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Southeast European Leadership for Development and Integrity

ANTI-CORRUPTION NEWSLETTER

ISSUE #51 // MARCH-APRIL 2020 // SELDI.NET

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NEWS BY SELDI MEMBERS

COVID-19 PANDEMIC AND THE THREAT TO THE RULE OF LAW IN THE WESTERN BALKANS

In order to contain the spread of the coronavirus (COVID-19) and lower the burden on healthcare systems, Western Balkan governments have imposed restrictive measures – these include declarations of a state of emergency in Serbia, North Macedonia and in Republika Srpska, one of the two entities of Bosnia and Herzegovina.

COVID-19 is, without a doubt, a threat to be contained, so protecting people should be the utmost priority of the governments. Nevertheless, these protections also may pose a significant threat to the basic principle of liberal democracy: the suspension of constitutional checks-and-balances, as well as numerous restrictions and fast-track procedures aiming to provide efficient solutions to the crisis, may leave substantial space for corruption.

(SELDI, EWB, 31 March 2020)



REFORMING PUBLIC PROCUREMENT DEEMED CRUCIAL FOR FIGHTING CORRUPTION IN THE WESTERN BALKANS

Public procurement systems in the Western Balkans are among the areas most vulnerable to corruption – they serve as government mechanisms for buying "everything from a needle to a locomotive", and with a good reason.

In a region still transitioning towards a functional market economy while sharing a common communist history, the public procurement system does not only serve its original purpose of procuring goods, services and works by respecting market criteria, but is often taken advantage of to transfer public funds into private pockets in a crony-capitalist manner.

Previously addressed in Chapter 5 of the accession negotiations process, public procurement will officially be placed in a cluster alongside Chapters 23 and 24 and recognized as a part of the "Fundamentals". This change is in accordance with the new enlargement methodology proposed by the European Commission. European Western Balkans discussed the state of play with the experts from the region, as well as how some of the challenges may be addressed.

(SELDI, EWB, 20 March 2020)

FINANCING POLITICAL PARTIES AND ELECTIONS IN THE WESTERN BALKANS: IRREGULARITIES OCCUR FROM CYCLE TO CYCLE

Even though current circumstances might put them on hold, parliamentary elections are expected to take place this year in North Macedonia, Serbia and Montenegro.
While parliamentary elections in North Macedonia were scheduled for 12 April, and in Serbia for 26 April, the prospective date for Montenegro is still unknown.
Besides the question of their postponement due to the COVID-19 pandemic, there are also concerns about the implementation of each election, a particular challenge being the financing of political campaigns.
(SELDI, EWB, 18 March 2020)

MEDICAL EQUIPMENT DONATED TO NORTH MACEDONIA WILL BE INVESTIGATED BY THE ANTICORRUPTION COMMISSION

Documents will be requested from the institutions that benefited from the public donations and financial assistance rendered by citizens and companies, since the beginning of the State of Emergency.
While the anticorruption commission says that they have not received any information of misuse, it encourages all citizens to report any suspicions concerning the origin of medical equipment sold in pharmacies.
Further attention will be focused on public procurement, state aid and donation distribution, as well as the work of the inspectorates. Specifically, the anticorruption commission announced the creation of a public record – this will include the recipients of state aid and donations (on different grounds), public procurement suppliers and subjects of control inspections.
They will monitor the websites of state institutions, noting the extent of information shared during this time of legal implementation, as well as how transparent the public procurements are.
(SCPC, 8 April)



SCPC AND CSOS PLATFORM AGAINST CORRUPTION WITH ACTIVITIES DURING COVID-19

SCPC and CSOs platform against corruption have also decided to emphasize the increased risks of corruption in times of crisis, as evidenced during previous smaller crises locally and on a regional scale. In this light, attention will be drawn toward the processes of public procurement and the distribution of state aid and donations, as well as the work of inspectorates. It is hoped that the institutions will do everything possible to incorporate appropriate anti-corruption mechanisms in the internal procedures, as guided by the principles of ethics, impartiality and transparency. A public record of is also forthcoming, which will list recipients of state aid (on different grounds) and donations, suppliers in public procurement and subjects of inspection checks.

(CSOs Platform against corruption, 7 April.)

СООПШТЕНИЕ

ДКСК и Платформата, своите активности ги насочуваат кон:

1. Следење на содржината, транспарентноста и отчетноста во реализацијата на уредбите со сила на закон и мерките што Владата и институциите ги носат во овие вонредни услови, а особено на оние кои вклучуваат трошење на буџетски средства и, користење на донации и слично, а во насока на заштита на здравјето на граѓаните и економската состојба на земјава.
2. Поддршка на граѓаните и институциите во пријавувањето и навременото откривање на можни недоследности и незаконитости во постапувањето на државните и локални власти, како и на поединци и субјектите во јавниот сектор.

BIH SEEKS TO "CURE ITS HEALTH SYSTEM"

As part of the EU-funded project "Let's Cure the Health System", Centers for Civic Initiatives (CCI) with their implementing partner Transparency international BiH (TI BiH) have organized an educational activity for key representatives of the Zenica Cantonal Hospital in BiH. This activity will address the implementation of a new system of transparent and automatic patient waiting lists for the most important examinations and operations. Previously, a suitable software model that enabled the publishing of waiting lists had been installed in the hospital. The aim was to publish waiting lists on the website of the Zenica Cantonal Hospital using objective and automatic procedures. This would minimize opportunities for appointments made through corruption. The educational activity was conducted in a line with the legislation on personal patient data protection. Within the same project, system communication between doctors and patients has been improved (patient notification of appointment by SMS has been introduced, sending information on what should be prepared for inspection or surgery, etc.). Transparent, electronic waiting lists have also been introduced for medical services under major congestion, such as CT diagnosis, MRI diagnostics, cardiac ultrasound, ergometry.

(CCI, March 2020)

RESPONSE TO ANNOUNCED PUBLIC DEBATE ON AMENDMENTS TO THE LAW ON FREE ACCESS TO INFORMATION

Several Montenegrin CSOs and journalists are urging the Ministry of Public Administration to postpone public debate on the Law on Free Access to Information until after the coronavirus pandemic and to publish opinions of the European Union experts on that regulation.

The CSOs and journalists believe that a public debate on constitutional rights will be ineffective when citizens are locked in their homes and while parliamentary sessions have been suspended, with no information regarding their resumption. **(IA, 30 March 2020)**



IA RECOMMENDATIONS FOR IMPROVEMENT OF SIMPLE AND CENTRALISED PROCUREMENT

Institut Alternativa (IA) has submitted their recommendations to the Ministry of Finance on the Draft Decree on Centralised Procurement and the Draft Rulebook on Manner of Implementation of Simple Procurement. IA's recommendations specifically target problems mapped within their recently conducted research on these specific procurements.

Some of the key IA's proposals are the following:

- For the Ministry of Finance to outline a specific form of the Centralised Public Procurement Plan, which will then become an integral part of the Decree;
- To prescribe an obligation of publishing framework agreements and other public procurement contracts concluded by the Central Public Procurement Authority
- To prevent the exploitation of an absence of market competition (fewer than three bidders) due to the "technical specification of procurement item(s)'.

(IA, 31 March 2020)

ANTI-CORRUPTION NEWS FROM THE SEE REGION

The current section of the Newsletter presents a summary of the latest anti-corruption news from the SEE region, based on consolidated information from multiple sources, such as media outlets and narratives received by the SELDI project partners.

OPEN SOCIETY FOUNDATION-MACEDONIA STARTED WITH IMPLEMENTATION OF THE PROJECT "STRENGTHENED INTEGRITY SYSTEMS FOR COMBATING CORRUPTION AT THE LOCAL LEVEL"

The Open Society Foundation-Macedonia, over a period of 12 months starting from March 2020, will implement the project "Strengthened Integrity Systems for Combating Corruption at the Local Level". The project aims at contributing to the promotion of good governance at the local level b strengthening the resistance of the local governments to corruption by introducing integrity systems in five municipalities. It also aims to increase civic involvement in the fight against corruption – especially the vulnerable categories of citizens – by increasing the scope of reported cases, while providing legal assistance and information. The activities are part of the "Civil Participation Project" by the East West Management Institute (EWMI), which is funded by the United States Agency for International Development (USAID).

(FOSM, 2 April)

COVID-19 INCREASES THE RISK OF PUBLIC PROCUREMENT CORRUPTION

The necessitated state of emergency in North Macedonia has compelled the urgent procurement of goods, services and other protective materials In accordance with the Law on Public Procurement, these procurements are conducted through direct negotiations with the companies, i.e. a procedure of negotiating without publishing any sort of announcement(s), which allows the institutions to proceed without a prior opinion from the Public Procurement Bureau. Additionally, the Center of Civil Communications (CCC) believes that suppliers are aware that institutions are operating very tightly and they lack sufficient choice, and are thus able to exploit the critical situation through raised prices.

In order to narrow the space for possible abuse of already dwindling public resources, the CCC emphasizes that it is necessary to make maximal efforts to increase transparency, accountability and rationality of procurement.

Institutions should strive to get the best value for the money spent. This will be achieved by the timely publication of notices and contracts for procurement related to the prevention of the spread of COVID-19, and no later than ten days after the contract has been made.

(Center for Civil Communications, 06 April)



POSTPONING THE ELECTIONS – A CHANCE FOR DIALOGUE BETWEEN THE RULING AND OPPOSITION PARTIES IN SERBIA?

The Serbian parliament was dissolved on March 4, followed by appeals from the opposition, primarily the Alliance for Serbia (SzS), the New Party and the 1 in 5 Million Movement, to postpone the elections due to the COVID-19 pandemic.

After President of the State Aleksandar Vučić declared a state of emergency on March 15, the Republic Electoral Commission (RIK) adopted a Decision to Terminate All Electoral Activities for Conduct of Parliamentary Elections in accordance with the Decree on State of Emergency measures. The Decision states that new deadlines for the conduct of electoral activities will be determined from the last day of the state of emergency, and that all electoral activities undertaken so far remain in force.

How, then, will the relations between the ruling and opposition parties be expected to change after the state of emergency is abolished?

(EWB, 01 April 2020)

ALBANIA'S HOMEWORK: WHAT ARE THE CONDITIONS FOR THE NEXT STEP TOWARDS THE EU?

It is no surprise that Albania would have additional work to do, even after the green light of EU membership. Last September, the German Bundestag adopted a resolution allowing the Government to support accession talks with Albania, while simultaneously listing the conditions required for the first and second intergovernmental conference. All of the conditions adopted by Germany are now a part of the Council's conclusions, in addition to several others.

The conditions defined in the Council's conclusions are somewhat disorganised, leaving room for different summaries of the document. While the EU Ambassador to Albania Luigi Soreca has talked about four main conditions, leader of the Democratic Party Lulzim Basha assured the Enlargement Commissioner Olivér Várhelyi that the opposition will contribute to the fulfilment of 15 conditions. Other media outlets have reported that there are 13 conditions.

(EWB, 8 April 2020)

BOSNIANS BLAME CORRUPTION FOR COVID-19 SPREAD

Bosnian citizens were shocked this week to find that a politically-connected local businessman may have used private contacts to skip the prescribed protocols during a hospital admission, thus carrying the coronavirus in the worst possible place – to the Department of Pulmonary Diseases.

By closing schools, shops, bars and borders, authorities say they have done all they can to keep Bosnia at the bottom of the list of countries affected by the virus. The corruption and nepotism that have plagued the Bosnian society for decades on now pose a threat to the lives of the poor population.

Angry citizens took to the social media to condemn Praslas' irresponsible behavior, citing media reports about his family ties to the leader of one of Bosnian ruling parties – the nationalist Croatian Democratic Union (HDZ)

Rumour has it these ties have helped him skip security procedures. Others described the incident as a "terror attack". While Bosnian citizens raged about "the first patient in Mostar", the country's border police announced the arrest of one of their officers and the suspension of five other corruption suspects.

(IRL, 31 March)

REPRESSIVE LAWS, PROSECUTIONS, ATTACKS... EUROPE FAILS TO SHIELD ITS JOURNALISTS AGAINST THE ABUSE OF THE COVID-19 CRISIS

In their fight against the coronavirus, journalists in the Balkans and Central Europe have been attacked by governments as well as other actors they have been criticising. Reporters Without Borders (RSF) has called on national and European institutions to protect the media as they fulfil their public mission in risky conditions.

(RSF, 8 APRIL 2020)



PUBLIC PROCUREMENT AGENCY AND COUNCIL WITH MINISTERS OF BIH ISSUE A STATEMENT REGARDING PUBLIC PROCUREMENT DURING COVID-19

The Public Procurement Agency of Bosnia, in consultation with the Council of Ministers, issued a statement relating to the necessity for public procurement authorities to prevent the spread and mitigate the effects of COVID-19. The issued statement referred to Article 21, paragraph (1), item d) of the Law, according to which the negotiated procedure, without publication of a procurement notice, may be used for force majeure, and Article 10, paragraph (1), item b) of the Law, according to which public procurement can be exempted from the application of the Law due to special security measures in cases of emergency (saving lives, health, etc.) – The statement primarily concerned procurement that can be demonstrably directly linked to measures necessary to prevent and mitigate the effects of the coronavirus.

Despite this, abuses of the above statement have been noticed. It has been observed that some contracting authorities are taking advantage of the new situation by using negotiated procedures without publication of a procurement notice. While the context of extreme urgency allows exemption from the application of the Law due to special security measures, their efforts cannot in any way be directly linked to measures necessary to prevent the spread and mitigate the effects of the virus.

In this regard, the Agency has warned all contracting authorities in BiH and their managers not to engage into such practices, as misdemeanour and criminal charges will be filed immediately against the contracting authorities and responsible persons.

(BiH Public Procurement Agency, 17 March)

IMF CONCLUDES ADDITIONAL TALKS ON 2019 ARTICLE IV CONSULTATION WITH ALBANIA

IMF staff warn Albanian government about the fiscal amnesty previously announced by the Prime Minister to be briefly undertaken in the country. The report states that "a possible voluntary asset disclosure program, as was recently announced by the authorities, aimed at reviving the economy would need to be implemented with great caution. While no specific proposal has been released thus far, experience in other countries has shown that such programs undermine tax compliance if users receive more favourable tax treatment than those who were compliant from the beginning. In addition, effective systems must be created first to detect evasion and to prevent opportunities for money laundering and corruption".

(IMf, 13 March 2020)

PREVENTIVE ECONOMIC MEASURES FROM PANDEMIC IN ALBANIA

One of Albania's efforts against the coronavirus has been to declare a state of natural disaster emergency that gives the legitimacy to revise the state budget (for this year alone, the government will pay 120 million euros for concessions from the state budget). Some of the first measures taken include minimum wages for employees in small businesses, double payments for economic aid recipients and small interest rate credits for large businesses with the state as its guarantee. Another economic package is expected shortly for other individual/business groups. Emphasis should be placed on balancing the effects of the coronavirus crisis with the ban on economic activity in the country, on providing the necessary livelihoods for the most needy strata of society, and on the recovery of important enterprises in employment, export and domestic production. If necessary, the government should not only terminate the ongoing concession contracts, but also cancel, for the same reason, the new PPP-type contracts using the provisions included in the state of natural disaster legal clauses.

(ACER, March 2020)

REPORTS AND ANALYSIS

2019 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: NORTH MACEDONIA

The US Department of State has released the Annual Country Report on Human Rights and Freedoms for (North) Macedonia, where high-level corruption and violence against LGBTI individuals remain significant human rights issues. Despite this, the government's commitment to an independent judiciary has been commended. The Report also notes that the government has made progress in respecting media freedom and freedoms of expression, but problems remain, including weak media independence. As for the rule of law, the Report states that the Government has demonstrated greater respect for judicial independence. The Report specifically notes that the appointment of the new State Commission for Prevention of Corruption (SCPC) was more transparent than before, and highlighted steps taken by the commission to proactively fight corruption. The commission also acknowledged, however, that corruption in many areas remain a concern.

(Bureau of Democracy, Human Rights, and Labor, 31 March)



NORTH MACEDONIA 2019 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Republic of North Macedonia is a parliamentary democracy. A popularly elected president is head of state and commander in chief of the armed forces. The unicameral parliament exercises legislative authority. Parliamentary elections were last held in 2016 and presidential elections during the year. In its final report on the parliamentary elections, the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) observed the elections were transparent, well administered, and orderly but took place "in an environment characterized by a lack of public trust in institutions and the political establishment" and failed to meet some important OSCE commitments for a democratic electoral process. The OSCE/ODIHR's final report on the 2019 presidential elections noted the environment during the campaign was calm and peaceful and fundamental freedoms of assembly and expression were respected.

The national police maintain internal security, including migration and border enforcement, and report to the Ministry of the Interior. Civilian authorities maintained effective control over the security forces.

Significant human rights issues included: high-level corruption and violence against LGBTI individuals.

The government took steps to identify, investigate, prosecute, and punish officials who committed abuses. The ombudsman believed police impunity continued to be a problem.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

THE ANALYSIS OF INTERNAL PROCEDURES AND PROCEDURAL GAPS IN NORTH MACEDONIA



For the second year in a row, the Institute for Democracy "Societas Civilis" of the Republic of North Macedonia has conducted an analysis of public enterprises – specifically of internal procedures and procedural gaps for monitoring the performance of management in public enterprises with recommendations for improvement. This occurred in the first quarter of 2020. The purpose of this analysis, as well as the previous year's, is to evaluate the internal procedures and to identify the procedural gaps for monitoring the performance of management, in order to recommend improvements in terms of established international practices and standards of good management. This shows that even for enterprises who have at least established a policy to prevent corruption, the system remains ineffective because a significant element is missing, i.e. an authority to report it to. Despite the lack of a formal anticorruption mechanism, however, public companies have not implemented any part of the policy, nor do they have practices that should aid this cause. For instance, anticorruption efforts are hindered by the lack of a special office for the designated official. The findings show that public enterprises in North Macedonia lack the basic elements and requirements for an effective anti-corruption system. This is exacerbated, according to the analysis, by the lack of information and the non-recognition of the benefits of introducing an anticorruption system. Such a system should set the basic mechanisms and focus of activities in public companies, while discouraging employees from engaging in corruption-related activities. **(IDSCS, 6 April)**

PUBLIC AUDIT ANALYSIS FOR THE FEDERATION OF BIH IN 2015-2018

Centri Civilnih Inicijativa (CCI) published the Public Audit Analysis for the Federation of BiH in 2015-2018. This analysis was conducted within the project "More Efficient Public Audits for Less Corruption in BiH". Audit reports indicate a large number of non-compliance cases with laws and other regulations. The most common irregularities pointed out by the Audit Office through financial audit reports are deficiencies and errors in the procurement process, non-implementation of budget laws and budget execution laws, as well as non-transparent employment (without public competition, contracting). The analysis has also shown that the implementation of audit recommendations is unsatisfactory. The total realization, by years, ranges between 10% and 23%, less than a quarter. The inability to monitor the implementation of the recommendations on a continuous basis prevents heads of the institutions – in which the irregularities identified have not been corrected – from being held accountable. **(CCI, March 2020)**



ANALYSIS OF THE GOVERNMENT'S MEASURES DURING THE COVID-19 CRISIS

Macedonian Center for International Cooperation has analyzes the Government's measures with the highest risk of abuse and corruption, which provide for the provision of state aid and donations, measures provided for public procurement and inspection. From the moment of declaring a state of emergency on March 18, 2020 to April 9, 2020, the Government has adopted 101 Decrees, and brings a number of other acts such as decisions, regulations, decisions, etc. From the analysis, several challenges arising from the current situation can be noted.

First, there is a lack of transparency and accountability of the procedure for subsidizing the payment of compulsory social security contributions during a state of emergency. In order to overcome this problem, a publicly available register is required in which the names of the recipients will be listed, the amount of funds received, the criteria on the basis of which they were obtained, as well as possible violations by the recipients. Furthermore, there are legal ambiguities in the decrees concerning the Laws on Primary, Secondary and Higher Education. The way in which distance learning will take place is left to the educational institution and the professors to decide for themselves. This can cause unequal access. It also does not specify how the process will be controlled, which allows for the risk of its misuse. Central and local anti-crisis bodies that create and implement emergency measures do not have civil society representatives, so those working directly on the ground are excluded from the process.

Finally, acts are enacted that oblige the institutions to act in a way different from the law, and at the same time no Decree with legal force has been adopted. It remains unclear whether the government has reached conclusions that are contrary to the Law on Public Procurement, and they have not yet adopted a Decree with legal force, how should the institutions respect this conclusion and whether to work contrary to the law?

(MCIC, April 2020)

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