

## **Serbia: Civil Society Report by Transparency International Serbia**

An input to the UNCAC Implementation Review Mechanism:  
Fifth year of review of UNCAC Chapters II and V

**14 November 2023**

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This is the executive summary of a civil society parallel report from July 2023 reviewing Serbia's implementation and enforcement of selected articles in UN Convention against Corruption (UNCAC) Chapters II (Preventive Measures) and V (Asset Recovery). The report was supported by the UNCAC Coalition and is intended as a contribution to the UNCAC peer review process of Serbia covering those two chapters. The full report is available on the UNCAC Coalition's website.<sup>1</sup>

Serbia has a comprehensive legal and regulatory framework covering most aspects addressed in Chapter II and Chapter V of the UNCAC. However, the Agency for Prevention of Corruption lacks resources and has been criticized of political influence, and there is no comprehensive national anti-corruption policy. Corruption is mainly addressed with a focus on priority issues in the context of EU integration. While there is a need to improve regulations, the main challenge is the ineffective or selective implementation of existing rules. Advances have been made regarding to access to information, however, civil society representatives and journalists often become the target of defamation for their activities holding the government accountable.

### **Assessment of the Review Process**

Has the government disclosed information about the country focal point?	Yes	Information about the focal point is available on the UNCAC Coalition's website, <sup>2</sup> but not on the Ministry of Justice's website.
Was the review schedule published somewhere?	No	
Was civil society consulted in the preparation of the self-assessment checklist?	No	

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<sup>1</sup> The report was published on the UNCAC Coalition website in July 2023:

<https://uncaccoalition.org/uncacparallelreportserbia/>.

<sup>2</sup> See: <https://uncaccoalition.org/uncacreviewstatustracker/>.

Was the self-assessment checklist published online or made available to civil society?	No	The self-assessment checklist was not published online, but was provided to civil society through FOI requests.
Did the government agree to a visit to the country?	Yes	The country visit is expected to take place in the first quarter of 2023 according to the UNCAC Review Status Tracker webpage. <sup>3</sup>
Was a country visit undertaken?	Not yet	
Was civil society invited to provide input to the official reviewers?	No	
Was the private sector invited to provide input to official examiners?	No	
Has the government committed to publishing the full country report?	No	

## Main Findings and Recommendations (R)

### Preventive Anti-Corruption Policies and Practices

The National Anti-Corruption Strategy has not yet been adopted. The most important anti-corruption document, the Revised Action Plan for Chapter 23 of Serbia / EU negotiations, only focuses on priorities in the context of EU integration. Assessments of ‘two-track reporting’ on the implementation of preventive anti-corruption policies by the Ministry of Justice and the Agency for Prevention of Corruption use different methodologies, resulting in inefficiency and inadequate follow-up.

**R:** *Adopt the National Anti-Corruption Strategy, a comprehensive strategic document containing preventive anti-corruption measures.*

### Preventive Anti-Corruption Bodies

The Agency for Prevention of Corruption (APC) is the main preventive anti-corruption body. The Law on Prevention of Corruption provides the APC with independence, but it lacks resources. The APC is also suspected of political influence, and there is inadequate follow-up on reports.

**R:** *Strengthen the Agency for Prevention of Corruption’s staff capacity so that it can perform its mandate, and specify its responsibilities.*

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<sup>3</sup> The country visit took place in late October 2023 with the involvement of a few civil society organizations.

## **Public Sector Employment**

The Law on Civil Servants prescribes competitions and objective recruitment criteria. Civil servant's salaries are regulated and competitive with the private sector. The Law on the Prevention of Corruption mandates integrity plans for public authorities with over 30 employees. However, procedures for recruitment can be bypassed, and there are many acting civil servants in top positions appointed by the government.

*R: Stop the widespread practice of employment on temporary and fixed-term contracts in the public sector, thus avoiding public competition.*

## **Political Financing**

The Law on Financing Political Activities mandates the publication of data on sources of financing. Anonymous donations and donations through third parties are prohibited for financing political subjects' regular work and election campaign expenditures. Funding reports often fail to comply with the rules, casting doubts on credibility. In prominent cases, failure to initiate cases on time allows suspected or identified violations of rules to go unpunished.

*R: Introduce election campaign expenditure limits and address the ever-increasing spending of public funds for elections.*

## **Codes of Conduct, Conflicts of Interests and Asset Declarations**

The APC supervises the registers of public officials' property, income, and gifts. Public officials must submit reports to the APC disclosing their assets and incomes, and those of family members. However, this does not include all public officials. Few cases are subject to data verification, and data on imposed sanctions are not sufficiently promoted to the public.

*R: Include individuals with potential high influence (advisors to the president, prime-minister and minister, heads of cabinets) in government policies on public officials, subjecting them to conflict of interest and asset reporting rules.*

## **Reporting Mechanisms and Whistleblower Protection**

The Law on Protection of Whistleblowers establishes the right to whistleblower protection and regulates whistleblowing procedures. Judicial protection of whistleblowers is enforced, but measures promoting whistleblowing are insufficient. Reporting channels are prescribed in relevant laws, but follow-up data is lacking.

*R: Amend the Law on Whistleblower Protection to appropriately penalize all forms of retaliation and place one authority in charge of general and comprehensive oversight of implementation.*

## **Public Procurement**

The Law on Public Procurement sets procedures, criteria for tender selections and contract awards, exclusions from its application and legal remedies. The Public Procurement Office monitors the application of the Law on Public Procurement and educates stakeholders. However, the law is often bypassed through interstate agreements and tailor-made laws, hindering transparency and reducing competitiveness.

*R: Abandon the practice of contracting the most valuable projects through interstate agreements and special laws, thereby avoiding the application of the Law on Public Procurement.*

### **Management of Public Finances**

The legal framework establishes procedures for the national budget; however, publication of budget documents is often delayed. The State Audit Institution reports that internal audits have not been conducted among many subjects obliged to establish internal monitoring. The public has no influence over the national budget.

*R: Increase transparency within the national budget preparation process, and organize public hearings about the budget. Oblige oversight institutions to report about their findings.*

### **Access to Information and the Participation of Society**

The Law on Free Access to Information of Public Importance applies to all public authorities, mandating proactive publication of important data. It does not contain absolute exceptions on the basis of which the information seeker can be refused, but the decision must be justified based on the necessity to protect prevailing public interest. Public hearings must be organized when adopting policy documents and laws, but there are no sanctions for non-compliance. Civil society representatives and journalists are often targeted by smear campaigns.

*R: Ensure the enforcement of the Commissioner for Information of Public Importance and Personal Data Protection decisions. Enhance civil society participation in decision-making processes and stop targeting civil society and journalists reporting about corruption.*

### **Judiciary and Prosecution Services**

Constitutional amendments in February 2023 strengthened judicial and prosecution services' independence, reducing possibilities for direct political influence on judges and prosecutors. However, concerns remain over indirect influence. The prosecutor's office often fails to respond to well-founded suspicions about corruption.

*R: Provide anti-corruption prosecution units with the necessary resources and staff, revising the list of crimes and increasing transparency. The High Prosecutors Council should ensure that prosecutors who fail to proactively investigate corruption are held accountable.*

### **Private Sector Transparency**

Several laws regulate this sector, as well as an online public registry.<sup>4</sup> Companies and other legal entities must report their beneficial owners, however, ultimate owners sometimes remain unknown. Companies must maintain accurate documentation of financial transactions and effective systems of internal financial monitoring. External oversight works

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<sup>4</sup> <https://apr.gov.rs/home.1435.html>.

for submitting financial statements and sanctions are imposed otherwise, but it is not strong enough in non-compliance with other provisions.

*R: Improve the quality of the Serbian Business Register Agency, verifying information from registrants. Pass legislation explicitly criminalizing the deductibility of bribes for tax purposes.*

### **Measures to Prevent Money Laundering**

The Law on Prevention of Money Laundering and Financing of Terrorism mandates the establishment and verification of beneficial owner's identity, when a customer is a natural person. Customer due diligence actions and measures are applied when establishing a business relationship. The Administration for the Prevention of Money Laundering (APML) operating under the Financial Intelligence Unit is mandated to receive, analyze and disseminate reports on suspicious financial transactions. However, it lacks independence, and has been accused of misusing data for smear campaigns.

*R: Provide the APML with the necessary level of independence to perform its duties without political influence.*

### **Asset recovery**

The Law on the Confiscation of Proceeds from Crime enables confiscation of property, but only applies to specified criminal offenses. The Directorate for the Management of Confiscated Assets within the Ministry of Justice manages confiscated property, but not all information on this is publicly available.

*R: Improve international cooperation for confiscation and return of stolen assets. Organize training for judges and prosecutors on asset recovery and confiscation of proceeds of crime.*