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ANTI-CORRUPTION INSTITUTIONAL FRAMEWORK IN SERBIA

Abstract

The paper explores anti-corruption (AC) institutional framework in Serbia from 2000 to 2012 in the following way. Firstly, the AC laws, agencies and state institutions are mapped. Then, the main driver of the institutional change was identified. Lastly, the AC institutional organization as a whole is analyzed. The research findings suggest that the anti-corruption institutions in Serbia developed through the process of institutional layering; they were externally driven in most cases (by the EU and international AC initiatives); and, the overall organization of the AC institutions is a hybrid structure of the three models existing worldwide.

Keywords: anti-corruption, institutions, post-communist transition, EU accession

Introduction

This article aims at offering an overview and assessment of the anti-corruption institutional organization in Serbia. The timeframe of the study covers the dynamic period of institutional formation and change in this area during the first three post-Milošević governments, between 2000 and 2012. The study may be of interest to both practitioners and researchers dealing with anti-corruption, institutionalism, policy transfer, legal studies and other related areas.

The paper, firstly, explains the models of institutional arrangement which exist in the international sphere. Then, the paper offers an overview of the legislative and institutional framework in Serbia, including international conventions, regional initiatives and national laws. The pattern of institutional change and the sources of influence are further explored in the Discussion section, which is followed by Conclusions. The chapter includes two annexes. **Annex 1** offers a list of the anti-corruption laws, bodies and agencies established between 2000 and 2012, with brief information concerning the origin and the intended goal of the institutions.

Annex 2 offers a timeline which illustrates the gradual change of the AC institutional setting over time.

Models of AC Institutional Arrangements Worldwide

National anti-corruption institutional arrangements worldwide are highly conditioned by international legislations. The United Nations Convention Against Corruption (UNCAC) – the first international and legally-binding AC document – stipulates that the signatory states must ensure that their institutional framework enables the successful fight against corruption through law enforcement. Moreover, the Council of Europe Criminal Law Convention on Corruption (CoECrLCC 1999) stipulates that the fight against corruption includes the establishment of a specialized institution for combating corruption or the adapting and improving of existing institutions. Conditioned by the international legislation, AC institutional arrangements appear in the international sphere in various forms. According to comparative research and the experiences of practitioners, three main models of AC institutional frameworks can be identified; in many cases, these models are combined (OECD 2008).

The central part of the first model, which is developed in France, Slovenia, Macedonia and Albania, are preventive, policy development and co-ordination bodies with the responsibility of monitoring the work of state institutions, such as boards for the prevention of conflicts of interest, Ombudsmen, Audit offices and so forth. In addition to this, the governmental bodies in this AC institutional arrangement include a wide range of institutions, from political institutions, such as political parties in power and in opposition, to legislative institutions, such as public services that develop, adopt and implement constitutional, statutory and regulatory rules. Moreover, this model of AC institutional organization often includes the judicial and civil society institutions which are active in increasing transparency, such as the media or the academic community (Langseth 2006: 22).

The second model of AC institutional arrangement is based on institutions with a specialized mandate of detecting and investigating corruption as reinforcement units within existing AC units. This approach may also ensure a high level of institutional specialization and expertise in the fight against corruption. In such cases, the challenges are related to the coordination of AC activities due to the absence of a central, specialized

agency (OECD 2008). Bulgaria and South Africa opted for this model of AC institutional setting. In Bulgaria, the key role is played by institutions such as the National Service of the Police, the National Security Service, the Financial Control Agency and so forth. In South Africa, the lack of a single, coordinating body was addressed by the creation of an Anti-Corruption Coordination Committee.

The third model of AC institutional arrangement is based on an independent anti-corruption agency (ACA) which is usually established in countries where corruption is perceived as widespread, and where existing institutions cannot contribute significantly to the fight against corruption as they either lack capacity or they struggle with corruption within their own structures. There are five key functions within the mandate of a special anti-corruption body: prevention, investigation and prosecution of corruption, education and coordination of the anti-corruption activities. There have been an increasing number of AC agencies set up in Europe over the past decade (Latvia in 2000, Lithuania in 2001, Romania 2002, Poland 2006, and Serbia 2010).

The academic research related to the efficiency of ACAs indicates that there have been very few success stories, including the Hong Kong Independent Commission Against Corruption, Singapore's Corrupt Practices Investigations Bureau, Botswana's Directorate for Economic Crime and Corruption and New South Wales' Independent Commission Against Corruption (Camerer 2001; Charron 2008). The reasons for the failure of an ACA, according to De Speville (2008) are numerous, such as weak political will, lack of resources, political interference, failure to understand the nature of corruption in the local context, minimal community involvement, selectivity in investigations, the agency itself becoming corrupt and so forth.

The aforementioned AC institutional arrangements are not universally-applicable models or ready-made solutions which would guarantee effectiveness in the fight against corruption. Moreover, studies about AC institution-building in post-communist countries indicate that the best practices from other regions have been considered useful, but very difficult to implement due to the differences in economic, social and cultural contexts. Therefore, as the literature suggests, establishing AC institutions is most successful if based on an analysis of the specific needs and priorities of an individual country (Tomic 2015, Anusiewicz 2003).

AC Institutional Arrangements in Serbia

The number of anti-corruption institutions in Serbia significantly increased after the change of Milošević's government in October 2000 and over fifty AC institutions were established since then. The following section aims at examining this development in the context of Serbia's re-integration in international organizations and the intensive process of democratization. This section starts with an overview of the legislation which was in force before the change of regime in October 2000. Then, the newly-established AC institutions are identified and their mandate briefly explained.

AC Institutions in Serbia before 2000

When discussing the AC institutions in Serbia before 2000, it is necessary to have in mind the specific political and economic context from 1989 to 2000, and the nature of corruption during this time. Due to the relative poverty and international isolation of Serbia, informal mechanisms of distribution and governance were more functional and more stable than formal ones (Edmunds 2010). There were no specialized AC institutions, public policies or education in the field of AC. The scope of legislation and institutions dealing with the problem of corruption was very limited. Therefore, this legal vacuum enabled clientelism, patronage and other corrupt practices, as well as the active involvement of civil servants in organized crime (Sorensen 2003) and the criminalization of state institutions (Thomas 2000). Besides the absence of AC institutions, there was a lack of enforcement of existing AC legislation, such as an electoral law, as well as the legislation concerning the freedom of the press or conflicts of interest.

The Constitution of the Federal Republic of Yugoslavia, which was in force from 1990 to 2006, stipulated the separation of powers, the independence of the judiciary and the prevention of conflicts of interest. The constitutional category of property structure – which is relevant for the analysis of corruption in privatization – included three types of property: state, public and private. Certain constitutional provisions – such as those with an unclear definition of conflicts of interest and a wide concept of the immunity of MPs – enabled prominent politicians, such as Slobodan Milošević and other ministers in his governments, to hold multiple public

offices. Therefore, opposition parties during the 1990s perceived the Constitution as the foundation of Milošević's authoritarian rule.

Civil rights were legally guaranteed by the Constitution, but the institution of the Ombudsman did not exist. Apart from the lack of laws and political will to tackle the problem of corruption, there was a significant lack of public debate about corruption. There were no discussions about the definition, conceptualization or measurements of corruption in the form that they exist now. Until 2001, when the local office of Transparency International was established, there were no public opinion polls specifically related to corruption or citizen satisfaction polls relating to governmental activities in this field. It is reasonable to argue that under the governments of the 1990s, the issue of corruption was not a priority in institutional formation.

AC Institutions in Serbia since 2000

The following section offers an overview of institutional changes in the area of anti-corruption with the aim of exploring the nature of changes and identifying their pattern. Serbia's AC institutional framework will be analyzed according to the to the order of priority stated in the Constitution (Article 194): the ratified international treaties are below the Constitution and above the national laws in the legal system of Serbia.

The Constitution of Serbia

As mentioned earlier, the Constitution adopted in 1990 remained in force until 2006 due to, among other issues, the lack of consensus on how to institutionalize discontinuity with Milošević's regime. The new Constitution, dating from 2006 and currently in force, regulates the issue of corruption in three ways. Firstly, there are provisions ensuring general democratic principles – such as the separation of executive, legislative and judicial powers and the principle of the rule of law and constitutionality – which are a precondition for a successful fight against corruption. Secondly, there are provisions and norms explicitly addressing corrupt practices, such as those referring to the prohibition of conflicts of interest and incompatibility of public offices, the immunity of state officials, the right to access to information from governmental bodies and institutions. Lastly, there are norms which enabled further institutional changes in

the field of AC, or provisions stipulating the establishing of a State Audit Institution and Ombudsman.

One innovation that raised a heated debate in public was Article 102 of the Constitution, which stipulates that an MP's term of office belongs to the political party proposing the deputy and not to him/her personally. The critics argued that this provision threatened the division of power principle and made it impossible for the MPs to be completely independent of their party leadership (Marković 2006; Venice Commission 2007; Nenadić 2009; Petrović 2005). Other shortcomings of the new Constitution include the vague and sometimes contradictory wording, and very broad legal norms. Marković (2006) criticizes the inconsistencies in the provisions relating to property reforms and their potential consequences on the process of privatization. Another shortcoming of the Constitution is that it fails to include certain anti-corruption provisions; for instance, the provision ensuring that subsequently-adopted norms and by-laws would not derogate the key anticorruption laws, the provisions ensuring the balance of public budget, or those enabling citizens to monitor the work of governmental bodies and institutions (Nenadić 2009).

These shortcomings of the Constitution triggered harsh criticism after its adoption. The Venice Commission (2007: 22) states that the new Constitutions "has all the hallmarks of an over-hasty draft" and "another aspect of the hasty drafting of the text is the lack of opportunity for its public discussion which raises questions of the legitimacy of the Constitution from the perspective of the general public". Marković goes further and argues that the Constitution was an 'election tool' of the government to win the elections by distancing itself from the 1990 Milošević Constitution.

International AC Conventions and Agreements

As is stated in the *European Commission Opinion on Serbia's Application for Membership of the EU* (2011), Serbia has ratified the following international conventions and regional initiatives relevant to the fight against corruption. The *United Nations Convention against Transnational Organized Crime and Additional Protocols*, or the Palermo Convention (signed in 2001), defines the concept of the integrity of public officials and obliges the state signatories to ensure the independence of institutions with the mandate of investigating and preventing corruption in public administration. The *United Nations Convention against Corruption* (UNCAC), the first instrument for the harmonization of anti-corruption

efforts at the national and international level, was ratified by Serbia in 2005. The eight chapters of the Convention establish obligations and standards for the prevention and criminalization of corruption, international cooperation, asset recovery and technical assistance and information exchange.

Serbia is not a signatory of the *OECD Convention on Combating Bribery of Foreign Public Officials in International business Transactions* (1997). However, Serbian criminal legislation is to a great extent aligned with the provisions of the OECD Convention as confirmed by the Council of Europe experts during PACO Project implemented in 2005-2007 (Nenadić 2008). Moreover, Serbia has been involved in the evaluation process within the OECD project of Support for Improvement in Governance and Management (SIGMA) jointly initiated by the OECD and the EU.

There have been critical views on the implementation of the international conventions in Serbia. For instance, Nenadić (2008: 37) argued that Serbian authorities had no clear vision of what part of national institutions would need adjustment and how long the legal reforms would take in the case that an international convention was signed. Moreover, Nenadić argues that there was a lack of mechanisms which would ensure the implementation of the legal and institutional changes and which would ensure their implementation in certain periods of time.

Consequently, the lack of systematic adaptation to the international and European standards, and the lack of clear vision of the purpose of this process – both prior to the signature and afterwards – diminished the effectiveness of the fight against corruption and opened up new opportunities for wrongdoing in politics (Nenadić 2011). By wrongdoing, Nenadić refers to the use of international commitments assumed by the authorities and used in public debates for political gain. The alignment with international conventions is, according to Nenadić, used selectively as an excuse to accelerate the adoption of certain laws; contrary to that, some other reforms are not presented in public as a priority although they are assumed together with other commitments in the conventions.

As a member of the Council of Europe and a signatory to the CoE conventions against corruption, Serbia is committed to complying with European and other international standards for the prevention and control of crime, as well as to enhance technical cooperation which is aimed at building capacity to implement the relevant standards. Within this framework, the CoE has developed several monitoring mechanisms and Serbia takes part in the following ones: the *United Nations Convention*

against Transnational Organized Crime and Additional Protocols, the Council of Europe *Criminal and Civil Conventions on Corruption*, and joined the Group of States against Corruption (GRECO). Moreover, Serbia actively participates in regional initiatives relevant to anti-corruption, such as *The Council of Europe Program for fighting corruption and organized crime* (PACO),[1] Council of Europe OCTOPUS program, [2]*The South East European Co-Operation Process* (SEECP), Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL),[3] and Regional Anti-Corruption Initiative (RAI).

EU Accession and AC Institutions

In November 2005, Serbia started negotiations on the EU *Stabilization and Association Agreement* (SAA). Since that time, the European Commission has issued annual Progress Reports for Serbia, as an integral part of the EU's external policy and as a part of a comprehensive AC strategy referring to potential candidate, candidate and accession countries.[4] The reports are the result of the monitoring process of Serbia's compliance with the community *acquis*, according to the 1993 Copenhagen criteria.

In February 2008, the European Council issued its Decision on European Partnership with Serbia (EC Decision 2008/213/EC). The document stipulates that the fight against corruption is one of priorities in the process of the EU accession. The signing of the SAA in April 2008 furthered Serbia's accession to the EU. In 2010, the EC issued its *Opinion on Serbia's Application for Membership.* The document showed an overall positive assessment of the legal and institutional AC framework in Serbia. It also highlighted the areas still vulnerable to corruption, such as public procurement, privatization, special planning and construction permits. Special attention was paid to the necessary enhancement of the investigative capacities and the coordination of law enforcement bodies.

In March 2012, the EC granted Serbia the status of candidate country. The EC endorsement from 28 June 2013 of the Council of Ministers recommended the opening of accession negotiations with Serbia. The EC announced that the negotiations would commence by January 2014 at the latest, under condition that Belgrade fully implements the agreement with Priština on regional cooperation, freedom of movement and rule of law. The latest developments regarding the EU accession of Serbia suggest that the Chapters of the *Acquis Communautaire* would be open in the near future.

National AC Legislation and Institutions

The intensive institutional formation in the field of AC in Serbia started with the change of government in October 2000. The block, Democratic Opposition of Serbia (DOS), won the elections explicitly stating that their priority would be a more effective fight against corruption. The DOS's Political Program was the first document – not legally-binding, but of great symbolic importance – which addressed openly the issue of corruption in the country.[5] The following section will give an overview of the AC legislation in Serbia, and explain the relevance of the AC legal documents in the political and economic context at the time of their adoption.

AC Institutional Change: 2000-2005

One of the first debates after the Democratic Opposition of Serbia (DOS) came into power, after overthrowing Milošević, was related to institutional organization in the fight against corruption. It resulted in the establishment of the State Anti-Corruption Council, which was the first independent governmental AC body in Serbia. The Council's mission is to advise the government on preventive and repressive measures in fighting corruption, as well as to supervise the implementation of these measures. However, the Anti-corruption Council has no authority to issue legally-binding measures. The Council was founded by the Decision of the Government in October 2001[6] and the idea about its establishment came from the Prime Minister Djindjić and the Minister of Finance Djelić (Brkić 2013: 19).

Another internally driven initiative was the *Law on Organization and Jurisdiction of Government Bodies in Combating Organized Crime, Corruption and Other Serious Criminal Offences*, which was adopted by the DOS government in 2002 and was changed several times. In 2004, a draft law on establishing an AC agency was submitted to the Parliament, but the draft was never subject to Parliamentary debate and under the succeeding governments (2004-2008) it was almost abandoned (Nenadić 2009: 95). In 2005, a new Law on ACA was envisaged by the National Anti-Corruption Strategy, which was adopted in line with GRECO recommendations.

In parallel with these institutional innovations, several laws were adopted in order to address the urgent problems of corruption and organized crime. For example, in June 2001, the DOS government adopted

the *Law on One-Occasion Taxation of Extra Revenue and Extra Property Acquired by Using Special Privileges in Period January 1, 1989 – June 1, 2001*. The Law stipulated a tax on illegally-acquired capital during the 1990s. It was abolished in June 2002 after a short and unsuccessful implementation. The Law was criticized for its revolutionary-political character and for the huge discretionary powers given to the authorities to ensure its implementation. Moreover, the Law was described as retroactive – as it covered the previous 12 years – and it therefore clashed with other laws (Prokopijević 2002).

Another institutional change, initiated by the local political elite, was the establishment of the Commission for the Investigation of Malfeasance from 1989 to 2000 (2001) with a mandate to investigate the illegal financial transactions of the Milošević regime. The Head of the Commission, Vuk Obradović, was forced to resign only two months after assuming his mandate, due to allegations in the media of sexual harassment. In June 2002, the Secretary of the Commission, Slobodan Lalović, resigned due to the inefficiency of the Commission.

Furthermore, a set of AC laws in Serbia were adopted in the early 2000s and they were related to the problems of the intensive economic and political transformation.[7] The *Law on Financing Political Parties*, adopted in 2003, was especially relevant for the regulation of the political sphere, since several provisions of the Law also have an anti-corruption effect. Firstly, the budgetary funding of parliamentary parties was increased, which ensured more financial support from a neutral source. Secondly, the Law sanctioned financing from anonymous sources, foreign persons and legal entities, and from legal entities that are state-owned or in the realm of public property. The Law envisaged the monitoring of the implementation of these provisions by stipulating that political parties are obliged to submit annual financial reports to the relevant governmental AC bodies.

The *Law on Prevention of Conflict of Interest in Discharge of Public Office* adopted in 2004 was the first law in Serbian legislation dedicated exclusively to this issue. The Law on the Prevention of Conflict of Interest stipulates that a public official is a person pursuant to election, appointment and nomination to the governmental bodies at the level of the State, Province, municipalities and towns, as well as to the organs of public enterprises founded by the authorities at these levels of government. The Law envisages the establishment of the Republican Board with the mandate of maintaining the Register of Property of public officials. Public

officials are obliged to declare situations where conflicts of interest can possibly occur before taking over a new position.[8]

Previously, the problem of conflicts of interest was regulated by provisions in the laws of particular sectors (public administration, local governance, elections, judiciary etc.); however, after the adoption of the abovementioned Law there have been several other laws that partially regulated this sphere.[9] The overlapping legislation previously caused confusion and very often these overlaps resulted in the giving of priority to the old rules and regulations (Beljanski 2006). The adoption of this Law was in line with the requirements of the UNCAC; the quality of the Law was positively evaluated by GRECO and its implementation was monitored by the European Commission during the stabilization and accession process.

The *Law on Free Access to Information* was adopted in November 2004; from 2006 this right is also guaranteed by the Constitution as stipulated in its Article 51. The Law is an important tool for both investigating cases of corruption and for enhancing the prevention of corruption through transparency. The Law stipulates that everybody can have access to information in the possession of governmental bodies at all levels of government, public companies and institutions, as well as in organizations with public mandates, such as private companies and associations. The Law established the institution of the Commissioner for Information of Public Importance, with the mandate to help citizens to access information which had been unlawfully denied to them by some governmental body.

In line with the recommendation of GRECO and the EC, this law has been changed several times. The major changes, introduced in 2007, included that it is in the Commissioner's mandate to start the process of assessment of the constitutionality and legality of certain laws and regulations. Since 2008, the Commissioner's mandate includes the protection of personal data. The changes from 2010 stipulate that the decisions of the Commissioner are legally-binding, final and executive, and the Commissioner has the competences to conduct the process of implementation of his decisions. One of the major shortcomings of the Law on free access to information is that it does not stipulate the right of appeal to the Commissioner if one of the highest governmental bodies denies access to the solicited information.

The *Criminal Code of the Republic of Serbia* was adopted in 2005. In order to be aligned with the relevant international conventions, the Code underwent several changes, one of them being the criminalization

of *bribing of foreign public officials.* A major change to the Criminal Code came in the same year 2005, when the Chapter entitled *Criminal Offences of Corruption* was added. This chapter consisted of nine new provisions relating to corruption – all deriving from the *abuse of office* offence (Fatić 2004). There have been opposing views on this change. While some experts argue that the changes contributed to the more effective prosecution of corruption cases (Fatić 2004), others found the innovations confusing and overlapping with previously-adopted laws, since the prosecution had to choose between the two parallel legislations, and it usually gave priority to the old one (Nenadić 2009: 96). In the later editions of the Law, this Chapter was removed.

The current version of the *Criminal Code* has been in force since 2014 and this version contains provisions relevant to corruption, in Chapter 32, entitled *Offences against Official Duty*. The provisions include *Soliciting and Accepting Bribes* (Art. 367), *Abuse of Office* (Art. 359) and *Unlawful Mediation* (Art. 366). There is also an article relevant to the Judiciary – *Violation of Law by Judge, Public Prosecutor or his Deputy* (Art. 360). The *Criminal Code* has certain shortcomings (Nenadić 2009: 96). It stipulates that both sides in the act of bribing are subject to prosecution (criminal charges), regardless of who initiated the bribery. Only under certain circumstances can the part that is offering bribe be made exempt from legal punishment, which does not include exemption from responsibility for the act of bribing. This might be an obstacle in the fight against corruption, since none of the parts involved is motivated to report the case of corruption. Furthermore, some forms of corruption, according to Nenadić (2009), are not identified by the Law, such as the exercise of influence over public officials to take or to avoid taking certain decisions.

The following laws, relevant for the fight against corruption, were also adopted: the *Law on the Protection of Competition* (2005), the *Law on the Protector of Citizens* and the *Law on the State Audit Institution*, the *Law on the State Audit Institution* established the State Audit Institution which started working in 2008.

AC Institutional Change: 2005-2010

In December 2005, the Serbian Parliament adopted the *Decision on Defining the National Anti-Corruption Strategy.* The main goal of the Strategy is to coordinate the work of governmental bodies by implementing the policies of education about AC efforts, preventive measures and the

sanctioning of corruption. Therefore, the Strategy envisages the establishing of an independent AC body – the Anti-Corruption Agency – with a mandate to monitor the implementation of the Strategy and to coordinate the work of governmental bodies in the fight against corruption. The Strategy also identifies sectors in the institutional system which are especially vulnerable to corruption (the political system, the judiciary, the police, public administration and local governments, public finances, economy, civil society, and the media), and suggests solutions and measures for improvement.

The Strategy was aligned with international standards, the CoE Conventions and the GRECO initiatives. It was drafted by a team of experts appointed by the Ministry of Justice in cooperation with the CoE and the local OSCE mission. The Government formed a Commission with the mandate to draft an Action plan for the implementation of the Strategy and to monitor the implementation of the Strategy until the Agency was established.

It has been argued that the Strategy's limited impact is due to its prolonged adoption – a year passed after the document was drafted in December 2004 until it was adopted in the Parliament (December 2005); and another year passed after this until the Action Plan was adopted by the Government (December 2006) (Nenadić 2008). Another explanation is that, before the Agency was established, the Commission for the implementation of the Action plan practically – though not legally – stopped working (Stojiljković 2011). On the other hand, when the Agency became fully operational in 2010, the Commission was not formally abolished. The relevant literature on this topic (Nenadić 2011, 2009), however, does not give further information or explanation of this legal overlapping and vacuum within the AC institutional structure.

With the aim of strengthening the rule of law and building an independent, transparent, responsible and efficient judiciary, the government adopted the *National Strategy on the Reform of Judiciary*. In relation to this, several laws were adopted during 2008, such as the *Law on the High Judicial Council,* the *Law on the State Prosecutorial Council,* and the *Law on Judges.* Another set of laws and other acts relevant to corruption and organized crime was adopted in 2008, such as the *Law on the Liability of Legal Entities for Criminal Offences* and the *National Strategy for the Prevention of Money Laundering and Financing of Terrorism.* The most relevant one for corruption is the *Law on Prevention of Money-Laundering and Terrorism Financing,* which establishes the Administration for the

Prevention of Money Laundering, obliged to report about every transaction of money larger than the stipulated amount.

The adoption of the *Law on the Anti-Corruption Agency* (2008) was an important institutional change as the Law establishes the ACA as an independent body responsible to the Parliament. Apart from introducing a new institutional organization in the area of anti-corruption, the Law offers a legal definition of corruption. In Article 2, the Law defines corruption as a relation, in the public or private sector, based on an abuse of office or social status and influence, with the aim of acquiring personal benefits for oneself or for another. The Law also introduces provisions relating to the prevention of conflicts of interest of those in charge of public offices, at all levels of government and in all three branches of power, including public enterprises and public institutions (Erić, Ćorić and Makić 2009).

The most relevant changes in this period include amendments which were made to the existing *Law on Financing Political Parties* (2003). These amendments were introduced in 2008 as the Law was considered insufficient for the effective monitoring and control of the financing of political parties and electoral campaigns, as well as for control over the spending of funds obtained for those purposes from private and public sources. For example, the mandate for controlling the financing of political parties was transferred in 2008 from the Republic Electoral Commission and Parliamentary Committee on Finance to the Anti-Corruption Agency.

The new *Law on Financing Political Activities* was adopted in June 2011. One change was related to the allocation of budget funds to parties; then, the Law regulates both regular political activities and the work of political parties during electoral campaigns. The Law also has provisions regarding the property of political parties, which was not addressed in the 2003 Law. The Law stipulates sanctions for the indirect financing of political parties or electoral campaigns, and envisages sanctions for illegal funding, both on the party that accepts such funding and on the financer. Other actions leading to sanctions include the financing of political parties and electoral campaigns through mediators; political parties must publish their financial reports on the internet.

Among other AC documents adopted at the end of the past decade were *The National Strategy for the Fight against Organized Crime* (2009). Moreover, in 2009, important changes were introduced to the *Criminal Code* from 2005 (Art. 359 defining the abuse of office; Art. 366 defining profit in influence trading; Art. 367 defining the taking of bribes; and Art. 368 defining the giving of bribes). According to interviews conducted

with civil servants in the Ministry of Justice, the changes were aimed at harmonizing the Code with the *Criminal Law Convention of Corruption*, and with two United Nations legal instruments – UNCAC and the *Convention against Transnational Organized Crime and its Protocols*.

The *Law on Seizure and Confiscation of Proceeds from Crime* was adopted in 2008 and stipulates, amongst others, that: persons who are convicted by a final judgment must prove that their assets have been legally obtained. If the convicted person fails to prove the legality of their assets, those assets will be seized and subsequently confiscated. Moreover, the seizure and confiscation of profits from crime is possible not only from the accused and from the person to whom the profits have been directly transferred; the seizure now includes legal successors, a cooperative witness, testator, inheritors or third parties. Lastly, the Law stipulates that the seizure and confiscation of the proceeds from crime is possible by both individual and legal entities. The Law established a new state authority – The Directorate for the Management of Seized Assets – managed by the Ministry of Justice and the Ministry of the Interior. Previously, this area of law had been regulated by the Criminal Code and the Criminal Procedure Code.

The *Law on the Liability of Legal Entities for Criminal Offences* was adopted in 2008 as a fulfilment of one of the Recommendations of GRECO. It stipulates that a legal entity can be liable for all criminal offences foreseen in the Criminal Code and others pieces of legislation, including corruption-related offences. The Law was drafted in accordance with the *Criminal Law Convention on Corruption*, the UNCAC and the OECD *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*.

Criminal Procedure Code (2001) was amended in 2009 to include the procedural protection of endangered witnesses and the concept of a plea bargain agreement. Moreover, a new chapter was introduced which regulates special investigative measures concerning investigations of organized crime and corruption cases. Moreover, the *Law on the Organization and Jurisdiction of State Authorities in Combating Organized Crime, Corruption and Other Severe Criminal Offences* (2002) was amended in 2009 to be expanded to include cases of corruption. According to sources in the Ministry of Justice, the change made the Law applicable to cases of high-level corruption, involving the highest state officials.

Several laws with significant anti-corruption potential were adopted: for instance, the *Law on Accounting and Auditing*, adopted in 2006, introduced a new system of auditing and increased the number of auditors. In 2008, a new *Law on Public Procurement* replaced the one from 2002. That new Law needed additional provisions which clearly defined the process of bidding for tenders and those addressing the issue of planned public procurement, which was in line with EU legislation on this matter. As a result of these insufficiencies, the current government adopted a new *Law on Public Procurement*, which came into force in January 2013.

AC Institutional Change: 2010-2012

The establishing of the Anti-Corruption Agency (2010), pursuant to the *Law on the Anti-Corruption Agency* (2008), represents a major change in the organization of AC institutions. The competences of the Agency are broad, which raises concerns regarding the technical capacity and the extent of financial support necessary to ensure the sustainability of such an institution.[10] Although the Agency is not an investigative body, it has the mandate to investigate the validity of data and information relating to cases of corruption. The Agency is also responsible for monitoring reporting on the property and income of state officials, and for ensuring that the information in the reports is correct and complete. Lastly, the ACA has the mandate to act upon the individual requests of citizens and on reports of corruption, as well as to protect the personal details and anonymity of whistle blowers.

The Law on the establishment of the Anti-Corruption Agency was prepared in accordance with international standards, especially with UNCAC Article 6 and specific GRECO recommendations, which stipulated the creation of such a body. Moreover, by establishing the ACA, Serbia complied with the EU *Plan for Visa Liberalization*, which required the establishment of the Agency.[11] The *Law on the ACA* was amended in July 2010. Apart from the introduction of some more precise provisions, there was a problematic change in the stipulation that public officials could legally hold multiple offices. The newly-introduced Article 29 of the Law regulated the issue of the accumulation of offices and stipulated that the holding multiple offices (both elected and appointed ones) was legal. The Constitutional Court made a decision in July 2011 that the amendment was against the constitutional principle of the rule of law, against the legislation of the prevention of conflicts of interest and against the provisions of

the UN Anti-Corruption Convention. The issuing of this decision by the Constitutional Court annulled the Article 29 of the *Law on the ACA.*

The State Anti-Corruption Council conducted research about the influence of state institutions on the media during the time between January 2008 and July 2010. The Council outlined the main problems in its *Report on the Pressure and Control over the Media in Serbia* (AC Council 2011). In its *Report*, the State Anti-Corruption Council identifies three major problems in the sphere of the media: the lack of transparency in media ownership; financial influence of state institutions on the media; and, the influence of political parties and ruling elites on the work of the Serbian Broadcast Corporation RTS (AC Council 2011: 6). Moreover, the concern about property rights in the media and the structure of private entities which buy or establish media outlets was confirmed by the EU Parliament. The *Resolution on the European Integration Process of Serbia* (2011) noted that the Government of Serbia attempts to control the work of the media, and tolerates the concentration of ownership and a lack of transparency in the media sphere.

In 2012, the Ministry of Justice, in cooperation with the Anti-Corruption Agency (ACA), formed a Working Group for drafting a new strategic framework for the fight against corruption for the period 2012 to 2016. According to civil servants from the Ministry of Justice interviewed in this research, a new National Anti-Corruption Strategy and Action Implementation Plan were necessary, due to the fact that the majority of activities envisaged by the existing Strategy and Action Plan had been implemented.

Discussion

The experience from other countries shows that there are three main institutional arrangements in the field of anti-corruption (OECD 2008); the first includes preventive and coordinative institutions, the second consists of law enforcement agencies and the third model is based on a multi-purpose AC agency. In many countries these models are combined or they change over time. In Serbia, the three models followed one another, but institutions with different functions continued their activities in parallel. There were very few cases when the AC bodies were abolished or phased out; there were also cases of institutional overlap in terms of mandates and goals.

Based on the overview of the AC institutional organization in Serbia from 2000 to 2012, it is possible to identify several dimensions of change. Firstly, there were changes which introduced new institutions, such as the Board for the Prevention of Conflicts of Interest in 2004, or the Anti-Corruption Agency in 2010, in order to improve institutional capacity in the area of anti-corruption. Moreover, some new anti-corruption measures were introduced in the form of legal provisions of the laws regulating transitional processes and market reforms, such as the laws on privatization, public procurement and media ownership rights. Secondly, the AC institutions were introduced over twelve years in such a way that new AC institutions were established while the existing ones remained active. Therefore, the AC institutional settings in Serbia show characteristics of all three aforementioned models of AC institutional organizations. Therefore, the mechanism of institutional change can be identified as *institutional layering* (Mahoney and Thelen 2010). Lastly, the institutional changes were introduced either on the initiative of the local political elite or they were externally-driven as a part of international agreements and conventions, such as the GRECO or UNCAC.

In the twelve-year long period of institutional change analyzed in this study, three institutional changes can be understood as benchmarks – the establishing of the National AC Council in 2001, the adoption of the National AC Strategy by the Parliament in 2005 and the establishing of the AC Agency in 2010. Each institutional change introduced a set of changes which, to a large extent, can be identified as the aforementioned models of AC institutional arrangements.

During *the first phase of institutional development*, from 2000 to 2005, the institutional changes developed in three directions. Firstly, the AC measures addressed the cases of illegal enrichment of the business and political elites during Milošević government. However, these institutions were not successfully implemented. The *Law on One-Occasion Taxation of Extra Revenue and Extra Property Acquired by Using Special Privileges in Period 1st January 1989 – 1st June 2001* (2001) and the Commission for the Investigation of Malfeasance from 1989 to 2000 (2001) were abolished and the *Law on Responsibility for Human Rights Violation*, known also as the *Law on Lustration* (2003) has not been applied to a single case and was repealed in June 2013.

Secondly, efforts were made to establish new institutions and re-organize the existing ones in order to enable effective prevention, investigation and prosecution of corruption cases. These institutions

include the Anti-Corruption Council (2001), the Commission for Access to Information of Public Interest (2004), and so forth. The work of these organizations involved advising state institutions about AC strategies, but they had no mandate to investigate or prosecute cases of corruption. The only specialized law enforcement bodies with this mandate were the joint teams of police forces and prosecutor's office units, which were active between 2001 and 2003.

Thirdly, the early stage of AC institutional change included a set of laws aimed at regulating those areas vulnerable to corruption during the process of transition, such as the election of MPs, the process of privatization and public procurement. The dynamics of institutional change indicate that the first post-Milošević government, the DOS, recognized the urgent need to address the problem of corruption and organized crime. However, the government failed to introduce the changes systematically and to implement the AC measures consistently.

The AC institutions from 2000-2005 show characteristics adhering to the first model of the AC institutional organization that are based mainly on prevention, policy development and the co-ordination of institutions. Also, some of the early AC institutional changes were established on the initiative of the national political elite. The majority of the locally-driven changes and institutions were soon abandoned and abolished due to their unsuccessful implementation. After Serbia became a member of the Council of Europe, in April 2003, the institutional change was mainly conducted in line with GRECO recommendations.

The second phase of institutional development started with the adoption of the *National AC Strategy* in December 2005. This document set goals in the fight against corruption and introduced a more systematic institutional change in the area of anti-corruption, while the problem of corruption is understood in the wider context of organized crime, terrorism and money-laundering. During this second phase of institutional change, the law enforcement agencies, AC departments and units worked with more independence, in formal-legal terms, than the institutions in the previous period. This characteristic brings the AC institutional organization closer to the second model of institutional arrangement based on law enforcement agencies. It is important to mention, however, that in parallel with the newly-established AC institutions, the previous ones remained active.

The third phase of institutional change started in 2010 when the Anti-Corruption Agency became operational. This third stage has characteristics of the third model, based on the concept of a multi-purpose agency with

both law enforcement powers and preventive functions. During this third phase, the institutional changes mainly include amendments and improvements of the existing legislation, such as in the area of public procurement, whistle blowing and other.

The mechanism of change in the AC institutional organizations can be identified as being layered (Mahoney and Thelen 2010; Thelen 2004). Mahoney and Thelen point out: "[The] [p]rocess of layering often takes place when institutional challengers lack the capacity to actually change the original rules […]. They instead work within the explicit alternative system by adding new rules on top of or alongside old ones." (Mahoney and Thelen 2010: 17). According to the authors, layering can be an effective type of change, as it does not involve efforts to directly change old institutions as some other types of change do, such as institutional change by displacement or conversion. Institutional layering in the case of Serbia is characteristic as the policy solutions are being "borrowed" and transplanted to the local context from international and EU legal practice, which resulted in a specific hybrid type of AC institutional setting.

Regarding the origin of institutional change, the observed AC institutions can be divided into two groups: institutions with internally-driven and externally-driven change. This means that some institutional change took place on the initiative of national elites, especially in the early years of the post-Milošević government. The externally-driven institutional change started in 2003, when Serbia joined the CoE Group of States against Corruption (GRECO). This initiative is dedicated to the adaptation of national legislation to international standards in the area of public administration, such as preventing conflicts of interest, regulating the declaration of assets and income, and strengthening ethical principles and the rule of conduct.

The externally-driven institutional change became even more intensive when Serbia started the EU accession process in 2005. The country became involved in the harmonization of its AC legislation with EU norms and priority was given to areas concerning the rule of law, market competition, public procurement, justice, and the fight against corruption related to organized crime.

As for the functions of AC institutions, significant progress has been achieved in the field of prevention of corruption through the improvement of the legal framework, according to EU standards. However, there was little improvement in the area of investigation and prosecution of corruption cases, as noted in the European Commission's Progress Report

for 2010. Most of the AC laws established independent bodies in specific sectors to monitor the implementation of the law. However, in a large number of cases, the work of these independent bodies was delayed. For instance, the Anti-Corruption Council, the Anti-Monopoly Office, the Ombudsman and so forth, lacked financial support, trained staff and adequate premises at the beginning of their work. In their public speeches and when interviewed in this research, the persons appointed to these positions claim that this was more related to the lack of political will to make AC institutions effective than to the actual economic problems.

Conclusions

The focus of this paper is on the development of AC institutions in Serbia over twelve years, 2000-2012. The aim was three-fold: to outline the institutional changes which have taken place since the change of regime in Serbia; to identify phases in the development of the overall AC institutional setting; and to explore their nature and origin. This overview offers necessary background information for further research on anti-corruption policy, institutional dynamic, policy transfer, European studies or possible interaction between public debates and institutions.

Based on the analysis of the AC institutions in Serbia, it is possible to argue that over fifty institutions – which include pieces of legislation, agencies and bodies – were introduced over the twelve years. The institutional change started soon after the Democratic Opposition of Serbia (DOS) came into power in October 2000. The previous governments, which were led by Milošević's Socialist Party of Serbia (SPS), did not consider the issue of corruption as a priority and the legislation during their mandates included a small number of legal provisions concerning corruption. It can be seen that the AC legislation in Serbia had increased significantly over the past decade – from only a few provisions on preventing conflicts of interest in 2000 to the well-developed AC legal and institutional framework, which was positively assessed in the European Commission's *Opinion on Serbia's membership* in 2010.

The change of AC institutions in Serbia can be characterized as gradual and in the form of layering (Thelen 2004). Thus, as the newly-established institutions became operational, the old ones were rarely abolished. This tendency resulted in the accumulation of AC institutions and in several cases institutional mandates were overlapping. **Annex 1** offers an overview

of the AC bodies and agencies, and the timeline in **Annex 2** suggests that the institutional setting changed gradually through layering. Legal experts argue that more work had been done in the area of institutional and legal formation than in other aspects of the fight against corruption, such as the consistent implementation of laws, and financial and political support to independent AC institutions (Nenadić 2009). It is realistic to expect that future institutional change in the area of anti-corruption will include a large number of externally-driven changes, especially when negotiation talks concerning Serbia's full membership in the EU begin in 2016.

NOTES

1 The Program against Corruption and Organised Crime in South-Eastern Europe (PACO) was aimed at helping South-Eastern European countries to implement their anti-corruption plans and strategies (March 2004-July 2006). The PACO-Impact project was followed by an evaluation by the Stability Pact Anti-Corruption Initiative (SPAI) and GRECO recommendations. The PACO project ACO-Serbia, implemented by the CoE (2005-2007), was specifically focused on fighting economic crime, money laundering, terrorist financing and cybercrime.

2 For more information on OCTOPUS, please see: *Technical Cooperation against Economic Crime – Activity Report* (2006, 2007, 2008, 2009, 2010), Economic Crime Division DG of Human Rights and Legal Affairs, Council of Europe.

3 Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL).

4 More information concerning the EU anti-corruption policy is available in: European Commission (2003) *Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee - On a comprehensive EU policy against corruption*; and European Commission (2003) *Ten principles for improving the fight against corruption in acceding, candidate and other third countries.*

5 The DOS Programme is available at www.vojvodina.com/prilozi/g17.html [accessed 12 June 2016].

6 *Official Gazette RS* 59/01, 3/02, 42/03, 64/03, 14/06.

7 The changes include: the *Law on Election of Members of Parliament*, the *Law on Privatisation*, the *Law on the Privatisation Agency*, the *Law on Public Procurement*; *Law on Public Information*.

8 The Law on the ACA from 2008 stipulates that the declarations are to be submitted to the Agency due to the abolishment of the Board.

9 For instance, *Company Law*, *Law on Civil Servants*, *Law on Public Agencies*, *Law on Contested Procedure*, *Law on Bankruptcy*, *Law on Parliament* and *Anti-Monopoly Law*.

10 Further information is available at the website of the ACA www.acas.rs.

11 "The EU Plan for visa liberalization with the Republic of Serbia (Road Map), Block 3: Public order and security, Preventing and fighting organized crime, terrorism and corruption: Implement the legal regulations on the prevention and fight against corruption, including the creation of an independent anti-corruption agency." Available at the web site of Ministry of Foreign Affairs of Serbia: http://www.mfa.gov.rs/en/foreign-policy/eu/republic-of-serbia-eu [accessed 12 June 2016].

Annex 1: AC Laws, Conventions and Agencies in Serbia (2000-2012)

Adopted	AC Law	Govment[1]	Aim of change	Primary driver
Oct 2000	DOS Democratic Opposition of Serbia Programme	DOS	Anti-corruption declared priority by the new government	Internal
Oct 2000	**Law on Election of Members of Parliament**	**DOS**	**Preventing accumulation of mandates**	**Internal**
Oct 2000	SEECP The South East European Co-Operation Process	DOS	Enhancing stability, trust and good neighbourly relations through co-operation	Internal
Oct 2000	**SPAI Stability Pact for South-Eastern Europe Anti-Corruption Initiative (since 2007 RAI)**	**DOS**	**Enhancing security**	**Internal**
Dec 2000	United Nations Convention against Transnational Organised Crime and Additional Protocols	DOS signed & ratified	Re-integration in international institutions (UN member Nov 2000)	Internal
2001-03	**The Public Prosecutor and police forces worked in joint teams**	**DOS**	**This cooperation was not institutionalised as a permanent structure**	**Internal**
Jan 2001	Commission for the Investigation of Malfeasance from 1989 to 2000	DOS	Mandated to conduct investigation illegal financial transfers during Milošević government; phased out in 2002	Internal
June 2001	**Law on One-Occasion Taxation of Extra Revenue and Extra Property Acquired by Using Special Privileges in Period January 1, 1989 - June 1, 2001**	**DOS**	**Stipulates a tax on illegally-acquired capital during the 1990s; abolished in June 2002, after a short an unsuccessful implementation**	**Internal**
June 2001	**Law on Privatisation**	DOS	Stipulates obligatory privatisation; insider model replaced by sale at public tenders/auctions and transfer of shares to employees/citizens. Changes: 38/01,18/03,45/05, 123/07, 123/07-sep. law, 30/10-sep. law	Internal
June 2001	**Law on the Privatisation Agency**	**DOS**	**To regulate the privatisation process. The Law changed: 38/01, 135/04, 30/10;**	**Internal**
Oct 2001	State Anti-Corruption Council, established by the Decision of the Parliament	DOS	In line with DOS programme in the 2000 electoral campaign	Internal
Jan 2002	**CoECrLCC Council of Europe Criminal Convention on Corruption**	**DOS ratified**		**Internal**
July 2002	Law on Organization and Jurisdiction of Government Authorities in Suppression of Organized Crime, Corruption and Other Severe Criminal Offences	DOS	Establishes the Special Prosecutor's Office and the Special Court for Organised Crime. Changes: 42/02, 27/03, 39/03, 60/03 - US, 67/03, 29/04, 58/04 - suppl. Law, 45/05 and 61/05, 116/08, 72/09, 72/11 2011- separate Law and 101/2011 – separate Law	Internal: an overall administration reform was planned by DOS but abandoned

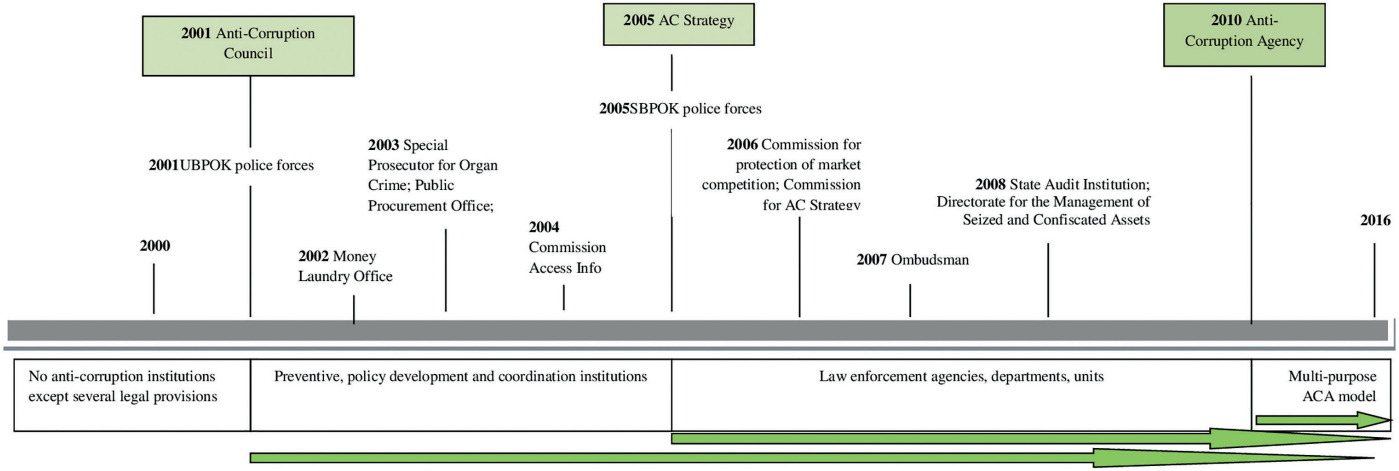
[1] Coalition governments: DOS from October 2000 to March 2004; DSS from March 2004 to July 2008; DS from July 2008 to July 2012

July 2002	**Law on Public Procurement**		**First legislation in this area after sixty years. Changes: 43/03, 55/04, 101/05, 116/2008-sep. law, 124/2012-sep. Law**	
2003	Public Procurement Office		Improvement of the existing legislation in this area	External: GRECO
Mar 2003	**Law on Public Information**	**DOS**	**Regulates free speech, broadcasting, media production and distribution. Changes: 43/03, 61/05, 71/09, 89/10, 41/11**	**External: GRECO, EU**
Apr 2003	GRECO Group of States against Corruption	DOS	Membership to CoE in April 2003 and joining GRECO initiative	Internal
May 2003	**Special Department for Fighting Organised Crime was established**	**DOS**	**This institution was a part of District Court in Belgrade.**	
July 2003	The Law on Financing Political Parties	DOS	Changes: 72/03, 75/03-corr., 60/09-decision, 97/08	External GRECO, EU
Dec 2003	UNCAC United Nations Convention against Corruption	DOS signed DSS ratified	UN membership since November 2000 (ratified in Oct 2005)	Internal
Apr 2004	Law on Prevention of Conflict of Interest in Discharge of Public Office	DSS	Establishes the Board for Prevention of Conflicts of Interest (which was taken over by the ACA in 2010)	External
May 2004	Law on Registration of Economic Entities	DSS	Regulates the rights of minor shareholders in privatisation	not confirmed
Nov 2004	Law on Free Access to Information		Establishes the Commissioner's Office; since 2010 the Commissioner's decisions are legally-binding, final and executive. Changes: 120/04, 54/07, 104/09, 36/10	External GRECO, EU
Nov 2004	Strategy of Public Administration Reform			External GRECO, EU
Dec 2004	Code of Conduct for councillors and officials at the level of local authority		Launched by NGO Standing Conference of Towns and Municipalities; adopted by the majority of local administrations	External GRECO, EU
Jan 2005	MONEYVAL Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism	DSS		External CoE
Mar 2005	Law on the Protector of Citizens	DSS	Establishes Ombudsman's Office; changes: 79/05, 54/07	External EU
Apr 2005	CoE Civil Conventions on Corruption	DSS signed & ratified	As a member of GRECO, Serbia ratified CoECrLCC in order to comply with the CoE standards; (Jan 2008)	not confirmed
May 2005	CoE Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism	DSS signed DS ratified (April 2009)		External CoE
Sep 2005	**Criminal Code of the Republic of Serbia**	**DSS**	**Drafted in line with international conventions. The Chapter Criminal Offences of Corruption was removed in 2009**	**External CoE, EU**
Sep 2005	Law on the Protection of Competition	DSS	Establishes the Anti-Monopoly Agency	External EU
Oct 2005	**Negotiation process on ratifying the SAA started**	**DSS**	**The negotiation ended two years later, September 2007**	**Internal**

Nov 2005	Law on Police	DSS	The Office for the Fight against Organised Crime (UBPOK) established in 2001 reintegrated into the police hierarchy and renamed the Service for the Fight against Organised Crime (SBPOK)	not confirmed
Nov 2005	**The Audit Act**	**DSS**	**Establishes the State Audit Institution (SAI); supported by the European Agency for Reconstruction (EAR); earlier attempts supported by UNDP (2000)**	**External EU**
Dec 2005	National Anti-corruption Strategy	DSS	Envisages an Action Plan and ACA; aligned with international standards and CoE Conventions; drafted in cooperation with the CoE and the local OSCE mission	External GRECO
Dec 2005	**PACO CoE Programme for fighting corruption and organised crime**	**DSS**		**External CoE**
2006	(Anti-Corruption) Commission	DSS	Mandated to draft Action Plan for the Strategy and to monitor implementation of the Strategy and GRECO until ACA established	Internal
May 2006	**National Strategy on the Reform of Judiciary**	**DSS**	**Strengthening the rule of law, independent and efficient judiciary**	**External GRECO, EU**
May 2006	**Law on Accounting and Auditing**	DSS	**Introduces a new system of auditing; increased number of auditors**	External EU
Sep 2006	**Constitution**	**DSS**	**Several anti-corruption provisions, including the right to free access to information**	**External GRECO, EU**
Jan 2008	Additional Protocol of CoECrLCC	DSS	Pursuant to the CoECrLCC	
Apr 2008	**EU SAA Stabilisation and Association Agreement**	**DS ratified (May 2012)**	**The SAA envisages legal changes in: the protection of competition and control of state subsidies, intellectual property rights, public procurement, standardization and consumer protection**	**Internal**
2008	State Audit Institution		Became operational. The first financial audit report was on the 2008 Budget, submitted to the parliament in November 2009	External EU
Sep 2008	**National Strategy for the Prevention of Money Laundering and Financing of Terrorism**			**External: MONIVAL, EU, GRECO, UNTranOrgCrim**
Oct 2008	Law on Anti-Corruption Agency	DS	Defines corruption (Art 2), Establishes ACA	Externally driven UNCAC, GRECO, EU
Oct 2008	**Law on the Liability of Legal Entities for Criminal Offences**			**Externally driven CoECrLCC, UNCAC, OECD Convention**

Oct 2008	Law on Seizure Confiscation of the Proceeds from Crime		Establishes a Directorate for the Management of Seized and Confiscated Assets within the Justice and the Interior Ministries	External (precondition for the EU visa liberalization)
Dec 2008	**Action Plan for the AC Strategy**	**DS**	**Envisaged by the National AC Strategy**	
Mar 2009	The National Strategy for the Fight against Organised Crime	DS		External MONIVAL EU, GRECO, UNTransOrgCrim
Mar 2009	**Law on the Organisation and Jurisdiction of State Authorities in Combating Org Crime, Corruption and Other Severe Criminal Offences**	**DS**	**Amended in order to be applicable to high-level corruption cases, involving the highest state officials**	**External EU, GRECO**
Aug 2009	Criminal Code of the Republic of Serbia	DS	Harmonising the Code with the CoECrLCC, the UNCAC and the UN Convention against Transnational Org Crime and its Protocols	External UN, CoE
Sep 2009	**Criminal Procedure Code (2001)**	**DS**	**Amended to include the procedural protection of endangered witnesses and the concept of a plea bargain agreement. A new chapter was introduced on investigations of organised crime and corruption cases**	**External EU, GRECO**
Oct 2010	Law on Budgetary System	DS	Harmonising national legislation with the EU norms in order to ensure transparent use of EU pre-accession funding. Changed: 54/09, 73/10, 101/10, 101/11, 93/12	External EU
June 2011	**Working Group for drafting a new strategic framework for the fight against corruption for the period 2012 to 2016**	**DS**	**Working Group to draft a new National AC Strategy and Action Implementation Plan, as the existing AC Plans had been implemented; organised by the Ministry of Justice and the ACA**	**Internal**
June 2011	Law on Financing Political Activities	DS	Drafted in line with the ten GRECO recommendations	External GRECO
*	**OECD Convention on Combating Bribery of Foreign Public Officials (1997)**		**Serbia is not a signatory, but its criminal legislation is aligned with the OECD Convention as confirmed during PACO Project 2005-2007; Serbia is involved in the OECD and the EU evaluation project SIGMA.**	

Annex 2: AC Institutional Organization: AC Agencies



Bibliography

Anusiewicz, T, "Fighting Corruption in Post-Communist States: Where are we now? Where do we go from here?", paper presented at the *UNDP Roundtable*, Oslo, 2003

Beljanski, S, "Pravni i politički aspekti sprečavanja sukoba interesa", in *Sukob interesa kod javnih funkcionera i javih službenika u Srbiji. Regulativa i nadzor nad njenom primenom*, Transparency Serbia, Belgrade, 2006

Brkić, M, *On the Deeds of Weak Institutions*, Center for Applied European Studies, Belgrade, 2013

Camerer, L, "Prerequisites for Effective Anti-Corruption Ombudsman's Offices and Anti-Corruption Agencies", in *Workshop Papers*, IACC and Transparency International, Prague, 2001.

Charron, N, "Mapping and Measuring the Impact of Anti-Corruption Agencies: A New Dataset for 18 Countries", in *New Public Management and the Quality of Government* conference, Göteborg, Sweden, November 13-15 2008

De Speville, B, "Failing Anticorruption Agencies – Causes and Cures", paper presented at *Empowering Anti-Corruption Agencies: Defying Institutional Failure and Strengthening Preventive and Repressive Capacities*, Lisbon, 14-16 May, 2008

Edmunds, T, "Informal Institutions of Political Participation in the Serbian Security Sector", in *Persistent State Weakness in the Global Age*, D. Kostovicova and V. Bojičić-Dželilović (eds.), Ashgate, London, 2010

Erić Ćorić, V. and A. Makić, "The Compatibility of the Serbian Anti-Corruption Legal Framework with the Regional and International Standards", in M. Milošević (ed.), *Serbian Law in Transition – Challenges and Changes*, Institute of Comparative Law, Belgrade, 2009

Fatić, A, "Anti-Corruption and Anti-Organized Crime Policy in Serbia: Regional Implications", in *Southeast European and Black Sea Studies*, 4(2), 2004

Langseth, P, "Measuring Corruption", in *Measuring Corruption*, C. Sampford *et. al.* (eds.), Ashgate, Abingdon, 2006

Mahoney, J. and K. Thelen, "A Theory of Gradual Institutional Change", in *Explaining Institutional Change. Ability, Agency and Power*, J. Mahoney and K. Thelen (eds.), Cambridge University Press, Cambridge, 2010

Marković, R, "Republic of Serbia Constitution of 2006 – A Critical Review", in *The Annals, International Edition*, Belgrade, 2006

Nenadić, N, "Zakonodavni okvir za borbu protiv korupcije u Srbiji", in *Dosije korupcija,* Toplicki centar za demokratiju i ljudska prava, Prokuplje, 2011

Nenadić, N, "Sprecavanje korupcije – zakonodavstvo i iskustva u primeni propisa", in *Vladavina prava – odgovornost i kontrola vlasti, Zbornik referata i izlaganja sa strucnog skupa,* Lj. Djordjevic and I. Babic (eds.), Konrad Adenauer Stiftung, Beograd, 2009

Nenadić, N, "Korupcija kao problem na putu pristupanja EU i pristupanje kao podsticaj za suzbijanje korupcije u Srbiji", in *Izazovi evropskih integracija*, (2), 2008.

Petrović, M, "The 2006 Constitution of The Republic of Serbia as a Legal Framework for Party Oligarchy", in *Facta Universitatis*, Series Law and Politics, 3(1), 2005

Prokopijević, M (ed.), *Two years of Reform in Serbia: a Wasted Opportunity*, Policy Documentation Centre, 2002, available at http://pdc.ceu.hu [accessed on 3/6/2016].

Sorensen, J. S., "War as social transformation: wealth, class, power and an illiberal economy in Serbia", in *Civil Wars*, 6(4), 2003

Thelen, K, *How Institutions Evolve: the Political Economy of Skills in Germany, Britain, the United States, and Japa*, Cambridge University Press, New York, 2004

Thomas, R, *Serbia under Milosevic: Politics in the 1990s*, C. Hurst & Co, London, 2000

Tomic, S, *Explaining Enforcement Patterns of Anticorruption Agencies: Comparative Analysis of Five Serbian, Croatian and Macedonian Anticorruption Agencies*, PhD thesis, London School of Economics, London, 2015 [unpublished]

Trivunović, M *et al.*, *Corruption in Serbia 2007. Overview of Problems and Status of Reforms*, Chr. Michelsen Institute, Bergen, 2007

International Conventions and Reports

Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee - On a comprehensive EU policy against corruption, COM (203), 317, European Commission, Brussels, 2003

Communication from the Commission of the European Parliament and the Council. Commission opinion on Serbia's application for membership of the European Union, SEC(2011), 668, COM(2011), 1208 final, European Commission, Brussels 12 October, 2011

Conclusions of the Presidency, Copenhagen European Council Meeting, 21-22 June, European Commission, Brussels, 22 June, 1993

Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, OECD, Paris, 1997

European Parliament Resolution On the European Integration Process of Serbia (2011/2886(RSP), European Parliament, 2012

Federal Republic of Yugoslavia, Stabilization and Association Report, SEC (2002) 343, com (2002) 163, European Commission, Brussels, 4 April 2002

Serbia and Montenegro, Progress Report, SEC (2005) 1428, COM (2005) 561 FINAL, European Commission, Brussels, 9 November 2005

Serbia 2006 Progress Report, SEC (2006), 1389, COM (2006) 649 final, European Commission, Brussels, 8 November, 2006

Serbia 2007 Progress Report, SEC (2007), 1435, COM (2007) 663 final, European Commission, Brussels, 6 November, 2007
Serbia 2008 Progress Report, SEC (2008), 2698 final, COM (2008), 647, European Commission, Brussels, 5 November, 2008
Serbia 2009 Progress Report, SEC (2009), 1339, COM (2009) 533, European Commission, Brussels, 14 October, 2009
Serbia 2010 Progress Report, SEC (2010), 13309, COM (2010) 660, European Commission, Brussels November, 2010
Serbia 2012 Progress Report, SEC (2012), 333, COM (2010), 600 final, European Commission, Brussels 10 October, 2012
Specialized anti-corruption institutions. Review of models. Anti-Corruption Network for Eastern Europe and Central Asia, OECD, Paris, 2008
United Nations Convention against Corruption, United Nations, New York, 2002

National Legislation

Criminal Code of the Republic of Serbia, *Official Gazette RS* 85/05, 88/05 – corr., 107/05 – corr., 72/09, 111/09
Decision on Defining the National Anti-Corruption Strategy, *Official Gazette RS* 109/05
Law on the Anti-Corruption Agency, *Official Gazette RS* 97/08, 53/10
Law on the Confirmation of the Additional Protocol to the Council of Europe Criminal Law Convention on Corruption, *Official Gazette of RS* 102/07
Law on the Confirmation of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, *Official Gazette RS* 19/09
Law on Financing Political Parties, *Official Gazette RS* 72/03, 75/03 - corr., 60/09 – decision, 97/08
Law on Financing Political Activities, *Official Gazette RS* 43/2011; 123/2014
Law on Free Access to Information, *Official Gazette RS* 120/04, 54/07, 104/09, 36/10
Law on High Judicial Council, *Official Gazette RS* 116/08
Law on Judges, *Official Gazette RS* 63/01, 42/02, 17/03, 27/03, 29/04, 35/04, 44/04, 61/05, 101/05
Law on the Liability of Legal Entities for Criminal Offences, *Official Gazette RS* 97/08
Law on Responsibility for Human Rights Violation, *Official Gazette RS* 58/2003, repealed in June 2013
Law on One-Occasion Taxation of Extra Revenue and Extra Property Acquired by Using Special Privileges in Period January 1, 1989 - June 1, 2001, *Official Gazette RS* 36/2001, 17/2002 – decision, 72/2011-decision
Law on Organization and Jurisdiction of Government Bodies in Combating Organized Crime, Corruption and Other Sever Criminal Offences, *Official*

Gazette RS 42/02, 27/03, 39/03, 67/03, 29/04, 58/04 - sep. law, 45/05, 61/05, 72/09, 72/11-sep. law, 101/11-sep. law, 32/13
Law on Police, *Official Gazette* 101/2005, 63/2009 – decision
Law on Prevention of Conflict of Interest in Discharge of Public Office, *Official Gazette RS* 43/04
Law on Prevention of Money-Laundry and Terrorism Financing, *Official Gazette RS* 107/05, 117/05 - correction and 62/06 - suppl. Law
Law on the Protector of Citizens, *Official Gazette RS* 79/05, 54/07
Law on the Protection of Competition, *Official Gazette RS* 79/2005
Law on Public Procurement, *Official Gazette RS* 39/02, 43/03, 55/04, 101/05, 116/08; sep. law 124/2012
Law on the State Audit Institution, Official Gazette RS 101/05, 08
National Strategy for the Fight against Organized Crime, *Official Gazette RS* 23/09
National Strategy for the Prevention of Money Laundering and Financing of Terrorism, *Official Gazette RS* 89/08
National Strategy on the Reform of Judiciary, *Official Gazette RS* 44/06

Reports

Report on Pressure and Control over the Media in Serbia, Anti-Corruption Council, Belgrade, 2011
SIGMA Assessment Report, OECD SIGMA, Paris, 2011, www.sigmaweb.org or www.oecd.org [accessed on 3/6/2016]
SIGMA Reports on the Public Procurement System in Serbia, OECD SIGMA, Paris, 2009, www.oecd.org [accessed on 3/6/2016]
SIGMA Reports on the Public Procurement System in Serbia, OECD SIGMA, Paris, 2011, www.oecd.org [accessed on 3/6/2016]
SIGMA Serbia. External Audit, Assessment, OECD SIGMA, Paris, 2008, www.oecd.org [accessed on 3/6/2016]
Venice Commission, *Opinion on the Constitution of Serbia,* CDL-AD(2007)004, Opinion No. 405/2006, Venice, 17-18 March, 2007