they see the institution of the Commissioner as adequate, and that they are showing their trust in it. In addition to the above, many years of successful cooperation of the Commissioner with civil society organisations – primarily through the participation of the institution's representatives at numerous expert meetings aimed at training and affirmation of both the public's right to know and the right to protection of personal data – have contributed not only to this institution's recognition, but also to strengthening its legitimacy.

The planned survey of public opinion and citizens who had experience with the institution of the Commissioner has not been carried out, so it is not possible to draw more detailed conclusions at this time.

Recommendations

1. It is necessary to ensure full staffing capacity of the institution of Commissioner in line with the classification of job positions, especially in the context of the institution's expanded powers;
2. It is necessary to carefully monitor whether changes and supplements to the Law on Free Access to Information have managed to "unblock" the enforcement of the Commissioner's decisions in practice and improve the entire system of free access to information in the RS;
3. The new Law on Personal Data Protection has been causing problems and doubts from the very day of its implementation. It is necessary for the state to systematically approach education in this area as soon as possible. In addition, it is necessary for the state itself to change (before anyone else) its completely inadequate and (to put it mildly) irresponsible attitude towards compliance with the obligations arising from the Law on Personal Data Protection;
4. It is necessary to ensure that the institution of the Commissioner, when adopting or changing regulations that govern or concern either sphere in which it operates, is involved from the very beginning, not just formally

but essentially as well, so it could present its legal positions and views in a timely and reasoned manner;

5. The authorities and institutions presented in the institutional map must show a much more responsible attitude towards both Laws that are protected by the Commissioner. This is a prerequisite for the effective functioning of the entire system in which the institution of the Commissioner operates;
6. In both spheres in which the institution of the Commissioner operates, penal policy towards those who violate the law must be adequate and effective, and not, as before, serve as incentive for breaking the law;
7. As can be seen from the results of the research, without establishing an adequate relationship, primarily of the Government and NARS with the institution of the Commissioner, i.e. without consistent compliance with the letter of the law, the following period will inevitably bring about a decrease in efficiency, and thus also the effectiveness of the Commissioner.

The Internal Control Sector of the Ministry of Interior

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The Internal Control Sector of the Ministry of Interior

Summary

Internal police control includes preventive and repressive actions of a specific organisational unit in the police aimed at ensuring its accountability before the state, laws, and citizens.⁴¹ In the Ministry of the Interior (MoI) of the Republic of Serbia, that organisational unit is the Internal Control Sector (ICS). According to the Law on Police, the ICS controls the legality of the work of the employees performing police duties, especially in terms of respect and protection of human and minority rights and freedoms. As part of this control, the ICS implements measures and actions from the criminal procedure with the aim of detecting and suppressing corrupt behaviour of police officers.⁴² Therefore, the primary goal of the work of ICS is the fight against corruption in the police.

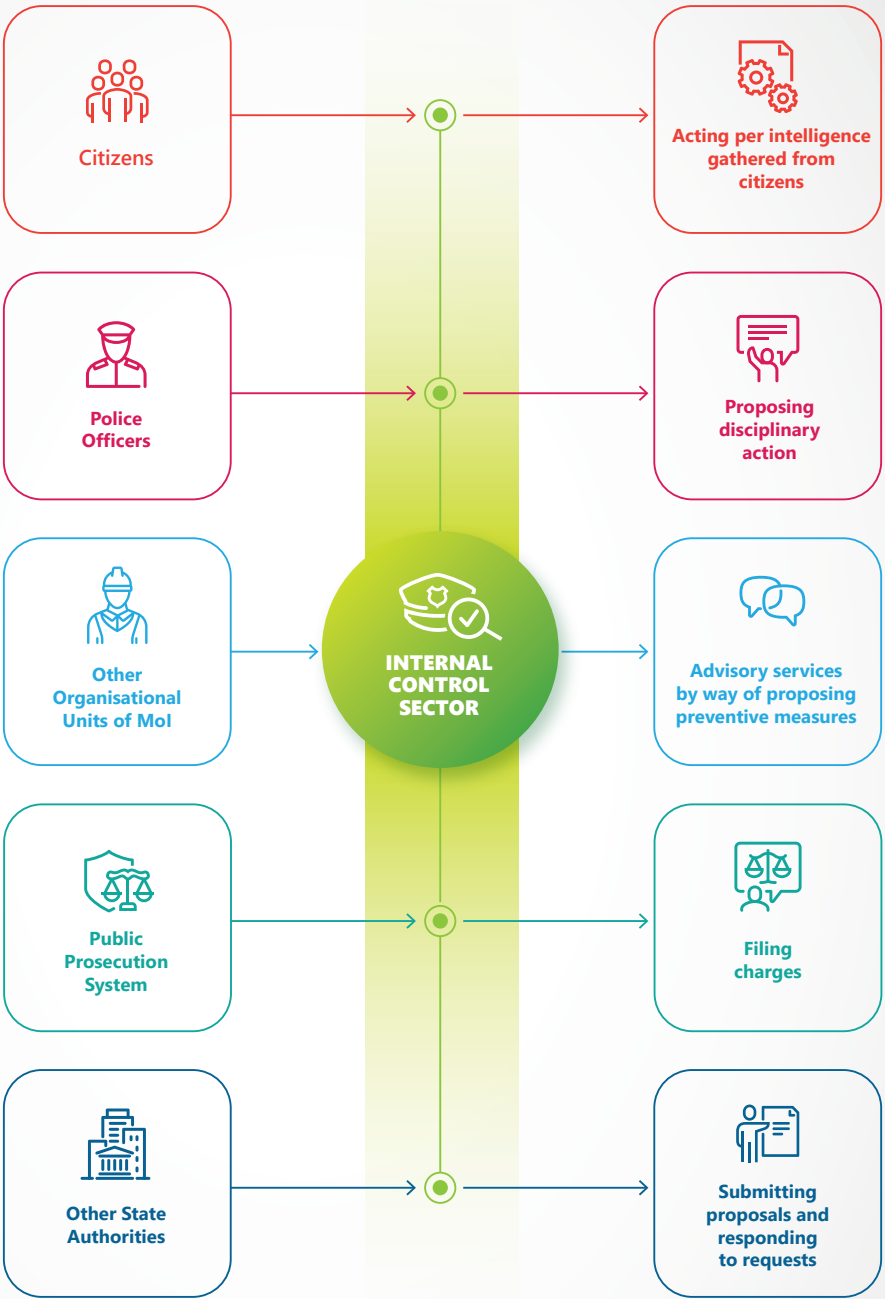
The objective of this research is to determine the level of internal efficiency, institutional embedment, and legitimacy of the ICS by applying a pre-defined methodological framework. It covers the period from 2019 to 2021 (with reference to available data for 2022) and builds on the institutional barometers from 2018 and 2019.⁴³ First, it examines whether the ICS has sufficient human, financial and technical resources for preventive and operational work. It proceeds to analyse the ICS' cooperation with the prosecutor's office and independent institutions, and whether or not citizens trust its work. At the end of the text, there are recommendations to improve the work of the ICS.

41 Đordjević, S. (2018), The Internal Control Sector, in: Šabić, D. (ed.) Institutional Barometer, Belgrade: Belgrade Centre for Security Policy, p. 42, according to Carty, K. (2007), Guidebook on Democratic Policing, Vienna: OSCE, p. 26.

42 Law on Police, "Official Gazette of the Republic of Serbia", nos. 6/2016, 24/2018 and 87/2018, Article 225, paragraphs 1 and 2.

43 For additional information, see: Šabić, D. (ed.) (2018), Institutional Barometer, Belgrade: Belgrade Centre for Security Policy and Šabić, D. (ed.) (2019), Institutional Barometer 2.0, Belgrade: Belgrade Centre for Security Policy, available at: <https://bit.ly/3JgXdPY>

Illustration 8: Institutional map of the Mol's Internal Control Sector



Internal Efficacy

This part of the report discusses the ICS' human, technical and financial resources. In other words, it assesses whether, based on current resources, the ICS can perform the function assigned to it by law.

ICS currently has more employees than it ever did

The human resources of the ICS are increasing each year. At the end of 2021, there were 158 employees, out of 179 who were envisaged by the Rulebook on Internal Organisation and Classification of Job Positions in the Mol.⁴⁴ This means that almost 90% of the job positions are filled. However, the above Rulebook⁴⁵ and the Staffing Plan adopted by the Minister are marked confidential and, as such, unavailable to the public. Due to the above, it remains unknown which exact job positions are envisaged for the ICS, and it is not possible to track how the increase of human resources had been planned. Also, the 2021 Report on the Work of ICS does not state the number of employed women (which information used to be provided in previous years),⁴⁶ therefore, it is not possible to determine whether the ICS is gender-balanced. According to some well-informed experts, *"employment in the ICS is not transparent; there are no public competitions for these jobs, and the practice is to hire people from the police"*.⁴⁷

In September 2022, the ICS had a total of 165 employees: 8 had secondary education, 6 had junior-college level education, and 151 had university education.⁴⁸ Ninety percent of the employees are university graduates, which is a positive thing considering the complexity of ICS' work. In terms of occupation, 49 employees graduated from the Police/Criminal Police Academy, 22 are lawyers, while 21 persons graduated from the Faculty of Civil Defence/Faculty of Security Studies. Unfortunately, we have not been provided with the number of employees in the organisational units of the ICS, i.e. the Department for Operational Activities, the Department for Coordination of the Work of the Centres, the Department for Preventive Activities, and the Department for Security Vetting and Operational Support.

44 Ministry of the Interior, Internal Control Sector (2022), *Report on the Work of the Internal Control Sector for 2021*, Belgrade: Ministry of the Interior, p. 28.

45 Diković, J. (2021), *The Mol is hiding the classification of job positions from its employees*, available at: <https://bit.ly/3muBUl4>

46 According to the reports on the work of the Internal Control Sector, the ICS employed 31.9% of women in 2019, and 29.5% in 2020. Reports of the work of the Internal Control Sector are available at: <https://bit.ly/3Jj2jeo>

47 Interview with Vladica Ilić, Manager of the Legal Team at the Belgrade Centre for Human Rights, 19 Oct 2022.

48 ICS' response, dated 9 September 2022, to BCSP's request for access to information of public importance submitted on 1 August 2022

Quality of ICS' operational work

The increase in the number of employees in the ICS did not result in more extensive operational work; instead, a negative trend was observed based on the number of filed criminal reports. In 2019, the ICS submitted 212 criminal reports, in 2020 – 46, and in 2021 – 184. Due to the Coronavirus pandemic, the least number of criminal charges was filed in 2020. A negative trend was noted also when it comes to filing criminal charges against police officers (see Table 2 for additional information).

Table 2: Criminal charges filed against police officers and other employees of the MoI

Year	2019	2020	2021
Number of criminal reports	203	144	177
Number of criminal reports for acts of corruption	149	69	84
Number of criminal acts	321	220	291
Number of criminal acts with elements of corruption	247	130	197
Number of police officers and other employees in the MoI (all criminal acts)	209	162	192
Number of police officers and other employees in the MoI (criminal acts of corruption)	158	87	99

Source: Reports on the work of the Internal Control Sector for 2019, 2020 and 2021

In 2021, the ICS filed criminal charges against 25 managers in the MoI,⁴⁹ less than in the other years covered by this research.⁵⁰ High-ranking MoI officials were arrested at that time, e.g. the former state secretary and several chiefs/ deputy chiefs of certain police services, which had not been the case before. Although previous years' independent media reports kept showing that they were connected to organised crime, this was not the focus of the investigative authorities in that period. The above-mentioned cases became the subject of interest and work of the competent authorities only during the "war against the mafia", which was launched by a political decision in October 2020. Political will was therefore necessary for certain police leaders to be arrested. Moreover, this situation reminds us that politics have an enormous influence on the work

49 Ministry of the Interior, Internal Control Sector (2022), *Report on the Work of the Internal Control Sector for 2021*, p. 7.

50 For example, based on the reports on the work of the Internal Control Sector, the ICS filed criminal charges against 33 managers in 2019, and against 27 in 2020.

of the Serbian police. Although the ICS is organisationally separate from the police, it is clear that, in the above-described environment, there are potentially also political pressures on its operational work.

The Internal Control Sector has submitted a significant number of criminal charges, but no information is available to the public on how many were accepted or rejected. For this reason, it is impossible to determine whether the ICS is implementing internal control procedures in a quality manner. Unfortunately, the judicial epilogues of criminal proceedings initiated against police officers are also unknown because the track records are kept in public prosecutor's offices (PPOs). The annual report on the work of PPOs in combating crime and protecting constitutionality and legality – compiled by the Republic's Public Prosecutor's Office – does not keep track records based on occupation. Criminal proceedings against certain police managers have been covered by the media, and in those cases the public was properly informed.

Trainings on preventive ICS activities

At trainings conducted during the previous period, employees of the ICS were taught to implement preventive activities. To prevent corruption, since 2016 the ICS conducts integrity tests, analyses the risk of corruption, keeps track records and controls the reporting of and changes to the financial status (assets).⁵¹ Representatives of the Agency for the Prevention of Corruption who were lecturers at the trainings on the analysis of the risk of corruption in 2021 and 2022, pointed out that the employees of the ICS showed great motivation for acquiring new knowledge, and that they were satisfied with their participation. However, ICS employees did not evaluate the lecturers after the trainings.⁵²

The Internal Control Sector has started to report on the implementation of preventive activities

In 2020, the ICS started conducting integrity tests and informing the public about them. The Rulebook on the Method of Conducting the Integrity Test was adopted in 2018. In the meantime, ICS employees attended several trainings on the implementation of this measure. In 2020, the Internal Control Sector conducted a total of 17 integrity tests, of which 12 ended positively and five negatively. The competent prosecutor's offices, which were informed about the negative integrity test results, submitted three requests to collect information concerning those cases.⁵³ In 2021, the ICS conducted 19 integrity

51 Law on Police, Article 230, paragraph 1.

52 Interview with employees of the Agency for the Prevention of Corruption, 12 Oct 2022.

53 Ministry of the Interior, Internal Control Sector (2022), *Report on the Work of the Internal Control Sector for 2020*, p. 16.

tests, of which 17 were positive and two negative. The reports on negative integrity test results were submitted to the competent prosecutor's offices and preliminary investigations were conducted against two police officers.⁵⁴

Working groups charged with analysing the risk of corruption were formed in all regional police administrations and some individual police administrations. The objective of the work of these working groups is to determine all the corruption risk factors for each activity in specific organisational units of the police. The intention is to create a register of corruption risks based on the work of the working groups; however, this activity is still under way. What the police definitely needs to do is to draft and adopt a strategic document on the fight against corruption in the police force. The Operational Plan for preventing corruption in areas of special risk,⁵⁵ including the police, was adopted in October 2021 as a temporary solution. The Plan envisages further strengthening the staffing and technical capacities of the ICS. There is also a plan to prepare an Assessment of the impact of measures that were taken to reduce corruption in the police. According to the Report on the Implementation of the Revised Action Plan for Chapter 23, this activity was fully implemented, and the Agency for the Prevention of Corruption prepared an Impact Assessment Report in 8 risk areas in the second quarter of 2022 and submitted it to the National Assembly.⁵⁶ As an indicator of the impact on the state of corruption in the police, the report states that anti-corruption values/culture have been strengthened. At the same time, all measurement factors within this indicator had a negative trend, that is, from the point of view of the effect, the entire indicator had a negative trend.⁵⁷ Bearing in mind the above, the inevitable conclusion is that not enough has been done to reduce corruption in the police.

According to the Law on Police, the ICS keeps track records of assets, controls the accuracy of data provided in asset declarations and changes to the property status of managers and persons employed in high-risk positions in the MoI.⁵⁸ 4,103 asset reports were submitted to the ICS in 2019,⁵⁹ while 86 additional reports were received in 2020; change to the property status

54 Ministry of the Interior, Internal Control Sector (2022), *Report on the Work of the Internal Control Sector for 2021*, p. 17.

55 Ministry of Justice (2021), *Operational plan for preventing corruption in areas of special risk*, available at: <https://bit.ly/3YtiSZk>

56 Coordinating Body for the implementation of the Action Plan for Chapter 23 (2022), *Report 3/2022 on the implementation of the Revised Action Plan for Chapter 23*, Belgrade, Activity 2.2.10.21, available at: <https://bit.ly/3yig1rJ>

57 Agency for the Prevention of Corruption (2022), *Report on the impact assessment of strategic documents in the field of fight against corruption*, Belgrade: Agency for the Prevention of Corruption, p. 32, available at: <https://bit.ly/3lWSr8F>

58 Law on the Police, Article 230v, paragraph 1.

59 Ministry of the Interior, Internal Control Sector (2020), *Report on the Work of the Internal Control Sector for 2019*, p. 17

in that year was noted in 562 cases.⁶⁰ In addition, 82 new asset reports were submitted to the ICS in 2021, and 535 included changes.⁶¹ The track record of asset reports and changes to the property status of Mol managers created a solid basis for using the potential of this anti-corruption measure. This is particularly reflected in the control of the assets of Mol managers. Based on the Regular Annual Control Plan, the ICS controlled the assets of 611 managers in 2021,⁶² and the assets of 74 managers in 2020.⁶³ Therefore, in its second year of existence, the ICS controlled the assets of 8 times more Mol managers than in the first year. It is assumed that the Coronavirus pandemic affected the control of the property of police managers in 2020, but it is unknown how many controls were in fact planned for that year.

Better equipment and new ICS offices

The record number of ICS employees called for new offices in the ICS headquarters and at police administrations throughout Serbia. The technical capacities required for work⁶⁴ and the financial resources for employee salaries were thus increased. The ICS' operational fund for the implementation of measures envisaged by the Law on Police and Criminal Procedure Code is still not functional.

Institutional Embedment

The main objective of this part of the report is to determine whether the ICS is independent and autonomous in its work, and how it is connected with public prosecutor's offices and independent institutions.

The Internal Control Sector is not operationally independent

Statutory provisions do not ensure complete operational independence of the ICS. Although the ICS is headed by a chief,⁶⁵ it is the Minister of the Interior who prescribes how internal control is to be carried out.⁶⁶ In addition, the Minister provides the ICS with guidelines and mandatory work instructions,

60 Ministry of the Interior, Internal Control Sector (2021), *Report on the Work of the Internal Control Sector for 2020*, p. 15.

61 Ministry of the Interior, Internal Control Sector (2021), *Report on the Work of the Internal Control Sector for 2020*, p. 17.

62 *Ibid.*

63 Ministry of the Interior, Internal Control Sector (2021), *Report on the Work of the Internal Control Sector for 2020*, p. 15.

64 Based on ICS' response (dated 9 September 2022) to the BCSP's request for access to information of public importance submitted on 1 August 2022, the ICS has a total of 89 vehicles, 270 desktop computers, 11 servers, 163 laptops, 36 scanners and 121 printers.

65 Law on Police, Article 224, paragraph 2.

66 *Ibid.*, Article 225, paragraph 3.

except for actions that are undertaken in pre-investigative and investigative proceedings at the request of the competent public prosecutor.⁶⁷ The head of the ICS submits regular and periodic reports on the work of the ICS to the Minister of the Interior.⁶⁸ In this way, the Minister – as a political official at the head of the MoI – controls the work of the ICS and determines how it carries out internal control.

It is necessary to recall that the Serbian police is captured by the political leadership of the MoI, and as such is not operationally independent.⁶⁹ In such working conditions, the internal control of the police is extremely important; however, in practice, it is (expectedly) completely absent. The best examples of such inaction were the cases of alleged police ill-treatment of protesters during the July 2020 protests. At the protests that took place on 7 and 8 July 2020 in Belgrade, some police officers overstepped their authority, used excessive force, and acted brutally against protesters. There are videos from the rally that indicate that the actions of police officers were not always proportional to the threat, and that officers did not try to avoid or inflict the least possible amount of injuries.⁷⁰ Although the ICS – as the key mechanism of internal control – should have provided a significant contribution in shedding light on these events, this did not happen. Namely, the ICS delivered the criminal charges submitted by civil society organisations to the organisational units of the MoI in which the suspected police officers worked, i.e. to none other than their managers. It was *“one of the many omissions that negatively affected the possibility of identifying the police officers responsible for ill-treating citizens at the July protests, since this made it possible to prepare and agree on non-incriminating statements of the responsible officers, their colleagues and managers before the prosecutor or the ICS in pre-investigative procedures, in which no action had been taken until then”*.⁷¹

The Protector of Citizens initiated 8 procedures to control the legality and regularity of MoI's actions in connection with the behavior of police officers during the July protests. In February 2021, he passed an act in which he concluded that there had been failures on the part of police officers at the July protests of 2020 and listed recommendations to prevent them from happening in the future. In addition, he established that the ICS did not

67 *Ibid.*, Article 233.

68 *Ibid.*, Article 224, paragraph 3.

69 For additional information about police capture, see: Petrović, P. and Pejić Nikić, J. (eds.) (2020), *Capturing the Security Sector in Serbia: Initial Study*, Belgrade: Belgrade Centre for Security Policy, and Petrović, P. and Pejić Nikić, J. (eds.) (2021), *The Security Sector in a Captured State: Act Two*, Belgrade: Belgrade Centre for Security Policy.

70 Đorđević, S. (2020). *Spontaneous protest and police action*, Belgrade: Belgrade Centre for Security Policy, p. 12, available at: <https://bit.ly/3YnYLMd>

71 Ilić, V., Radivojević, S. and Mihajlović, L. (2021), *Investigations of cases of police ill-treatment at the civil protests of July 2020*, Belgrade: Belgrade Centre for Security Policy, p. 4, available at: <https://bit.ly/3Zr4Fh3>

take all the measures and actions provided for by law in a timely manner to establish the state of the facts.⁷² The Internal Control Sector should have been a service of the prosecution and should have helped with criminal investigations. Unfortunately, most of the cases from the July protests are still in the pre-investigative phase and the responsibility for solving them rests with the prosecution.⁷³

The Internal Control Sector communicates with the prosecutor's office the most

Given the nature of its work, the Internal Control Sector continued intensive communication with the public prosecutor's offices. In the mentioned period, it submitted an average of about 770 reports to the competent prosecutor's offices based on requests to collect information. It also submitted 110 reports based on additional requests and verifications. This constitutes an enormous part of ICS's communication, which however has some shortcomings – for example: *"communication between the ICS and the prosecutor's office is slow because it takes place via the post office, and e.g. in cases of police ill-treatment things are not done as quickly as it is necessary in such situations"*.⁷⁴

In addition to communication with PPOs, the ICS also communicates with independent institutions. If, as a result of the actions of police officers, there has been a violation of the rights that are protected by the Ombudsman, the ICS informs him about it⁷⁵ and it is thanks to this legal provision that part of the communication between the ICS and the Protector of Citizens takes place. The correspondence with the Commissioner is the result of exercising the right to free access to information of public importance and the application of the Law on Electronic Communication. The annual trend of ICS' communication with the Protector of Citizens,⁷⁶ i.e. with the Agency for the Prevention of Corruption,⁷⁷ varies; a conversation with representatives of these institutions revealed that there is no rule as to how many reports are submitted per year, and that this depends on the scope of work. Unfortunately, we have not been provided with the number of data that have been exchanged between the ICS and the Minister of Police, the Police Director or the Service for Combating Organised Crime.

72 Protector of Citizens (2021), Announcement and act of the Protector of Citizens no. 3122-870/20, ref. no. 3163, available at: <http://bit.ly/3E79ALh>

73 Interview with Vladica Ilić.

74 *Ibid.*

75 Law on Police, Article 227, paragraph 1.

76 Interview with the Protector of Citizens, 4 Nov 2022.

77 Interview with employees of the Agency for the Prevention of Corruption.

Table 3: Requests of state authorities submitted to the ICS in 2019, 2020 and 2021

Year	Agency for the Prevention of Corruption	Protector of Citizens	Commissioner for Information of Public Importance and Personal Data Protection	PPOs – Requests for collection of necessary information	PPOs – Additional requests and verifications	Courts
2019	8	14	33	686	116	30
2020	6	93	30	780	109	17
2021	24	43	2	852	106	17

Source: Reports on the Work of the Internal Control Sector for 2019, 2020 and 2021

Institutional Legitimacy

The intention of this part of the report is to show whether citizens trust the ICS and whether independent institutions are satisfied with their cooperation with the ICS.

Unlike the citizens of Serbia, independent institutions trust the Internal Control Sector

According to a 2020 public opinion survey, approximately 45% of the citizens trust the police, while more than 70% of them believe that the police are mostly or completely corrupt.⁷⁸ Of particular concern is the fact that 41.7% of the population would not report someone breaking the law to the police because they believe that it is not their job, because they fear that the perpetrator might harm them, or because they do not believe that the police would be able to solve the problem. Namely, 56.5% of the respondents believe that the police protect financially powerful people, politicians who misuse state resources or criminals who are connected to politicians and the state.⁷⁹ In 2021, citizens' trust in the police increased to 55%⁸⁰ and remained that way in 2022.⁸¹ According to the opinion of 34% of Serbian citizens, the

78 Ignjatijević, M., Elek, B. and Pavlović, M. (2020), *Armed against the white plague, crime and corruption: Citizens' views on security*, Belgrade: Belgrade Centre for Security Policy, p. 5, available at: <https://bit.ly/3msy2Rs>

79 *Ibid.*, p. 8.

80 Petrović, P. and Hercigonja, S. (2021), *There is no democracy in Serbia, nor is it desirable*, Priština, Kosovo Centre for Security Studies, p. 7, available at: <https://bit.ly/41LuaeF>

81 In the period from October 3 to 17 October 2022, the Belgrade Centre for Security Policy conducted a public opinion survey on a sample of 1,020 Serbian citizens.

police force was one of the most corrupt institutions in the country in 2021.⁸² In other words, more than half of the citizens of Serbia trust the police while simultaneously believing it to be corrupt.

*"There are many internal control mechanisms in the Mol. It is necessary that they be unified and coordinated, and that there be a logical division of competences and hierarchy based on their place in the system and organisation".*⁸³ This is precisely what confuses the citizens, and why they do not know to whom they should report unlawful and unprofessional behaviour of the police. However, independent institutions evaluate the work of the ICS differently. The Protector of Citizens is completely satisfied with the cooperation.⁸⁴ Employees of the Agency for the Prevention of Corruption also find the cooperation between the Agency and ICS exceptional. The same was the case during the training sessions, where the lecturers were from the Agency.⁸⁵

More and more citizens are contacting the ICS by telephone

A positive trend has been noted in the observed period as more and more citizens of Serbia contacted the ICS using the telephone line for reporting corruption in the Mol. On average, citizens called the ICS about 8,500 times per year. Fifteen percent more calls were made in 2020, while no less than 40% more calls were recorded in 2021 compared to 2019. In addition, citizens submitted to the ICS an average of 32 requests for access to information of public importance, which resulted in a total of 11 filed appeals. More than 40% of those requests were refused, about 37% were approved, while 12% were dismissed. The Reports on the Work of the ICS did not specify what these requests were about or why they were refused.

Table 4: Citizens who contacted the ICS in the period 2019-2021

Year	2019	2020	2021
Number of calls to the ICS	7,241	8,165	10,131
Total number of submitted requests for access to information of public importance	33	28	35
Partially or completely approved requests	10	15	11
Dismissed requests	8	4	0

82 Petrović, P. and Hercigonja, S. (2021), *There is no democracy in Serbia*, nor is it desirable, p. 2.

83 Interview with Vladica Ilić.

84 Interview with the Protector of Citizens.

85 Interview with employees of the Agency for the Prevention of Corruption.

Year	2019	2020	2021
Refused requests	10	7	22
Pending requests, during the year	5	2	2
Total number of complaints by request submitters, filed with the Commissioner	5	3	3

Source: Reports on the work of the Internal Control Sector for 2019, 2020 and 2021

Conclusion

The number of employees in the ICS is currently the highest since its establishment, but this did not manage to contribute to its operational work. The Internal Control Sector has sufficient technical and financial resources. In the earlier issues of the "Institutional Barometer" it was established that the operating fund of the ICS was not functional; this has not changed in the meantime. The expected results in the application of anti-corruption measures are missing as well. Although the prerequisites for the application of the integrity test were already met, the ICS conducted the first integrity tests no earlier than 2020. The corruption risk register has not yet been created, and no more than reporting and control of assets of MoI employees started in 2019. Therefore, the ICS did not make sufficient use of the potential of applying these measures. Certain ICS recruitments, which were not transparent, can potentially be abused, i.e. can serve to employ politically approved staff. At the same time, the existing legal norms do not ensure autonomous and independent operational work of the ICS, which is exposed to both formal and informal political pressures. However, despite these shortcomings, independent institutions are satisfied with their cooperation with the ICS. In the end, it is necessary to point out that the ICS, although more transparent than other sectors of the MoI, should make an additional effort to further improve transparency to defend its role in controlling the police.

Recommendations

1. Employment in the ICS should be done through a public competition, so that interested persons other than police officers could also apply;
2. Instead of just taxatively listing the trainings in the annual reports of the ICS, it is necessary to indicate how they helped the ICS employees in their daily work;

3. It is necessary that the annual reports on the work of the ICS contain data on the number of accepted and rejected criminal charges to enable the evaluation of the operational work of the ICS;
4. In the Draft Law on Internal Affairs, provide legal preconditions (in norms) to reduce the influence of the Minister of the Interior, as a political factor, on the work of the ICS;
5. In the Draft Law on Internal Affairs, improve the cooperation of the ICS with the prosecutor's office to make criminal proceedings more efficient;
6. The manner of keeping judicial track records needs to be changed to enable monitoring the criminal prosecution of members of the Mol.

The Commissariat for Refugees and Migration

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The Commissariat for Refugees and Migration

Summary

To ensure the monitoring continuity, subjects of the analysis in this edition of the Institutional Barometer are also the measures and activities of the Commissariat for Refugees and Migration of the Republic of Serbia (hereinafter: SCRM). The analysis focuses on the responsibilities as laid down in the Law on Asylum and Temporary Protection⁸⁶ and the Law on Migration Management⁸⁷ related to providing accommodation to asylum seekers, as well as to the implementation of the integration programme and providing accommodation to persons granted asylum.

Mostly relying on the previously developed indicators⁸⁸ and by analysing the information gathered, we have tried to establish the SCRM's contribution to carrying out certain activities envisaged by the revised Action Plan for Chapter 24 (hereinafter: AP24). In particular, the subject of our analysis were the activities (2.2.9, 2.2.10, 2.3.5, 2.3.10) related to providing accommodation, establishing the mechanisms for regular monitoring of the accommodation and reception, implementing the integration programmes, as well as the activities within the existing coordination mechanisms related to examining the situation in the field of asylum and migration, with a special emphasis on the reception and integration systems.

The results of the analysis indicate that much greater efforts were invested in the reporting period towards enhancing infrastructural capacities of reception and asylum centres, that the activities towards providing a higher level of guarantees of the protection of rights for various categories of migrants accommodated in the centres and/or persons granted asylum were continued, as well as that now the access to labour market for special categories of

86 "Official Gazette of the RS" No. 24/2018.

87 "Official Gazette of the RS" No. 107/2012.

88 *Indicators of efficacy* are related to the total number of beneficiaries accommodated in asylum and reception centres, their legal status, measures taken to identify vulnerable persons among the general population of the accommodation beneficiaries, and the measures taken to ensure special reception guarantees. Moreover, the *indicators of efficacy* also analyse the SCRM's activities towards ensuring access to the integration programmes for persons granted asylum. *Indicators of legitimacy* analyse the mechanisms available for persons accommodated in the centres for expressing their opinions on and assessments of relevance and quality of services, their accessibility and functionality, as well as the measures taken by the SCRM to ensure functional assessment of services provided in the centres. *Indicators of institutional embedment* analyse the level of coordination and connectivity between the SCRM and other relevant institutions and organisations for the purpose of providing adequate accommodation and access to rights and implementing the integration programmes.

foreigners is higher on the agenda. In addition, the *site profiels methodology*⁸⁹ proved to be insufficient for monitoring the reception standards, so that it is commendable that a functional matrix for monitoring the implementation of the Law on Asylum and Temporary Protection is going to be finalised in the forthcoming period. It is important to continue the activities of enhancing the reception system (ensuring constant funds for the smooth operation of the centres and their sustainability) and the integration system.

Illustration 9: Institutional map of the Commissariat for Refugees and Migration



89 Further details on the methodology are available in the Institutional Barometer 2.0, 2019.

Internal Efficacy

In the period from 2021 to December 2022, migrants with various status categories, including asylum seekers, were accommodated in 17 facilities run by the Commissariat for Refugees and Migration of the RS (6 asylum centres and 11 reception centres). Depending on the need, i.e. the dynamics of migratory movement, the number of active accommodation facilities for migrants and asylum seekers varied. Thus, in June 2021 (when there were 4,069 persons accommodated in the centres), Vranje, Pirot and Bujanovac centres and in August the Divljani reception centre, were closed or dormant and then reactivated in 2022.⁹⁰

In 2021 institutional capacities for accommodation of asylum seekers were increased by the Government's Decision to establish two new asylum centres (in Obrenovac and Vranje) for the purpose of ensuring material reception conditions for asylum seekers, thus increasing the total number of asylum centres in Serbia to 7. This Decision also ensured the implementation of one of the activities from the AP for Chapter 24 (activity 2.3.6). In addition, during this reporting period and with the support from the international community, the SCRM continued carrying out activities towards improving the existing accommodation capacities by fully reconstructing some facilities, enhancing some infrastructural resources in individual centres, purchasing equipment significant for centres' operation, and by improving and approximating the standards of services provided to various migrant categories in the centres.

Accommodation and access to services provided to various status categories of migrants in the centres

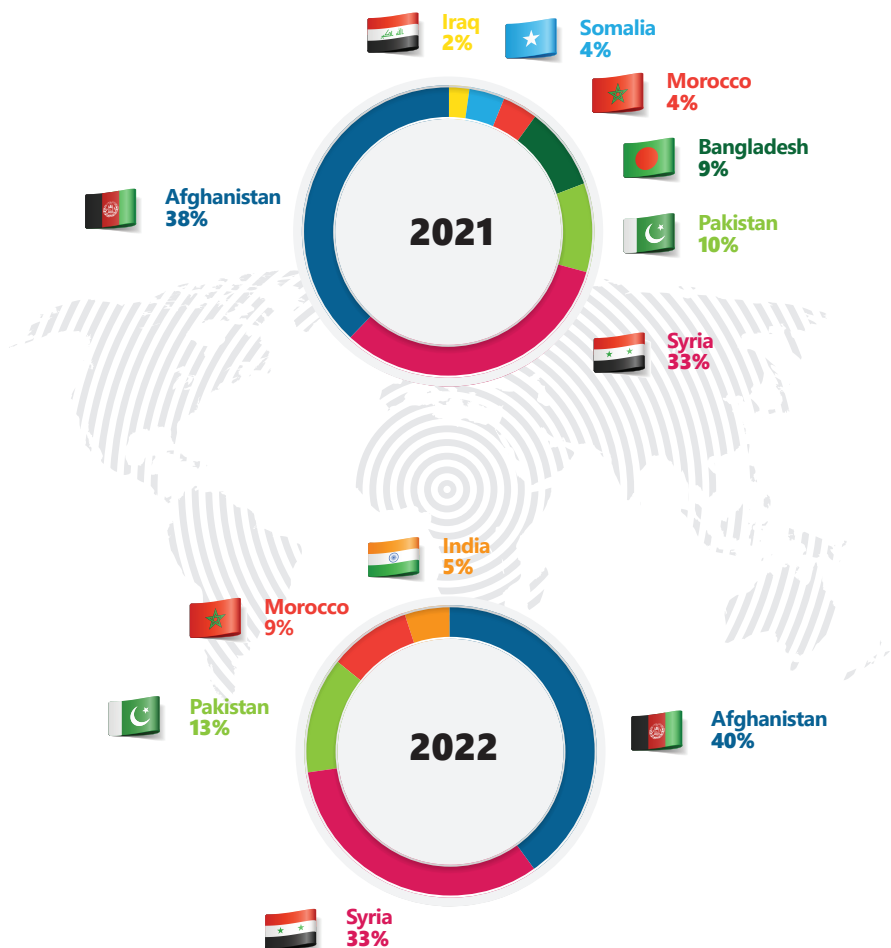
According to the statistical data on the number of accommodated migrants and asylum seekers, an increased transition of migrants was recorded in 2022. In 2021, there was a total of 68,411⁹¹ various status categories of migrants in reception and asylum centres, while in 2022 there were 124,127 persons recorded in the centres, with an average period of stay reduced from 30 days in 2021 to 16 days in 2022.⁹²

90 Vranje asylum centre was reactivated right after the finalisation of its refurbishment process in March 2022, but for the purpose of accommodating only Ukrainian refugees. Bujanovac reception centre was reactivated in October 2022, and Pirot and Divljani reception centres were reactivated in November 2022.

91 Source: SCRM, December 2022.

92 Source: SCRM, *2022 SCRM Annual Report*, 30 Jan 2023, <https://kirs.gov.rs/cir/aktuelno/godisnji-izvestaj-komesarijata-o-migracijama-za-2022godinu/4181>

Illustration 10: Countries of origin of migrants and asylum seekers in 2021 and 2022



Having regard to the total number of persons accommodated in centres (192,538), a total of 6 487 asylum intentions were recorded in the observed period,⁹³ and 492 asylum requests were lodged,⁹⁴ indicating that persons in the asylum procedure still do not have the largest share in the total number of accommodated migrants. This transitional nature of migrants' stay is a significant indicator for organising the reception system and further evaluation of accommodation standards.

93 Source: <https://www.unhcr.org/rs/en/country-reports>

94 Source: <https://www.unhcr.org/rs/en/country-reports>

Continuous improvement and monitoring of standards not only in asylum but also in reception centres

Reception capacities for asylum seekers are continuously being improved for the purpose of aligning them with EASO standards (EU Guidance on reception conditions: operational standards and indicators), which is also one of the AP24 activities. According to the latest Report on AP 24 implementation, alignment with EASO standards for reception in 5 asylum centres is at 95%, which was confirmed by the 2021 European Commission's Report on Serbia's progress in the EU accession process.⁹⁵ On the other hand, although the improvement of reception standards in other accommodation capacities used by different status categories of migrants who are not necessarily asylum seekers, i.e. in reception centres, is not recognised by Chapter 24, the SCRM equally monitors the reception standards in all migrants' accommodation facilities under its jurisdiction. The monitoring system relies on data bases (on available accommodation capacities, existing infrastructural and staff capacities in each centre, various reports by a centre's management and data related to accommodated persons, including the data on identified vulnerabilities) and in the reporting period it notably relied on a tool established in October 2017 by the UNHCR and the SCRM in the form of the so called 'traffic light overview' or 'centre profile'.⁹⁶ Reports on fulfilment of reception quality standards are publicly available,⁹⁷ and since 2022 they have been published quarterly. The reports are structured in line with the Serbian legislation, EASO standards, Sphere, UNHCR, and the EU Reception Conditions Directive.⁹⁸ The traffic light system only provides guidelines about the level of standards reached, and for a more detailed interpretation, it is recommendable to consult the methodology applied and references used for creating the indicators.

A functional matrix of indicators for monitoring the standards in the implementation of the Law on Asylum and Temporary Protection is now being prepared for implementation ('SMART' Matrix) and it will cover three aspects: reception, asylum procedure and integration of persons granted asylum. When finalised, the Matrix will be used as a primary methodology for monitoring the reception standards and the SCRM and the MoI in cooperation with the Ministry of Labour, Employment, Veteran and Social Affairs, and competent courts will be in charge of its application.

95 For more details, please visit: <https://neighbourhood-enlargement.ec.europa.eu/system/files/2021-10/Serbia-Report-2021.pdf>

96 Reports available at: http://www.kirs.gov.rs/wb-page.php?kat_id=118.

97 Centre Profiling: <https://kirs.gov.rs/cir/azil/profil-centara>

98 Further details on the methodology are available in the 2019 Institutional Barometer 2.0, 2019.

Announced amendments to the Law on Asylum and Temporary Protection are steered towards identifying in detail the corpus of rights for persons who expressed intentions to seek asylum

In November 2021, the process of amending the Law on Asylum and Temporary Protection was initiated. One of the proposed novelties relates to identifying in detail the scope of rights for foreigners issued a certificate of registration of their intention to seek asylum, until the moment they lodge an asylum application. In this regard, Article 23 para. 1 of the Draft Law explicitly lays down that besides asylum seekers, also foreigners issued a certificate of registration who have not yet lodged an asylum application need to be provided with housing, food and clothing. These amendments will normatively define in detail the corpus of rights for various status categories of migrants, and the persons who expressed their intention to seek asylum but have not yet lodged an asylum application will be *de iure* equally entitled to some elements of the material reception conditions (right to housing, food and clothing). Moreover, it is important to underline that in this reporting period, the access to accommodation and services in reception centres was also provided to persons whose basis for stay was not regulated *stricto iure*.

As for the financial allowances,⁹⁹ from the aspect of legislation, only asylum seekers have the right to financial allowances for personal needs, and the SCRM is responsible for providing them. However, having regard to the fact that the bylaw laying down prerequisites for providing material reception conditions, procedures for their reduction or suspension, including the right to appeal, and defining other issues related to reduction or suspension of material reception conditions has not yet been adopted, nor has the bylaw laying down the manner of payment of the financial allowances for personal needs, there are no prerequisites for the SCRM to take over the responsibility of providing the financial allowances for personal needs. Meanwhile, as it has been the case over the past several years, the financial allowances in this reporting period were also provided from alternative resources, such as international organisations' project budgets, in the form of monthly cash cards. The financial allowances were available to all migrants staying in asylum and reception centres for at least 15 days and meeting at least one vulnerability criterion from the EASO list of vulnerability criteria.¹⁰⁰

⁹⁹ Article 50 para. 1 of the Law on Asylum and Temporary Protection.

¹⁰⁰ Accompanied children, unaccompanied children, persons with disabilities, pregnant women, persons with serious illnesses, elderly people, victims of human trafficking, single parents with minor children, persons with mental disorders, persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, LGBTI, persons with gender-related special needs.

According to the SCRM, financial allowances were not provided to asylum seekers in 2021, while in the period from May to November 2022, Ecumenical Humanitarian Organisation provided 4 063 cash cards for vulnerable categories of migrants in 13 centres (Obrenovac, Krnjača, Bogovađa, Tutin, Sjenica, Preševo, Sombor, Adaševci, Kikinda, Subotica, Principovac, Šid and Bosilegrad), and in 14 centres in October and November. In addition, in October and November, UNICEF/DRC provided 205 cash cards for children accommodated in the following centres: Krnjača, Tutin, Šid, Bosilegrad, Bujanovac and Vranje. It is important to underline that in 2022, financial allowances were also available to Ukrainian refugees who were staying in Vranje asylum centre and in private accommodation facilities.

Intense pressure on the system of reception of vulnerable categories of migrants in reception and asylum centres

To continuously monitor whether standards are met in reception and asylum centres and to respond appropriately for the purpose of further improvement, it is significant to monitor the number of persons with various forms of vulnerabilities who are staying at centres.

The statistics indicate an increase in the number of vulnerable categories of migrants and asylum seekers accommodated in reception and asylum centres, as compared to their number in other specialised institutions. For instance, in 2021, among 8,314 migrant and asylum seeking children (1,703 of whom were 0 to 14 years of age and 6 611 were 15 to 18 years of age) who were accommodated in asylum and reception centres, 1,346 of them were unaccompanied minors (215 of them aged 0 to 14 years and 1 131 aged 15 to 18 years), while in social protection institutions¹⁰¹ there were 124 unaccompanied minors (3 of whom were granted asylum and 3 were granted temporary residence on humanitarian grounds).

According to centre profiling in 2021 and 2022, as the only current methodology for assessing the reception standards, in all active centres in the reporting period, there was a full application of child protection standards referring to the following: ensuring child safe environment, ensuring the presence of staff qualified to protect the rights of children, providing separate accommodation capacities for unaccompanied minors, providing separate accommodation for boys and girls among the unaccompanied minors, ensuring access to services provided by social care centres, establishment and application of standard operating procedures for child protection. On the other hand, a special space

¹⁰¹ Accommodation capacities are 40 beds in 3 state institutions (Belgrade Institute for Education of Children and Youth, Institute for Education of Children and Youth in Niš, Jovan Jovanović Zmaj), where the capacities could be increased to additional 20 beds and 15 beds in 1 CSO Shelter (JRS Safe House).

for mothers with babies needs to be provided in Kikinda centre,¹⁰² and such space needs to be additionally improved in Bosilegrad centre and external playground provided in Principovac.¹⁰³

As regards the victims of human trafficking, in 2021 the Centre for Human Trafficking Victims' Protection received 26 reported suspected incidences of human trafficking in mixed migration, while in 2022 this number was somewhat lower (20 suspected incidences reported). These mostly referred to adult males, while in 2022, most of the suspected incidences referred to women (12 women aged over 18 years and 2 girls aged up to 18 years). By country of origin, in 2021, the largest number of the suspected victims referred to citizens of Tajikistan (6), Philippines (4), Germany (3), Iran (3) and Vietnam (3), while in 2022 most of these were citizens of Cameroon (4), B&H (2), Albania (2), Turkey (2) and Croatia (2).¹⁰⁴ The Centre for Trafficking Victims' Protection does not keep records of identified human trafficking victims according to their migrant status, so it is not clear how many asylum seekers, persons granted asylum and other migrant categories are there among the identified victims.

One of the greatest challenges in organising the reception is definitely ensuring special reception conditions for people with psychiatric disorders. In 2021 and 2022 there was a total of 225 persons with mental disorders accommodated in reception and asylum centres¹⁰⁵ (see table 5). In addition, experts' surveys indicate that most common mental health problems among migrants are depression, anxiety, prolonged grief, psychosis, substance use disorders, stress-related disorders, etc.¹⁰⁶ cases that, depending on the trauma intensity, require hospitalisation and 24-hour observation. Due to limited capacities of secondary health care institutions for providing mental health services even to Serbian nationals, and due to still open issues of the scope of rights to healthcare for various status categories of foreigners, migrants who are diagnosed with mental disorders largely rely only on the support provided to them in the centres. The impression gained in the field is that most common problem facing migrants are abuse of alcohol and psychoactive substances, as well as the self-injury disorder, which additionally makes the organisation of their reception even more complicated, requiring great efforts by the management of the centres to provide surveillance and control whether they take the prescribed therapy.

102 In Kikinda center certain period of time are being accommodated only adult male.

103 With the support of Caritas and according to the identified need, an outdoor playground has been built.

104 Source: 2021 Migration Profile and the 2022 Statistical Report of the Centre for Human Trafficking Victims' Protection.

105 Source: CRM, December 2022.

106 B. Pejušković, M. Vukčević Marković. „Mental health of refugees, asylum seekers and migrants – an overview of challenges and good practice examples”, *Psihijat.dan./2020/52/1-2/73-87/*.

Table 5: Number of people with mental disorders and pregnant women accommodated in reception and asylum centres

CENTRE	Number of people with mental disorders		Number of pregnant women	
	1 Jan – 31 Dec 2021	1 Jan – 31 Dec 2022	1 Jan – 31 Dec 2021	1 Jan – 31 Dec 2022
Krnjača	63	31	29	20
Sjenica	0	0	0	0
Bogovađa	12	0	8	4
Banja Koviljača	11	0	0	0
Tutin	1	1	1	1
Obrenovac	3	0	0	0
Adaševci	4	6	0	0
Preševo	21	13	0	0
Principovac	2	0	0	0
Sombor	5	6	0	0
Kikinda	4	0	0	0
Šid, station	23	11	13	6
Pirot	1	0	0	0
Divljana	1	0	0	0
Subotica	2	0	2	1
Vranje	0	0	0	0
Bosilegrad	1	1	0	0
Bujanovac	2	0	0	0
Dimitrovgrad	/	/	/	/
Total	156	69	53	32

Accommodation for persons granted asylum

As regards exercising the housing rights for persons granted asylum, SCRM still does not have housing units specially intended for temporary accommodation of persons granted asylum, so that in this reporting period also they were provided with financial assistance as an accommodation allowance. Among 14 persons who were granted asylum in 2021, 7 applications for the housing allowance for 10 people were approved by SCRM. In 2022, four applicants were provided with the housing allowance, while the six persons provided with the housing allowance in 2021 continued receiving this allowance in 2022 as well.¹⁰⁷ The housing allowance provided by SCRM, amounted to RSD 32,371.68 in November 2021¹⁰⁸ (while in 2020 it amounted to 30,367.04).¹⁰⁹ SCRM provides the housing allowances within the integration programme that lasts for a year upon receiving a final decision on granting asylum.

It is important to underline that every application for the housing allowance was approved. On the other hand, lawyers providing legal assistance to persons granted asylum indicate some practical challenges facing refugees in the procedure of exercising their right to the housing allowance (demanding procedure of acquiring documents that need to be filed together with the application and the costs incurred for issuing of these documents),¹¹⁰ which could additionally slow down and make this procedure even more complicated, and consequently affect the number of filed applications.

Reception of Ukrainian nationals

Relatively shortly after the beginning of the conflict in Ukraine, Serbian competent authorities, together with other actors, established an adequate system for the reception of the exiled persons from Ukraine. The system meets standards higher than the ones applied to the reception of refugees from other war-torn areas (a special coordination mechanism was established for monitoring the situation with the Ukrainian refugees, the Reception Plan for them was prepared, local resources mobilised for mapping the Ukrainian refugees and providing them with information, temporary protection mechanism was activated for Ukrainian refugees, support services specially targeting the Ukrainian refugees were created, etc.).

107 Source: Report on the Implementation of Activities, July-December 2022, Mol.

108 Source: SCRM, 2021 Migration Profile.

109 Source: SCRM, 2020 Migration Profile.

110 Source: BCHR, *Right to Asylum in 2021*.

Building up SCRM's staff capacities has continued

The 2019 Rulebook on Internal Organisation and Job Classification envisages 9 non-executive positions in the Department for Reception, Care and Returnees under Readmission Agreements, 7 positions in the Project Implementation Department and 5 positions in the Department for Migration and EU Integration. The Department for Coordination of Affairs in Asylum and Reception Centres includes, besides the Department Head, 13 more employees in charge of the functioning of asylum and reception centres (6 employees), a coordinator of integration and voluntary return issues (1 employee) and employees in charge of making contacts in the field, obtaining information and providing counselling to potential returnees, failed asylum seekers and persons in an irregular status, drafting integration plans for persons granted protection, monitoring the spending of housing allowances, language learning and learning about the Serbian history, culture and Constitutional order, providing support in exercising the rights to public services (6 employees in total).

According to the latest Report on the Implementation of AP24 Activities, by December 2022, a total of 13 vacancies were fulfilled since the adoption of the Rulebook. Having regard to the complexity of services provided within the reception system, it could be concluded that a wide range of SCRM employees (including commissioners for refugees and migration in local self-governments) contribute to carrying out duties related to reception and integration. Moreover, smooth functioning of the accommodation centres for migrants and asylum seekers is still supported by the engagement of about 300 persons through projects.

SCRM employees obtain regular professional training courses. Some steps were taken towards regular updating and implementation of the plan and training programmes for SCRM staff in charge of migration management issues, following the needs and development of policies in this field. Within the General Training Programme of the National Academy for Public Administration, 3 migration-related training courses for representatives of state authorities and local self-governments were accredited for the first time: (1) Fundamentals of Migration Management, (2) Migration and Development, and (3) Local Action Plans for improving/promoting the position of various categories of migrants. According to the periodical Reports on the Implementation of AP24, in the January – December 2022 period, 236 employees took various training courses related to reception, human rights and work with vulnerable migrant categories (activities 1.1.9 and 2.3.4). The training topics were the following: trafficking in human being, asylum and human rights, reporting, reintegration of returnees, migration communication and narrative, strategic planning, providing first aid, ethical and professorial standards, community engagement for emergency preparedness and etc. By March 2021 the SCRM finished training persons engaged in the centres about

the use of data bases, depending on their duties and tasks in the centres.¹¹¹ In addition, according to the National Preventive Mechanism, SCRM employees working directly with migrants and asylum seekers underwent adequate courses and training, including the ones related to ethical considerations when working with vulnerable groups.¹¹²

Challenges in implementing integration programmes

According to SCRM, in the reporting period, informational interviews were conducted with every person who was granted asylum and addressed the SCRM, for the purpose of gathering information relevant for filling in the questionnaire on the types of individual integration measures that need to be taken, and for drafting the integration plan.¹¹³ In 2021, among 14 persons granted asylum, individual integration plans were developed for 11 of them.¹¹⁴ While in the second half of 2022, 8 individual integration plans were developed (among 22 persons granted asylum in this period).¹¹⁵

Persons granted asylum are notified about their rights and obligations by the management of the centre in which they are accommodated, by their lawyers, SCRM staff, other stakeholders involved in their reception system, and by the Asylum Office, to some extent. Moreover, when filling in the questionnaire necessary for the development of the integration plan, every person is also provided with all available information on relevant support programmes provided by international organisations and civil society organisations. A certain corpus of information on the rights of persons granted asylum is also available in the centres in forms of printed brochures and information put on notice boards in various languages of origin. Furthermore, in 2020, UNHCR, together with the SCRM developed a brochure providing detailed instructions on manners of exercising the rights and other service information.¹¹⁶ Then, in 2022, the MoI in cooperation with UNHCR developed informational material on the rights of asylum seekers, including the information relevant for the persons granted asylum.

The *Fast-track Action Boost* Project supported by the European Union in October 2020, launched an online web app (<https://asylum.rs/>), to provide, in one place, easily available information on procedures and opportunities for

111 SCRM's response to NPM Report on monitoring the treatment of migrants at the state border with the Republic of Croatia. Communication No. 019-2078/2-2021 of 6 August 2021.

112 Source: Ombudsman's 2021 Report.

113 Source: meeting with representatives of the Commissariat for Refugees and Migration, December 2022, p. 78.

114 Source: SCRM, December 2021

115 Source: Report on the Implementation of Activities, July-December 2022, MoI.

116 https://kirs.gov.rs/media/uploads/Infomaterial%20-%20Local%20integration%20Srpski_web.pdf

acquiring education, employment and job seeking for all asylum seekers and persons granted asylum in the territory of Serbia, both in Serbian and in English. After finalisation of the Project, the SCRM took over the app administration.¹¹⁷

The trend of inclusion in the Serbian language learning programme continued in this reporting period as well,¹¹⁸ indicating that SCRM's and other actors' measures contributed to increasing the interest in learning the Serbian language and script.¹¹⁹ Therefore, 64% of persons granted asylum in 2021 started taking Serbian language lessons (as compared to 45% in 2020). Among these, there were 78% of male and 22% of female students. By age, there were 11% of minors and 89% of adult students.

Moreover, the Programme of learning about the Serbian culture, history and Constitutional order was implemented in this reporting period as well.¹²⁰ The Programme of learning about the Serbian culture, history and Constitutional order, envisaging 30 lessons, was implemented in this reporting period as well (17 people in 2022).

A particular challenge is monitoring the integration measures aimed at providing support to inclusion into the Serbian educational system of pre-school, primary school and secondary school children and of adult illiterate people, and at providing assistance for their inclusion in the labour market. Primary reason for this is that individual activities included in the above measures are still not specified in detail (e.g. financial assistance for inclusion in extracurricular activities), and that the role of the SCRM in the implementation of these measures is not specified enough.

During the reporting period, the activities of providing support to the inclusion of migrant children in the educational system from the moment they arrive at a centre (or other facilities designed for the accommodation of minors or at a privately rented accommodation) continued and were carried out during their further stay in the Serbian territory, so that children granted asylum had been included by rule in the formal educational system even before receiving a positive decision on their asylum application.

117 Source: Case study Serbia, March 2021, https://fabproject.eu/wp-content/uploads/2021/06/FAB_case-study-report-Serbia_March-2021_def.pdf

118 Number of lessons: 300 lessons plus 100 additional lessons for highly qualified persons and 140 lessons for children attending regular schools.

119 Amendments to the Decree on the Manner of Involving Persons Granted Asylum in Social, Cultural and Economic Life introduced a legal obligation for the persons granted asylum, within their integration programme, to apply within 15 days of receiving a final decision, to the CRM for Serbian language and script lessons and to attend them on regular basis. Otherwise, the CRM will not be obliged to provide additional Serbian language lessons, and the person will also lose the right to a one-off financial assistance. In this reporting period, however, the CRM allowed access to the Serbian language and script learning programme even to those persons granted asylum who addressed the CRM after expiry of the set 15-day time limit upon receiving the final decision.

120 For more details, please visit: https://kirs.gov.rs/media/uploads/Program_upoznavanja_srpske_kulture-istorije_i_ustavnog_uredjenja.pdf

The necessary textbooks and school stationery were provided from alternative resources in this reporting period as well, primarily from donations of international organisations, and the SCRM still provided learning assistance through cooperation with civil society organisations that carry out informal education activities for migrant and asylum seeking children. Over the past years, and during the Covid-19 period in particular, representatives of centres' management directly helped children follow online lessons organised in the centres and meet other school obligations.

As for adult education, there were no significant activities carried out in practice.

Implementation of the measure aimed at providing financial assistance to children and adult illiterate people for the purpose of their inclusion in extracurricular activities, has still not started. For this to happen, conditions under which this assistance should be provided need to be specified in detail, as well as the approval procedure, amount of the assistance and the role of the SCRM in this process.

In the field of providing assistance for inclusion in the labour market, in this reporting period as well, the SCRM continued together with the National Employment Service and civil society organisations to support persons granted asylum in their process of acquiring economic independence. It is still particularly important to recognise persons granted asylum as less employable and to develop support programmes for them in line with the specific needs of persons with this status, all for the purpose of increasing their competitiveness in the labour market.

As for one-off cash allowance in case of special social or healthcare needs, in 2021 one family received the cash allowance for education of their children¹²¹ and one person received it for medical treatment,¹²² while in 2022, the cash allowance was granted to two persons for medical reasons.¹²³

It is important to emphasise that in March 2021, a special Rulebook¹²⁴ was adopted, establishing the manner and procedure for approval and payment of the one-off cash allowance from the Serbian Budget funds allocated to the SCRM for providing assistance to various groups of beneficiaries, including persons granted asylum or temporary protection, which created legal conditions for exercising the right to this assistance. It is particularly important that the Rulebook sets out an exhaustive list of social or healthcare needs that are considered the grounds for exercising the right to the one-off cash allowance.

121 Source: Report on the Implementation of Activities, January-June 2021, Mol.

122 Source: Report on the Implementation of Activities, July-December 2021, Mol.

123 Source: Report on the Implementation of Activities, July-December 2022, Mol.

124 The Commissariat for Refugees and Migration, ref. No. 553-105 of 8 March 2021.

Institutional Embedment

Coordination mechanisms at the national and local levels

Implementation of the AP24 activity 2.3.10 continued actively. In 2021 and 2022, two sittings of the Working Group for tackling mixed migration issues were held. The issues considered at these sittings were the anti-migrant narrative, security aspects of irregular migration¹²⁵ and current situation in Ukraine. During 2021 and 2022 this Working group has developed and proposed the Response plan to the increased number of migrants on the territory of the RS for 2021 and 2022, that was later adopted by the Government (Th Plan is being revised annually). To tackle the mixed migration issues caused by the crisis in Ukraine, the Government adopted the *Plan for Reception of Ukrainian nationals and endangered people who left Ukraine or those who cannot return to Ukraine due to armed actions for 2022, and 2023*.¹²⁶

At the operational level, the Coordination Body for Migration Monitoring and Management (responsible for providing guidance on the work of ministries and special organisations, defining goals and priorities of the migration policy, as well as monitoring and managing migration at the national level, and it is coordinated by the SCRM) held regular meetings to exchange relevant information, assess changes in migration policies and to monitor the implementation of migration policies following a set list of indicators.¹²⁷ In addition, the 'EU Support to Migration Management in Serbia' Project organises every month meetings between the SCRM, Ministry of Education, Ministry of Interior, Ministry of Labour, Employment, Veteran and Social Issues, EU Delegation to Serbia, IOM and UNHCR to plan and coordinate the support to the system.

In the mid-2019, on the initiative of the SCRM, World Health Organisation and PIN, and in cooperation with the Ministry of Health, Ministry of Labour, Employment, Veteran and Social Issues, as well as relevant international agencies and non-governmental organisations, a Working Group for the Protection and Improvement of Mental Health of Refugees, Asylum Seekers and Migrants was established as a coordination body aimed at enhancing system care for mental health of refugees, asylum seekers and migrants in Serbia.¹²⁸ After the Ministry of Health took over the coordination, one meeting was held.

125 Source: SCRM, the 25th sitting of the Working Group for tackling mixed migration flows was held in the Palace of Serbia, on 18 March 2021, <http://bit.ly/3ZAaulb>

126 Source: SCRM, the 26th sitting of the Working Group for tackling mixed migration flows was held on 10 March 2021, <http://bit.ly/3nuVTQT>

127 Progress Report Serbia 2021.

128 Source: PIN, Report on the activities of the Working Group for the Protection and Improvement of Mental Health of Refugees, Asylum Seekers and Migrants 2019-2020, <https://bit.ly/3Getu8q>

Furthermore, regular meetings of other theme coordination groups also continued, focusing on improving and enhancing the healthcare of migrants, asylum seekers and refugees, migrant children education and monitoring the situation in migrant children social protection, with regular participation of the SCRM representatives.

It is important to underline that operational level of activities' coordination was not carried out only through institutional coordination mechanisms of line Ministries and the SCRM, but also through case studies where competent institutions were included to tackle some individual cases. At the local level, the centres organise regular coordination meetings with service providers in these centres, to discuss issues related to the needs of accommodated beneficiaries, among other things.

Operational cooperation framework was set up to deal with labour market access for asylum seekers and persons granted asylum

A Memorandum of Understanding was signed in July 2021 by the UNHCR, SCRM and the National Employment Service to ensure a better understanding of a specific status of asylum seekers and refugees, and of challenges they face in attempts to integrate into local communities (through briefing sessions, training courses, translation and counselling services during employment process, and individual assistance in their economic inclusion). The cooperation goal set out by this Memorandum is to facilitate access to labour market for refugees and persons granted asylum in Serbia, and to provide them with the support in achieving economic independence.

Institutional Legitimacy

Since March 2017, when the complaint system was established, a total of 110 complaints have been received, and 29 in this reporting period alone (25 in 2021 and 2 in 2022), electronically and through the complaint boxes. According to the SCRM, certain advancement of the complaint mechanism was recorded due to a better organisation of records of complaints, as compared to 2017.

The complaints mostly related to accommodation conditions (8), other migrants (7), staff (4), moving to other centres, vaccination, Hungarian policy towards migrants, heating, etc. All the complaints were resolved, except for the one that related to the Hungarian policy towards migrants.¹²⁹

Following the recommendation by the National Preventive Mechanism from 2022, the SCRM posted information in the centers' about the possibility

¹²⁹ SCRM, December 2022.

of filing complaints to the Ombudsman and provided the contact details. In 2021, the Ombudsman received one complaint related to the access to asylum procedure, where no unlawful activities nor irregularities in the work of Border Police Directorate were established because, according to the Ombudsman, the access to asylum was enabled to the person concerned.¹³⁰

In cooperation with UNHCR and its implementation partners, other assessment activities continued,¹³¹ such as AGDM assessment¹³² (on an annual level), as well as organisation of special so called asylum workshops in centres (on monthly basis, in one or two centres) where migrants, asylum seekers and refugees have an opportunity to learn about all the issues important for exercising their right to asylum, and by participating, to express key challenges they face in the asylum procedure.

In view of the fact that services provided in the centres are mostly provided through projects, civil society organisations directly working with beneficiaries and other service providers continuously gather information on beneficiaries' needs. In addition, through the obligatory project evaluation mechanisms, they also gather information on beneficiaries' satisfaction with the services.

Recommendations

1. System of planning integration measures and developing individual integration plans should be further strengthened, their implementation monitored and introduction of potential changes timely considered;
2. Support to centres should be enhanced to ensure greater availability of specialised social care services for various vulnerable categories of asylum seekers and migrants, and in particular prevention and mental health protection services;
3. The SCRM should be provided with greater support by healthcare and social welfare institutions, in particular in the part related to exercising the right to mental health for various status categories of migrants
4. To promote migrants' and asylum seekers' social inclusion, and to increase the possibilities for their fast work engagement, different support programmes and mechanisms need to be developed, made available to all persons accommodated in centres and additionally promoted so that migrants and asylum seekers could acquire basic Serbian language skills and be able to take vocational training courses.

130 Ombudsman's 2021 Report, p. 75.

131 Ibid.

132 More details on the AGDM (Age, Gender and Diversity Mainstreaming) can be found in the Institutional Barometer 2.0.

Centre for Human Trafficking Victims Protection

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Centre for Human Trafficking Victims Protection

Summary

Analysis of this institution's operation is performed for the third time. For the first edition of the Institutional Barometer, the Centre for Human Trafficking Victims' Protection failed to submit the filled-in questionnaire, while they did submit it for the second edition, as the questionnaire was sent as a request for access to information of public importance. Furthermore, the manager of the Victims Protection Service at the time, provided additional explanations and participated in a meeting in which certain answers were discussed. For this edition, the Centre filled in the questionnaire, however, no additional answers or interpretations have been received in the preparation period. Responsiveness of the institution and their cooperation in the analysis of the institution's position in the system have been improved in principle.

The crucial precondition for the functioning of the institution which, ten years after its establishment, still functions merely on the basis of a decision by the then competent minister, is the draft of the new Law on Social Protection. The latest publicly available version of the draft contains a couple of problematic solutions that concern the monitored institution. First, as one of the Centre's tasks, Article 16a, Paragraph 3 of the Draft Law mentions establishment of the status of human trafficking victim, while Article 53 stipulates that the Centre performs "recognition" of victims.¹³³ The solution in line with victims' best interests would be for the Centre to implement identification procedure, in order to collect the data with the aim of establishing a person's human trafficking victim status. Second, the Draft keeps the problematic provision stating that the Centre for Human Trafficking Victims' Protection adopts findings and opinions, the consequence of which is that the persons who have not been identified as human trafficking victims do not have the possibility of contesting these findings and opinions with an appeal, bearing in mind the legal nature of findings and opinions, i.e. the fact that these are acts not subject to a review by the second instance authority.

The number of professional workers employed in the Centre has remained unchanged compared to the previous barometer. In spite of the adopted systematisation, there are still only four professional workers engaged in the Centre's Service. The professional workers directly work with potential and assumed victims of human trafficking, i.e. they identify victims in addressing

133 Draft Law on Social Protection, Arts. 16a and 53.

all the reports received by other actors (police, public prosecutor, social care system, civil society organisations, etc.). Furthermore, they participate in other activities, such as realisation of projects, organisation and realisation of conferences, seminars and trainings, development of strategic and operational documents, etc.

After an insight into the Centre's Annual Report for 2021, one may conclude that the professionals are overburdened with their primary task and the number of cases on the annual level, and that all additional activities that are indeed important and necessary, may represent an additional pressure and be realised at the cost of this institution's key activity.

Basic information

The Centre for Human Trafficking Victims' Protection was founded by the Government of the Republic of Serbia in April 2012, in line with the Law on Social Protection¹³⁴ and it includes two organisational units: Service for Coordination of the Protection of Human Trafficking Victims and Shelter for Women Victims of Human Trafficking. The original Decision¹³⁵ envisages that the Centre provides: accommodation services to human trafficking victims (urgent accommodation), services of assessment and planning for human trafficking victims, counselling, therapy and socio-educational services to human trafficking victims, and that it performs other tasks in line with the law and other regulations. Statute of the Centre for Human Trafficking Victims' Protection stipulates that the Centre is an independent social care institution, within the direct competence of the Ministry of Labour, Employment, Veteran and Social Affairs. The Centre assesses the condition, needs, strengths and risks of human trafficking victims, and identifies and secures adequate support and assistance to human trafficking victims with the purpose of their recovery and reintegration.¹³⁶

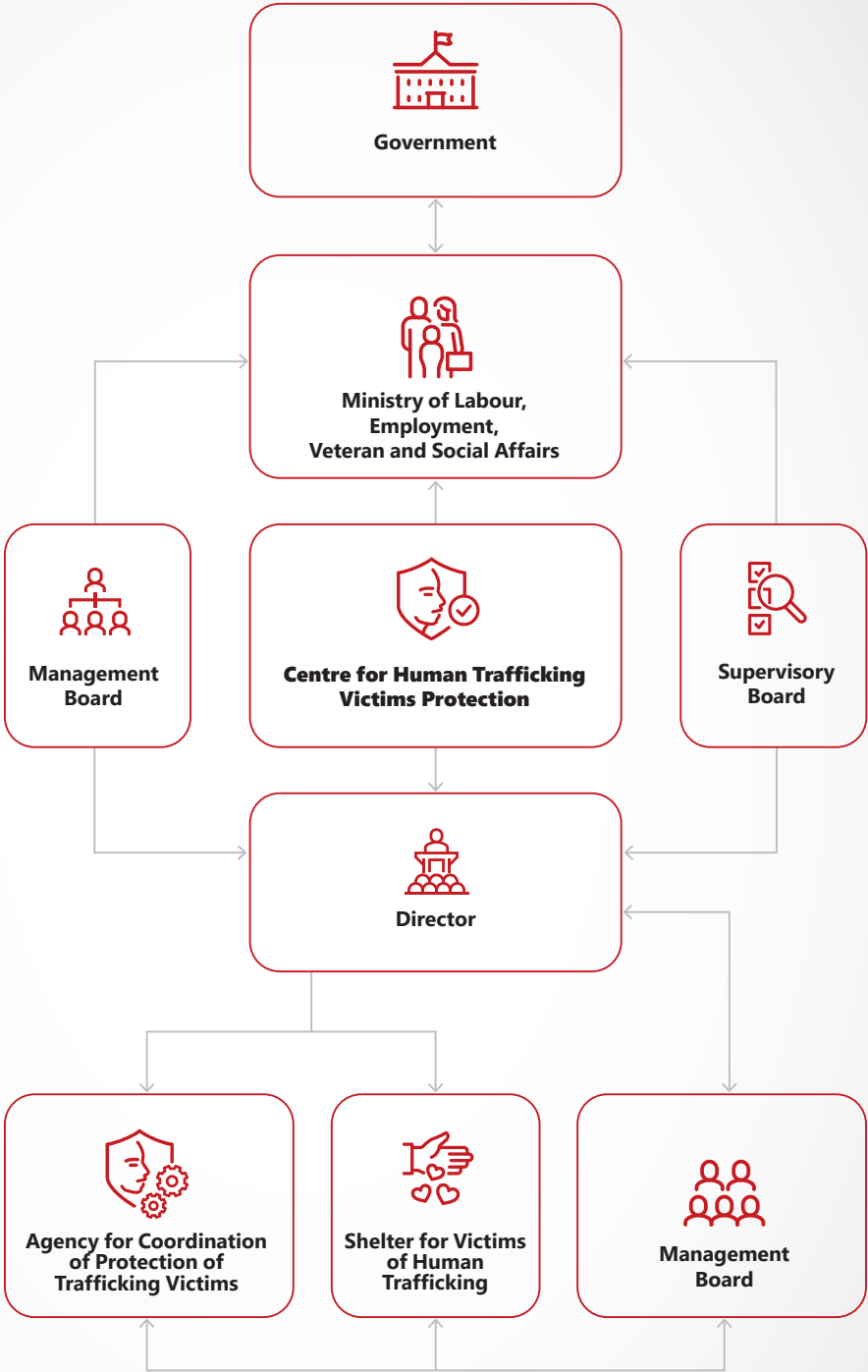
Even though the Centre was established in line with the provisions offered by the applicable Law on Social Protection, it is important to note that said Law does not mention such an institution, and that for 10 years now, the Centre has operated based only on the ordinance by the competent Minister.

134 "Official Gazette RS", No. 24/2011.

135 <http://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/vlada/odluka/2012/35/1/reg>

136 <https://centarzztlj.rs/interna-dokumenta-i-politike/>

Illustration 11: Institutional map of the Centre for Human Trafficking Victims Protection



Internal Efficacy

For the benefit of this research, just like the previous two times, the researchers of NGO ASTRA used a previously structured questionnaire, reports by the Centre and other publicly available documents, with the purpose of gaining a better insight and clarifying certain data and claims.

In 2021 Report on Operation, it is stated that the professional workers of the Centre¹³⁷ worked on supporting 311 beneficiaries. This number also includes those beneficiaries with whom the work started in 2021, as well as those beneficiaries whose cases had been reported in earlier years, but the work was continued in 2021.

Centre emphasises that in 2021, it proactively worked more than ever before on discovering new cases of human trafficking, which resulted in initiation of six victims' identification procedures. Additionally, in 2021 Operation Report, it is said that three group reports were especially prominent, involving suspected labour exploitation of an undetermined number of workers from India, China and Vietnam,¹³⁸ and that the actual number of presumed victims was larger than what had been reported.

Analysis of the specially structured questionnaire indicates that the number of the employees in the Centre in 2021, was 9 (13 is the number envisaged by the systematisation). If we compare this with the data obtained in 2018, when the previous analysis was made, the number of the employees significantly decreased, since in 2018, the number of the employees was 16, compared to the 13 systematised professional positions.

Shelter for Victims of Human Trafficking as a separate unit of this institution, had 8 employees in 2021 (the number of the systematised professional positions is 11). The number of professional workers in the Centre did not change in 2020-21 (four workers), while the number of professional workers in the Shelter has been five since the opening. While the Shelter was functioning, the average occupancy rate was four human trafficking victims. The average duration of a victim's stay in the Shelter was five months. When asked about what happened after human trafficking victims had left the

137 Based on an insight into 2021 Report on Operation, section Achieved Results according to 2021 annual plan for operation, pp 6-7, it is stated that: staffing problems continued in 2021, including the deficit in the number of employees envisaged by the systematisation. Four professional workers discontinued their engagement (one professional worker left the Centre, two took maternity leave and one was retired) yet only two new workers got employed. As it is further stated, it was attempted to address that challenge by redistribution of jobs. Namely, the professional workers of the Shelter were transferred on the tasks of identification and coordination of human trafficking victims.

138 At the Regional Conference: Combating Labour Trafficking in Europe – Standards, Realities and New Strategies for Action, which was organised on 20-21 September by the European Union – Council of Europe programme Horizontal Facility (HF) for the Western Balkans and Turkey, Director of the Centre for Human Trafficking Victims' Protection emphasised that the case concerning the workers engaged on the construction of a tyre factory in Zrenjanin was still ongoing.

Shelter, and the exact places/services to which such victims were referred, the answer indicated that the Centre for Human Trafficking Victims' Protection was not a referral authority and that all the beneficiaries by that point had left the Shelter in line with their individual service provision plans. Some of them became independent, some returned to their families, once the conditions had been made adequate, while some of them started to use the assisted living service provided by NGO Atina. A number of victims moved to appropriate social protection institutions. Having connected this response with the claims that provision of accommodation for beneficiaries is connected with a number of difficulties (2021 Centre Report), the question arises concerning the exact institutions that the beneficiaries move on to, and the number of such beneficiaries.

The needs of adequate accommodation of human trafficking victims are great, and different categories of victims cannot realise this right due to the existence of certain obstacles in the system of protection and support, to be analysed below. The answer to the question pertaining to the types of support that the accommodated victims receive, contains a list of the services classified into categories. This classification is in line with the Rulebook on Organisation and Systematisation of Professional Positions in the Centre for Human Trafficking Victims' Protection.¹³⁹ Some of the services deal with assisting victims in the performance of regular living activities, such as dressing up, movement, feeding and personal hygiene, while others concern the needs in the field of medical care services, administration of the prescribed therapy, tending to minor injuries and basic health checks, etc.

An additional question concerned potential engagement of professional such as carers and nurses for the medical care services needed by human trafficking victims, since administration of the prescribed therapy, or tending to minor injuries cannot be performed by the professionals employed in the Centre for Human Trafficking Victims' Protection.

Shelter

Building of the Shelter for Human Trafficking Victims is owned by the Republic of Serbia and it is in accordance with all conditions and standards for the provision of this service, reads the Centre's 2018 Operation Report. Data that are somewhat different are found in another annual report three years later, where it is stated that the Shelter is at that point in the phase of licensing and that it is expected that it would be functional once again in the following year. Additionally, the report claims that the Shelter began its work in February 2019 and that it worked until September 2020. The Shelter's capacities are modest and it receives only women victims and girls above the age of 16, as

139 https://centarzztlj.rs/wp-content/uploads/2021/03/2_Pravilnik_o_organizaciji_i_sistematizaciji.pdf

well as women with children, with limitations pertaining to male children of certain age. In chapter Specific Goal 1.4 Improve the Shelter's Operation, it is emphasised that there was some intense engagement on obtaining necessary licenses and other documentation, in order to accelerate the process of licensing. Simultaneously, preparation of the very building was underway, in addition to obtaining work equipment, education of the employees and preparations for the opening, which was, as it is stated, described in detail in the 2021 Report.

The Centre's 2021 Operation Report stated that, according to this institution's records, there were 42 beneficiaries in various accommodation arrangements. Out of this number, majority were underage. In self-assessment, the Centre correctly identified the issue of accommodation for male victims as still being open, and that it was realised with the support by specialised NGOs (ASTRA and Atina) and the Red Cross. Bearing in mind an increase in the number of foreign workers who may be potential victims and persons at risk of entering a human trafficking ring, as well as the cases of mass exploitation of workers from India in 2019 and 2020, and workers from Vietnam in 2021 and 2022, this issue needs to be seriously dealt with.

The Problem of Accommodation for All Categories of Human Trafficking Victims

Observed from the perspective of gender, in addition to male victims, there are also limitations when it comes to accommodation of women and children (insufficient capacities of the Centre, the license which has not been issued still...). There is no specialised shelter for children victims of human trafficking, or specialised support programmes. The report states that it has been shown in practice that social car services do not represent adequate accommodation facilities for underage victims of human trafficking. It is emphasised that it frequently happens that family accommodation centres do not have capacities, and that Centres for Social Work and Adoption Centres claim that there is no specialised fostering for children victims of human trafficking and that foster families cannot respond to the needs of these children. If these claims are connected to the response received by the Centre for Human Trafficking Victims' Protection about the number of child victims of trafficking who have been referred to foster families in 2021, one might ask (ASTRA in fact did send an additional request to clarify this issue, yet no answer has been received) whether and in what way the foster families have received training for the reception of child victims of human trafficking. In case they have, who supervises them and provides counsel if needed. The Centre responded that 21 child victims of human trafficking had been placed in foster families in 2021.

Finally, women victims of human trafficking, just like the previously described categories, belong to a vulnerable group, and the issue of their accommodation remains open too. As it is emphasised in the report, women victims were often placed in safe houses for the victims of violence in 2021, yet in these situations problems did occur due to inexistence of the licenses for the provision of support to human trafficking victims, which resulted in accommodation requests being denied.

The Centre for Human Trafficking Victims' Protection as a social care institution performs final identification of human trafficking victims, based on preliminary identification. In 2021, with the support by the OSCE Mission to Serbia, the indicators for the formal identification of human trafficking victims were made. The reason for a prolonged waiting for the development and adoption of the indicators was the lack of funds. When asked about accessibility of the indicators, the Centre stated that this document was made available on demand. So, the indicators for the formal identification have been made after all, almost ten years after the institution's establishment. However, the issue of their implementation in practice remains open, as well as that of the authority competent for their adoption, since a document like this must be adopted by the competent body and in line with the corresponding procedure. Deciding on such an important question cannot be a part of an internal procedure of any institution individually.

The number of reports per professional worker is 42.3, while the number of cases per professional worker is almost two and a half times higher and amounts to 104.3. The reasons for this trend¹⁴⁰ may be found in the fact that cases are transferred from one year to the next. In 2021, professional workers went out in the field within 24 hours after a report of a potential victim in 67 cases. The total number of reports of suspected trafficking in human beings was 122.¹⁴¹ The average time between a potential victim being reported and the first interview was 1.2 days, noting that what we had here was the first contact and making the person familiar with his/her rights, and agreeing on future cooperation. There are no data about the number of cases where there was no contact with the victim.

There is a big difference between the number of first interviews that were made in the Centre (only five), and those made outside the Centre's premises (as many as 150), i.e. in the premises of other institutions (police, CSW, etc.).

140 The research made for the previous edition of the Institutional Barometer resulted in similar findings, so we may now say that this has been a trend.

141 <https://centarzztlj.rs/wp-content/uploads/2022/03/20220228102824.pdf>

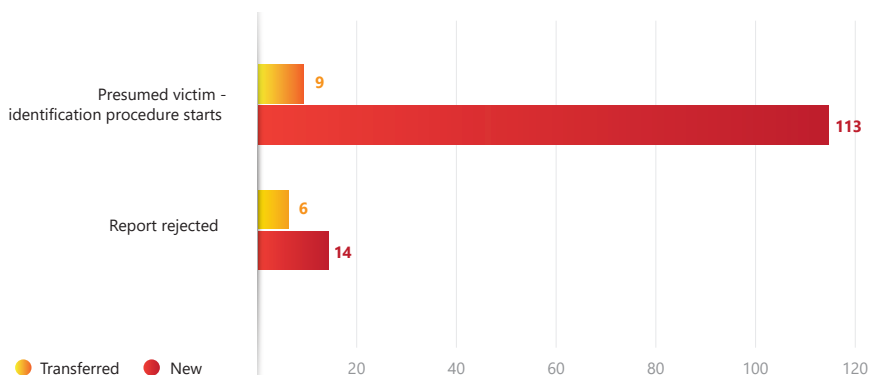
Case ASTRA ID 6664

In the case of this ASTRA beneficiary, a professional worker of the Centre informed us that the interview with the victim would be made in the premises of Belgrade Police, Department for Combating Human Trafficking. When asked by ASTRA why this identification was about to be performed in the police premises, which was not a common practice, the professional worker informed ASTRA, both orally and in writing, that this would serve to avoid another testimony by the victim in relation to regulating the residence status (the ASTRA's beneficiary haven't had her residence status regulated to this very day) and prevent secondary victimisation. The interview lasted for four hours and was attended by six persons (two representatives of the Centre, two inspectors, a translator and the lawyer), which certainly did not contribute to avoiding secondary victimisation. Upon the lawyer's written request to have the act confirming the beginning of formal identification of the victim delivered to her, the professional worker announced that the Centre did not customarily communicate with lawyers and that she should clarify all issues with ASTRA.

Even though information was received that the assessment of the victim's needs and the beginning of realisation of the support, i.e. provision of required services would be realised on the same day, ASTRA's practice has shown that situation in the field is different. It has happened that certain delays in realisation of support to victims occurred due to logistic and administrative obstacles, and that response by a therapist, doctor, etc. was waited longer than it was expected.

The average duration of support is 2.7 years, while the number of the beneficiaries who received support in 2021 was 311. During 2021, 127 new reports were received, in addition to 15 reports from the previous year. For 122 of these cases, identification procedure was initiated.

Illustration 12: The manner of concluding actions upon reports to the Centre for Human Trafficking Victims' Protection in 2021



The total of 46 victims of trafficking in human beings were identified in 2021, while the average duration of identification procedure was 21 days. The Annual Report of the Centre for 2021 does not contain data about the number of procedures in which it was established that the presumed human trafficking victims were not formally identified as victims. Graph 1 shows that the process of identification was started in 113 cases (new reports), while reports were rejected in 14 cases. In 9 cases, the process of identification was started based on transferred reports, 6 of which were eventually rejected. The reasons for the rejection of the reports are not given in said report. The activities realised in 2021 concerning work with presumed and identified victims of human trafficking and formal identification procedure included: identification interview (75), assessment of beneficiaries' needs (82), development of findings and opinions, reports, protection plans and conclusions of the team (212), filling in envisaged forms (825), regulating temporary residence (2), records and documentation of cases (filling in monitoring lists, file organisation, keeping records of working on cases, etc.) (2,453). As one of its activities, the Centre also lists advocacy and lobbying for victims' rights (752).

In their 2021 Report, the Centre reiterates, just like in previous years, that some of the basic resources necessary for realisation of activities were unavailable in the first trimester. The reason for this was late allocation, so the Centre didn't have the funds for the fuel necessary for field work.

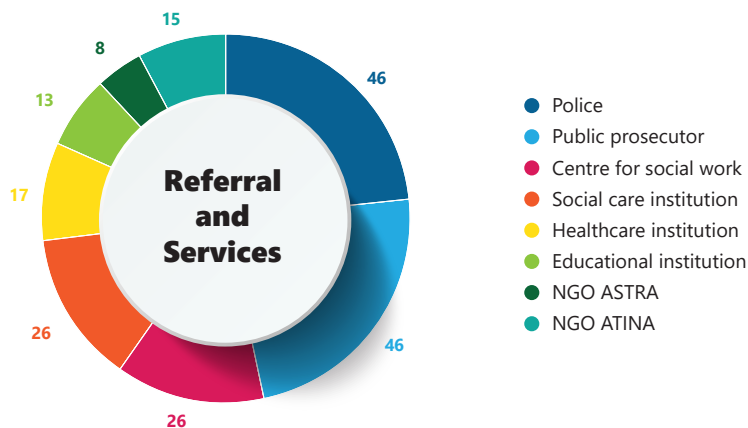
Referral and Services

The Centre provides precise data concerning the number and structure of the referrals of human trafficking victims to competent bodies and institutions (police, public prosecutor, education institutions, civil society organisations and a specialised organisation which provides support to human trafficking victims, i.e. Victimology Society,¹⁴² violence against women...) as is shown in Illustration 13 below.

When asked about the referrals, the Centre provided some clarification. In the system of social protection, centres for social work are referral authorities, so the Centre for Human Trafficking Victims' Protection does not have referral of beneficiaries among their competences. However, data are forwarded to other bodies when assessed that a beneficiary needs their assistance. Graph 2 provides the number of the beneficiaries who, having received information from the Centre about the possibility of receiving support from specialised NGOs, accepted help by the Centre in establishing contact with such NGOs, and these numbers involve human trafficking victims identified in 2021.

142 Victimology Society of Serbia. <https://novisajt.vds.rs/>

Illustration 13: Number and structure of referral of human trafficking victims



Pertaining to the competences of the Centre, one of the problematic solution in the latest Draft Law on Social Protection is the one designating that the Centre, in addition to assessing the condition, needs, strengths and risks of the person in the process of identification *“provides services of assessment and planning, the service of urgency accommodation of human trafficking victims and other services that may be provided within the separate organisational unit, in line with the law”*. Should this legislative draft be adopted, the Centre will also provide social protection services. The Statute of the Centre stipulates that it *“coordinates the activities of social protection services provision”*. After the formal identification of a person as a human trafficking victim, the institution should refer such person to other social protection agencies that would provide necessary services. It is important to note that the solution contained in the Draft Law on Social Protection is in direct collision with the Statute of the Centre. Institution which performs direct identification of victims should not at the same time provide services, coordinate social protection service providers and assess the results of the provided services.

According to ASTRA’s records, the Centre for Human Trafficking Victims’ Protection referred to ASTRA only one victim of trafficking in human beings. According to the Centre’s records the number of the victims referred to ASTRA was 8. The reason for this discrepancy may lie in the fact that the Centre keep their records in line with a different methodology and they perceive this question differently. Namely, the Centre clarified that it had contacted ASTRA a number of times with the intention of securing the necessary type of support for their beneficiaries from ASTRA, in the cases where ASTRA had not been involved previously, which was in their opinion a referral.

The Centre is not authorised to provide direct financial support, or healthcare services, yet the Centre claims that a great number of services was provided for each individual beneficiary, without specifying the exact number, type,

or provider of the services. Without the exact data about the number, type and providers of the services, a comprehensive analysis of the level to which beneficiaries' needs were satisfied can hardly be made.

There are no records concerning the issue of human trafficking victims' safety assessment, or the number of received assessments.

Through the activities of coordinating human trafficking victims' protection, the Centre makes assessments and determines which services would be the most adequate for beneficiaries' needs, and together with the beneficiaries, it develops protection plans. These plans involve other service providers, as well as other types of support. The Centre developed the total of 90 individual plans in 2021, while the average number of the fields of work per individual service plan was 3.6 in 2021. In the previous edition of the Institutional Barometer, where the number of identified victims was 76 and the Centre developed the total of 24 individual plans (i.e. 32 according to the Annual Report), it was concluded that more than two thirds of the identified victims had not had individual protection plans developed for them. The situation is now different, with almost half as many victims (46) with as many as 90 individual protection plans. In their response, the Centre emphasises that they provide this type of support not only to formally identified victims, but all beneficiaries from the moment when the process of identification has started. In case a person is not identified as a human trafficking victim, the Centre also assesses other risks and provides recommendations for further work of other institutions/agencies. Considering the fact that some reports had been transferred from the previous year, and the process of identification was initiated for 122 cases, it remains unclear for whom these personal protection plans were developed. Protection plans must be implemented and reviewed to make sense. The question pertaining to the number of the plans that were reviewed in 2021, was left unanswered. It is noted that when the need for revision of a protection plan occurs, a new plan is made instead, which could be a part of the explanation concerning the significant increase in the number of developed individual protection plans in 2021.

In their Report on Operation for 2021, the Centre provides their own assessment of the quality of work and some potential causes for this: *What is noticeable is a small number of identifications among migrants, undoubtedly an especially vulnerable population, as well as a small number of the reports coming from the education system, even though the percentage of children among human trafficking victims has been high for years... Due to the deficit in human resources, but also other means for work, such as fuel in the first half of the year, it was hard to respect the deadlines, yet the principle of urgency has been of primary concern when establishing priorities in work. Due to the lack of employees and a great number of cases, as well as the impossibility to gather all actors in one place, it was not always possible to make protection plans on time.*

Financing of the Centre for Human Trafficking Victims' Protection

In 2021, the Centre received funding for financing its activities from two sources: funding received from the budget of the Republic of Serbia, and the funding received based on the donation agreement with the German Organisation for International Cooperation – GIZ. In 2021, the Centre received a little bit more than 21 million RSD, or approximately 181 thousand EUR.¹⁴³ Out of the total budget, almost 98% (97.67%) was spent on the employees: payment of salaries, taxes and contributions. Other costs concerned implementation of the activities by the Centre and working with victims, field tours, visits to beneficiaries and identification, and the funding was received under the Support to Social Protection Institutions' Operation, after the budget rebalancing, and it amounted to 8 million RSD. This was the reason that a majority of the activities were implemented in the second half of the year.

Table 6: Other significant expenses of the Centre

#	Cost type	Amount
1	Services concerning computers and servers' maintenance programmes	RSD 1,198,000
2	Business trips per diems (including unpaid per diems for 2020)	RSD 960,000
3	Material costs – fuel for Centre's cars	RSD 777,000
4	Services per agreements (administrative services)	RSD 733,000
5	Office materials	RSD 543,000
6	Professional services (lawyers for court proceedings concerning the victims, translation services)	RSD 498,000
7	Regular repairs in the Centre (heating, installing ACs, servicing)	RSD 488,000
8	Hygiene products for the Centre and Shelter	RSD 181,000
9	Professional literature for the employees	RSD 132,000

There are no available data, nor were they submitted upon the request made by ASTRA, concerning the average amount of funding spent from the Centre's budget on providing support to a victim within a single year.

¹⁴³ 21,372,000 RSD or 181,779.96 EUR according to the average EUR exchange rate for 2021: https://mbs.rs/sr_RS/finansijsko_trziste/medjubankarsko-devizno-trziste/kursna-lista/prosecni-kursevi/index.html

Table 7: Number of identified human trafficking victims per year and overview of the Centre's annual budget

Year	2018	2019	2020	2021
The number of the formally identified victims	76	39	57	46
Annual budget received from the state (in EUR)	127,430	203,812	173,051	309,802

The data from the table point to a couple of peculiar facts: the increase in budgeting for 2019 (59.9% more than in the previous year), did not cause an increase in the number of the identified victims. On the contrary, the number of identified victims was at the record low. Furthermore, the year of 2020, famous for its Covid-19 pandemic outbreak, establishment of strict measures and curfews, professional workers working from home, lower budget, etc. inexplicably led to an increase in the number of identified victims when compared to the previous year. Finally, the budget increase in 2021 (79% more than in 2020) was once again not reflected in an increased number of identified victims

Institutional Embedment

The Centre for Human Trafficking Victims' Protection is responsible to the Ministry of Labour, Employment, Veteran and Social Affairs which in turn is responsible to the Government of the Republic of Serbia. The Centre cooperates with all the institutions relevant in the field of combating and preventing human trafficking, these being: police, centres for social work, judicial bodies, non-governmental and international organisations. What is missing is the Centre organising its work in a way which would reach a wider public – citizens as potential beneficiaries of the services, in line with the activities quoted in the Centre's Statute.

As a social protection institution, the Centre coordinates activities of providing social protection services to human trafficking victims, and it cooperates with centres for social work, institutions for accommodation of beneficiaries, other bodies, agencies and civil society organisations, in order to secure the best interest and safety of human trafficking victims. When asked about the number of cases in 2021, in which professional workers of the Centre were asked to provide their findings and professional opinions in writing, or by coming to a hearing was 122, and all these were forwarded to the police, or competent public prosecutor's offices, without waiting for the request.

In 2021, a professional worker of the Centre wrote one complaint against work/action by another body/institution, while the Report does not specify what body/institution this was.

In 2021, the Centre contacted civil society organisations that provide assistance and support to human trafficking victims – ASTRA (8) and Atina and other (15). The number of case conferences scheduled in 2021 was 82.

By the end of 2021, the Centre signed the total of 17 protocols of cooperation with other bodies, institutions and organisations.¹⁴⁴ In spite of the Agreement on Cooperation being signed with the National Employment Service, when asked about the number of victims who found and kept job after the AoC had been signed, the Centre answered that they did not have this information.

Institutional Legitimacy

In 2021, there were no potential victims who refused or gave up on their cooperation with the Centre, or cases closed because the victims believed that did not need support anymore. Furthermore, there were no complaints against the work by the Centre in 2021.

In line with article 40, paragraph 3 of the Centre's Statute, Supervisory Board of the Centre makes proposals for amending potential oversights and improvement of the work by the Centre. In 2021, one Supervisory Board session was held, however, there were no considered proposals for amending potential oversights and improvement of the work by the Centre. When asked about the number of cases, since the establishment of the Centre, where trafficking was repeated after the victim had left the human trafficking ring, in 2018 the response was that no official records were kept, while this year we were told that there had been 5 such cases.

¹⁴⁴ In the Centre's annual report for 2021, it is mentioned that a memorandum of understanding was signed with the citizen's association Sloboda nema cenu (Freedom Has No Price) from Novi Sad, which combats trafficking in human beings, as well as with the Municipality of Trstenik.

Recommendations

1. Even though the Centre improved accessibility of some data pertaining to their work (Statute, Rulebook on Operation, Systematisation of Professional Positions all available at the Centre's website), there is much room for improvement of accessibility, adequacy and transparency of the data.¹⁴⁵
2. Furthermore, there is no consistency in reporting, since the data acquired from the publicly available documents (Annual Operation Report by the Centre, Report on Material and Financial Operations) are not comparable, as the very manner of reporting changes each year, which makes monitoring of different trends, or making valid conclusions pertaining to the work of this institution more difficult. What needs to be commended are more comprehensive monthly reports published at the Centre's official webpage since January 2022.
3. When it comes to the number of employees in the Centre, it is clear that there is a great need of engaging a number of additional professional workers. The process of identification and coordination of assistance to human trafficking victims involves only 4 professional workers who, in addition to their regular job, are also engaged in other activities, such as participating in different events, organisation and realisation of trainings by the Centre, etc.
4. The Centre should plan and secure sufficient funding for the provision of direct assistance to victims, as well as to secure uninterrupted functioning of all aspects of work (field visits throughout the year, more comprehensive and frequent direct support to victims).
5. The indicators for formal identification of human trafficking victims were made in 2021. What indeed requires improvement concerns practical implementation of the indicators during the identification process. However, before that, the indicators need to be officially adopted by the competent authority using the appropriate procedure, thus lifting the question of formal identification to a higher level, bearing in mind that an issue of such major importance cannot be decided on in a discretionary manner.
6. The Centre should develop and implement procedures for the assessment of satisfaction of beneficiaries with the services provided by the Centre, as well as to periodically implement independent external evaluation, which would be the basis for the improvement of the quality of work.

¹⁴⁵ Professionals have continued to report the lack of transparency when it comes to official identification of victims, as well as the Centre's inability to consistently assess potential victims. US Department Trafficking in Persons Report 2022 – Serbia. https://drive.google.com/file/d/1Y_yTzT_UWVZSZ1a9mX1Bqv2zg4zPglZN/view

7. The Centre should develop a clear complaint procedure, including: complaint against the act which determines the status of the victim of human trafficking, as well as the possibility of complaining about the work of a professional worker of the Centre working with beneficiaries, and to familiarise all actors with these procedures.
8. The Centre should continuously develop and expand cooperation with the civil society organisations that provide support to victims in order to provide support programmes to victims which are as comprehensive as possible, and to best support their social inclusion (or repatriation, in cases of foreign nationals).
9. In the interest of victims and their better information, every victim should receive written, clear, precise and concise overview of the existing services and organisations that they have at their disposal, if possible with the signed confirmation of the reception of such information.
10. The Centre should continue to promote its position of the coordinating institution in combating trafficking in human beings, but also improve inclusion, support and transparent cooperation with the actors with years of experience in the field (primarily CSOs), thus strengthening the common front of prevention and combating human trafficking, in the best interest of the victims and with their maximum inclusion in the process.
11. The Centre should develop and strengthen operative contacts with similar institutions and competent bodies in South East Europe, and beyond, due to an increased number of potential human trafficking victims from Asia in Serbia, but also due to the fact that these have been the main destination countries for Serbian human trafficking victims.

Illustration of the “Baskets” of Indicators



Illustration of the “Baskets” of Indicators

Given the completely different nature, roles and competences of analysed institutions, we formulated sets of fairly diverse indicators that suited the purposes of our research. As explained earlier, in the section on the methodological framework, after a detailed analysis at the very beginning of our work, a large number of indicators was placed in three “baskets” to be used for each of the observed institutions, either in the totality of their competencies or in certain parts. For each observed institution, we then rationalised the number of indicators with the view to identifying those that will provide an adequate picture, i.e. those that could be applied in order to capture the most complete image of the three dimensions of institutional effectiveness. During the analysis and the testing of methodology, some of these indicators were modified based on their inability to capture effectiveness, embedment or legitimacy of institutions in question. In addition, due to the absence of available data required for the analysis, we were left with no other option but to choose “second best” indicator.

It is specifically because of the reasons mentioned above that it was impossible to identify either common indicators or those that could be universally applicable to all institutions. Needless to say, this has never been the intention of the selected methodological approach. As pointed out earlier, the effectiveness of the institutional arrangement as a whole could only be measured if separate methodological frameworks were produced for each of the institutions that comprise it. Along the same lines, due to the different roles of observed institutions, their fields of competences or the rights they are protecting, it is impossible to talk about common trends that would apply across the board or formulate common recommendations – only some very general ones. Because of this, separate recommendations were provided for each of the observed institutions based on the conducted analysis.

For the purposes of easier understanding of the methodological approach, we will use illustrations to present the indicators, or sets of indicators, that are deemed adequate for comprehending the rationale behind each of the “baskets.” It is worth noting once more that illustrations are offered for the sole purpose of easier understanding of our methodological approach. It goes without saying that neither of the indicators presented below is applicable to all of the observed institutions. Moreover, even in the cases where the opposite is true, it does not necessarily mean that the indicator’s significance is the same, or that the indicator is equally relevant for the purpose of assessing the effectiveness of observed institutions.

Through the illustrations provided below, we present the approach of prEUgovor coalition which allows us to determine which “parts of the engine” do not function properly, i.e. which parts should be “fixed” or “replaced” and, most importantly, provides us with the answer as to how to go about it.

Internal Efficacy

Illustration 14: Indicators of internal efficacy

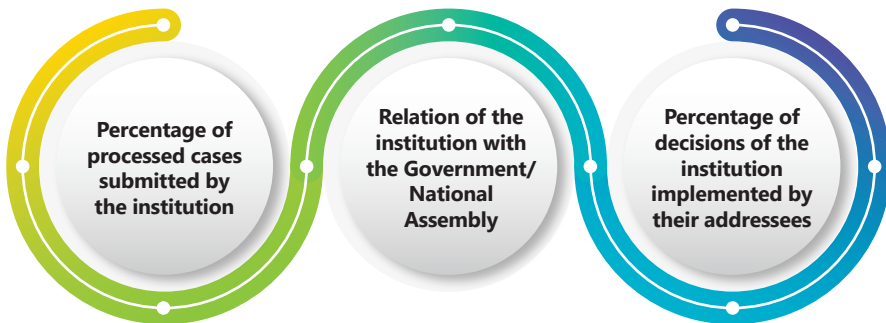


The three above shown indicators were selected to illustrate the internal efficacy “engine”. In this manner, it is possible to take a closer look at the level of internal efficacy of observed institutions. The selected indicators are mutually intertwined. The ratio between the received and processed cases is one of the most important indicators of institutional efficacy. On the one hand, it shows the extent of internal efficiency in handling cases within the prescribed competences, while on the other it provides insight into the actual workload. The institution could therefore be overburdened, i.e. having many cases to process with very limited resources/capacities. However, the situation can also be reversed, where an institution could have at its disposal capacities that exceed its actual needs, which would be a clear indicator that organisational restructuring and rationalisation might be necessary. These are the exact reasons why, when looking at internal efficiency, the most relevant set of indicators is grouped under institutional resources. This includes not only human resources – although their importance cannot be stressed enough – but also those that are financial and technical, including resources relating to adequate working space. Therefore, this set is comprised of indicators that address the ratio between the jobs envisaged by the internal acts of systemisation of job position and the number of filled posts, financial resources earmarked in the state budget, percentage of the executed budget, availability of technical equipment necessary for work and, finally, adequate working space. Finally, we looked at how the observed institution utilises the resources at its disposal.

In addition to the above considerations, another important factor is the average time spent on each processed case, which is directly related to the pre-existing case backlog. If the deadlines for processing cases are prescribed by law, not only it is important to assess whether the observed institution acts within these limits, but the citizens' access to certain rights within the institutional competences directly depends on this. If the institution fails to act within the deadlines prescribed by law, in addition to infringing upon citizens' rights this also contributes to the increase in backlog cases. As described at the beginning of this publication, internal efficacy is therefore directly related to the perceived legitimacy of the institution. Lack of internal efficacy over longer periods of time inadvertently leads to the increased dissatisfaction of citizens and loss of trust.

Institutional Embedment

Illustration 15: Indicators of institutional embedment



Even when presented like this, measuring of institutional embedment was the most difficult part to illustrate, given the fact that each of the observed institutions operates within its own unique "ecosystem" and cooperates with various other actors within a common institutional arrangement. This means that within the scope of this analysis we have actually observed six different "ecosystems". Therefore, indicators that comprise the institutional embedment basket should provide us with a clear picture of how other institutions, within the same ecosystem, respond to the observed institution. This is why we have selected the three indicators presented in this section. Therefore, the results of work of the observed institution represent, on the one hand, its outputs, whereas, on the other, they serve as inputs for other institutions. This relationship is of extreme importance for institutional effectiveness. If other parts of the same "ecosystem" are not adequately responsive, that could lead to a lower level of effectiveness of the institution in question. This is how we can identify "breaking points," i.e. determine whether the actual problem is caused by the lack of efficiency of the observed institution, or the actual issue lies elsewhere within the "ecosystem", or perhaps both. As

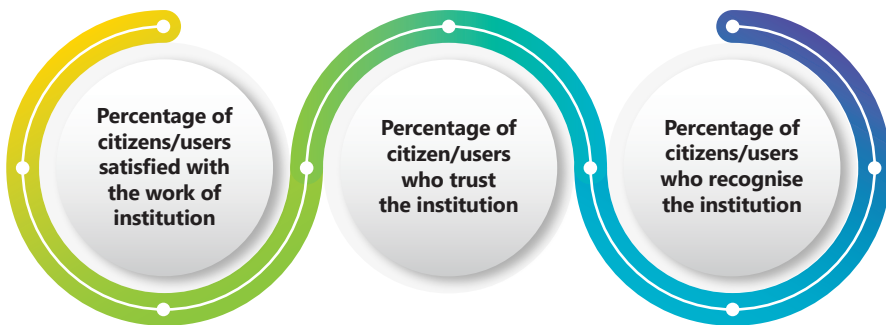
we pointed out earlier, in this manner we cannot determine the exact reason for the lack of effectiveness of the institutional arrangement as a whole, but it is possible to detect where the problem is located and provide a general direction that could lead to its resolution.

The second indicator described here represents the relation of the observed institution with the two branches of power, namely the National Assembly (legislative) and the Government (executive). This relation, first and foremost, relies on the fact that the National Assembly regulates the "ecosystem" with its legislative powers by creating and amending normative acts. With this in mind, it is extremely important whether or not the observed institution has a role in this process and, if it does, how well the National Assembly responds to proposals, comments and suggestions submitted by the institution. In addition, the National Assembly provides the funding necessary for the functioning of institutions by adopting the budget, approves internal enactments that regulate the systemisation of job positions within the institutions, and frequently adopts reports submitted by them. The relation with the Government of the Republic of Serbia is also very important since the Government is in charge of governing the state as a whole, including the policy areas within which observed institutions operate. These are, in turn, dependent on the Government in various ways, whether being in charge of implementing strategic acts adopted by the Government or due to the fact that their work is conditioned by particular Government's actions.

Finally, the third indicator addresses the relationship between the observed institutions and the prosecution and judiciary. This relationship is of utmost importance, especially in cases where the observed institution has legal prerogatives to initiate criminal or misdemeanour proceedings. However, even when this is not the case, efficient judicial protection and criminal policy is crucial for the functioning of each particular "ecosystem". A particularly important aspect of this relation is the case when the decisions of the institution itself can be challenged in the court of law, because in this manner it is possible to measure the legality of the decisions made by the observed institution.

Institutional Legitimacy

Illustration 16: Indicators of institutional legitimacy



Measuring institutional legitimacy within the applied methodology can be best illustrated by the three indicators presented here. The first and most important criterion that was taken into consideration is whether or not citizens or end-users that are referred to it actually recognise the observed institution. This boils down to the relationship between the citizens and the institution, or to be more specific, to whether or not the citizens are: aware of its existence; know its competences; know how and when to contact the observed institution; know what to expect in terms of response, etc. Therefore, the precondition for assessing the institutional legitimacy is the issue of how well-known it is among the citizens/users. The second indicator presented here is the level of popular satisfaction with the service/work of the observed institution. This satisfaction must be measured by observing two groups of respondents: the first is comprised of individuals who recognise the institution but have never had direct contact with it, and the second of those who have had. The third indicator presented here relates to the level of trust, which is also measured by observing two groups of respondents: those who have not had direct contact with the institution, with particular emphasis on their willingness to refer to it in cases where “it might provide help” (i.e. whether they would seek its services/help if needed); and those who have had direct contact, with focus on whether they would contact it again. In both cases, the most important issue that needs to be addressed is the “success” of their petitions, in each specific case, namely whether the desired outcome has been achieved. Those who have not had “success” in this course are more likely to be dissatisfied with the performance of the observed institution, which inadvertently leads to lower level of trust.

In the course of this research, coalition prEUgovor did not have the means to conduct a detailed public opinion poll, which should have included both the general public and individuals who are the end-users of the six observed

institutions. Therefore, the data used for this basket of indicators mostly came from other available sources, such as research conducted by the institutions that were the subject of this study (when available), other civil society organisations or various other actors. Unfortunately, for most of the six observed institutions it was impossible to provide sufficient amount of data to reach concrete and definite conclusions.

At the very end, it is worth noting once more that this is the first, pioneering edition of coalition prEUgovor's Institutional Barometer. The methodology used will undergo revisions and adaptations in years to come and, with a view to obtaining relevant and concrete data, additional efforts will be invested toward conducting public opinion polls, starting from the next cycle of measuring the effectiveness of institutions.

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About prEUgovor

Coalition prEUgovor is a network of civil society organisations formed in order to monitor the implementation of policies relating to the accession negotiations between Serbia and the EU, with an emphasis on Chapters 23 and 24 of the *Acquis*. In doing so, the coalition aims to use the EU integration process to help accomplish substantial progress in the further democratisation of the Serbian society.

The member organisations of prEUgovor are:

Anti-trafficking Action (ASTRA)

www.astra.rs

Autonomous Women's Centre (AWC)

www.womenngo.org.rs

Belgrade Centre for Security Policy (BCSP)

www.bezbednost.org

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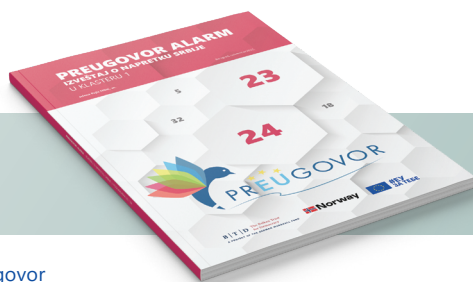
Group 484

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