

**Speaker:** Milana Kovacevic

**Organization:** Transparency International in Bosnia and Herzegovina

## **UPR PRE-SESSIONS STATEMENT**

### **TRANSPARENCY INTERNATIONAL IN BOSNIA AND HERZEGOVINA**

#### **PRESENTATION OF THE ORGANISATION**

Transparency international is a global movement with a unique vision – world free of corruption, consisted of over 100 national chapters and associate organizations worldwide.

Transparency International in Bosnia and Herzegovina was founded in 2001. and it is fully accredited branch of TI movement.

Main goals and activities of our association are suppression of corruption, support to development of good governance, accountability and transparency of public institutions, broader democratic values, fair market, advocacy activities and support for whistleblowers and human rights defenders.

TI B&H is part of the B&H Civil society initiative for UPR – informal coalition of 14 civil society organizations from Bosnia and Herzegovina.

#### **NATIONAL CONSULTATION**

Transparency International B&H has not been involved in process of drafting the National report in Bosnia and Herzegovina. Our association sent comments and suggestions on the draft, through platform e-consultations (report still pending). We were one the authors of Joint submission of the B&H civil society Initiative for UPR for the 4<sup>th</sup> UPR review (“shadow report”).

#### **STATEMENT OUTLINE**

Our statement will address a few main topics, regarding and continuous anti – corruption work: whistleblowers protection and legislation, freedom of information and conflict of interest.

#### **WHISTLEBLOWERS**

The legislative framework on the protection of whistle-blowers still remains incomplete and it is not completely in line with the EU acquis. Federation of Bosnia and Herzegovina lacks legislation on whistleblower protection. Proposition of the whistleblower’s protection law is in legislative procedure, but it still has not been adopted.

The state law provides an administrative model of external whistleblower protection, managed by The anti-corruption agency, while the Republic of Srpska law provides an external model of protection, managed by relevant courts. The two laws are fundamentally and conceptually different, most notably in terms of the scope and the model of external whistleblower protection. In terms of the subject-matter of reports, both laws are narrowly focused on corruption and provide protection to whistleblowers who disclose the most serious forms of corruption-

related criminal offences, including wrongdoing in public procurement. As a result, the reporting of various less severe but nevertheless harmful actions and practices falls beyond the scope of the law.

Most recently Republic of Srpska law was amended in a way that Commission for enforcement of Strategy against corruption is no longer obligated to submit annual report on whistleblowers cases to National assembly, but only to Ministry of justice. This leads to lowering public's trust in fight against corruption and disrupt the essence of democratic governance. Furthermore, this commission (whose members were, among others, representatives from CSO's, media and academia) was practically abolished and Ministry of justice took over its jurisdictions.

## **RECOMMENDATIONS - WHISTLEBLOWERS**

Federation of Bosnia and Herzegovina should adopt a whistleblower protection law as soon as possible, in order to secure whistleblowers' protection in practice.

State law should be amended in a way to include provisions regarding internal and external whistleblowers' protection.

## **CONFLICT OF INTEREST**

The state-level Law on the prevention of conflict of interest, adopted in March 2024, is a substantial step forward, although it is not yet fully in line with European standards. It should now be effectively implemented. The state-level Commission on Conflict of Interest is established and its members were recently selected, upon the public competition.

Many state-level officials complied with their obligation to submit financial reports for the verification of asset declarations (425 out of 550); however, those who did not submit a financial report faced no proceedings, reports nor sanctions. There are marked differences in compliance across the country. In the Republic Srpska entity the figure for submitting financial reports remains very low (136 out of 4 000), while in the Federation entity the rules on conflict of interest are not enforced. The positive trend continued with tangible results in the Brčko District and Sarajevo Canton, with a relatively high number of proceedings and sanctions initiated for conflict of interest. Tuzla Canton also demonstrated good results in verifying asset declarations.

In Federation of B&H, the situation regarding conflicts of interest is somewhat different. After the amendments to the state-level Law on Conflict of Interest transferred responsibility for managing conflicts of interest from the BiH CEC to a newly established commission, the Federation of B&H has not yet updated its own Law on Conflict of Interest. As a result, since 2013, there has been no authority at the Federation of B&H level responsible for addressing issues related to conflicts of interest. Also, many officials in this entity are in a position of conflict of interest. Although a conflict of interest commission has been established in RS to enforce the law, in recent years it has issued arbitrary decisions and opinions, resulting in a large number of conflict of interest cases that have gone unpunished. The latest amendments on Republic of Srpska law excluded officials engaged in voluntary activities in associations and foundations in parallel to their office holding from a conflict of interest situation.

## **RECOMMENDATIONS – CONFLICT OF INTERES**

In line with The Group of States against Corruption (GRECO) recommendations, all government levels need to adopt a uniformed credible legislative and institutional framework for preventing conflicts of interest, by extending the width of its application and the depth of reporting

Establish conflict of interest commission in Federation of Bosnia and Herzegovina that is independent of the executive authorities.

Establish effective control by expanding jurisdictions of conflict of interest commissions to check data from asset declarations and introduce dissuasive misdemeanor sanctions.

## **FREEDOM OF ACCESS TO INFORMATION**

The state-level Law on freedom of access to information still needs to be brought fully in line with international standards on the independence of the appeals process, while the Brčko District needs to adopt its own law in this field.

The governments and parliaments need to harmonize free access to information legislation throughout the country by improving provisions on proactive transparency and introducing heavy sanctions for failure to provide information according to the law (or not providing information in designated deadlines) that would in turn make the governments and civil service more accountable. Despite recent progress and developments in the procurement system, such as further harmonization of domestic regulations with the acquis, that practice remains subject to numerous abuses. Due to inadequate communication of existing policies and the absence of reporting on their implementation, integrity and accountability of public sector employees remains a grey zone. Proactive transparency is not comprehensively regulated by freedom of information.

Despite the existence of a legal framework, there are no effective institutional mechanisms in place to monitor the implementation of freedom of information laws and to impose sanctions for violations.

While the state-level law meets the minimum requirements for implementation, including misdemeanor sanctions for non-compliance for both the authority and the responsible person within the authority, the entity laws do not provide for such sanctions.

## **RECOMMENDATION – FREEDOM OF ACCESS INFORMATION**

The parliaments should harmonize the freedom of information legislation throughout the country by improving provisions on proactive transparency (mandatory publication of information on official websites and/or central portals and updating of these information on regular basis) and introducing deterrent fines for irregular behavior and failure to provide information according to the law that would in turn make the governments and civil service more accountable.

Brčko district needs to adopt its freedom of information law.