

Chapter 6

Corruption Prevention Institutions

Specialised anti-corruption policy and corruption prevention bodies

France: Central Service for Prevention of Corruption

The French Central Service for the Prevention of Corruption (Service Central de Prévention de la Corruption – SCPC) was established in 1993. It is attached to the Minister of Justice and is a relatively small body, dedicated to analyse and legal advice. Since its inception, the SCPC mission has evolved. While originally the work of the SCPC was limited to gathering information from public authorities in France concerning corruption, disseminating information on corruption prevention or providing information to support judges and prosecutors, for several years the SCPC has expanded its missions. It is now also a service that conducts advocacy and training and is increasingly involved in international co-operation and intergovernmental activities.

Background information

In late 1980s and early 1990s, an increasing number of political scandals emerged in France in relation to illicit financing of political parties and campaigns. In this context, on January 29th, 1993, the French Parliament adopted law N° 93-122 “On Preventing Corruption, Transparency in Business and Public Procedures”. This law provides a series of measures, including the creation of the Central Service for the Prevention of Corruption (SCPC), tighter and more transparent rules for financing electoral campaigns and political parties and awarding public procurements and more rigorous control over local authorities.

The Constitutional Council was requested to review the law, including the SCPC mandate, and in a decision of the 20th of January 1993, it concluded that “assimilating powers of an administrative service with judicial police means ignoring the principle of separation of powers, as well as respect of individual freedoms established by the Declaration of Human and Citizen Rights; in addition, conditions to communicate all kinds of documents to this service violate the right to property”.¹

As a result, some articles of the law in relation to the SCPC had to be cancelled. The service was not granted investigatory powers and it was denied the right to obtain mandatory response to its requests.

It is considered that investigatory powers could have helped the SCPC to carry out its mission more efficiently. This was one of the weaknesses pointed out by research few years later, stating that “no relevant case has been disclosed or investigated by this new institution”.² At several occasions, in its Annual Reports, the SCPC had suggested that

the right to request administrative documents should be attributed to it in the future, as it is already the case for many other public administration bodies.³

Legal and institutional framework

Law n° 93/122 of January 29th, 1993 “On Prevention of Corruption and Transparency of Economic Life and Public Procedures” and decree n° 93/232 of February 23rd, 1993 constitute the SCPC’ legal and regulatory basis. The law establishes the SCPC as an administrative body under the responsibility of a senior judicial officer (either prosecutor or judge).

The law sets forth the mandate and main functions of the SCPC to:

- Centralise information necessary for the detection and the prevention of passive and active corruption offences, trading in influence, concussion, illegal use of public function, failure to respect open and equal access to public procurement. In the implementation of its mission, the SCPC must inform public and private persons on the situation and the evolution of corruption in the country.
- Offer assistance to judicial institutions investigating, prosecuting and adjudicating corruption cases, upon their request;
- Provide advices to administrative bodies for preventing corruption, upon their request.

For instance, the SCPC can present opinions on draft laws upon request of the minister of Justice about any question related to corruption.

The SCPC has no powers to investigate administrative or criminal cases. When the Service reveals facts that may cover an offence, it immediately refers the matter to the public prosecutor (*Procureur de la République*). Once an investigation is opened by judicial authorities, the SCPC cannot be involved in the case anymore.

The SCPC does not provide legal advice to individuals or private parties. It does not either determine liability or impose administrative or disciplinary sanctions to public officials, but it can refer information to other public authorities that can lead to an enquiry.

The SCPC can collect information from all individual and legal persons but the law does not establish an obligation to provide it.

Further to the law, decree N° 93/232 of February 23rd, 1993, lists those administrative authorities that can request an opinion from the SCPC, including:

- state administrative services (ministers, prefects, state treasury, public accountants, public bodies);
- administrative and judicial control commissions (National Commission of Election Accounts and Political Financing, Commission for Transparency of Political Life, the French Financial Investigation Unit (FIU) TRACFIN, Interministerial Task Force of Inquiry into Public Procurement; Competition Commission, Financial Markets Authority);
- regional and local authorities (city mayors, presidents of regional, departmental and local councils); audit and control bodies (Courts of accounts, other control and inspection bodies);

- private enterprises with missions of public services.

The decree establishes the obligation for the SCPC to present an annual activity report to the Prime Minister and to the Minister of Justice. Afterwards the report is made public. The report also includes suggestions of measures to be taken to prevent irregularities reported to the SCPC.

Human and material resources

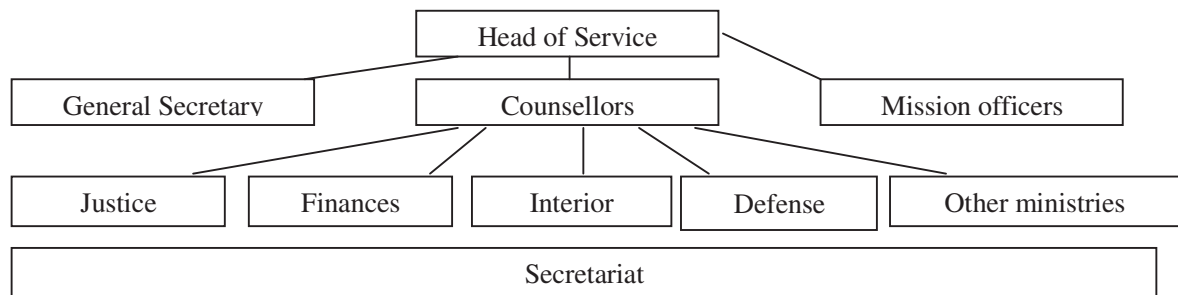
At the beginning of 2012, the SCPC is firstly staffed by 3 magistrates from the Judiciary: the head of the Service, the general secretary and 1 counsellor. The other counsellors working at the SCPC are public servants. In all, the SCPC is composed of 8 people. The counsellors are seconded by various state institutions, be it judicial or state administration. There are also 2 assistants in the Service. The head of the Service and the general secretary are both nominated by President of the Republic's decree for four years; the head of the Service cannot be dismissed in the interim. The current head of the Service was appointed in 2011; he was previously General Advocate at the Court of Cassation (French Supreme Court).

The counsellors are experienced professionals, coming from the judiciary and from state administrations, such as the Police, the Gendarmerie, the Tax administration, the Chambers of Accounts, Competition, Repression of Fraud, Interior and Education ministries.

The head of the Service selects the staff members. At any moment, he can decide to return them to their administrations. The staff members remain judiciary personnel, or civil servants of their administrations, which continues to pay them their wages.

In 2011, SCPC's own budget was approximately of EURO 50 000. *Prima facie*, this amount could seem limited. Nevertheless it is necessary to considerer that the SCPC's staff is directly paid by several administrations and standing expenses and running costs are supported by the Ministry of Justice, such as accommodation, maintenance, etc.

Figure 6.1. Organisational structure of the Central Service for the Prevention of Corruption (SCPC)



Accountability

The SCPC is attached to the Minister of Justice and reports to him/her. Neither the Government nor the Minister of Justice can give instructions to the SCPC and its members. According to its regulation, the SCPC presents an annual report to the Prime

Minister and the Minister of Justice which could integrate any concern about its autonomy.

The report examines the main issues of corruption and contains analysis about selected economic sectors, as well as practical and legal notes on criminal offences. This document is often related to issues covered by the opinions provided by the SCPC. It is published by the *Documentation française* and available on the SCPC website at www.justice.gouv.fr/minister/minscpc.htm.

Box 6.1. Themes of SCPC Annual Reports, 2006 - 2011

Besides, the analyses of data corruption in France, the following topics were discussed.

2006: different approaches to the phenomenon of corruption in France; inclusion of prevention in the CAC 40 companies annual reports; for a transparent approach to lobbying; fraud, false invoices, corruption and software manipulation; the role of subsidiaries in the globalized economy; urban planning and corruption risks; handout: the search for fraud: from direct evidence to presumptions.

2007: games, money gambles, internet and corruption: the need for regulation; audit of corruption in public procurement: a methodological guide; fraud and corruption in the economy: how did the crime go in the business world? International conventions to fight against corruption and accountability of the corporation; a need for transparency, the independent expert: myth or reality? Analysis of law cases.

2008: the subprime crisis and the resurgence of fraud in global finance; the Madoff's case or the controls bankruptcy ; the independent expert, the role of conflict of interests in the finance crisis; tax havens; investigation into public procurement; the seizure of criminal assets in France; the French courts have jurisdiction in international criminal corruption; elements of jurisprudence.

2009: lobbying: is French timidity justified? Corruption risks associated with international transactions.

2010: cassation court's cases (2008-2010); a mission of co-operation with different stakeholders involved in the prevention and fighting against corruption; the national and international partnerships; administrative judge's consideration of integrity violations through the study of jurisprudence from 2000 to 2010; the conflict of interest or the gradual emergence of a new legal standard; an example of foreign anti-corruption agency (Catalonia, Spain).

2011: prevention of corruption in France; the evaluation by international organizations of the French anticorruption legal and institutional setup; the whistleblowing; an example of foreign anti-corruption agency (Morocco).

Source: Central Service for the Prevention of Corruption (SCPC) annual reports, available at www.justice.gouv.fr/publicat/scpc.htm

Practice and highlights

The centralisation of information is the main activity of the SCPC – to collect data, to analyse corruption risks and to develop preventive measures in different economic sectors. This task covers both private and public areas.

Information handled by the SCPC comes from national and international sources, open and restricted ones. The restricted sources are taken in the criminal records and other judiciary documents, or given by public administrations or independent agencies, such as general inspectorates.

The SCPC does not focus on specific cases or particular persons; it rather aims at developing the understanding of situations and mechanisms leading to different type of corruption. For the past few years, the SCPC has made significant efforts to increase the number and the quality of information sources.

Inquiries: On average, the SCPC receives 20 requests per year from judicial or administrative authorities to provide either an independent, expert opinion or assistance in a specific case under investigation. The SCPC considers that it is still a lot below its actual operational capacity and modest if compared to the number of court convictions.

Opinions to public administrations: Following up the requests, the SCPC provides in average 10-12 opinions to public administrations every year. Most of the time, the opinions are requested by local officials, mainly mayors of towns. In 2010, 8 advices were given on their request to local officials. The main reason for contacting the SCPC is that the local officials do not have their own legal services, while they may need a discrete and independent opinion in specific situations. Most of the opinions concern the “illegal taking of interest” (decision-taking involving personal interests). Essentially, the SCPC responds to enquiries on whether a public contract can be signed or a public service outsourced to relatives or close friends of a local official.

Assistance to judicial authorities: The SCPC provides advice to proceed with investigation of specific cases. The number of requests from prosecutors, judges and judicial experts remains one of the least developed areas of activity, despite the fact that the Service is attached to the Minister of Justice and headed by a magistrate. The SCPC points out that a bigger number of tribunals, especially of small and average size could benefit from its assistance, but sometimes they lack knowledge about its existence and mandate.

The SCPC cooperates with other State institutions: It works with judicial and administrative bodies, such as the French Financial Intelligence Unit TRACFIN, the Ministry of Justice and the Anti-corruption Brigade (BCLC) of the national Police.

The SCPC assists public administration. It works in strong relation with other State administration such as the Ministry of Foreign Affairs or the Ministry of Economy for preventing national and international corruption. For instance, the SCPC helps control officers or general inspectorates to determine a risk mapping in the institutions they need to monitor. In 2008, the SCPC and TRACFIN jointly drafted a manual entitled "Guide to aid in the detection of transactions that could be related to corruption". This document informs and trains professionals involved in suspicious transaction reports to the risks of money laundering in France, including the integration of funds from international corruption (especially by politically exposed persons). A new edition of this Guide is to be published in 2012.

Indicators: The SCPC also assists supervisory and control bodies to develop indicators helping to identify the main forms of financial manipulations and how to prevent them;⁴

Training and awareness-raising: in addition to its tasks explicitly set forth by the law, the SCPC also increasingly provides professional training courses. These activities aim at preventing corruption and better detecting cases of corruption and fraud. The courses are drawn on legal and technical expertise of SCPC members and on collected data.

The SCPC has developed training in various areas, for instance, fraud and corruption risks in public works, public contracts or health sector. The SCPC provides training courses to:

- Police, prosecution and courts on detecting and sanctioning fraud and corruption;
- Public administrations facing risks of corruption and fraud (i.e. ministries that are considered vulnerable to corruption or are represented at the SCPC - equipment, housing, transport, interior, economy, - control, audit and anti-fraud specialists, local officials, e.g. Training Centre for Public Territorial Agents);
- Public and private enterprises (e.g. training courses for senior company auditors run by the French Institute of Internal Audit and Control⁵);
- Students (e.g. universities, *Ecole Nationale d'Administration* (for High public officials), *Ecole Nationale de la Magistrature* (for judges and prosecutors), Police, Customs, HEC School of Management) and general public.

The members of the SCPC dedicate about 15% of their time to the training and awareness-raising activities. The SCPC cooperates with training centres, schools and universities. In 2011, the SCPC provided around 200 hours of training.⁶

Box 6.2. Example of SCPC Training Module for Police on Public Procurement

- Day 1.** Presentation of the SCPC and the Anti-Corruption Brigade of Judicial Police
Offences of Corruption and trafficking in influence
- Day 2.** Notion of public procurement and phases to award a public contract
Glossary of terms
Common practice
Favouritism, illegal taking of interest, informal agreements
- Day 3.** Methodology
Double bills
Analysis of Accounts
Shell companies
Commentary on Financial reports of companies paying tax on companies
Commentary on two recent scandals
- Day 4.** Case study (an existing case where there was a court verdict, analysis of documents relevant for the investigator during the search, preparation of questionings, etc)

Source: Central Service for the Prevention of Corruption (SCPC).

Partnerships with enterprises: the SCPC supports private initiatives for preventing and fighting corruption. It has developed a number of partnerships with public and private enterprises. These partnerships are based on agreements negotiated with each enterprise and usually provide for co-operation in the following 4 areas:

- exchange of information ;
- issues of ethics and development or improvement of codes ;
- compliance programmes ;
- training of staff members, especially to the most vulnerable to corruption ones.

As of 2006, the SCPC has developed partnership agreements with 15 enterprises. Partnership agreements have been signed with leading French enterprises, including public companies, such as *EDF* (Electricity of France) or the *SNCF* (National railroads), as well as private companies, for instance, *Dassault Aviation*, *Vivendi Environment* or *Accor*. Besides, partnerships are developed with professional associations, such as the Association of Private Enterprises, the Employer's Federation (MEDEF), the Association of Chambers of Commerce and Industry. Co-operation has also been developed with business management schools (see above "Training and awareness raising"). Some of those partnerships have expired and some have been extended: notably, the partnership with the ADIT has been concluded in 2012 to associate more closely the SCPC to the procedure of certification of the anti-corruption references that enterprises use in their conformity activities.

International activities: The SCPC has become an international and multilateral stakeholder and expert in the fight against corruption and the prevention of corruption.

At the multilateral level, the SCPC is statutorily present in numerous international forums and is called on for activities carried out by the OECD, the Council of Europe (GRECO), the European Union, the United Nations, the World Bank, the G-20 Anti-Corruption Working Group and the International Monetary Fund. The SCPC takes part in international negotiations and preparatory works led by different international organisations in the area of fighting and preventing corruption.

The SCPC is part of the French delegation in the OECD Working Group on Bribery, the Council of Europe delegation in GRECO and is in charge to oversee proper application of the Council of Europe's anti-corruption conventions. SCPC has been designated as point of contact in the French network against corruption of the judicial co-operation unit of the European Union (*EUROJUST*) and in the European Anti-Corruption Network (EACN). The SCPC attends the UNCAC Prevention and Asset Recovery Working Group and the UNCAC Conference of the State Parties meetings. As Party to the UNCAC, France has designated the SCPC as the authority that may assist other States Parties in developing and implementing specific measures for the prevention of corruption (Article 6-3 of the Convention). In addition, the SCPC is in France one of the "bodies or persons specialized in combating corruption through law enforcement" (Article 36).

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Slovenia: Commission for the Prevention of Corruption

The history of specialised anti-corruption bodies in Slovenia dates back to 2002, when the Government's Office for the Prevention of Corruption was established. The current Commission for the Prevention of Corruption of the Republic of Slovenia (Komisija za preprečevanje korupcije – CPC) has been established following the adoption of the Integrity and Prevention of Corruption Act of 2010. The CPC is an independent state body (like the Human Rights Ombudsman, the Information Commissioner, or the Court of Audit) with a mandate in the field of preventing and investigating corruption, and of breaches of ethics and integrity of public office. Although part of the public sector, the CPC is not subordinate to any other state institution or ministry, and does not receive direct instructions from the executive or the legislature.

Background Information

The history of specialised anti-corruption bodies in Slovenia dates back to 2002, when the Government's Office for the Prevention of Corruption was established (following a direct GRECO recommendation on this matter), followed by the creation of an independent Commission in 2004 based on the Prevention of Corruption Act of 2004. The Commission had preventive and coordinative functions but lacked investigative and enforcement powers, and was throughout its existence plagued by a lack of financial support and staff, while, at the same time, enjoying significant public support. In 2007, the Government passed legislation aimed at abolishing the institution; a move that was eventually stopped by the Constitutional Court.

In June 2010, the Integrity and Corruption Prevention Act was adopted. The Act has retained the name of the CPC, but significantly expanded its mandate, functions and powers. It also strengthened its independence and introduced additional safeguards and objectivity in the procedure for appointment and dismissal of its leadership. Most importantly, it expanded some of the investigative and sanctioning powers of the CPC and made it not only the national focal point for prevention of corruption, but also for lobbying oversight, whistleblower protection, and integrity of the public sector, and expanded its reach beyond the public into the private and business sector. The amendments to the Act adopted in June 2011 further strengthened the powers of the CPC to subpoena financial documents for the public and private sector, and to hold accountable magistrates, officials, public servants, management and boards of public enterprises for corruption, conflict of interest or breach of ethics.

Legal and Institutional Framework

The legal and institutional framework of the CPC is determined by the following documents:

- the Integrity and Corruption Prevention Act, 2010;
- Rules of Procedure of the Commission for the Prevention of Corruption, 2012;
- Resolution on the Prevention of Corruption in the Republic of Slovenia (the National Anti-Corruption Strategy), 2004.

Organisationally, the CPC is an independent constitutional body (similar to an office of Human Rights Ombudsman) which only reports to the Parliament. Such an independent status enables it to exercise its tasks towards all public institutions in Slovenia, including courts and the parliament. The CPC has a central office located in Ljubljana.

Although part of the public sector, the CPC is not subordinate to any other state institution or ministry, and does not receive direct instructions from the executive or the legislature. To strengthen its independence, the law provides a special procedure for the appointment and dismissal of the leadership of the CPC. The Chief Commissioner and two deputies are appointed by the President of the Republic of Slovenia following an open recruitment procedure and nomination by a special selection board. Candidates, which must meet high professional and integrity standards, are interviewed and screened by a selection board comprising a representative of the Government, the National Assembly, non-governmental organisations, the Independent Judicial Council, and the Independent Council of Officials. The Chief Commissioners' term of office is six years, the deputies' five. They can serve up to two terms in office. Prior to the expiration of the mandate, they can only be dismissed from office by the President (on his/her own motion or on the motion of the Parliament) if they act in breach of the Constitution or the law.

The CPC has a wide *mandate* in the field of preventing and investigating corruption, breaches of ethics and integrity of public office. Moreover, the CPC is responsible for:

- conducting administrative investigations into allegations of corruption, conflict of interest and illegal lobbying;
- protection of whistleblowers;
- monitoring the financial status of high-level public officials in the executive, legislature and judiciary through the assets declaration system;
- maintaining the central register of lobbyists;
- adopting and coordinating the implementation of the National Anti-corruption Action Plan;
- assisting public institutions in the development of integrity plans (methodology to identify and limit corruption risks) and monitoring their implementation;
- designing and implementing different anti-corruption preventive measures (awareness raising, training, etc.);
- serving as the national focal point for international anti-corruption co-operation at the systemic level (GRECO, OECD, UN, EU, etc.).

The CPC is not part of the law enforcement or prosecution system of Slovenia, and its employees do not have typical police powers. They do, however, have legal *powers* to:

- access and subpoena financial and other documents (notwithstanding the confidentiality level) from any state authority or private entity;
- question public servants and officials;
- conduct administrative investigations and proceedings;

- request different law enforcement authorities (e.g. the Anti-Money Laundering Office, the Tax Administration) to gather additional information and evidence within the limits of their authority;
- request different supervisory bodies to initiate internal review, disciplinary, internal or external audit procedures in public entities, including companies and corporations in which the State or local self-government hold a predominant share of ownership;
- issue fines for different violations under its jurisdiction to natural and legal persons in the public and private sectors.

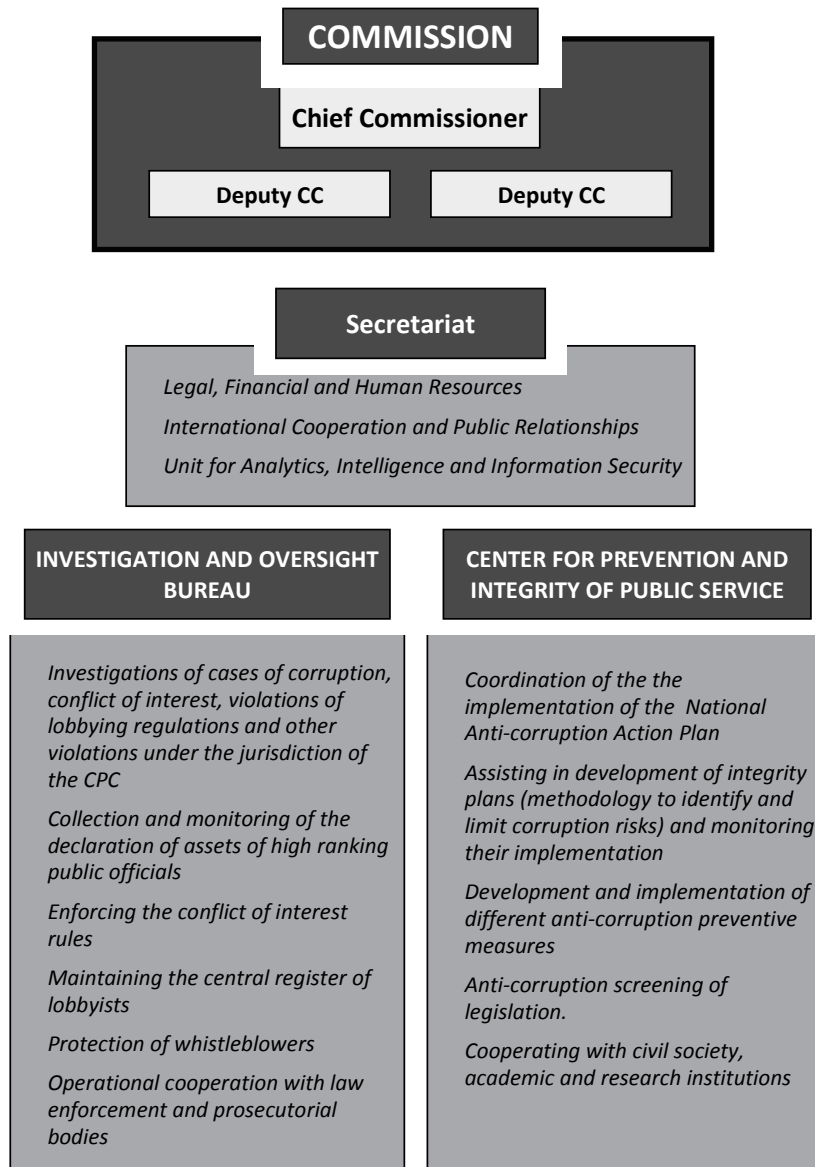
The CPC's legal powers and duties in strengthening integrity and preventing and eliminating the risks of corruption in the public and private sectors encompass preparation of expert groundwork for strengthening integrity and training programmes, preparation of models of integrity plans, and advising.

The CPC in the strict sense consists of three members – the Chief Commissioner and two deputies. They decide on substantial matters (ruling on corruption, conflict of interest, breach of ethics, adopting recommendations, etc.) as a collegial body with a majority of votes. The CPC is further organised as appropriate to its jurisdiction and tasks, which are preventive and regulatory/investigative. It follows a two-pillar approach.

The first pillar – *the Investigation and Oversight Bureau* – has an eight-year history of specialised anti-corruption bodies, and it collects and monitors the declaration of assets of high-ranking public officials, investigates cases of corruption, conflict of interest, violations of lobbying regulations, and other violations under the jurisdiction of the CPC.

The second pillar – the *Centre for Prevention and Integrity of Public Service* – includes, *inter alia*, the analysis of corruption phenomena, the development and implementation of various preventive measures, raising public awareness and enhancing integrity, including activities related to preparation of integrity plans, analysis and identification of corruption risks and factors, cooperating with civil society, academic and research institutions, etc.

The *Secretariat* is responsible for the systemic development of the doctrine of anti-corruption and ethics of the public sector, undertakes analysis and research on corruption with the use of information technologies, carries out anti-corruption screening of legislation, is responsible for international activities of the CPC and public relations, as well as performing administrative, personnel, logistical and financial functions for the CPC.

Figure 6.2. Organisation and functions of the Commission for the Prevention of Corruption (CPC)

Human and Material Resources

The CPC employs staff with different expertise (in the field of law, economics, audit, social sciences, information technology, conducting investigations, etc.) working in the CPC three main departments (see Figure 6.2.).

Employees of the CPC are recruited directly by the CPC in an open and competitive recruitment procedure or seconded from other state institutions; they are public servants and are bound by the salary scheme and regulations governing the public service.

The budget of the CPC is determined yearly by the Parliament, and the CPC is autonomous in allocating and organising its financial and human resources and priorities within its budget.

While the legal framework safeguarding the independence of the CPC, and the material conditions for its work (facilities, information technology, etc.) are generally satisfactorily, the CPC - due to fiscal restraints - remains understaffed - in particular given the broad new mandate under the Act of 2010.

Since its inception, the CPC has been facing budgetary restraints and lack of staff. In the last two years (2010-2012), the annual budget of the CPC was approximately 1,8 million EURO; it employs 40 staff.

Accountability

Substantive decisions of the CPC (ruling on corruption, conflict of interest, violations of lobbying regulations etc.) are subject to judicial review of the Administrative Court. Under the Act, the CPC must be the subject to periodic external audit, the reports of which are submitted to the Parliament and the President, and which are publicly available. The CPC is also required to present yearly reports to the Parliament for elaboration. In addition, by Act, decisions of the CPC (with few exceptions) must be published on the internet, and various provisions require the CPC to publicise its work and its findings.

Practice and Highlights

In addition to carrying out various *training* (120 training events in year 2011) and *preventive activities* in relation to corruption and integrity of the public service, the CPC yearly *investigates over 1.300 cases* under its jurisdiction; approximately 30% of them are referred for further criminal investigation and prosecution. The CPC keeps and monitors the *declarations of assets* of over 8 000 officials.

Project “Transparency”. Transparency of state functioning and functioning of local communities increases the level of responsibilities of public office holders for their decisions and efficient use of public resources. Public accessibility to information facilitates debate on matters of public concern in a more informed way, decreases risks for illicit management, abuse of functions and helps to limit systemic corruption, unfair competition and clientelism.

Therefore, the CPC has designed a project called “*Transparency*”, which is open to the public, the media, the professionals and different supervisory bodies. At its initial phase, the project provides three different services:

- “*Supervisor*” – an online application for monitoring expenses of public bodies;
- *Contacts with lobbyists* – a list of reported contacts with lobbyists;
- *Financial status of the leadership of the CPC*.

“*Supervisor*” – *monitoring public expenditure*. “*Supervisor*” is an online application, conceptually designed and prepared by the CPC and launched by it in August 2011. This data base provides information on business transactions of all public sector bodies – all direct and indirect budget users (the bodies of all three branches of power, judicial and other state institutions, local communities, public institutes, public funds, etc.). The data is updated monthly.

“*Supervisor*” allows oversight over the average EURO 4.7 billion a year used for goods and services by the public sector. The application indicates contracting parties, the largest recipients of funds, related legal entities, date and amount of transactions and also

purpose of money transfers (for all services and goods payments over EURO 4 000). It also enables presentation of data using graphs as well as printouts for specified periods of time and other.

“*Supervizor*” combines relevant data from different sources (the Ministry of Finance, the Public Payments Administration, the Agency of the Republic of Slovenia for Public Legal Records and Related Services, etc.) in a more user-friendly format. “*Supervizor*” did not require any law modifications. It represents an important step towards more transparent state operations, and will be further upgraded and improved by the CPC in cooperation with other bodies. The application enables insight into financial flows among the public and the private sector not only to the public, the media and the profession, but also to other regulatory and supervisory bodies. “*Supervizor*” is not only a tool for responsible journalism and responsible citizenship; it is also a valuable source of information for law enforcement authorities.

Moreover, the application shows the ownership and management structure of Slovenian companies, as well as some data from their annual reports. Since financial transactions and financial flow analyses are a vital part of the evidence-gathering process when investigating economic crime, public finance crime and corruption, the use of a tool where information on business transactions of public sector bodies as well as other information regarding recipients of public funds is in one place is extremely useful.

“*Supervizor*” allows the CPC to achieve its primary purpose: to strengthen the rule of law, integrity and transparency, and mitigate corruption risks and conflicts of interest.

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Serbia: Anti-Corruption Agency

Anti-Corruption Agency in Serbia is one of the most recent dedicated corruption prevention bodies. Established in 2010 the Anti-Corruption Agency in Serbia is led by a 9 member board and is an autonomous body reporting to the Parliament. it co-ordinates national anti-corruption strategy and has a range of other preventive functions, including integrity plans in public administration and control of financing of political parties.

Background Information

Serbia's Anti-corruption Agency (ACA) was established in 2010. The Agency is the result of Serbia's 2005 Anti-corruption Strategy and the Strategy's 2006 Action Plan.

Legal and institutional framework

The Serbian Anti-corruption Agency's has been established by Law, where its *functions* are laid down as follows:⁷

- co-ordination of the implementation of the Serbian National Anti-corruption Strategy, and its corresponding Action Plan, as well as sector anti-corruption and integrity plans;
- monitoring and co-ordination of the state bodies in the fight against corruption;
- resolving conflict of interest cases;
- adherence to rules governing the financing of political parties;
- initiatives for amending and enacting regulations in the field of fighting corruption;
- keep a register of public officials;
- keep a register of property and income of officials (hereinafter *Property Register*);
- expert assistance in the field of combating corruption;
- drafting regulations in the field of fight against corruption;
- guidelines for developing integrity plans in the public and private sector;
- education programs concerning corruption;
- corruption complaints by legal and natural persons,
- research, monitoring and analysis of statistical and other data on corruption phenomena;
- monitoring of international co-operation in the fight against corruption.

The *structure* of the SACA is as follows.

It consists of a Board and the Director. The responsibilities of the *Board* are to:

- Appoint the Director;
- Appeal against the Director's decisions;
- Adopt the Annual Reports that are being submitted to the parliament;
- Supervises the work of the Director.

The *Director*:

- Represents the Agency;
- Manages its operations;
- Organises and ensures the Agency's work in compliance with the requirements set out by Law;
- Issues decisions on violations of the Laws;
- Pronounces measures;
- Prepares annual reports;
- Drafts proposals of budget funds for the Agency;
- Decides on the rights and duties of Agency staff;
- Enforces Board decisions.

Serbia has an elaborate anti-corruption infrastructure. Since 2001, an Anti-corruption Council has been in place, which acts as an advisory body to the government.⁸ The Commission for the Protection of Rights in the Public Procurement Procedure provides checks and balances over the regularity of the public procurement process;⁹ the Information Commissioner acts as the oversight institution for the freedom of access to information legislation. The tax administration and the state audit institution also play a role in addressing corruption. A Special Prosecutor for Combating Organised Crime also deals with corruption cases; the Ministry of Finance's Department for the Prevention of Money-Laundering (Serbia's Financial Intelligence Unit) oversees the implementation of the Law on the Prevention of Money-Laundering and Terrorist Financing; the Directorate for the Management of Seized Assets is part of the Ministry of Justice oversees the implementation of 2009 Law on Seizure and Confiscation of Proceeds from Crime.

The Director of the SACA is appointed by the Board. The Board consists of 9 members, each of whom is elected for a four-year term that can be renewed once. The Board members are elected by the National Assembly from nominees of the following institutions:

- The Administrative Committee of the National Assembly
- The President of Serbia
- The Government of Serbia

- The Supreme Court of Cassation
- The State Audit Institution
- The Protector of Citizens and Commissioner for Information of Public Importance
- The Social and Economic Council
- The Serbian Bar Association
- The Associations of Journalists of Serbia¹⁰

The members of the Board receive a monthly remuneration for their work (twice the amount of the net average monthly salary). The Chairman of the Board is being elected by the Board members. Board members cannot be members of political parties. A Board member can be dismissed; the dismissal procedure can be initiated by the Chairman of the Board; at least three members of the Board; the Agency Director; and/or the institutions which had nominated the member. The dismissal has to be approved by the National Assembly. The Board decides on a majority vote basis.

The term of office of the Director is five years, and he/she cannot be elected more than twice. The position of Director is part of a public call for applications; candidates for the position of Director have to have a law degree; nine years of professional experience; he/she cannot be member of a political party. The Director can be dismissed; the dismissal procedure has to be initiated by the Agency's Board. Reasons for dismissal can be negligent performance of duties; membership in a political party; political partiality; a criminal conviction incompatible with the reputation and standards of the SACA (see Article 20 of the Anti-corruption Agency Act). The Director has a Deputy; he/she is also elected through a public competition.

The Director and the Deputy-Director are receiving remuneration equal to that of a state minister and that of a state-secretary, respectively.

A Secretariat assists the work of the Agency on a day-to-day basis. The Director is in charge of the internal organisation and structure of the work of the Agency, and according rules and regulations have to be approved by Parliament.

Accountability

The Agency is an autonomous and independent body, which is accountable to the Serbian National Assembly (the Parliament), to which it reports annually on the operations of the Agency, as well as on the status of the implementation of the National Anti-corruption Strategy and the Action Plans; specific reports can be submitted to, or requested by, Parliament.

Human and Material Resources, Training

The funding of the Agency is provided through the national budget and upon proposal from the Agency.

In its second Annual Report (submitted to parliament in March 2012, and covering the Agency's work in 2011), the ACA stated to have adequate office premises, as well as sufficient IT infrastructure.¹¹

In 2011, the ACA conducted an assessment of training needs of the staff of the Agency; this resulted in the development of a training plan, the implementation of which started in 2012. The training comprises an Anti-corruption Training package, a General Training package; and a package on training methodologies. The Anti-corruption Training Package consists of: Leading Principles and Legal Instruments (2 modules), Institutional Forms (2 modules) and Anti-corruption Policies and Measures (3 modules). The General training package consists of: Leadership and Management Skills (2 modules); Strategic Planning (3 modules); Policy Development (2 modules); Human Resources Management and Development (2 modules); Communication skills (1 module); Training for Trainers (1 module). All staff are obliged to undergo training.

The Agency employs 60 staff on a permanent, and two staff on a temporary basis; one staff is hired through a special service agreement. The 2011 Annual Report points out that the recruitment of qualified staff is a challenge, as the recruitment procedures are determined by the civil service law, while career advancement opportunities are not sufficiently developed, thereby not necessarily attracting the right calibre of staff.

The 2011 state budget provided funds for the work of the Agency in the amount of 152 million Serbian dinars. The spending until the end of 2011 amounted to 121 million Serbian dinars, or 79.7% of the total allocated funds.

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The Former Federal Yugoslav Republic of Macedonia: State Commission for Prevention of Corruption

The State Commission for the Prevention of Corruption (Државната комисија за спречување на корупција) was established in 2002. It is an independent body composed of experts with legal and economic background appointed by the Parliament. The members of SCPC meet at regular sessions. The Commission is responsible for prevention of corruption and conflict of interests in the public administration, the State Programme for Prevention and Repression of Corruption and Conflict of Interests. The Commission reviews cases of conflicts and monitors asset declarations and statements of interests.

Background Information

By the end of the 1990s, the extent of corruption in the Former Federal Yugoslav Republic of Macedonia (FYROM) was perceived as widespread among public administration, judiciary, local administration, customs administration and other state institutions. As a result, corruption was threatening the rule of law, democracy and economic development in the country. In a bid to confront corrupt behaviour, in April 2002, the Parliament passed the Law on Prevention of Corruption.

The law foresaw the establishment of the State Commission for Prevention of Corruption (the Commission), and approximately six months later, such a Commission was set up and became operational. On 12 November 2002, the first members of the State Commission were appointed by the Parliament. The newly established State Commission took a number of immediate steps to finalise its status and to define its working procedures.

A number of major difficulties were identified in the area of the fight against corruption in FYROM. These include an insufficiently developed system of separation of powers; absence of independent institutions for the prevention and repression of corruption; lack of a system of mutual checks and balances among institutions; little or no engagement of civil society and media in strengthening public awareness about corruption; very limited involvement of the international community in supporting anti-corruption activities; the need to harmonise national legislation with international standards, and others. The State Commission was expected to address these issues in its everyday work.

Legal and Institutional Framework

The key legal document, defining the work of the Commission is the Law on Prevention of Corruption, adopted by the Parliament in 2002.¹² It was further amended in 2004, providing the Commission with the status of legal entity, and increasing the office term of its members from 4 to 5 years.¹³ Several amendments to the Law on Prevention of Corruption aimed to improve the Law especially regarding the monitoring of the assets declarations of the public officials and the status of the members of SCPC have been made since 2004. The last amendments, in 2010, introduced professional (full-time) engagement of the members. The legal mandate of the SCPC includes prevention of corruption and of conflict of interest in the public service. In 2007, the Parliament enacted

the Law on Prevention of Conflict of Interests; the competent authority for the implementation of this Law is the Commission.

The Commission is autonomous and independent in the performance of its legal competences under Article 50 of the Law. Although the Parliament elects the members of the Commission, the Commission is an independent statutory institution and is neither a parliamentary, nor a governmental body. The Commission is responsible for the development and the adoption of the State Programme for the Prevention and Repression of Corruption and Conflict of Interests. In addition, the Commission is legally bound to adopt annual programmes and plans for monitoring of the implementation of the State Programme. The Commission receives complaints from the public, and can initiate cases for investigation by the prosecutorial bodies.

Article 49 of the Law on Prevention of Corruption and Article 21 of the Law on Prevention of Conflict of Interests set forth the following *main functions* of the Commission:

- Adopt the State Programme for the Prevention and Repression of Corruption and Conflict of Interests and annual programmes and plans for the implementation of the State Programme;
- Give opinions on proposed laws relevant for corruption and conflict of interests prevention;
- Take initiative before the competent bodies regarding control of income and property of political parties, trade unions, and citizens' associations;
- Take initiative before the competent bodies to institute and conduct proceedings for dismissal, assignment, removal, criminal prosecution or other measures against elected or appointed civil servants and public officials and civil servants or responsible person in a public enterprise or in another legal entity managing state funds;
- Review cases of conflicts between public and private interests;
- Centralise and monitor information on the property situation and additional profitable and other activities of elected and appointed civil servants, public officials, managers of public enterprises and other persons managing state funds;
- Education activities for institutions in charge of detecting and prosecuting corruption.

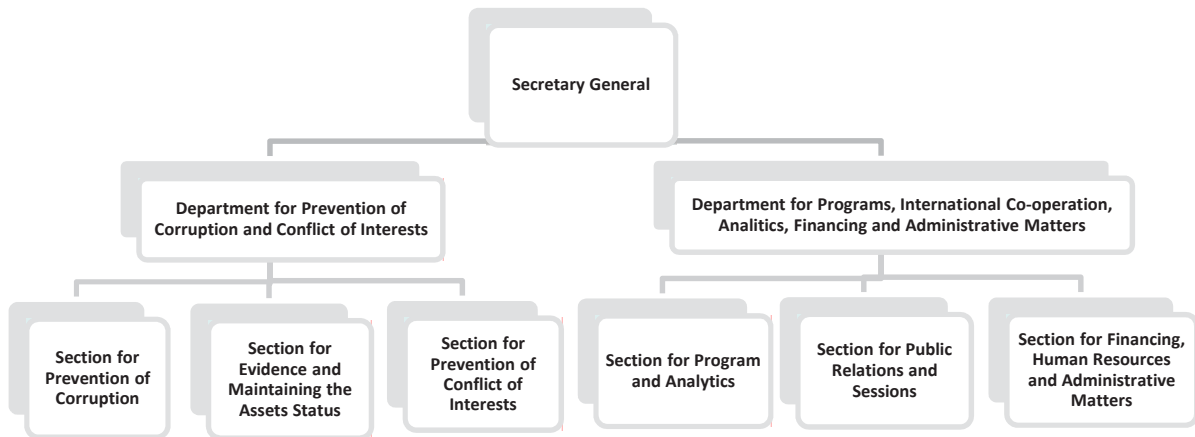
The Commission operates through regular sessions. In 2010, the Commission held 72 sessions; in 2011 – 62 sessions. Decisions are taken by vote at the session of the Commission, at which more than half of the members are present. Decisions are taken by absolute majority of all members. Experts may be invited to take part at specialised sessions of the Commission. At some sessions, a person suspected of corruption may be summoned with an aim to clarify certain issues important for the decision-making as to whether or not to initiate a procedure before other bodies.

The Commission has also the power to request public officials or responsible persons in public enterprises to submit to the Commission information about his/her assets or other data relevant for the application of the provisions of the Law on Prevention of Corruption.

Once the information is requested by the Commission, competent bodies and legal persons have the obligation to provide it without any delay; this cannot be influenced by considerations of state, official, or other secrets. In the performance of its tasks, the

Commission may request to make direct inquiries into the spending of the funds of bodies and legal persons managing state funds.

Figure 6.3. Organisational structure of the Secretariat of the Commission



Human and Material Resources

The Commission is composed of seven members. The members are appointed by the Parliament of the Republic of Macedonia for a term of four years, with the possibility of re-appointment (Amendments to the Law on Prevention of Corruption from 2010). The members shall be appointed from among distinguished experts in the legal and economic field and who fit the profile for the office. The Commission elects a Chairman from among the members, for a term of one year, with the possibility of re-election.

Expert, administrative and technical support to the SCPC is provided by its Secretariat.

The Commission is financed from the state budget. Every year, the Commission prepares a budget estimate, the final approval for which is given by the Minister of Finance. Its annual budget is then adopted by the Parliament during the adoption of a national budget for the coming year. In 2011, the annual budget of the Commission amounted to 300,000 EURO; in 2012, to 350,000 EURO.

Accountability

The Parliament announces the competition for appointment of Commission's members. The competition shall be open for 15 days from the day when it was published in the "Official Gazette". The Commission for Election and Appointment in the Parliament shall draft a proposal list of candidates that have applied and shall submit this list to the Parliament. If a member of the Commission is also employed elsewhere, this employment shall be suspended during the period from the appointment to the Commission until the expiration of the member's term of office.

The Commission, therefore, is answerable to the Parliament for its work. The Law provides that the Commission informs the public of the measures and activities taken, and of the results of its work through regular annual reports and any other time when it is necessary to inform the public. The Commission also submits an Annual Report of its work, measures and activities undertaken to the Parliament, and forwards it to the President of the Republic, the Government, as well as the national media.¹⁴

Practice and Highlights

The State Programme for the Prevention and Repression of Corruption: According to its statutory obligations, in 2003, 2007, and 2011, the Commission developed and adopted the State Programme for the Prevention and Repression of Corruption. The recent one adopted in December 2011, contains measures to be taken in order to establish an efficient system for the prevention and suppression of corruption and conflict of interests.

When drafting the 2011 State Programme, the Commission *was guided by the analysis of the activities carried out in accordance with the previous State programmes*, expressed in the conclusions and recommendations from the annual conferences for evaluation of the implementation level of the State Programmes. Furthermore, the GRECO recommendations from the third evaluation cycle have been taken into account as well as the European Commission Progress Report for 2011, the Strategy for the Reform of the Public Administration in the Republic of Macedonia 2010-2015, the National Programme for Approximation to the European Union Acquis 2011-2013 (NPAA), as well as some other documents related to the fight against corruption, reduction of conflict of interests, and strengthening of personal and institutional integrity.

The State Commission for Prevention of Corruption accepted also the European Commission suggestion to base the Action Plan on prioritisation of the sectors along with evaluation of the risks for corruption and conflict of interest in each of the sectors. In the process of drafting of the State Programmes, the SCPC, together with wide representation from all structures of the government, private sector, and civil society established eleven priority sectors.

The Action Plan matrix includes efficiency indicators that will be used to monitor the effect from the implementation of the specific activities during a particular time period.

Asset declarations: Once a public official is elected, appointed, terminates his/her functions, or there is a significant change in his or her financial situation, he or she has the obligation to submit an asset declaration to the Commission. According to the Amendments to the Law on Prevention of Corruption of 2006, all civil servants are obliged to submit property declarations in the institutions where they are employed. In addition, the Commission publishes the data from the asset declarations of appointed or elected public officials on its webpage (www.dksk.org.mk). According to the Law, the SCPC can request the State Revenues Office to check the legality of the property situation of officials.

Corruption Complaints and Inquiries: Citizens and legal entities can file complaints with corruption allegations to the Commission. It will then examine whether the complaint is pursuable. The Commission may also open a case based on its own initiative. The Commission can request additional information from relevant state bodies – or forward the complaint to competent state bodies. In 2010, the Commission received a total of 457 complaints referring to suspicions of corruption from different

areas. In the reporting period, the Commission took action with respect to 1342 cases, and finished the procedure in 1043 cases (includes cases received in the previous years). In 2011, the Commission took action on 1357 cases and finished the procedure in 1157 cases. In the field of conflict of interest, the Commission, in 2011, processed 78 cases and finished a total of 128 cases (includes cases opened in the previous year).

Table 6.1. Results of the State Commission for Prevention of Corruption in processing asset declarations

CHART ASSETS DECLARATIONS
December 2002 - December 2011

YEAR	ASSETS DECLARATION SUBMITTED DURING THE ELECTION / APPOINTMENT	ASSETS DECLARATION AFTER THE MANDATE	NOTIFICATION FOR CHANGE OF FUNCTION	NOTIFICATION FOR RE-ELECTION	NOTIFICATION FOR CHANGE OF PROPERTY STATUS	NUMBER OF MISDEMEANOUR PROCEDURES INITIATED BY SCPC FOR NON-SUBMITTAL OF ASSET DECLARATIONS	COURT DECISIONS UPON MISDEMEANOUR PROCEDURES	INSTIGATED PROCEDURES FOR INVESTIGATION OF THE PROPERTY SITUATION	CONCLUDED PROCEDURES FOR INVESTIGATION OF THE PROPERTY SITUATION (PUBLIC REVENUE OFFICE)
2002	79	0	0	0	0	0	0	0	0
2003	2742	0	0	0	26	78	8	4	2
2004	91	0	0	0	33	33	21	6	3
2005	157	18	29	5	74	45	50	13	7
2006	303	18	42	32	86	34	30	6	6
2007	294	71	31	5	153	55	44	23	2
2008	357	204	40	10	197	33	41	19	1
2009	694	100	24	35	146	58	31	29	6
2010	541	57	47	11	164	28	51	19	9
2011	346	132	93	94	235	11	17	48	54
TOTAL	5604	600	306	192	1114	375	293	167	90

Opinions on draft legislation: One of the competences of the Commission is to give opinions on draft legislation related to the prevention of corruption and conflict of interest, as well as to prepare draft laws. Until this moment, the State Commission has given 45 opinions on draft laws, including the draft Law on the Prevention of Money-Laundering, the Law on the Public Prosecutor's Office, the Law on the State Audit, the Law on the Courts, and others, and participated in the preparation of the draft laws on Financing of Political Parties, Free Access to Information of Public Character, the Elections Code, Prevention of Conflict of Interest, etc.

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Other state institutions with corruption prevention functions

The United States: Office of Government Ethics

The Office of Government Ethics (OGE) in the United States was established in 1978 by the Ethics in Government Act. OGE provides leadership to the executive branch of the Federal Government to prevent conflicts of interest on the part of executive branch employees and resolve those conflicts of interest that do occur. In partnership with executive branch departments and agencies, OGE fosters high ethical standards for executive branch employees who, in turn, strengthen the public's confidence that the Government's business is conducted with impartiality and integrity

Background Information

Prior to the 1960s, the United States addressed conflicts of interest of its federal officers and employees almost exclusively through criminal statutes. Over time, new conflict of interest laws were passed to address specific issues as they arose.

In an effort to address not only actual conflicts of interest but also activities that give rise to the appearance of such conflicts, a 1965 Executive Order¹⁵ set forth six basic principles of public service and some specific restrictions regarding gifts and other issues. Based on this model, each executive branch agency was then responsible for adopting its own standards and for interpreting and enforcing those standards through discipline. At that time, there was essentially no centralized authority responsible for ensuring consistency of the program throughout the branch. The 1965 Executive Order also required high level executive branch officials to file confidential financial disclosures with the Civil Service Commission and for the Commission to issue regulations requiring confidential financial disclosure reports from other agency employees in order to help determine potential, actual, or apparent conflicts of interest of the officers and employees.

During the 1970s, after the Watergate scandal, a number of good governance measures were enacted in an effort to help restore the public's confidence in the Government. One such measure was the 1978 Ethics in Government Act. This Act created the Office of Government Ethics (OGE). OGE was given the responsibility for the overall direction of executive branch policies relating to preventing conflicts of interest. In addition, the Act created the public financial disclosure system.

In 1989, the President issued a new Executive Order that replaced the 1965 Order and that set forth fourteen fundamental principles of ethical service. The Executive Order directed OGE to write "a single, comprehensive, and clear set of executive branch standards of conduct that shall be objective, reasonable, and enforceable."¹⁶ These standards became effective in 1993.

Legal and Institutional Framework

The Ethics in Government Act charged OGE with providing "overall direction of executive branch policies related to preventing conflicts of interest on the part of officers and employees of any executive agency."¹⁷ As part of this mission, OGE fosters high

ethical standards for executive branch employees and strengthens the public's confidence that the Government's business is conducted with impartiality and integrity.

While OGE sets policy for the executive branch ethics program, the head of each agency has primary responsibility for the ethics program in that agency. To support the day-to-day activities of the ethics program, each agency head selects an individual to serve as the agency's designated ethics official. Depending on the size of the agency, there may be additional professional ethics support staff. Currently, there are approximately 5,700 ethics officials working across 133 agencies. OGE works with this ethics community by setting overall policies and providing oversight, advice, and training.

More specifically, OGE carries out the following *activities*:

- Develops, publishes, and provides advice on enforceable standards of ethical conduct for over 4 million civilian employees and uniformed service members in 133 federal-level executive branch agencies. These ethical standards – issued by OGE as an enforceable regulation – include provisions on gifts from outside sources and between employees; conflicting financial interests; impartiality in the performance of official duties; seeking other employment; misuse of position; and outside activities;¹⁸
- Issues explanatory and binding regulations and advice on the criminal conflict of interest statutes and the civil outside employment and activity statutes;¹⁹
- Establishes the procedures for and oversees two systems of financial disclosure, one for more than 28,000 public filers and one for approximately 325,000 confidential filers. The financial disclosure systems are designed so that agencies can spot and prevent conflicts of interest; the systems are not designed to detect illicit enrichment. Each agency reviews and certifies all forms filed by its officers and employees. OGE does a second-level review and certification of the financial disclosure reports for the most senior executive branch officials, including all Presidential appointees confirmed by the Senate and the most senior White House staff members;
- Ensures agency compliance with the executive branch's ethics program requirements.²⁰ OGE regularly reviews agency ethics programs to ensure that each agency has an effective ethics program tailored to its mission. The reviews cover areas such as ethics agreements, written advice and counselling, education and training, financial disclosure and agency-specific requirements, and enforcement. The reviews are accomplished in accordance with detailed review guidelines and are scheduled in advance as part of an annual program plan. Through the reviews, OGE also seeks to identify and share model practices throughout the executive branch;
- Provides education and training to the approximately 5 700 individuals who serve as ethics officials,²¹ and, in some instances, to employees of the executive branch. By targeting its training to ethics officials, OGE ensures that those in charge of ethics in the executive agencies are in a position to effectively carry out their duties. Training focuses on understanding and applying the criminal conflict of interest statutes, civil ethics statutes, the standards of ethical conduct, and the financial disclosure regulations, as well as the tools required to run an effective ethics program. OGE also develops training programs that can be used by ethics officials to conduct training for employees in their agency;
- Provides informational outreach to the public, the private sector, and civil society; and

- At the request of United States foreign policy agencies, provides technical assistance to foreign governments and international organizations and shares good practices with national and international partners and stakeholders. OGE represents the United States in relevant organisations and bodies, such as the Council of Europe’s Group of States against Corruption.

OGE’s mandate does not extend to the judicial or the legislative branch, nor does OGE have jurisdiction over state or local level governments. Designed as a prevention agency which coordinates with enforcement authorities, OGE has no investigative authorities.

Structure

OGE is divided into five Offices, as follows:

1. The *Office of the Director* (OD) provides overall direction to the executive branch ethics program and is responsible for ensuring that OGE fulfills its Congressional and Presidential mandates.
2. The *Office of International Assistance and Governance Initiatives* (OIAGI) coordinates the Office’s support of U.S. efforts in promoting international anti-corruption and good governance programs. It also coordinates the Office’s domestic good governance initiatives.
3. The *Office of General Counsel and Legal Policy* (OGC&LP) is responsible for establishing and maintaining a uniform legal framework of Government ethics for executive branch employees. This Office develops executive branch ethics program policies and regulations, interprets laws and regulations, assists agencies in legal and policy implementations, and recommends changes in conflicts of interest and ethics statutes. This Office directs OGE’s program of review and clearance of Presidential nominee financial disclosure reports. It also responds to requests for information from the media, such as newspapers and wire services, and similar other news organisations. In addition, this Office is the liaison to the Congress and to the Office of Management and Budget.
4. The *Office of Agency Programs* (OAP) is responsible for monitoring implementation of and providing day-to-day services to Federal executive branch agency ethics programs. This Office works closely with the 133 agencies of the executive branch to identify model practices and to resolve challenges in program administration and implementation, provide guidance on the standards of conduct regulations and conflict of interest laws, develop and deliver training courses and materials, and identify emerging issues. In addition, this Office ensures public financial disclosure reports filed by approximately 1,200 of the highest ranking executive branch officials are properly completed and conflict of interest issues are resolved. This Office organizes a national ethics training event every 18 months as well as topic-specific events throughout the year. This Office’s responsibilities are carried out through the closely coordinated activities of its two divisions: The Program Review Division and the Education and Program Services Division.
5. The *Office of Administration* (OA) has program responsibilities for the following: personnel, payroll, facilities and property management, travel, procurement, and the publishing and printing of materials.

Human Resources and Training

OGE is led by its Director, who is appointed by the President for a 5-year term with the consent of the Senate.

OGE's Director is supported by a team of career Senior Executives that include the General Counsel, who also serves as the Principal Deputy Director, the Deputy General Counsel, and Deputy Directors responsible for executive branch agency ethics programs, international assistance and government initiatives, and OGE administration.

OGE has approximately 80 staff comprised of attorneys, ethics, finance, and technology experts, and support staff. In 2012, the operating budget of OGE (including salaries and expenses) was approximately 14 Million US dollars.

OGE educates and trains its employees to improve organizational and individual performance. OGE leadership is primarily responsible for identifying training needs, selecting employees for training, and determining and scheduling training deemed appropriate to each employee's professional development.

Accountability

The Director reports to the President and interacts with the most senior executives of the executive branch. OGE is subject to the same fiscal and human resource requirements as any other executive branch agency. As with other agencies, OGE is subject to oversight by authorizing and appropriating committees of Congress.

OGE submits an annual budget request and a Performance and Accountability Report (PAR) to the Office of Management and Budget of the White House.²² The PAR presents performance and financial data covering the previous fiscal year. The detailed budget request is for the next fiscal year. OGE has multi-year and annual strategic objectives and corresponding performance targets. OGE uses a variety of sources, including surveys on satisfaction with OGE's support to agency ethics officials and questionnaires on the effectiveness of training, to assess progress towards these targets and objectives. The PARs are published on OGE's website.²³ OGE's budget request for appropriations is submitted to the Congress as a part of the President's budget for the executive branch and it has its own clearly identified entry.

Practice and Highlights

Using Financial Disclosure for Prevention and Education:

Individuals who serve in the most senior positions of all three branches of Government are required to file a public personal financial disclosure report. In the executive branch, less senior employees who hold positions which have a heightened risk for conflicts of interest, for example, employees exercising regulatory, investigative, or contracting functions with limited supervisory oversight are required to file confidential financial disclosure reports with their employing agency. Unlike the public disclosure reports, these reports are not available to the public.

In the executive branch, both the public and confidential financial disclosure reports are reviewed by the agency in which the individual serves, primarily for purposes of identifying potential or actual conflicts of interest. When information on a report indicates a potential conflict of interest, the agency works with the individual to

determine appropriate steps he or she must take in order to avoid engaging in an activity that will change the potential for a conflict into an actual conflict. Such steps may include: divestiture of an asset, resignation from an outside position, termination of an outside activity, recusal from certain Government matters, change of official assignments or duties, written waivers, or the creation of a blind trust. When information on a financial disclosure report indicates an actual conflict of interest may have occurred, that matter is referred for further investigation and possible prosecution and/or administrative sanction.

This screening process is more formalized for the highest officials of the executive branch, i.e., individuals appointed by the President to positions requiring Senate confirmation. Before individuals are nominated for these positions, The White House, the agency in which the individual would serve, and OGE review the financial disclosure reports of individuals being considered for these positions. They determine, if the individual were to be appointed, what steps that individual must take to avoid conflicts with the financial interests, outside positions, and relationships and activities listed on the report. If the individual agrees to these steps, these actions are reduced to writing in an “ethics agreement.” Upon nomination, both the financial disclosure report and the ethics agreement are transmitted to the Senate and made public. If the individual is appointed, OGE, with the agency in which the person now serves, monitors this agreement to ensure that the steps agreed upon have been taken by the individual including the divestiture of any conflicting financial interest.

This process ensures that the future, most senior officials in the executive branch have a personal and direct understanding of how the conflicts of interest requirements affect them. It also serves as a personal and positive introduction to the agency ethics official and to the existence of the ethics program in the department or agency in which the individual may serve. Equally important, through this process the ethics program gains continued support from the leadership of the department or agency.

Requiring Training and On-Demand Counselling:

OGE regulations require that each executive branch agency have an ethics training program that promotes the understanding and application of ethics laws and rules and that informs employees of the availability of personal, on-demand, ethics advice. Agencies must provide every new employee with an *initial* ethics orientation consisting of verbal training or at least one hour of official duty time to review the Standards of Ethical Conduct for Employees of the Executive Branch and any agency-specific supplemental standards (or summaries of each). In addition, employees who are in sensitive positions requiring that they file financial disclosures (whether public or confidential) are required to receive *annual* ethics training that must cover the Standards of Ethical Conduct for Employees of the Executive Branch, any agency supplemental standards, and the Federal conflict of interest statutes. The annual training must also include the contact information for agency ethics officials available to advise on ethics issues.

As a model practice, several executive branch agencies require that all employees receive annual ethics training, regardless of whether they file financial disclosures. Many agencies tailor the annual ethics training for at-risk employees such as procurement officials or for supervisory employees who are in positions to spot and address problems. To encourage employees to seek ethics advice, agencies may hang posters in the workplace that provide the agency ethics official contact information. Agencies also

create a variety of ethics on-line and in-person training and counselling resources for their employees, including agency-specific ethics websites.

An important role of OGE is to “train the trainers”, for example, OGE trains ethics officials who in turn train their employees. By targeting its training to ethics officials, OGE ensures that those in charge of ethics in the executive branch agencies are in a position to accurately provide advice to employees about the standards of conduct regulations and conflict of interest laws and otherwise carry out their duties. OGE training focuses on the substantive issues of applying the ethics and conflict of interest laws and regulations as well as logistical issues related to running an effective ethics program.

OGE develops tools that ethics officials can use to conduct training for employees in their agencies. These include pamphlets, videos, crossword puzzles, and posters, many of which are customizable so that agencies can adapt them to their specific needs.

Sharing Model Practices:

One of OGE’s responsibilities is to review ethics programs in public institutions to ensure they are in compliance with the laws and regulations. OGE uses the review process to identify and disseminate *model practices*. This approach encourages cooperative work among ethics offices and promotes dialogue with institutions under review as well as within the broader ethics community. Model practices are showcased at OGE’s national ethics conference, on its website, and in written materials.

OGE also shares model practices through its “*Program Excellence and Innovation Awards*”, which recognize institutions that demonstrate ethics program success as a result of excellent or innovative program efforts. Recipients demonstrate a strong commitment to excellence in ethics program management; employ innovative approaches to teach employees about ethics; use model practices to encourage understanding and awareness of ethical behaviours; and, create a stronger ethical culture as a result of these efforts.

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Brazil: The Office of the Comptroller General

The Office of the Comptroller General (CGU) in Brazil is an agency of the Federal Government with its main focus being on public resources management. The CGU is entrusted with a variety of functions, including audit, inspection, disciplinary actions against federal public officials, ombudsman and also prevention of corruption.

Background Information

The Office of the Comptroller General (CGU) was initially called Federal Inspector General's Office. In 2003, the Comptroller General became of Minister of State for Control and Transparency. The CGU has 26 regional units across Brazil.

Legal and Institutional Framework

The CGU was created by the Law N° 10,683 adopted on 28 May 2003. The CGU is responsible for directly assisting the President of the Republic in matters which, within the Executive Branch, are related to the protection of public assets, internal control, public audits, corrective and disciplinary measures, corruption prevention and fighting, ombudsman's activities and to the enhancement of management transparency.

In order to properly perform all these activities, *CGU* was structured around four *high-level units*, according to their respective area of expertise:

- Federal Secretariat for Internal Control (SFC);
- Corruption Prevention and Strategic Information Secretariat (SPCI);
- National Disciplinary Board; and
- National Ombudsman's Office (OGU).

Besides, the Council on Public Transparency and Corruption Fighting (CTPC) is another part of *CGU's* structure, serving as a collegiate and advisory board.

The attributions of *CGU's areas of expertise* are as follows:

Internal Control

The Federal Secretariat for Internal Control is in charge of performing audits and inspections in order to check how public funds are being spent and allocated. SFC assesses the implementation of the Government's budget, as well as the implementation of Government programs, and performs audits on the management of federal public funds either directly applied by public and private bodies and entities or under their responsibility. The outcomes/findings are submitted to the Prosecution Office and to the Office of the Attorney-General, which are to adopt the appropriate measures (punishment and asset recovery) before the Judicial Branch. These outcomes/findings are also submitted to the National Disciplinary Board.

Preventive anti-corruption actions

Besides monitoring and detecting frauds related to the use of federal public funds, *CGU* is also responsible for the development of prevention mechanisms with the aim of avoiding corrupt practices. Transparency enhancement is a critical tool to support *CGU's*

ongoing strategies. This activity is performed by the Secretariat for Corruption Prevention and Strategic Information.

Disciplinary administrative actions

The Office of the Comptroller General also fights against impunity in the federal government, promoting, coordinating and monitoring the implementation of disciplinary actions aimed at ensuring the administrative accountability of public servants. Additionally, it monitors companies that perform irregular activities which may cause damage to the Federal Government. The National Disciplinary Board also receives the outcomes of the audits performed by the Federal Secretariat for Internal Control in order to apply the penalties within the remit of the Federal Government.

Ombudsman's activities

The National Ombudsman's Office is responsible for the technical supervision and guidance of all ombudsman's units in the Executive Branch on the federal level. It examines claims related to the delivery of public services; suggests disciplinary measures and works to prevent faults and omissions of managers responsible for the inadequate delivery of public services. Additionally, it contributes to the dissemination of new forms of popular participation in monitoring and supervising the delivery of public services; and promotes capacity-building actions related to ombudsman's activities. It also coordinates the Information Access System established by Law N° 12,527.

CTPCC – Council on Public Transparency and Corruption Fighting

The Council on Public Transparency and Corruption Fighting is a collegiate and advisory body linked to the CGU. The Council comprises an equal number of representatives from the government and the civil society, and aims to discuss and suggest measures to improve activities related to public resources control, transparency promotion within the government, corruption and impunity fighting.

Institutional co-ordination has been an emphasis of the CGU's work since 2003; as a result, it has established working relations with the Ministry of Justice and the Federal Police Department; the Federal Prosecutor General; the Financial Intelligence Unit; the Federal Court of Accounts; the Office of the Attorney-General; The Federal Internal Revenue Secretariat; the Department for Asset Recovery and International Cooperation.

Practice and Highlights²⁴

Promotion of public transparency and social control:

The typical activities of an anticorruption agency are carried out by the Secretariat for Corruption Prevention and Strategic Information (SPCI), which is responsible for anticorruption activities to promote the enhancement of public transparency; produce, disseminate and encourage the exchange of strategic information related to corruption prevention and fighting and foster the social control as a corruption-preventing tool. Additionally, SPCI is also in charge of monitoring the asset evolution of government officials on the federal level of the Executive Branch and representing the CGU in national and international forums or organisms which work to prevent and fight corruption.

Transparency Portal:

The Transparency Portal of the Federal Government is an initiative that was launched by the Office of the Comptroller General in November 2004, with the aim of ensuring the proper and lawful allocation of public funds. Its objective is to increase transparency in the public administration, enabling citizens to track the allocation of public money and play a monitoring role in this process.

The Portal was developed under the belief that transparency is the best antidote to corruption, as it is a mechanism that encourages public managers to act responsibly, and provides information to the society, enabling it to help control its government actions and monitor if public funds are being spent wisely.

The Transparency Portal at www.portaldatransparencia.gov.br provides information on the Federal Executive Branch, disclosing, *inter alia*, the data listed below:

- Direct spending of the Federal Government;
- Fund transfers to states and municipalities;
- Contracts signed with individuals, legal entities or government bodies;
- Estimated and Collected Revenue; and
- Federal Government staff, including information on staff compensation

The *Transparency Portal* also publishes three registration programs established to coordinate information on the sanctions imposed to federal public servants, suppliers of goods and services and not-for-profit private entities. These registries consolidate useful data to be further accessed by federal managers and provide for increased transparency to the control and inspection activities performed by the Federal Government.

National Debarment List (Ceis): it lists the companies that are forbidden to either participate in public biddings or execute contracts with the Federal Government because of embezzlement or unlawful practices occurred in public contracts or biddings.

Registry of Suspended Not-for-Profit Private Entities (Cepim): it lists the not-for-profit private entities that are forbidden to either celebrate contracts, transfer contracts or partnership agreements with the Federal Government or receive transfer of funds because of their participation in embezzlement or unlawful practices.

Registry of Federal Government's Dismissed Staff (Ceaf): it comprises the dismissal sanctions (discharge, cancellation of retirement pension, removal from position of trust or function held in commission) applied to public servants within the Executive Branch at the federal level.

It is worth noting that the Transparency Portal features data which are under the custody of the CGU, the control authority of the Executive Branch at the federal level. Thus, data related to other branches (Judicial and Legislative) and to other levels of government (State and Municipal) are not available at the Portal and should be searched in the official website of each government body.

Citizen use of the portal has grown since its launch from approximately 700,000 hits per month to approximately 3,4 million hits per month in May 2012, with the number of users growing from approximately 10 000 per month to 380,000 per month. These numbers, due to the publication of individualized salary of civil servants on June 2012, are growing dramatically, reaching 28,2 million hits and 1,3 million users in July 2012. The overall amount of public spending published is US\$ 5 Trillion.

Promoting access to Information:

As of May 16, 2012, Law Nr. 12,527/2011, Brazil's Access to Public Information Law entered into force. The CGU has the authority to monitor the implementation of this Law within the Federal Executive Branch. The CGU has built capacity of approximately 700 public servants working in the Citizen Information Service (SIC) offices at each government body. Additionally, it has developed an electronic system that registers information access requests entries and replies, besides providing a standard request form. The system, which is called e-SIC, is of critical relevance to public managers, as it helps them manage the incoming requests and the time it takes for requests to be properly answered.

National Conference on Transparency and Social Control (Consocial):

The conferences called upon the Federal Government are a public tool to foster social participation and consist of initiatives organized with the aim of institutionalizing popular participation in activities related to the planning, management and control of a certain public policy or a set of public policies. The Federal Government has called upon and organized 87 conferences on numerous areas (Education, Healthcare etc.) between 2003 and 2011.

The *First National Conference on Transparency and Social Control (Consocial)* was designed with the aim of promoting public transparency and engaging the society to monitor public management, which adds to a more effective and democratic social control, providing for the correct and efficient use of public funds. The civil society demanded increased and more active participation in these activities and this was the first conference, held in Brazil, with the purpose of specifically addressing this matter.

The First *Consocial* was coordinated by the CGU in partnership with the Secretariat-General of the Presidency of the Republic, and was convened by a presidential decree issued in December 2010. From July 2011 – May 2012, when the national chapter took place in Brasília, conference proceedings comprised the participation of 1 200 elected delegates in preparatory stages (1023 municipal/regional conferences, 26 state conferences, 1 district conference, 302 free conferences and 1 virtual conference).

The discussions were divided into four thematic axes: promotion of public transparency and access to public information and data; social control mechanisms; engagement and building capacity of the society to control public management; the controlling role of public policy councils; guidelines for corruption fighting and prevention.

The national chapter of the First *Consocial* formulated 80 guidelines in order to ensure the effectiveness of public policies that provide for the promotion of transparency and social participation in the planning, management and control of public funds on the municipal, state, district and national levels.

Other activities to promote social control

Programme “*Keeping an Eye on Public Money*” was designed to change attitudes in the society through education, access to information, and social control. A guidebook for societal control over public spending has been distributed in 2,7 million copies. It targets municipal policy makers, local leaders, students, and the general public. CGU has also developed online trainings, which cover such topics as internal control and social control,

public procurement and public contracts. By September 2012, 5 538 public agents, 16 972 council members and 9 570 municipal leaders have been trained.

The Pro-Ethics Company List

CGU created a “clean list” of private companies committed with ethics and integrity: *the Pro-Ethics Company List* (Pro-Ethics). It includes companies committed to implementing integrity measures and promoting a healthy business environment. The list can be accessed at www.cgu.gov.br/empresaproetica. There have been several rounds of evaluation in 2011 – 2012, and 10 companies have had their requests approved.

Public Spending Observatory

The Public Spending Observatory is a permanent unit of the CGU in charge of monitoring of public spending. Its objective is to contribute to the improvement of internal control and to serve as a supporting tool for the government. Unit’s outcomes support CGU’s audits and inspections and supply the managers with managerial indicators related to public spending, enabling them to make comparative analyses and supporting decision-making procedures related to the improvement of public resource allocation.

The Observatory relies on a highly qualified team of experts in investigative intelligence and uses Business Intelligence tools, on-line analytical processing, statistical processing and investigative analyses.

Thus, the Observatory seeks to identify, through the issuance of systematic warnings, the signs of potential misuse of public funds, events that require further investigation to be carried out by CGU’s expert auditors.

Sanctions to public servants and suppliers

Fighting impunity is the core objective of the disciplinary measures developed by the National Disciplinary Board, a division within the CGU which performs disciplinary actions of repressive nature.

The enactment of Decree N° 5,480/2005 provided for the establishment of an organized system of disciplinary activities, coordinated by the Office of the Comptroller General. The CGU then embraced the mission of promoting the co-ordination and standardization of all activities related to the prevention of embezzlement and unlawful practices within the Executive Branch at the federal level, which is made through the implementation, conduction and monitoring of disciplinary proceedings.

Disciplinary boards

Aware of the relevant role played by the sectional units, which operate as the foundations for the Disciplinary System of the Executive Branch at the federal level, the National Disciplinary Board promotes, on a continuous basis, the establishment of such disciplinary boards within such government bodies, either because of the complexity of the activities they perform or because of their institutional relevance, as such instances need to rely on a specific disciplinary core.

Simplified investigation proceedings for minor offenses

CGU has published Administrative Ruling No. 04 (IN 04), of 02/17/2009, an initiative which was widely appraised in the disciplinary field, seeking to simplify the investigation proceedings of cases related to minor damages or loss within the public administration. IN 04 has provided for the use of the Administrative Report of a Minor Offense (TCA) in the investigations of loss or damage of minor financial impact.

This measure is an alternative to costly and lengthy disciplinary proceedings, as it provides for expressive red tape cuts, saving time and money by adding to the solution of cases which involve small amounts of money and where the agent has no damaging intent, as such cases are then handled within the same public department where they arose. The quick solution for such cases also allows the disciplinary system to target its efforts towards relevant cases which involve major financial impact.

Capacity-building for internal control units

CGU's strategy to enhance the capacity to investigate unlawful practices within the Executive Branch includes staff training so as to have servants capable of performing their duties at occasional administrative-disciplinary proceedings. The Office of the Comptroller General counts on a group of highly qualified officials responsible for teaching Disciplinary Law with the aim of building capacity of Government's officials enabling them to participate in disciplinary committees.

Management System of Disciplinary Proceedings

The Management System of Disciplinary Proceedings is a computer program that was developed in mid-2007. It aims to secure safe and quick storage and availability of information on disciplinary proceedings carried out in the Executive Branch at the federal level. This system allows government bodies to monitor existing disciplinary proceedings, identify critical vulnerabilities, build risk maps and develop guidelines for the prevention and curbing of corruption and other similar offenses.

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Notes

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8. See <http://antikorupcija-savet.gov.rs>
9. See www.kjn.gov.rs/html.
10. See the Anti-corruption Agency Act of Serbia, Article 9, www.acas.rs/sr_lat/zakoni-i-drugi-propisi/zakoni/zakoni-o-agenciji.html
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13. *Official Gazette*, No.46, 12 July 2004
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15. Executive Order 11222 (May 8, 1965), *Prescribing Standards of Ethical Conduct for Government Officers and Employees*, [www.oge.gov/Laws-and-Regulations/Executive-Orders/Executive-Order-11222-\(May-8,-1965\)--Prescribing-Standards-of-Ethical-Conduct-for-Government-Officers-and-Employees](http://www.oge.gov/Laws-and-Regulations/Executive-Orders/Executive-Order-11222-(May-8,-1965)--Prescribing-Standards-of-Ethical-Conduct-for-Government-Officers-and-Employees).
16. Executive Order 12674 (April 12, 1989): *Principles of Ethical Conduct for Government Officers and Employees*. [www.oge.gov/Laws-and-Regulations/Executive-Orders/Executive-Order-12674-\(Apr--12,-1989\)--Principles-of-Ethical-Conduct-for-Government-Officers-and-Employees/](http://www.oge.gov/Laws-and-Regulations/Executive-Orders/Executive-Order-12674-(Apr--12,-1989)--Principles-of-Ethical-Conduct-for-Government-Officers-and-Employees/).
17. Ethics in Government Act of 1978, 5 U.S.C. app. www.gpo.gov/fdsys/pkg/USCODE-2009-title5/html/USCODE-2009-title5-app-ethicsing-titleIV.htm
18. The Standards of Ethical Conduct for Employees of the Executive Branch are codified at 5 C.F.R. 2635. <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=eaab3e76921028ab2de631c3f4b0f8a0&rgn=div5&view=text&node=5:3.0.10.10.9&idno=5>
19. The conflict of interest statutes are found in 18 U.S.C. §§ 201-209. The limitations on outside income and activities are contained in 5 U.S.C. §§ 501-505.
20. Agency ethics program responsibilities are found in 5 C.F.R. 2638.
21. Of the 5 700 ethics officials, some may have ethics program responsibilities only as part of their official duties.
22. www.whitehouse.gov/omb

23. *www.oge.gov/About/Management-Reports-and-Policies/Performance-and-Strategic-Docs/Performance---Strategic-Documents/*
24. This section covers only the work of the Office of the Comptroller General in the area of prevention of corruption.



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