



**Republic of Serbia**  
**GOVERNMENT OF THE REPUBLIC OF SERBIA**  
**Anti-Corruption Council**  
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**Nemanjina 11**  
**B e l g r a d e**

**REPORT ON THE CAPACITIES  
OF THE BUDGET INSPECTION**

The Anti-Corruption Council (hereinafter: the Council), followed up the work of the Budget Inspection Department at the Ministry of Finance (hereinafter: the Budget Inspection) during a period of two years and, on the basis of the information and documentation obtained<sup>1</sup> from it, has prepared a report on the capacities of the Budget Inspection, as well as on the relationship between the Ministry of Finance and this very essential inspection service. The processed data refer to the time period from 2010 to 2015.

The status, function, basic competence, work and duties of the Budget Inspection are regulated by the Budget System Law<sup>2</sup> (hereinafter: the Law) and by the Regulation on the Work, Powers and Characteristics of the Budget Inspection<sup>3</sup>. Additional competencies are also foreseen by the Law on the Method of Determination of the Maximum Number of Employees in the Public Sector<sup>4</sup>, the 2015 and 2016 Budget Laws<sup>5</sup>, the Law on the Register of the Employed, Elected, Nominated, Appointed and Engaged Persons by the Beneficiaries of Public Funds<sup>6</sup> and the Law on the Deadlines for Settlement of Financial Debts in Commercial Transactions<sup>7</sup>.

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<sup>1</sup> Letter of the Ministry of Finance - Budget Inspection Department 72 No. 112-3930/2014 of 13.05.2014; Letter of the Budget Inspection to the Council No. 112-01-00364/2014-37 of 02.06.2014; Letter of the Council to the Budget Inspection 050-72 No. 112-3930/2014 of 05.06.2014; Official Note of the Council of 06.06.2014; Letter of the Budget Inspection to the Council No. 112-01-00364/2014-37 of 06.06.2014; Official Note of the Council of 05.08.2014; Letter of the Budget Inspection No. 112-01-00364/2014-37 of 07.10.2014; Letter of the Council to the Budget Inspection 050-72 No. 112-3930/2014 of 16.12.2015; Letter of the Council to the Minister of Finance 050-72 No. 112-3930/2014 of 04.01.2016; Letter of the Ministry of Finance to the Council 19 No. 401-00-64/2016 of 15.01.2016; Official Note of 30.03.2016; Letter of the Council to the Budget Inspection 050-72 No. 112-3930/2014-3 of 30.03.2016; Letter of the Ministry of Finance - Public Funds Control Sector No. 401-00-00221/2016-26 of 22.04.2016; and a number of informal meetings marked with no official note.

<sup>2</sup> Official Herald of the Republic of Serbia No. 54/2009, 73/2010, 101/2010, 101/2011, 93/2012, 62/2013, 63/2013 – Correction, 108/2013, 142/2014, 68/2015 – and other Law 103/2015.

<sup>3</sup> Official Herald of the Republic of Serbia No. 10/2004 and 84/2007.

<sup>4</sup> Official Herald of the Republic of Serbia No. 68/2015.

<sup>5</sup> Official Herald of the Republic of Serbia No. 110/2013, 116/2014 and 142/2014 and Official Herald of the Republic of Serbia No. 142/2014 and 94/2015.

<sup>6</sup> Official Herald of the Republic of Serbia No. 68/2015 and 79/2015 - Correction.

<sup>7</sup> Official Herald of the Republic of Serbia No. 119/2012 and 68/2015.

The Budget System Law stipulates that the Budget Inspection activities be performed by the Ministry of Finance (hereinafter: the Ministry). The function of the Budget Inspection is to control the implementation of laws in the area of material and financial operations, and authorized and lawful use of the funds of the budget beneficiaries, organizations, companies, and legal and other entities (specified by the Law).

The Budget Inspection is responsible for carrying out inspection and supervision of: 1) direct and indirect budget beneficiaries; 2) compulsory social insurance organizations; 3) public enterprises established by the Republic of Serbia, legal entities founded by such public enterprises, legal entities over which the Republic of Serbia has direct or indirect control with more than 50% of the capital or more than 50% of votes in the management board, as well as other legal entities where public funds comprise more than 50% of their total revenues; 4) autonomous provinces and local self-governments, public enterprises established by local self-governments, legal entities founded by such public enterprises, legal entities over which local self-governments have direct or indirect control with more than 50% of the capital or more than 50% of votes in the management board, as well as other legal entities where public funds comprise more than 50% of their total revenues; 5) legal and other entities that are directly or indirectly allocated budgetary funds for particular purposes, legal and other entities that participate in a business that is subject to control, and entities that use budget funds as borrowings, subsidies, other government aid of any form, donations, grants, etc. In addition to the above, the Budget Inspection controls the quality of the work of the budget inspection service of an autonomous province, and of the budget inspection services of local self-governments.

When the Budget Inspection detects unlawful actions, it orders measures for their elimination and initiates appropriate legal procedures. If budget beneficiaries fail to comply with the final decision of the Budget Inspection, the Minister of Finance (hereinafter: the Minister) can issue an order to withhold the transfer of funds to them in the current budget period, except for the funds for salaries, in the amount of funds spent inappropriately, which the beneficiaries are ordered by the final decision of the Budget Inspection to return. The Minister may temporarily suspend the transfer of the relevant part of the payroll tax and the corporate income tax, as well as the transfer of funds from the budget if an autonomous province or local self-government does not act in accordance with a decision of the Budget Inspection. And even if the Budget Inspection finds out that the level of the indebtedness exceeded the level prescribed by the Law on Public Debt, the Minister may temporarily withhold the transfer of funds from the budget of the Republic of Serbia, or the corresponding part of the tax.

The significance of the Budget Inspection from the viewpoint of the fight against corruption is twofold. The primary significance of the Budget Inspection is that it detects abuses in the management of public finances in all the previously mentioned entities by following up the money trail, and inquires into the justification for spending funds. On the other hand, a strong and efficient budget inspection sends a warning that abuses will be easier to detect and prosecute, which is a significant element of corruption prevention.

During a given year the Budget Inspection receives letters from various state institutions, agencies, non-governmental organizations, entities, citizens and others, indicating illegal and non-purposeful spending of budget funds by their users and requesting that the Budget Inspection take measures within its jurisdiction. On the basis of such letters the Budget Inspection forms special case files, which amounted to 300 in 2013, 286 in 2014 and 276 in 2015.

Although the importance of the work of the Budget Inspection is virtually immeasurable for the establishment of the lawful work of all direct and indirect beneficiaries of public finances, public and other enterprises with majority public ownership, social insurance, and other

organizations, the Government, whether through ignorance or because of bad intentions, irresponsibly neglects the Budget Inspection.

The Minister is authorized to determine the methodology and to regulate more closely the standards and the method of work of the Budget Inspection, and to determine the Programme and Work Plan of the Budget Inspection (hereinafter referred to as the Work Programme). However, the Minister has not fulfilled his obligation: he has not standardized the work of the Budget Inspection, and consequently there is neither a standardized methodology for its work, nor standards on the basis of which a Work Programme can be adopted. Because of this lack of interest, the Budget Inspection submits to the Minister proposals of the Work Programme for the upcoming budgetary inspection periods in an ad hoc manner, and the programme proposals are based on the existing capacity of the Budget Inspection regarding the number of inspections. When it comes to choosing the subjects of inspection, the proposals of the Work Programme are created on the basis of ad hoc criteria:

- the institution that sends a request/urgent matter for inspection (Prosecutor’s Office, Ministry, Agency, Administration, Republic Commission, etc.);
- the significance and level of the irregularities indicated in the complaint/request;
- the turnover in the previous year, according to Treasury Department data;
- the expected result of the inspection, or a high percentage of certainty that an offense has been committed;
- equal representation of entities by levels of funding, types of businesses and territorial affiliation; and
- the frequency of reporting.

The subjects of inspection are practically chosen from a wide range of established cases.

Thus, the Work Programmes (contents presented in Table 1) best speak to the capacities of the Budget Inspection. The proposed Work Programmes, made without a prescribed methodology, have rarely been corrected and as such were adopted regardless of who the Minister was at a given moment.

<b>Table No. 1</b>						
<b>BUDGET INSPECTION WORK PROGRAMME, BY YEAR</b>						
	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
<b>Number of foreseen inspections</b>	37	26	28	32	25	18
<b>Number of unfinished inspections from the previous year</b>	No explicit number stated	8	4	No explicit number stated	9	1
<b>Number of inspections of the quality of work of the budget inspection of local self-governments</b>	2	2	X	2	X	X
<b>Number of extraordinary inspections ordered by the Minister</b>	46 inspections ordered and carried out during the period from 2010 to 2015 (approximately 9 per year on average)					

According to unofficial data of the Treasury Department there are between 12 and 13 thousand subjects in the Republic of Serbia to be inspected by the Budget Inspection (hereinafter inspection subjects). Out of this number of inspection subjects, approximately 28 subjects were inspected in the period 2010-2015, excluding extraordinary inspections carried out by the discretionary authorization of the Minister, which totaled 46 in the period 2010-2015, and the inspection of the work of the budget inspection of local self-governments, which was approximately one per year at that time. Overall there were 38 inspections carried out annually on average, and the average number of established cases was 290 per year. Due to the limited capacity and the method of work and procedures (inspection of business books, statements, records and other documentation), the Budget Inspection is unable to deal with all of the requests and because of that it makes a selection of cases and subjects who are to be inspected.

The Budget Inspection often encounters situations where budget funds are not spent purposefully, yet even after final decisions such funds are not returned. Although ministers have a great deal of leverage to force budget beneficiaries to spend budget funds purposefully, they do not exercise their powers. The Ministry has informed the Council that, in the period 2010-2015, there were no orders of ministers responsible for financial resources by which they withheld the transfer of budget funds to budget beneficiaries who had failed to comply with a final decision of the Budget Inspection that ordered that the funds spent inappropriately be returned. Likewise, no decision has been issued to suspend temporarily the transfer of the relevant part of the payroll tax and the corporate income tax, nor the transfer of budget funds, if an autonomous province or local self-government did not comply with a decision of the Budget Inspection, or if it exceeded the level of indebtedness prescribed by the Law on Public Debt. Therefore, the ministers did not exercise their legal powers against those who violated the legal regulations, and they tolerated the abuse of budget funds.

We emphasize that the work of the Budget Inspection is legally specified as independent and autonomous, and that the Ministry is legally obliged to provide to the Budget Inspection adequate resources (staff, premises and equipment) that will enable it to perform its functions efficiently. According to the Rules on the Internal Organization and Job Classification of 12 February 2016, the Budget Inspection, which had been a separate department - that is, a separate internal unit outside the sectors, the Secretariat and the Cabinet Minister - was subsumed under the new Sector for Inspection of Public Funds, managed by an assistant minister. In a communication with the Head of the Budget Inspection, which had been direct starting from 2014 until then, the Council was informed in March 2014 that an order had been given that all future communication regarding the work of the Budget Inspection go through the responsible assistant minister. This change in the interior organization of the Budget Inspection substantiates the suspicion that the statutory independence and autonomy of the Budget Inspection's work is grossly violated.

The said Rules changed the jobs classification and the number of positions was increased from 11 to 13, out of which one position is foreseen for the head of department who manages the work of the department, and the remaining 12 positions are foreseen for inspectors (one position for a senior inspector-coordinator, five positions for senior inspectors and six positions for inspectors). Out of 13 classified positions, nine positions are currently staffed. A much larger number of positions, filled by quality staff, is required to effectively perform the statutory functions. The Budget Inspection currently works in five offices located in the building of the Ministry of Finance in Belgrade. The electronic records of its own cases are only partially set up, which significantly hinders the work. The Budget Inspection has informed the competent authorities about the shortage of capacities, but regardless of who the minister was, the resources

were not improved. The Budget Inspection has even made a proposal for a Budget Inspection Organization and Job Classification, which provides for about 50 inspectors. As no standards have been created, it cannot be claimed with certainty how many inspectors are required, but the fact that in 2013 the Budget Inspection received 300 requests for the inspection supervision and that only about 25 cases were accomplished clearly indicates that the number of employed inspectors is insufficient, and that they have neither adequate premises nor the necessary technical equipment.

Given the complexity of the matter and the great responsibility of the control of the application of laws in the field of material and financial operations and lawful and purposeful use of budget funds, the fact that only a little more than 0.2%<sup>8</sup> of the total number of the inspection subjects are inspected per year should not be surprising, because the Budget Inspection does not even have the minimum resources with which it could operate efficiently.

The Budget System Law stipulates that the autonomous provinces and local self-governments have their own budget inspections, but it has not been fully achieved. The Budget Inspection records contain data on only 30 local self-governments that have established a budget inspection, but there are no data that the said number has changed over the last four years. Consequently, there is no adequate control of spending budget funds on the local level.

The Budget Inspection prosecution in accordance with the Law involves filing criminal complaints, requests for the initiation of misdemeanor proceedings, and filing of economic offenses (hereinafter: initial acts for prosecution). The Budget Inspection forwards its records to other institutions to act within their responsibilities. It should be noted that inspections are frequently carried out at the request of the competent prosecutor's offices. This provides very important assistance to the prosecution authorities in the economic forensics. In the period 2011-2015 the Budget Inspection filed 38 requests for the initiation of misdemeanor proceedings, five complaints for economic offenses and two criminal charges, and submitted 22 records of completed inspections to the competent prosecutor's offices that had submitted requests for the relevant inspections. In addition, three records were submitted to the Anti-Corruption Agency in order to take actions within its competence. The Budget Inspection does not have all information about the results of the actions taken by the prosecution offices and courts in connection with the said claims and complaints. The reason is the shortage of capacities in manpower and technical equipment, as the Budget Inspection does not even have the specialized software that it urgently requires for electronic recording of the cases.

Consequently, approximately one initial acts for prosecution is filed per three conducted inspections. This information best speaks to the need for further strengthening of the Budget Inspection.

After the change of the internal organization in 2016, while explaining to the Council the method of making the Work Programme, the Ministry noted that, during the drafting of the Work Programme, activities of the elaboration of the legislative framework in the part relating to the jurisdiction, function and method of work of the Budget Inspection are taken into consideration, as well as the activities on the development of appropriate bylaws. However, although the jurisdiction of the Budget Inspection has been significantly expanded since 2014 by regulatory changes, the Council has been informed that the Budget Inspection was not consulted on the aforementioned amendments, and that it did not participate in the preparation of the regulations, but rather was merely informed about them.

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<sup>8</sup> The percentage has been deducted from the number of the inspection subjects of 12,500 (in accordance with the above-stated data of the Treasury Department) and the annual averages of certain inspection subjects from the Work Programme.

At issue was the extension of the jurisdiction relating to the supervision of the implementation of several laws: 1) the Law on the Method of Determining the Maximum Number of Employees in the Public Sector, in the part relating to the financial effects of public expenditure for work and wages, and salaries in the public sector; 2) the Law on the Register of the Employed, Elected, Nominated, Appointed and Engaged Persons by Public Fund Beneficiaries; 3) the Law on Deadlines for the Settlement of Financial Debts in Commercial Transactions, in the part relating to the law enforcement between the public sector and businesses, in commercial transactions in which the public sector entities are debtors, as well as among public sector entities themselves; 4) the 2016 Budget Law, in the part relating to the control of budget fund beneficiaries in the settlement of debts arising from fixed expenses, costs of current repairs and maintenance, materials, as well as on capital expenditure in accordance with the Law on Deadlines for the Settlement of Financial Debts in Commercial Transactions; and 5) the 2015 Budget Law, in the part relating to the control of the implementation of the plan for the rationalization of the number of employees and persons engaged by public fund beneficiaries.

Indeed, not only have the capacities of the Budget Inspection not been improved in order to achieve optimum efficiency in its work, but the responsibilities of the Inspection have been expanded without its involvement in the process of drafting regulations concerning its responsibilities.

## **RECOMMENDATIONS**

Based on the above, the Council makes the following recommendations to the Government in order to ensure independent, autonomous and efficient work of the Budget Inspection:

- to change its internal organization by establishing a budget inspection sector;
- to change the job classification within the Budget Inspection by increasing the number of budget inspectors and other employees in accordance with real needs;
- to determine the methodology and regulate in more detail the standards and the method of work of the Budget Inspection in accordance with the Budget System Law;
- to provide adequate premises and the required equipment, software and high-quality training of its employees;
- to provide publicity of the Budget Inspection's work through an Internet site where it will publish its inspection records;
- to develop a high-quality and systematic Development Strategy of the Budget Inspection with an accompanying Action Plan;
- that local self-governments establish budget inspection services; and
- that ministers of finance withhold the transfer of budget funds to budget beneficiaries who fail to comply with a final decision of the Budget Inspection, ordering them to return funds spent inappropriately, and to temporarily withhold the transfer of the relevant part of the payroll tax and the corporate income tax, as well as the transfer of funds from the budget if the autonomous provinces or local self-government have not complied with a decision of the Budget Inspection, or if their debt has exceeded the level prescribed by the Law on the Public Debt.

VICE PRESIDENT OF THE COUNCIL  
Prof. Miroslav Miličević, PhD, personally