

## **Conclusions from the Conference on Anti-Corruption in Bosnia and Herzegovina** The Role of Parliaments and Government Bodies in the Fight against Corruption in BiH Amphitheatre of the UNITIC Business Centre in Sarajevo, 5 June 2018

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On 5 June 2018 in Sarajevo, the OSCE Mission to Bosnia and Herzegovina (BiH) and the Italian Embassy to BiH organized a conference on the topic of anti-corruption, titled: *The Role of Parliaments and Government Bodies in the Fight against Corruption in BiH*. The conference was organized as part of the extra-budgetary project financed by the Government of Italy through the Permanent Mission of Italy to the OSCE. Following the presentations and panel discussions, the participants of the Conference<sup>1</sup> agreed on several conclusions, which are outlined below.

### **Introductory Speakers:**

Panelists: Mr. Mladen Bosić, Speaker of the House of Representatives of the Parliamentary Assembly of BiH (PA BiH); Alfredo Conte, Representative of the OSCE Chairmanship-in-Office on Combating Corruption; Hasim Šabotić, Director of the Agency for Prevention of Corruption and Co-ordination of the Fight against Corruption of BiH (APIC); Ambassador Bruce G. Berton, Head of OSCE Mission to BiH.

### **Conclusions:**

- It is necessary to improve the existing anti-corruption system, as its current functionality has proved to be insufficient to address corruption challenges in the country. It is crucial to improve the work of prosecutors' offices – as they are responsible for processing corruption;
- It is necessary to strengthen the ongoing parliamentary oversight and monitoring implementation of measures recommended by international organizations (e.g. GRECO,<sup>2</sup> OECD's<sup>3</sup> Working Group on Bribery in International Business Transactions), which are implemented by local anti-corruption bodies in partnership with the private and public sectors;
- There are significant concerns about the inability of political forces in the PA BiH to reach an agreement regarding the July 2017 decision of the Constitutional Court of BiH which refers to amending the BiH Criminal Procedure Code in line with international standards;
- It is necessary to continue strengthening the capacity of institutions and bodies responsible for prevention of corruption, including their mutual co-operation and co-

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<sup>1</sup> The participants of the Conference were representatives of PA BiH, entities and cantonal governments and assemblies, Brčko District Government and their respective anti-corruption teams, BiH institutions, international organizations and local NGOs, as well as representatives from Italy and Serbia.

<sup>2</sup> The Group of States against Corruption, the Council of Europe's anti-corruption monitoring body.

<sup>3</sup> Organisation for Economic Co-operation and Development.

ordination, while respecting constitutional competencies that include legislative bodies at all levels;

- It is necessary to establish proactive co-operation between anti-corruption bodies and the academic community;
- It is necessary to continue raising public awareness of the damaging effects of corruption, in order to minimize cases of ignoring this phenomenon, and
- The OSCE Mission to BiH remains committed to supporting all levels of government in their efforts to fight corruption.

### **Co-operation between legislative and executive authorities in Bosnia and Herzegovina - conclusions and recommendations derived from previously organized in-country regional workshops**

Panelists: Francesca Businarolo, Member of the Chamber of Deputies of the Parliament of Italy; Fadil Novalić, Prime Minister of the Federation of BiH (FBiH); Anton Kasipović, Vice-president of the Republika Srpska (RS) Government and RS Minister of Justice; Željka Stojičić, Vice-president of RS National Assembly; Miralem Galijašević, Prime Minister of Zenica-Doboj Canton; Mevludin Džindo, Assistant Director of APIC.

#### **Conclusions:**

- Bosnia and Herzegovina still needs support from international and domestic institutions in establishing a system for the effective fight against corruption;
- The exchange of experiences between Italy and BiH in introducing key anti-corruption laws is desirable and there is mutual willingness to intensify this co-operation;
- Greater involvement of civil society is necessary in order to spread awareness of the importance of the fight against corruption;
- Progress has been made in establishing the Corruption Prevention System at all levels of government and such a trend needs to be continued, especially in the context of the implementation and introduction of new legislation;
- The role of parliaments and assemblies in the fight against corruption is also to establish stable budgets with adequate management of public finances;
- Institutionalization of anti-corruption teams with the provision of funds for their functioning and implementation of their activities is an important step and a good example of the government's commitment to fight corruption;
- Workshops on the role of bodies and parliamentary committees for the fight against corruption at cantonal and entity levels pointed out insufficient knowledge of the members of the aforementioned parliamentary committees about their role in the overall corruption prevention system. Therefore, in spite of the good will expressed to provide support to the anti-corruption bodies within the limits of their competences, it is necessary to define more clearly the role of parliamentary committees;
- In order to establish closer co-operation between the legislative and executive authorities in terms of prevention of corruption, it is necessary for them to establish regular communication;
- It is necessary to strengthen the capacities of legislative authorities on the introduction and implementation of mechanisms for prevention of corruption;

- It is necessary to establish an informal network of bodies and parliamentary commissions for the fight against corruption in order to improve legislation and the anti-corruption system, and exchange good practices related to prevention and effective fight against corruption;
- It is necessary to ensure the protection of members of anti-corruption teams against political influence or any other influence;
- It is necessary to establish effective mechanisms to protect persons reporting corruption;
- It is necessary to ensure co-operation between anti-corruption teams and judicial institutions, primarily the prosecutor's office at the appropriate level of government, as well as co-operation between anti-corruption teams and inspection bodies;
- It is necessary to initiate activities towards the inclusion of local self-government units (municipal level) in the co-ordination system for the fight against corruption in BiH;
- Ensure the most efficient mechanisms for co-operation between the anti-corruption bodies with civil society and the media with the aim of raising awareness among citizens and promoting positive examples, and
- Plan and implement activities aimed at strengthening sensitivity to corruption among young people.

### **International standards in the fight against corruption and criminal legislation in BiH in the area of corruption - compliance with international standards**

Panelists: Vladimir Georgiev, GRECO Expert; Luca Trifone, Representative of the Italian National Anti-Corruption Authority (ANAC); Verka Atanasković, Assistant Director in the Department for Resolving Conflicts of Interest, Anti-corruption Agency of the Republic of Serbia (ACAS); Milana Popadić, Assistant Minister, BiH Ministry of Justice

#### **Conclusions:**

- The latest GRECO evaluation report pointed to deficiencies in the BiH anti-corruption system.<sup>4</sup> Stronger political will for the implementation of recommendations is needed, which would result in the achievement of international standards in the fight against corruption;
- In order to achieve long-term effects in the fight against corruption, the experiences of the Italian Anti-Corruption Agency can be taken as an example because they emphasize better anti-corruption prevention effects than repression;
- Also, the independence of ANAC (in administrative and financial aspects and in the appointment process) has been recognized as a good practice, and a similar principle for the functioning of APIC and anti-corruption bodies in BiH is recommended;
- The experience from Italy indicates a higher incidence of corruption at lower levels of government, and for that purpose it is recommended to develop integrity plans specific to each institution as well as internal transfers - the rotation of civil servants who are at the same administrative level, for positions that are assessed as susceptible to corruption;

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<sup>4</sup> Within the fourth evaluation round, 15 recommendations were issued, none of which were fully implemented (11 partially implemented, while no procedure was initiated for 4 recommendations).

- The recommendation of the Italian Agency in the field of public procurement relates to co-operative supervision at every stage of the process, from the preparation and publication of the tender to its execution. The OECD recognized this co-operative oversight<sup>5</sup> as one of the best international practices for the prevention of corruption;
- The Serbian Agency, based on its experiences, reminds of the Council of Europe's twenty leading principles for the fight against corruption and invites countries in the region to incorporate them into national anti-corruption systems, and
- Criminal legislation in BiH is largely in line with international standards, while at the same time criminal policy has proved inadequate. The need for harmonization of the court practice in BiH in the process of corruption cases has been emphasized.

### **Protection of whistle-blowers - BiH and regional experiences in implementation of the laws on protection of whistle-blowers**

Panelists: Mevludin Džindo, Assistant Director of APIC, Jelena Vukadinović, Assistant Minister, RS Ministry of Justice; Sead Lisak, President of the Anti-Corruption Team of the Government of the FBiH; Damir Bulčević, Head Co-ordinator, Government of Brčko District BiH; Anica Ramić, Representative of the NGO Stop Mobbing.

### **Conclusions:**

- The BiH Law on Protection of Persons Who Report Corruption in the Institutions of BiH was adopted in 2014, and it refers to employees in state institutions only - since its adoption, only 5 protected person statuses were granted.
- In Republika Srpska, the Law on the Protection of Persons Reporting Corruption was adopted in June 2017, and it refers to both the public and private sectors, with the possibility of a double protection system, chosen by the person who reported corruption. It was emphasized that successful implementation of the Law depends on intensive promotion along with the education and counselling of those obliged to implement the Law;
- The FBiH Government adopted a pre-draft Law on the Protection of Persons Reporting Corruption in March 2018 and sent it to parliamentary procedure. The characteristic of this Law is that it provides a possibility for extending protection to persons that are related to those who reported corruption;
- The BiH Brčko District Assembly has put on the assembly session agenda harmonized proposals of the Law on Protection of the Persons who Report Corruption and the Law on the Anti-Corruption Office and Co-ordination of the Fight against Corruption, and their adoption is expected;<sup>6</sup>
- The importance of active participation of political parties in the processes of prevention of corruption is emphasized;

<sup>5</sup> Co-operative oversight is a model of institutional synergy and an integrated check system in co-operative partnerships that focuses on the possible occurrence of unlawful acts and corruption in the public procurement system, and makes possible timely interventions and corrections, guaranteeing the delivery within the timeframes while respecting the principles of integrity and transparency.

<sup>6</sup> The BiH Brčko District Assembly adopted the Law on Protection of the Persons who Report Corruption and the Law on the Anti-Corruption Office and Co-ordination of the Fight against Corruption at a session held on 6 June 2018.

- An example of the protection of personal integrity during a time when there was no legal protection for persons reporting corruption was presented through a real-life example from Trebinje. This example showed how it is possible to provide support to those who report corruption (whistle-blowers) by civil society.

*All views, statements or opinions contained in this document, which are not explicitly indicated as those of the OSCE Mission to Bosnia and Herzegovina, do not necessarily reflect the official policy of the Mission.*