

THE ANTI-CORRUPTION COUNCIL
OF THE GOVERNMENT OF THE REPUBLIC OF SERBIA

ANNUAL REPORT 2004

During 2004 the Anti-Corruption Council held 22 meetings, considering and adopting reports and initiatives it submitted to the Government and recommending measures for combating corruption.

On 1 April the Council recommended the Government to appoint three new members of the Council, Ms Jelisaveta Vasilic, Mr. Milic Milovanovic and Mr. Danilo Sukovic. At the meeting of April 15th, the Government accepted the Council's recommendation and appointed the three new members. In 2004 other three members of the Council resigned, namely, Ms Zagorka Golubovic (March 9th), Mr. Vojin Dimitrijevic (June 4), and the former Vice-President of the Council, Mr. Ivan M. Lalic (October 13th). At the meeting of November 1 the Council appointed Mr. Miroslav Milicevic as Vice-President of the Council. Presently the Council has ten members:

Ms. Verica Barac, President
Mr. Miroslav Milicevic, Vice-President
Ms. Jelisaveta Vasilic
Ms. Radmila Vasic
Mr. Milic Milovanovic
Mr. Danilo Sukovic
Mr. Stjepan Gredelj
Mr. Dusan Slijepcevic
Mr. Aleksandar Curcic
Mr. Vladimir Goati

The OSCE Mission to Serbia and Montenegro is an associated member of the Council, represented by Ms. Svetlana Zorbic, who attends the meetings of the Council.

I - REPORTS AND INITIATIVES SUBMITTED TO THE GOVERNMENT

During 2004 the Council adopted and submitted numerous reports, information and initiatives to the Government, which did not always strike a cord.

The Council did not wish to submit merely a formal annual report to the Government, but an analytical estimate of the Council's efficiency. We feel that it would be useful for combating corruption efficiently if the Government gave the Council recommendations and suggestions for further work and if it assessed the results of our work. The purpose of the existence of the Council is to assist the Government in combating corruption, and the Council cannot fulfill its role without open and critical dialogue with the Government.

In that context, we have made a list of written communications forwarded by the Council, summarizing the impact they made respectively:

1. Information regarding the questions of the Council forwarded to the Commercial Court concerning the bankruptcy of the Company "Sartid" (February 16th), on February 27th, and March 29th;
- The Council received replies from the Commercial Court in Belgrade, as well as the required documentation, according to which the Council made the Report on the Bankruptcy of "Sartid";
2. First Supplement to the Report on the Policy and Process of Privatization – "Veterinary Institute" /"Veterinarski zavod"/ in Zemun (February 18th);

- On February 27th the Council received a reply regarding the process of privatization of the Veterinary Institute (“Veterinarski zavod”) from the Privatization Agency; later on, this reply served as a basis for the Council’s reports on the Veterinary Institute and the work of the Privatization Agency (in preparation);
3. Second Supplement to the Report on the Privatization Policy and Process – companies “Agroseme” from Sremska Mitrovica, “PKB Transport” from Kragujevac, “15 Septembar” from Valjevo (March 2nd);
 - On March 18th, the Privatization Agency responded to the findings of the Council regarding the privatization procedure of the three above mentioned companies; these replies were also taken into account when elaborating the Report on the Privatization Agency;
 4. The second part of the Report on Sugar Exports to the European Union member states (March 9th);
 - Findings from both Council’s reports on sugar exports to the European Union member countries were considered at the meeting held on July 13th between the Government and the Council. The Government announced the launching of an in-depth investigation of this case by the Office for Combating Organized Crime and on this occasion the members of the Council met with representatives of the Office for Combating Organized Crime; the Office sent its Report on Sugar Exports to the Council, by which it practically invalidated the Council’s findings because the fact of the illegal import of over 100,000 tons of sugar was not mentioned in the Report. However, denying these facts did not help Serbia and Montenegro to restore its original preferential status nor did it convince the European Union that the sugar exports were corruption-free;
 5. The Report on the Policy and Process of Privatization, supplemented version (March 15th);
 - At the meeting between the Government and the Council held on March 15th, Mr. Dragan Marsicanin, the then Minister of Economy, supported the Council’s Report on the Privatization Policy and Process and announced changes in the work of the Ministry of Economy and the Privatization Agency, in accordance with the Council’s findings;
 6. Recommendations and suggestions concerning the Draft Law on the Prevention of Conflict of Interest in the Discharge of a Public Office (March 19th);
 - The Government acknowledged most of the Council’s recommendations, but it did not accept the recommendation, which the Council considered highly important, i.e. that, for the purpose of avoiding possible monopoly in nominating candidates for the Republic Committee, besides the Serbian Academy of Sciences and Arts (4 candidates), also the Republic Universities (4 candidates) and the Anti-Corruption Council (2 candidates) could make their own proposals;
 7. Report on the Bankruptcy of the Company “Sartid” (May 10th);
 - At the meeting between the Government and the Council held on July 13th, the Government accepted the Council’s Report, but concluded that it was unable to take any action; later on, the media reported that some members of the Government disputed the report (Minister of Finance), but not by challenging the facts from the Report, but by disparaging the Council and its members;
 8. Report on Regulations of the Republic of Serbia in the Field of Privatization, with recommendations for amendments (with the help of the OSCE Mission to Serbia and Montenegro, June 2004);
 - This Report was analyzed when amendments were made to the Law on Privatization, Law on Privatization Agency and the Law on the Shares Fund; key recommendations were made

by the Council and OSCE experts, referring to the necessary amendments of the Law on Privatization; we do not know what happened to these recommendations;

9. Initiative for the Government to investigate the public statements regarding the trip of some ministers of the Government of Serbia to the Olympic Games in Athens (September 15th, October 4th);
 - The Government replied to the Council's Initiative. However, when the Council declared it was not satisfied with the reply, the Government's spokesman, Mr. Srdjan Djuric, made a public statement disparaging the Council's President, again without challenging the facts the Council referred to;
10. Report on the Company "Jugoremedija" (September 16th);
 - At the meeting held on November 25th the Government considered this Report and adopted a conclusion accepting the Council's findings, but it also accepted the information supplied by the Shares Fund, which claimed that they were unable to initiate an action for the cancellation of the Contract because they did not have any money for that, and therefore, they would wait for the outcome of the suit initiated by the small shareholders; this attitude showed clearly that the Shares Fund had no intention to carry out the instruction of the Ministry of Economy and initiate an action for the cancellation of the Contract, while the Ministry took no measures against this non-feasance;
11. Report on "Veterinarski zavod" /Veterinary Institute/ (September 20th);
 - At the meeting of November 25th, the Government considered this Report and adopted a conclusion to postpone the introduction of interim measures in the "Veterinarski zavod". Nevertheless, at the meeting of December 9th, the Government introduced interim measures in the "Veterinarski zavod", although the Supreme Court had not yet decided on the administrative dispute following a claim by the Consortium of employees. The Council warned the Government of this in its supplement to the Report;
12. Supplement to the Report on the companies "Jugoremedija" and "Veterinarski zavod" (December 1st);
 - The Government gave no reply;
13. The Initiative for prevention of the sale of the business premises of the former Money Transfer Service (ZOP) (December 1st);
 - On December 2nd, the Government responded to the Initiative with a public statement, trying to deny, but only further substantiated the Council's statements;
14. Report on the National Savings Bank (Nacionalna Štedionica, A.D.) (December 8th);
 - The Government never responded to this Report, nor to the Council's proposal for the meeting between the Government and the Council regarding the Report;
15. Comments on the Review of the National Savings Bank, to the Council's Report on the National Savings Bank (December 13th);
 - So far the Government has made no reply.

At the beginning of 2005, the Council is going to submit to the Government reports currently in preparation: on "Mobtel" and on Corruption in the Customs Office. The Council is also planning to elaborate case-specific reports on the following companies: "C market", "Putnik", "Dunav osiguranje", "Inex-Interexport", and Departmental Stores /Robne kuće/ "Beograd".

In March 2004, the Council published a reference book “Corruption, Power and State – *Starting point, purpose and modus operandi of the Anti-Corruption Council* (in the years 2001-2004) – Part One” on the previous work of the Anti-Corruption Council.

At the beginning of 2005, the Council is going to publish Part Two of the book, comprising reports and initiatives of the Council adopted so far.

II COOPERATION WITH THE GOVERNMENT

After the parliamentary elections in December 2003, there was a change of government at the beginning of this year. At the first meeting between the new Government and the Council held on March 15th, it was concluded that the Government needed full cooperation of the Council in combating corruption. Consequently, the Council had great expectations about the first steps of the new Government, which were announced as measures for the establishment of the institutions of a state based on the rule of law. Nevertheless, after the first initiatives of the Council, the Government showed no interest in the Council’s recommendations, which was, at first, manifested through its rejection of, or disregard for, the Council’s anti-corruption initiatives regarding particular cases and later on it turned to public discrediting of the Council and its members. At the same time, obtaining information from the Government bodies required for elaboration of reports became an additional problem, which was particularly expressed with the Privatization Agency (e.g. the Agency has not yet provided the Council complete documentation requested on February 24th and November 3rd, which the Council needs to prepare a report on the efficiency of the Privatization Agency), and all this despite the fact that from the very moment of its establishment the Council was given verbal assurances that it would have access to all available data and information.

We would like point out that, by the revision of the budget of the Republic of Serbia of October 19, the funds foreseen for the Anti-Corruption Council were reduced from YU Dinars 20 million to 9.85 million. Besides, the Council’s budget quotas were fixed so that the Council could not use most of the remaining funds for its work, and consequently, on November 30th, we submitted a request to the Ministry of Finance for allocation of funds, which were subsequently granted from the budget reserves. For these reasons, the Council was unable to engage more experts and investigate a number of cases considered at its sessions.

On a number of occasions, members of the Council met with members of the Government regarding different reports and initiatives. The following meetings are regarded as especially significant for the future work of the Council and mutual cooperation between the Council and the Government:

1. January 23rd – public meeting regarding the Council’s Report on the Privatization Policy and Process, with the Minister of Economy and Privatization, Mr. Aleksandar Vlahovic, and the Director of the Privatization Agency, Mr. Mirko Cvetkovic;
2. March 15th – meeting with the Prime Minister, Mr. Vojislav Kostunica, the Secretary General, Mr. Dejan Mihajlov, the Minister of Finance, Mr. Mladjan Dinkic, and the Minister of Economy, Mr. Dragan Marsicanin, regarding the conditions for the future work of the Council, and cooperation between the Council and the Government;
3. July 13th – meeting with the Prime Minister, Mr. Vojislav Kostunica, the Minister of Finance, Mr. Mladjan Dinkic, and the Minister for International Economic Relations, Mr. Predrag Bubalo, regarding the Council’s reports on sugar exports to the European Union

member states and the bankruptcy of the Company “Sartid”, as well as the dismissal of Mr. Branko Pavlovic, the Director of the Privatization Agency;

4. November 23rd – Ms. Verica Barac, the President of the Council met with the Prime Minister, Mr. Vojislav Kostunica regarding the Council’s reports on “Jugoremedija” and ‘Veterinarski zavod”.

The meetings between the Government and the Council did not significantly contribute to combating corruption. The Government agreed to take some measures to solve the indicated problems (for instance, sugar exports to the EU member states), but failed to do it later on, while in other cases the Government concluded it was powerless to take any actions (e.g. “Sartid”), and it did not accept any of the Council’s recommendations for the solution of the problem (e.g. “Jugoremedija”, “Veterinarski zavod”). The Council proposed the Government to have more frequent meetings concerning concrete issues on its agenda. Nevertheless, the Government neither responded to these initiatives, nor accepted them. Primarily because of the lack of communication, misunderstandings between the Council and the Government occurred from time to time and escalated into public disagreements, especially after the Council submitted to the Government its Initiative to investigate the public statements regarding the trip of the ministers of the Government of Serbia to the Olympic Games in Athens. The Government spokesman, Mr. Srdjan Djuric, responded to this Initiative by disparaging the President of the Council. On several occasions (e.g. in the case of the Council’s Initiative to stop the sale of the business premises of the former Money Transfer Service (ZOP), the Government never officially replied to the Council’s letters, but made public statements regarding that.

The Council still believes that meetings between the Government and the Council should be held more frequently, and that these meetings should be more formal, organized with an agenda, printed material and a list of participants, in order to avoid possible misunderstandings (e.g. as at the meeting of November 23rd, which was scheduled as a meeting between the President of the Council with the Prime Minister, but the Prime Minister also summoned a number of officials of the Ministry of Economy and the Shares Fund of the Republic of Serbia, without notifying the Council).

We also think that the Government should consult the Anti-Corruption Council regarding the legislative activities more often than it is doing now, as cooperation has not been satisfactory so far. The Council was not informed about the elaboration of some of the most significant anti-corruption laws (e.g. Law on Free Access to Information of Public Interest).

III – COOPERATION WITH OTHER ORGANIZATIONS AND INSTITUTIONS

In 2004 the Council continued its cooperation with the OSCE Mission to Serbia and Montenegro, an associated member of the Council. During the preparation of the National Anti-Corruption Strategy, the Council had excellent cooperation with the Office of the Council of Europe in Belgrade.

Regarding the elaboration of the National Strategy, the Council established cooperation with similar bodies in the region, first of all with the Government Commission for the Prevention of Corruption of the Former Yugoslav Republic of Macedonia. The President of the Council, Ms Verica Barac and the former Vice-President, Mr. Ivan M. Lalic, were guests of the Government Commission at the annual meeting for the implementation of the Government Programme for the Prevention and Curbing of Corruption, held in Ohrid from June 22nd to 24th.

Ms Verica Barac and Mr. Ivan M. Lalic also participated in the work of the First Regional Start-up PACO Conference – Impact of the Project “Implementation of the Anti-Corruption Plans in South-East Europe” held in Budva from July 8th to 10th.

Mr. Danilo Sukovic and Ms Radmila Vasic, visited Ljubljana between October 25th and 27th as members of the Working Team for the Elaboration of the National Anti-Corruption Strategy, following an invitation by the Commission for the Prevention of Corruption of the Republic of Slovenia and the Department for International Cooperation of the Ministry of Justice.

Regarding the privatization process, which the Council considers as the most important process of the entire democratic transition of the state and society of Serbia, in June this year, the OSCE Mission to Serbia and Montenegro elaborated for the Council a report on the privatization legislation of the Republic of Serbia with recommendations for changes and amendments.

During this year, the Council has been intensively cooperating with the Privatization Committee of the National Assembly of Serbia. Some members of the Council always took part in the work of the Committee when the Committee discussed cases followed-up by the Council and addressed in its reports.

IV – THE NATIONAL ANTI-CORRUPTION STRATEGY

We would like to emphasize the work on the elaboration of the National Anti-Corruption Strategy as highly significant for this year. The only countries in the region which have not adopted a national anti-corruption strategy are Serbia & Montenegro and Bosnia & Herzegovina. We believe that the Ministry of Justice and the Anti-Corruption Council, in cooperation with experts from the Council of Europe and OSCE, have made a very good draft of the National Strategy, which may be used as a basis for further anti-corruption campaign in Serbia and for better cooperation between the Government and the Council.

During 2004, the Council has been working intensively on the elaboration of a National Anti-Corruption Strategy together with the Ministry of Justice of the Republic of Serbia. Concerning the preparation of the Strategy, the members of the Council, Mr. Danilo Sukovic (since October 21st, as Coordinator of the Working Team for the elaboration of a National Anti-Corruption Strategy on behalf of the Council), Ms Radmila Vasic, Mr. Ivan M. Lalic (as Coordinator of the Working Team till October 21st), and President, Ms Verica Barac, who held a series of meetings at which the wording of the Strategy was defined and, subsequently, harmonized with the assistance of the experts of the Council of Europe at a workshop held at Palic between December 12th and 15th. Ms Verica Barac, Ms Radmila Vasic, and Mr. Danilo Sukovic took part in the workshop on behalf of the Council.

A round table, at which the final wording of the National Strategy is to be presented, is scheduled for mid-January.

V CITIZENS' COMPLAINTS

A large number of citizens address the Anti-Corruption Council on a daily basis, either by phone or by mail, sending their complaints about corruption. Only last year, by December 10th, the Council received 697 complaints.

Most of the complaints, even as many as 40.7 %, refer to corruption allegations in the process of privatization, mainly in companies privatized under the regulations from 2001. Complaints have been most frequently submitted by workers-shareholders (49%), then participants in auctions and tenders (40%), and finally trade unions (11%). A significant number of these complaints is included in the Report on the Privatization Policy and Process, as well as in the Report on the Privatization Agency (in preparation). The Council has also elaborated some case-specific reports on cases considered to be the most characteristic examples of corruption in the privatization process, including the Report on “Jugoremedija” and the Report on the “Veterinarski zavod”.

Besides the Privatization Agency and other institutions in charge of the implementation and control of the privatization process (the Ministry of Economy, the Shares Fund, the Central Securities Depository and Clearing House*), citizens are mainly complaining of* the corruption of courts (25 %) and the local administration, primarily the town-planning authorities (16% of the complaints submitted to the Council last year referred to illegal house building).

The Council has duly forwarded the received complaints to the bodies in charge for their further processing, requesting feedback information on measures it has taken, which has been used and will be used in future as the subject-matter of the Council’s reports. We believe that such contacts with citizens have so far helped us significantly to recommend to the Government as efficient measures for combating corruption as possible.

CONCLUSION

By its reports the Council has drawn attention to some typical cases of the derogation of public interest, aimed at pointing to the widespread problem of corruption in Serbia and at possible ways of curbing it. The fact that Council’s reports did not help the Government initiate actions to clarify all circumstances in each particular case or to initiate actions to establish responsibility places the corruption problem above the law and above the Government. The Government accepted the Report on “Sartid”, but has not taken any measures to determine who was responsible, which is discouraging for the public in Serbia. The Government simply ignored the Report on the National Savings Bank.

According to the Council’s experience and the opinion of some international organizations the Council cooperated with, an effective fight against corruption in Serbia calls for a different way of cooperation between the Government and the Council. We feel that open dialogue between the Government and the Council and a critical discussion of the problems indicated by the Council are indispensable, and that ignoring the Council’s work and the disparagement of its members are not the proper ways of responding to the Council’s reports. So far, the Government has not accepted an open and facts-based discussion of the problems indicated by the Council. We believe that by disregarding the submitted recommendations and evidenced reports the Government shows that it either does not recognize the devastating problem of corruption in Serbia or has chosen not to combat it. The Council feels that the existence of such corruption in Serbia makes the establishment of democratic institutions impossible.

Belgrade

President of the Council

30 December 2004

Ms Verica Barac