

NO. 12 year I December 2010

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MONTHLY ANTICORRUPTION MAGAZINE



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- ANALYSIS
Corruption and Sport: Why sport is not immune to corruption?
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Challenges and recommendations
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About the monthly edition



The Center for Civil Communications was established in April 2005 as a nongovernmental, nonparty, and nonprofit association of citizens. In the past five years we have been working every day on narrowing the room for corruption in Macedonia and promoting the principles of “good governance”, both on central and local level. We are focused on implementing two types of mutually related activities: monitoring and revealing corruption practices, and, on the basis of this, recommending measures and policies for narrowing the room for corruption and enhancing the ability of the journalists and the special role of the media in the fight against corruption in the country.

In the course of our everyday work, we and the experts we cooperate with arrive at numerous information regarding corruption and anticorruption practices in our country, as well as the countries in the region and the world. By publishing this monthly newsletter on anticorruption and “good governance” we want to share this information with the wider public, primarily with the representatives of the public administration, whom we consider the most responsible for the fight against corruption and establishing and respecting the principles of “good governance”.

At the same time, we offer expert analyses, which can serve as sources of ideas and examples for improving the current state with the corruption in Macedonia.

We are open for suggestions and we want you to send us your opinions, ideas, and attitudes on anticorruption topics as well as practices of “good governance”, as well as point to us corruptive practices and generally the existence of a room for corruption. This will serve us as a basis for further articulation of those practices and problems, as well as help in conducting our future anticorruption activities.

Corruption is one of the greatest evils in Macedonia, which degrades the development and the progress of the economy, society, and the people who live in it, disrupts the competition and the free operation of the firms on the market, disables the governance of the true values in life and in the work, forces the young, educated people to leave the country and enables illegal benefits and enrichment of state officials at the expense of impoverishing the other people and destroying and abusing the public goods.

Therefore, by pointing the corruption practices and offering ideas, good examples, and solutions from the country and abroad, we feel that this monthly newsletter will ultimately contribute to decreasing the corruption in the country and enhancing the “good governance”.

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ISSN 1857-7075

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Publisher:
Center for Civil Communications

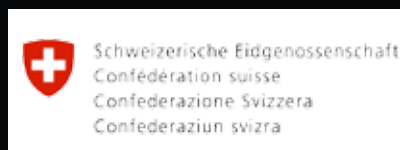
Editorial Board:
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Proof reading:
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Design, Layout and Print:
Vinsent Grafika

Circulation:
200

“This publication was allowed by Civica Mobilitas Programme – implemented by CIRa and financially supported by SDC. The content of the material represents standings of its author(s) and not necessary reflect the opinion of CIRa and SDC”.



IN THIS ISSUE

Two powerful institutions, the World Bank and United Nations took advantage of the International Anti-Corruption Day – December 9 – to send rather strong messages for strengthening the fight against corruption.

The World Bank urged for launching an International Corruption Hunters Alliance to facilitate monitoring of more serious cases of corruption, in particular the ones notified by this institution. The Bank has debarred over 100 firms and individuals over acts of fraud and corruption, which are automatically denied contracting opportunities at other multilateral development banks. The most productive of these cases was the one of last July against the German industrial conglomerate 'Siemens', which has been shut out from the World Bank financed projects for two years and committed to pay \$100 million to support anti-corruption work.

UN Secretary-General Ban Ki-moon says that corruption is a threat to development, democracy and stability. It distorts markets, curbs economic growth and discourages foreign investment. It erodes public services and trust in officials. And it contributes to environmental damage and endangers public health by enabling the illegal dumping of hazardous waste and the production and distribution of counterfeit medicines.

The Balkan region is witnessing one of the most serious corruption scandals – the detention of former Croatian Prime Minister Sanader. In this issue we are publishing an analysis of the affair of Croatian journalist Goran Jungvirt, who says that before any trial is to be taken in consideration some experts have already declared the former premier as guilty for masterminding the wide-spread system for financial services, based on embezzling the state property.

Sport activities are often in the focus of large corruption affairs. Their connection with substantial amounts of money and large population is making it attractive to dirty businesses. If a century ago the head of modern Olympic Games, Pierre de Coubertin, said that 'Money is the sports worst enemy,' we may rightfully ask ourselves why the modern society consciously scarifies the second most important matter to people across the globe – sports. Legal expert and sport worker Damjan Siskovski offers detailed analysis on corruption in sports.

Finally this issue presents the key findings of the monitoring of the public procurements in the Q3 of this year, as well as the recommendations for narrowing the room for abuse and corruption in spending public funds.

We believe this pre-New Year issue offers useful articles for your contribution to more transparent, honest society. We also send New Year greetings, extend gratitude for being with us in the course of this year and wish you good health, happiness and professional success in the upcoming period.



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WORLD BANK GRAFT CHIEF CALLS FOR MORE ACTION

WASHINGTON (Reuters) - The World Bank's top anti-corruption official on Monday called for a strengthened global alliance to fight corruption to ensure more wrongdoers are prosecuted.

More than 250 corruption fighters, including attorney generals and heads of corruption agencies from 134 countries, gather at the World Bank from Tuesday for a high-level meeting of the Corruption Hunters Alliance on how to advance the battle against graft.

In an interview, Leonard McCarthy, the World Bank's vice president for integrity, told Reuters he hoped the meeting would agree to a global mechanism to track major corruption cases to ensure more firms and individuals involved in fraud or corruption are held accountable. This could be done by sharing more information, conducting parallel investigations, and trying to get countries to adopt similar anti-corruption practices. „I would like to have a tracking mechanism in place for all major corruption cases, including the ones that the World Bank refers to countries,” said McCarthy. „It's not there in a consolidated way,” added the former head of South Africa's Scorpions crime-fighting unit, which scored successes against organized crime.

The World Bank has banned more than 100 firms and individuals for fraud and corruption and barred them from bidding for contracts financed with the bank's money. The most prolific of these cases was against German industrial conglomerate Siemens in July last year for bribery. The World Bank blacklisted Siemens from World Bank-financed development projects for two years and Siemens agreed to pay \$100 million over 15 years to support global efforts to fight fraud and corruption.

Siemens ended one of the biggest corporate corruption investigations in history when it agreed last year to pay \$1.6 billion to settle probes by U.S. and German authorities into bribes it paid for years to win contracts.

McCarthy said the World Bank meeting will explore what should be done with money from settlements involving corruption



by multinational firms. He called for the establishment of an international fund to decide how the money should be allocated. „I personally like the idea of an anti-corruption fund where one could have a fund that was administered by an eminent panel and then decide what are the worthy causes,” he said. „It's a logical next step,” McCarthy added.

The meeting will include speakers such as World Bank President Robert Zoellick, U.S. Senator Patrick Leahy, Senate judiciary committee chairman, and Luis Ocampo, head of the International Criminal Court. McCarthy said the past several years has seen major gains in tackling corruption both by governments and institutions like the World Bank but more was needed. The global financial crisis had highlighted the problem of corruption in developed countries and the high attendance at the World Bank meeting underscored the increased corruption concerns, McCarthy added.

In a major step in April, the World Bank and other development banks stepped up efforts to root out the corrupt use of aid funding agreeing that companies and individuals blacklisted at one institution would be unwelcome at all. „What we're trying to do is bring everyone together to say, look, we've had an interesting and mixed decade behind us and let's make sure this decade is better,” he added.

CORRUPTION IS A THREAT TO DEVELOPMENT, DEMOCRACY AND STABILITY

Accra, Dec. 8, GNA-UN Secretary-General Ban Ki-Moon on Wednesday said corruption was a threat to development, democracy and stability. „It distorts markets, curbs economic growth and discourages foreign investment. It erodes public services and trust in officials. And it contributes to environmental damage and endangers public health by enabling the illegal dumping of hazardous waste and the production and distribution of counterfeit medicines“, he added.

Ban made the observation in a message to mark this year's International Anti-Corruption Day which falls on December 9. It was issued by the United Nations Information Centre in Accra to the Ghana News Agency.

The United Nations Convention against Corruption has helped the public sector to make progress in deterring these crimes. Last year, the Convention's States parties, which now number 148, established a peer review mechanism to identify gaps in national anti-corruption laws and practices - a major breakthrough that can help governments halt bribe-taking and the embezzlement of public funds.

The private sector's contribution is also essential. Corruption acts as a hidden overhead charge that drives up prices and erodes quality without any benefit to producers or consumers. Preventing corruption makes good business sense. Increasingly, investors are factoring not only environmental, social and governance considerations into their decision-making, but sound ethical performance as well.

„I call on business leaders worldwide to denounce corruption and to back their words with strict prohibitions against it. They should adopt anti-corruption policies in line with the United Nations Convention and put in place the necessary checks to strengthen integrity and transparency“. „I also urge corporations to work more closely with the United Nations on this issue. In particular, they should consider joining the UN Global Compact, the world's largest corporate sustainability initiative, which provides participants with tools to fight all forms of corruption, including extortion and bribery“, Ban added. What we



urge upon the public and private sectors, we at the United Nations must practice ourselves. An ethical organizational culture is one of the best antidotes to corruption.

The United Nations Ethics Office promotes accountability, integrity and transparency. A thorough policy protects staff against retaliation if they report misconduct or participate in audits and investigations that may expose unethical behaviour.

The United Nations is also working to combat corruption in the conduct of its activities, including procurement, by ensuring individual accountability, collaborating with law enforcement officials, and investigating all possible instances of corruption that may arise.

The message said on December 8 and 9 at UN Headquarters in New York, the UN Office of Internal Oversight Services would bring together organisations around the world for a conference aimed at strengthening the role of internal investigations in combating corruption. „On this International Anti-Corruption Day, let us all do our part to foster ethical practices, safeguard trust and ensure no diversion of the precious resources needed for our shared work for development and peace“, Ban added.

CORRUPTION AND SPORT: WHY SPORT IS NOT IMMUNE TO CORRUPTION?

The sport is a phenomenon of the present time. It is connected with grand humanitarian values and shapes the lives and values of billion of people. In the past it was mainly connected with a competition, but today it is a synonym of technique, tactic, speed, endurance, coordination, strategy...But also with dirty businesses, doping, corruption and violence. It is prone to corruption, considering its relation with a lot of money and people. The corruption in sports should be a matter of concern, but not of pessimism. Here, we do not talk about undermining the sport values, but face new challenge – fight against the corruption in sports. The challenge is more serious if the matter has not yet been treated appropriately.



The corruption in sports is a global problem. Problems have been emerging even at attempts to define the corruption, maybe because there are many definitions or none at all. If a century ago the head of modern Olympic Games, Pierre de Coubertin, said that 'Money is the sports worst enemy,' we may rightfully ask ourselves why the modern society consciously sacrifices the second most important matter in the life of each human being – the sport. As all other spheres of life, the sport has not been immune to corruption, so recently we have been hearing about labeling of individuals, athletes, institutions and clubs as main culprits of corrupt activities, most often in relation with professional sport, which is becoming a pure business interest.

Several reasons are to be blamed for acts of corruption in sports today, such as media exposure; political interference; poor transparency of the transfers of professional athletes, as well as of sport clubs budget spending; match fixing; doping; sports betting facilities and election of sports bodies (federations, clubs, management boards etc.),

Match Fixing

The match fixing is a frequent problem in many sports, such as football, tennis, basketball, volleyball etc. Reasons are also numerous. Most of them are usually related to betting, legal or illegal. In such cases, the match fixing is connected with financial gain, mainly

for organized groups. In this respect connections with organized crime are also possible. The match fixing may be directly connected to 'sports' life, as it could be done for improving the standing in a competition, especially when the club is in danger to end up with the lower level league. While the obvious reason for such activity is purely 'athletic', finances however stand behind it – remaining in the better league may generate more funds for the club and its owners (TV-rights, higher players' value).

Case: Match fixing in Bundesliga

German referee Robert Hoyzer admitted fixing of matches in 2003 and 2004. 25-year-old Hoyzer was allegedly awarded with EUR50,000 and Plasma TV for fixing four matches, i.e. for inventing penalties and expelling a player who would complain the decision. Berlin court found Hoyzer guilty of fraud and sentenced him to 29 month-imprisonment.

Hoyzer acted on the behalf of three brothers from Croatia, who paid him for the service. The fraud mastermind, Ante Sapina, was accused of fraud and sentenced to 35 months in prison for fixing and attempt of fixing football matches. He commenced to serve his sentence in May of 2007. Verdicts were also rendered to his brothers Milan and Filip. The fraud earned them at least EUR2 million.

Robert Hoyzer has decided to collaborate with the authorities. As a result, Berlin Prosecutor's Office has launched an investigation for possible involvement of 25 people, including 14 players and

four other referees, in match fixing. The German Football Association (DFB) has brought charges against Hoyzer, seeking a compensation for the damage he inflicted on the German football of up to EUR1,8 million. Hoyzer, under a deal with DFB, promised to pay them EUR700 a month over the next 15 years as a compensation for the damage caused by the match fixing.

Case: Tennis

Betfair, the internet betting exchange, voided US\$ 7 million of wagers placed on the defeat of No 4 Nikolay Davydenko against No 87 Martin Vassallo Arquello at Poland Open match.

Betfair was alarmed that there was a huge increase in the amount of money being placed on Davydenko to lose after he won the first set. Davydenko withdrew from the match in the third set with an injury. Afterwards Betfair said Davydenko denied any wrongdoing. Belgian player Gilles Elseneer claimed he refused an offer of over US\$ 100,000 to throw a match against Potito Starace at Wimbledon 2005.

Five players, all Italians, have been punished or suspended over tennis betting.

After these developments, an independent committee has been set up to investigate a possible corruption.

In May of 2008, the committee came out with a conclusion, saying that 45 professional tennis matches out of 73 probed for the last five years required further investigation over suspicious betting.

Case: Basketball

International sports federations are at rather high risk of corruption, considering their wealth and limited external supervision. The corruption activities may be in any form – from simple abuse or embezzlement of the federations' funds, via media rights to involvement of federations' members.

The case of Ruben Acosta, former President of the International Volleyball Federation, is a sold example of difficulties in regard to possible corruption in sports.

Управување на меѓународни спортски федерации

Меѓународните спортски федерации, со нивното огромно богатство и ограничена надворешна контрола, се од особено висок ризик за корупција. Корупцијата може да има различна форма, од едноставна злоупотреба или проневера на средства на федерацијата, преку корупција во врска со медиумските права до корупција на членови на федерацијата.

Случајот на Рубен Акоста, поранешен претседател на Одбојкарската федерација, претставува многу добар пример за тешкотиите во врска со можната корупција во спортот.

Case: Volleyball

Ruben Acosta stepped down as President of the International Volleyball Federation (FIVB) in 2008 after a 24-year mandate. His former colleagues accused him of corruption. The accusations also include one related to the organization of 2002 Men's World Championship over a discrepancy between funds paid to the FIVB by the International Olympic Committee (IOC) and their recording in the FIVB accounting system.

Two years ago a Swiss court acquitted Acosta from the accusations of sponsorships and deals on TV commercials.

However, he was a subject of IOC Ethics Commission's investigation. Acosta resigned as IOC member in 2004.

Case: Taekwondo

KimUn-Yong, the World Taekwondo Federation (WTF) President, resigned from his post he was holding for three decades. He was charged for embezzlement of WTF funds.

As a Member and Vice-President of the International Olympic Committee (IOC), he was also indicted on suspicion of taking bribes from businessmen he promised a membership status with the Korean Olympic Committee. When already suspended in 2005, the International Olympic Committee recommended his expulsion. Un-Yong resigned in May of same year, saying he doesn't feel guilty. His surprise resignation averted the expulsion vote, scheduled for the IOC's next general assembly in July.

Scoring better sport results

Case: Figure skating

Huge judge scandal marred the figure skating competition at the 2002 Winter Olympics in Salt Lake City. The Canadian pair displayed flawless performance and it was expected by both the audience and reporters to win as the Russian pair made several minor errors. To a great surprise, the Canadians won the silver medal, favored by four in comparison to five judges who considered the Russian pair more worthy of the golden medal. One of the judges, Le Gougne from France admitted soon afterwards that she was pressured to favor the Russians. In return Russian judge was to vote for the French couple in ice dancing competition, scheduled for few days latter. The French judge and the President of France's Skating Federation President were suspended by the ISU (International Skating Union) for three years. It has become common for the term 'French judge' to be used for cheating and corruption, even for such actions not related to the figure skating.

Corruption activities in favor of hosting the Olympic Games

Case: Salt Lake City Olympics

Many members of the International Olympic Committee (IOC) were accused of taking bribes from Salt Lake City authorities in order to favor the city as host of the Winter Olympic Games. The city had attempted several times earlier to secure the games, but failed each time. IOC members were presented with gifts, scholarships, ski trips, car repairs etc. In 1995, Salt Lake City was announced as the host of the 2002 Winter Olympic Games. The scandal broke out in 1998, when a Swiss IOC member announced that several IOC members had taken bribes, saying that: "Although nothing strictly illegal had been done, it was felt that the acceptance of the gifts was morally dubious." After the statement, stricter rules were adopted for future bids and ceilings were put into place as to how IOC members could accept from bid cities. Several IOC members were expelled or rendered their resignations, and others were even sanctioned.

The Affair 'World Cup Vote for Sale'

FIFA launched an investigation as a response to the Sunday Times report, claiming that certain FIFA members sought money in exchange of their votes, which is illegal. The Sunday Times reported that Amos Adamu, a FIFA executive committee member from Nigeria, was filmed negotiating a deal with an undercover reporter where he would be paid US\$800,000 for his vote. Adamu requested the money, as he said, for building four artificial football pitches in Nigeria, while the US would win the first vote to host the 2018 and the second one to host the 2022 World Cup. The president of the Oceania Football Confederation, Reynald Temarii, asked for \$2,3 million to fund a sports academy in Auckland, New Zealand, in exchange for his vote. To a question of undercover reporter how much money he should offer, Amadou Diakite (FIFA Executive Committee member) and Slim Aloulou (chairman of FIFA Dispute Resolution Chamber and member of the FIFA Player's Status Committee) said \$one million. Adamu and Temarii made no comments and failed to respond to any request for an interview. FIFA President Sepp Blatter wrote a letter to all 24 executive committee members promising a full investigation into allegations in the Sunday Times that two members were involved in a cash-for-votes World Cup bidding scandal. Blatter's letter says: "I am sorry to have to inform you of a very unpleasant situation, which has developed in relation to an article published today in the Sunday Times titled 'World Cup votes for sale'. "The information in the article has created a very negative impact on FIFA and on the bidding process for the 2018 and 2022 FIFA World Cups. Some current and former members of the executive committee are mentioned in the article." He adds: "FIFA will... open an in-depth investigation, which we will start immediately together with the FIFA ethics committee and the FIFA secretary general. I will keep you duly informed of any further developments. In the meantime, I would like to ask you to refrain from making any public comments on this matter." Amos Adamu welcomed the FIFA investigation into the matter, saying that the Ethics Committee will review the allegations and "I'm very happy about it because this will enable the whole world to know the truth

of the matter.” FIFA have suspended Executive Committee members Amos Adamu and Reynald Temarii for 30 days and banned them to take part in December 2 ballot for determining the hosts for both 2018 and 2022 World Cup.

BBC ‘Panorama’ investigation into FIFA ‘bribes’

Three FIFA (the International Federation of Association Football) officials, who are to vote the bids for hosts of World Cup 2018 and 2022, took bribes in 1990s. The BBC ‘Panorama’ documentary heralded the shocking news, claiming that Nicolas Leoz (Paraguay), Issa Hayatou (Cameroon) and Ricardo Teixeira (Brazil) took the money from a sport marketing firm awarded lucrative World Cup rights. The alleged bribes are included in a confidential document listing 175 payments totaling about \$100 million. The three men did not respond to ‘Panorama’ over the allegations. FIFA also refused the invitations for interviews in regards to the allegations.

In its programme, BBC reported on evidence a fourth senior FIFA executive to be involved in the resale of World Cup tickets to touts. The BBC was criticized for the programme timing, aired ahead of December 2 vote for determining the host of the 2018 and 2022 World Cup. The bids for the 2018 World Cup consisted of England, Russia and joint bids from Spain and Portugal; and Belgium and Netherlands. The BBC however defended its programme, saying that it was of public interest, although Andy Anson, the chief executive of the England bid to host the 2011 World Cup, told the BBC: “I’m incredibly disappointed with the timing of what the BBC is proposing with Panorama.” He added that members of the FIFA executive committee worked closely with each other “and of course if one of them gets hurt the others feel it. That’s just life.” The entire team working on the England’s bid for 2018 World Cup issued a statement, describing the programme as an ‘embarrassment to the BBC’. “We stand by our previous position that the BBC’s Panorama did nothing more than rake over a series of historical allegations none of which are relevant to the current bidding process. The 2018 team is entirely focused on winning the bid for England,” the statement reads.

The alleged bribes to the three members of the FIFA executive committee were paid by sports marketing company International Sport and Leisure (ISL) and date from 1989 to 1999. The company collapsed in 2001.

Roland Buechel, a former account manager at ISL, said staff had long suspected bribes were being paid for the lucrative FIFA contracts. “It is huge money, billions, that can be earned,” Buechel said. FIFA critics said full investigation into these allegations was necessary. Former British MP and sports minister David Mellor said it might be more morally acceptable for England to “insist in reforming FIFA, and making FIFA transparent instead of kowtowing to FIFA in order to get the World Cup finals.”

What should be done to prevent such activities?

Analysts of the corruption in sports say the following steps should be made to prevent its further spreading:

- Admitting the problem and addressing it;
- Education, training and setting of guidelines;
- Strict application of existing laws;
- Promoting transparency;
- Setting up independent commissions between the strict organization autonomy in sports and strong government interference.
- Establishing a standing forum for debating, coordinating the fight against corruption in sports;
- Supporting concrete measures in various sports.

There are many cases of corruption in sports, and as many operations and attempts for its prevention. Many experts underline that sports are not entirely corrupt, but are a target of criminal groups and gangs. The huge amounts of money from one and the autonomy, hunger for power on the other side are probably the most serious treats to sports. But the possibilities for corruption and the weaknesses of the system that make room for such activities may be eliminated. An effective prevention requires recognition of the problem, thorough, systematic analysis, solid measures and urgent coordinative action at international level for thwarting the corruption in sports.



PUBLIC PROCUREMENT : CHALLENGES AND RECOMMENDATIONS

From November 2008, the Centre for Civil Communications from Skopje has continuously analysed the implementation of public procurements in the Republic of Macedonia as regulated under the Public Procurement Law. The analysis aimed to assess the implementation of public procurements in the light of the new Public Procurement Law and the application of the basic principles of transparency, competitiveness, equal treatment of economic operators, non-discrimination, legal proceeding, costeffectiveness, efficiency, effectiveness and cost-effective public spending, the commitment to obtain the best bid under most favourable terms and conditions, as well as accountability for the public procurements implemented.

The analysis of the public procurement process in the Republic of Macedonia was performed based on the monitoring of randomly selected sample of public procurement procedures (40 per quarter). Monitoring activities start with the publication of calls for bids in the “Official Gazette of the Republic of Macedonia”, followed by attendance on public opening of bids and data collection on the procedure course, and use in-depth interviews and structured questionnaires submitted to the economic operators, as well as data obtained from contracting authorities by means of freedom of information (FOI) applications.

The present analysis was performed based on monitoring of selected sample of 40 public procurement procedures implemented by central and local level contracting authorities, whose public opening of bids was performed in the period July-September 2010. In this quarter, the monitoring included public procurement procedures implemented by local level contracting authorities, i.e., municipalities or authorities under their jurisdiction. Indeed, local level public procurement-performing entities by far outnumber the central level contracting authorities, although most of them can be classified as small public procurement-performing entities in terms of funds at their disposal and the number of procedures implemented.

For each quarter, in addition to the monitoring findings, the report also includes an analysis of other public procurement-related issues. Thus, the present quarterly report also incorporates the comparative analysis of legislative solutions in the field of public procurements from the neighbouring countries, and specifically targeting the right of economic operators to insight in tender documents, as well as the sanctions stipulated for contracting authorities on the grounds of failure to implement the relevant legislative provisions.

KEY FINDINGS

- **Economic operators cannot exercise the right to insight in documents related to public procurement procedures they have participated in.** Preventing insight in documents related to the implemented public procurements only increases the impression on behalf of companies that the procedure in question failed to secure fair competition and validates their doubts on procedure irregularities.
- **The trend on decreased competition in public procurements continues.** In as high as 47.5% of tenders monitored in the period July-September 2010, bids were submitted by only 1 or 2 companies. This indicates that public procurements are characterized by problems that prevent efficient competition between the suppliers.

- **22.5% of monitored procedures were annulled. In the period 2008 to 2010, the share of annulled tenders from the total number of implemented procurement procedures has been increased by 2 and half times.** In some procedures, the annulment decision was adopted two to five months from the day of the public opening of bids, which provides space for doubts on particular calculations or possible influences in the decision-taking process.
- **Some contracting authorities failed to comply with the new legally-stipulated deadline on decision-taking for the selection of the most favourable bid.** The dynamics of tender implementation continues to be frivolously dictated by the contracting authorities.
- **Contracting authorities will not fulfil this year's legally stipulated minimum requirement that 30% of procurements should be implemented by means of e-auctions, as an efficient mechanism for public saving.** By September this year, the contracting authorities succeeded to implement only 11.6% of announced public procurements by means of e-auctions.
- **The trend on increased number of contracts signed without published call for bids continues.** In the period July-September 2010, a total of 574 million MKD (9.3 million EUR) were spent under this non-transparent contract-awarding procedure, which represents an increase by 14% compared to the same period last year.
- **Most contracting authorities value more the longer payment deadlines for the procurements rather than the quality of goods and services procured.** Frequent use of the bid-evaluation element "payment deadline" continues and forces the companies to offer payment of invoices for public procurement contracts within a period of up to 300 days.
- **Technical specifications are used to favour certain bidders.** In this period as well, economic operators referred to the violation of Article 36 from the Public Procurement Law, notably by means of technical specifications, which in their opinion were adjusted to suit certain bidders and thereby violate the principle of equal treatment and nondiscrimination of bidders.



RECOMMENDATIONS

- To discontinue the practices on preventing insight in documents related to public procurement procedures, which undermine one of the basic principles from the Public Procurement Law – transparency. The Bureau of Public Procurement should develop an opinion and should forward it to all contracting authorities by means of which it shall indicate the contracting authorities' obligation to enable insight in relevant documents for the companies. SCPPA should comply with Article 223 from the Public Procurement Law, which decisively guarantees the right to insight in documents during the appeal procedure. In the long run and for the purpose of avoiding vague provisions related to the exercise of the right to insight, the Public Procurement Law should include precise provisions that regulate this issue and thus overcome the different interpretations related to this issue. At the same time, sanctions should be stipulated for the contracting authorities that fail to enable the right to insight for the participants in the public procurement procedure.
- The Bureau of Public Procurement should undertake a comprehensive analysis of competition in public procurement procedures and should act in the light of limiting the possibilities for the contracting authorities to use eligibility criteria as a mechanism for discrimination and favouring certain bidders.

- Given the large number of procedures annulled, serious doubts are raised in regard to the misuse of legal possibilities due to unrealized expectations for the selection of the favoured bid. Such phenomena should alert the competent institutions, in particular the Bureau of Public Procurements, to initiate amendments to the Public Procurement Law in order to limit and strictly define the possibilities for procedure annulment, including sanctions to be imposed in cases of misuse, which would operationalize the legally-stipulated principles of efficiency and cost-effectiveness in public procurements.
- Sanctions should be introduced for non-compliance with the deadlines on decision-taking or the selection of the most favourable bid. The need for such legal interventions was not raised solely on the grounds of the above indicated behaviour on behalf of the contracting authorities, but also based on the experiences from other European countries.
- The competent authorities, in particular Bureau of Public Procurements, should have been seriously alerted by the continuous non-compliance with the legal obligation to use e-auctions. Therefore, amendments to the Public Procurement Law need to be adopted for the purpose of introducing sanctions for violations of the law.
- The contracting authorities should not use manipulation-prone elements as part of the criterion “economically most favourable bid” for the purpose of favouring certain bidders and discriminating others. If “quality” is used as the selection criterion, by default the contracting authority should define relevant sub-criteria in the call for bids or at least provide detailed description on the manner in which the criterion will be ranked. In this context, the Bureau of Public Procurements should intervene, notably by developing recommendations and guidelines for contracting authorities, for the purpose of harmonized and aligned definition of selection criteria and adherent application thereof.
- Economic operators should be encouraged to lodge complaints in front of SCPPA whenever they have identified that the technical specifications favour certain goods or bidders. At this moment, this is not a common practice and the companies rarely lodge complaints on the grounds of disputable tender documents.
- Due to the trend on increased value of negotiated contracts, the BPP should establish a monitoring mechanism. At the same time, it is necessary to analyse the scope, legal proceedings, transparency and competition of these procedures and if it is determined that such practices are used for lucrative purposes, the BPP should propose limits as regards the flexibility to use negotiation procedures without announced call for bids.
- The ignorant attitude on behalf of contracting authorities as regards this obligation, as well as the inability of competent institutions, make the need for introducing sanctions for the violation of this legal provision more urgent.
- Contracting authorities’ different attitude towards the documents needed for tender participation can be interpreted as insufficient knowledge and understanding of the Public Procurement Law. This is a problem that should be addressed with training and distribution of educational materials, and would limit the contracting authorities’ possibilities to purposefully deny this right of the companies.
- The number of tender documents published in the EPPS and of tender documents for which no fees are imposed should be increased. BPP should continue to supervise, guide and prevent the contracting authorities to charge high fees for tender documents, which are inproportionate to the actual costs they have incurred.
- Bank guarantees should not be set as formal eligibility criteria in all public procurement procedures, whereas in the cases when guarantees are needed, they should be set in lower value from the legally stipulated maximum threshold of 3%.

By Goran Jungvirt



CROATIA'S SANADER ACCUSED OF FATHERING CORRUPT CULTURE

Before there is any question of a trial, some experts are already pronouncing the ex-premier guilty of presiding over an extensive system of financial favours based on plundering state assets.

While Croatian courts prepare to determine whether the former Prime Minister, Ivo Sanader, is guilty of corruption, some senior political analysts are already describing him as the man most responsible for creating the mechanisms that facilitated the illegal extraction of money from the state.

“Corruption was present before Sanader and will be after him but he is the one who established the system of self and party financing through the extraction of money from state-owned companies and departments”, said Zarko Puhovski, a former president of the Croatian Helsinki Committee and now a professor of philosophy in Zagreb.

Puhovski told Balkan Insight that while the judiciary continued their probes into criminal corruption, when it comes to the question of political responsibility, “everything is already clear because no one higher than Sanader was involved in the matter”.

Sanader was arrested in Austria on December 10 on an international warrant issued by Croatia.

The country's anti-corruption agency, USKOK, wishes to question him over financial abuses related to the Fimi Media marketing agency and the illegal sale of electricity by the state-owned

power company, HEP, to the petrochemical company Dioki.

Sanader was brought before an investigating judge in Salzburg on Sunday, when he pleaded not guilty to allegations of abuse of office.

Croatian judicial bodies suspect that during his term as prime minister from 2004 to 2009, government departments including ministries and state companies paid Fimi Media large sums for non-existent services.

The money ended up in the private bank accounts, among others, of Mladen Barisic, former head of Croatian customs and treasurer of the governing Croatian Democratic Union, HDZ, which Sanader once headed.

Barisic was taken into custody at the beginning of October. He is awaiting trial after Zagreb County court released him on November 22, announcing decided to release him after he pleaded guilty for the criminal acts he is suspected for.

Sanader's Vienna-based attorney, Werner Suppan, said on Sunday that extradition was not discussed in Salzburg; under Austrian law, extradition is only possible following a second hearing, which will take place in 14 days' time.

Suppan said that his client wished to cooperate with the Croatian authorities. He maintained that Sanader had not run away, although he left Croatia just before police issued a warrant for his arrest, the morning before parliament stripped him of his immunity from prosecution.

Sanader stepped down as premier and as head of the HDZ in July 2009, vanishing dramatically from the political scene. Following an abortive attempt to unseat his successor, Jadranka Kosor, he returned to politics in October as a parliamentary deputy. The move prompted speculation that it was fear of criminal prosecution that had drawn him back.

On Sunday, Dinko Cvitan, head of the Office for the Suppression of Corruption and Organised Crime, USKOK, said that before formally indicting Sanader, about 100 witnesses would have to be interviewed while experts examined financial issues.

If charges are pressed and Sanader is found guilty, he could face a maximum sentence of up to 15 years in jail, Cvitan explained. Senior figures in the ruling HDZ have been the focus of several corruption investigations recently.

On December 6, a former defence minister, Berislav Roncevic, who served under Sanader, was convicted of corruption and sentenced to four years in prison.

Earlier, in October, the Zagreb County Court sentenced a former deputy prime minister and economy minister, Damir Polancec, to 15 months' jail for paying an attorney, Petar Miletic, half a million kuna [70,000 euro] out of the state budget for what the courts deemed "an unnecessary expert study". He is appealing.

Polancec faces further charges of misappropriating state funds, concerning 230,000 kuna [30,000 euro] spent on installing lighting on a soccer field in his hometown of Djelekovec.

He has also been named in connection with a much larger 400-million-kuna (54 million euro) suspected fraud case involving the Podravka food company.

He has also been named in connection with an investigation into the power company, HEP.

Along with a former HEP director, Ivan Mravak, and the former chair of the Sibenik Light Metal Factory,

Ivan Kostan, Polancec is suspected of defrauding HEP to the tune of about 600 million kuna.

Large-scale corruption, a major obstacle to Zagreb's hopes of joining the European Union, is widely blamed on the lack of a culture of political responsibility in Croatia, a country still in transition 20 years after gaining independence from Yugoslavia.

The fact that many large companies, especially in the energy sector, are still mainly state owned, has made it relatively easy for officials to abuse their funds without attracting attention.

Puhovski says that corruption worsened in Croatia after 2004, when the governing HDZ largely abandoned its earlier nationalistic platform for a policy of rapprochement and cooperation with the European Union, disappointing many of the party's most ardent supporters.

As leader of the opposition from 2000 to 2004, when the centre-left was in power, Sanader had insisted that he would not allow Croatian generals to face prosecution for alleged crimes committed in the independence war against Serbian and Yugoslav forces between 1991 and 1995. Once in office, he backtracked, however.

"Sanader won the 2004 elections on a nationalistic platform and he needed to compensate his supporters after he turned towards the EU," Puhovski said.

Davor Genero, an independent political analyst, also believes that Sanader used a system of corruption and favours to compensate for the abandonment of nationalism.

"The HDZ has the biggest responsibility for creating this pattern of corruption, but others [political parties] are not innocent either," Genero noted.

"Croatia has to establish clear legal rules on the control of money for political campaigns, so that this extraction of state money can be stopped once for all," he said.

"We mustn't miss this current opportunity to establish mechanisms that will prevent something like that from happening again."

Along with a stronger, more independent judiciary, the country needs a vigorous media, a better-informed public and a culture of zero tolerance towards corruption, he added.



"In Croatia, we didn't have that, so we've had a situation of absolutely corrupt government," Genero concluded. In future, those taking over the reins of government "will have to be aware that power isn't absolute".

Bosko Picula, a political analyst and lecturer in political sciences at Zagreb University, said that Croatia suffered from a culture of "complete irresponsibility towards voters and citizens" on the part of its political class.

"The elections gave them the possibility of unlimited government... the winner treated government as a gift that they had got for four years," he added.

Picula compared the current situation in Croatia with Italy in the early Nineties, "when the entire political elite was eradicated from the political scene after corruption scandals".

Picula said that he now expected the formation of the new political ideas and parties in Croatia, working on the novel assumption that government isn't a matter "of privileges but of responsibilities".

According to Picula, Sanader not only extracted money for his own use and for the HDZ and its

senior officials but for entire sections of society, such as civil servants.

At the same time, he allowed foreign debt to balloon. According to some experts, as well the national bank, HNB, foreign debt levels will reach 100 per cent of GDP this year.

"During the 2007 election campaign, Sanader obtained many people's support by this pattern [of irresponsible spending], and herein lies his political responsibility as well, regardless of the latest corruption claims," Picula concluded.

About the Center for Civil Communications

The Center for Civil Communications is a non-governmental, non-profit and non-partisan association of citizens, with a mission to improve and develop the communication among all factors in the society of the Republic of Macedonia about the processes of wider societal importance as well as to monitor, analyze and promote the social-political and economic processes in the country, mostly in the field of anti-corruption, local government and economic development.

The Center for Civil Communications fulfills its mission through organization and implementation of surveys, analyses, monitoring, training, seminars, roundtables as well as publishing of reports, publications and manuals.

In the past five years, the Center for Civil Communications has focused its work on two sets of interrelated activities: monitoring and discovering the corruption practices and based on this providing recommendations on the measures and policies for reducing the corruption and capacity building of journalists and media for fulfilling their special role in the fight against corruption in the country.

The most significant activities that have been implemented include the following:

Project on Transparent Local Governance (2009-2012)

The project develops mechanisms for increasing the transparency, accountability and responsibility of local governments in Macedonia, encouraging the participation of citizens and local business community in the decision making process in the local government and sharing the best practices and experiences among the municipalities in the country and the region. The project activities will contribute for reducing the level of corruption in the local community and increasing the trust of the citizens and business representatives in the local authorities. The project is implemented in partnership with the non-governmental organizations: EHO from Stip and NGO Info Center from Skopje and is funded by the USAID Macedonia.

Monitoring of Public Procurement on Central and Local Level (2008-2010)

The project analyses the implementation of public procurement procedures and system in the country in light of the new Law on Public Procurement, from the aspect of transparency, competitiveness, equal treatment of economic operators, non-discrimination, legal, economic, efficient, effective and rational use of budget funds, getting the best offer under the most favorable conditions and accountability for the funds spent during the public procurement process. Total of 160 randomly selected public procurement procedures are monitored and analyzed on annual level, through direct monitoring of opening the offers, in-depth interviews with the bidders and the institutions that open the tenders, gathering information from the Public Procurement Bureau and other involved institutions. The results of the monitoring include recommendations for promoting the public procurement process. The project is funded by FOSIM.

Enhancing the Role of Media in Fight against Corruption (2008-2009)

The project promotes the journalistic standards on researching and reporting corruption and builds the capacity of media on fulfilling their role in the fight against corruption. The starting point is an in-depth analysis of the way in which the Macedonian media report on corruption and identifying the main weaknesses in this reporting. Based on this, recommendations are developed for promoting the journalistic standards. The implementation is through training of 12 investigative reporters from leading media in the country. These activities will contribute for overcoming one of the main problems detected in the National Strategy on Reducing Corruption – inappropriate media coverage of corruption. The project is funded by USAID Macedonia.

Measures for Reducing Corruption in Macedonia (2007-2008)

After the first phase of the project identified the most vulnerable areas of corruption in Macedonia, this project has developed and recommended total of 156 specific measures that should be undertaken in order to narrow the space for corruption. The project included comparison of the best practices in the other countries, series of workshops where experts and representatives of the stakeholders discussed and proposed ways to narrow the room for corruption, prioritize the measures and sending them to the competent institutions and media for monitoring their implementation. Most of the measures were implemented, particularly those for granting higher independence to the second instance National Commission for Complaints on Public Procurement, which was transferred from the auspices of the government to the Parliament, the independent legal status of the Public Procurement Bureau, which is no longer under the Ministry of Finance, etc. The project was funded by the Balkan Trust for Democracy.

Reduction of Corruption: Exchange of Experience and Good Practices in Investigative Reporting between the Journalists from Macedonia and Romania (2008-2009)

In partnership with the Romanian Center for Investigative Reporting, 10 investigative researchers from Macedonia were trained from the leading Romanian trainers in investigative reporting about the advanced techniques of investigating journalism. After the training, the journalists had an opportunity to be in the Romanian media where together with their colleagues from Romania worked on investigative stories, which were published in the Macedonian media. As a result of the project, a network of investigative reporters was established within the Center for Civil Communications. The project was funded by the East-East program.

Series of trainings for journalists from local media on investigative reporting and reporting on the local government (2008)

The Center delivered 4 regional trainings for 30 journalists from the local media on strengthening their capacities and abilities for researching and reporting on the work of the local government in light of the increased competences of the local authorities, which also increased the role of local media in reporting on the issues of the interest of local citizens. The project resulted in developing a Manual on Journalist Reporting for the representatives of the local media in Macedonia. The project was funded by the USAID Macedonia local government activity.

In addition, the Center for Civil Communications in the past period has published a series of Corruption Reports in Macedonia (2005 and 2006), supported by the Balkan Trust for Democracy, trained the members of entire newsrooms from 16 local TV stations from throughout the country on reporting the issues of local interest, through the support of the US Embassy to Macedonia, participated in the expert team that developed the three-year National Strategy on Combating Corruption, and was a member of the Committee that granted the good governance award in Macedonia, etc.