

Anti-corruption Authorities Initiative: Survey on the Effectiveness of Anticorruption

Background Information

1. Please enter country name in the space below

Bosnia and Herzegovina

2. Name of the agency

Agency for the Prevention of Corruption and the
Coordination of the Fight Against Corruption

3. Date of establishment (please include any predecessors if relevant)

By Law on ACA in December 2009

4. Contact Information

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5. Website

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Legal Framework

6. What are the main anti-corruption laws in your country? (please include year of entry into force)

Substantive criminal legislation in BiH contains provisions that constitute criminal offences against official duty or other responsible duty. Following criminal offences are stipulated under: Criminal Code of BiH (Chapter XIX-criminal offences of corruption and criminal offences against official duty or other responsible duty), Criminal Code of the FBiH (Chapter XXXI-Criminal offences of bribery and criminal offences against official and other responsible duty), Criminal Code of the RS (Chapter XXVII-Criminal offences against official duty) and Criminal Code of Brčko District BiH (Chapter XXXI- Criminal offences of bribery and criminal offences against official and other responsible duty). Criminal Code of Bosnia and Herzegovina "Official Gazette BiH", no.: 3/03, 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06, 32/07, 08/10. This chapter prescribes following offences: (a) Accepting gifts and other forms of benefit (Art. 217), (b) Giving gifts and other forms of benefits (Art. 218), (c) Illegal interceding (Art. 219), (d) Abuse of office or official authority (Art. 220), (e) Embezzlement in office (Art. 221), (f) Fraud in office (Art. 222), (g) Using property of the office (Art. 223), (h) Lack of commitment in office (Art. 224), (i) Forging of official document (Art. 226), (j) Illegal Collection and disbursement (Art. 227), (k) Unlawful release of a detainee (Art. 228) and (l) Unlawful appropriation of objects while searching or carrying out enforcement order (Art. 229); Criminal Code of the FBiH, "Official Gazette FBiH", no. 36/03; Criminal Code of the RS, "Official Gazette RS", no.: 49/03; Criminal Code of Brčko District BiH, "Official Gazette BD BiH", no.: 10/03.8 See Law on changes and amendments to the Criminal Code of the FBiH, "Official Gazette of the Federation of Bosnia and Herzegovina", no.: 42/10 (Art.62). 9 See Law on changes and amendments to the Criminal Code of BiH, "Official Gazette BiH", no.: 8/10 (Art. 94 and 95). The changes and amendments to the state Criminal Code have made considerable steps in expanding the circle of perpetrators (international officials) for offences of accepting gifts and other forms of benefits (Articles 94 and 95 of the Law on changes and amendments to the Criminal Code of BiH).

Criminal Code of BiH "Official Gazette BiH", no.: 3/03, 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06, 32/07, 8/10 and 47/14)

Law on Public Procurement BiH, "Official Gazette BiH", no.: 19/05, 52/05, 8/06, 24/06, 70/06, 12/09, 60/10 and 87/13)

Law on Conflict of Interest in BiH, "Official Gazette BiH", no.: 6/02, 14/03, 12/04, 63/08, 18/12 and 87/13)

Election Law of BiH, "Official Gazette BiH" no.: 23/01, 7/02, 9/02, 20/02, 25/02, 4/04, 20/04, 25/05, 52/05, 65/05, 77/05, 11/06, 24/06, 32/07, 33/08, 37/08 and 32/10)

Law on Political Party Financing, "Official Gazette BiH" no.: 22/00 and 102/09

Law on International Legal Aid in Criminal Matters "Official Gazette BiH", no.: 53/09.

Law on Freedom of Access to Information in BiH "Official Gazette BiH" no.: 28/00, 45/06, 102/09, 62/11 and 100/13

Law on Whistleblower Protection in the Institutions of Bosnia-Herzegovina "Official Gazette BiH", no.: 100/13

Law on the Agency for the Prevention of Corruption and the Coordination of the Fight Against Corruption "Official Gazette BiH", no.: 103/09 and 58/13

In the entity of Federation of BiH (FBiH) this matter is regulated by the "Law on suppression of corruption and organized crime" and the "Law on confiscation of illegally acquired property by criminal act", both endorsed by the Parliament of FBiH on 05 June 2014. "The Law on confiscation of illegally acquired property by criminal act of FBiH" enter into force on 18 September 2014. The asset recovery is regulated in BH entity Republika Srpska by the Law on confiscation of illegally acquired property, "Official Gazette RS", no.: 12/10.

7. Does your Government have a single or primary anti-corruption strategy? When was it last updated?

The Council of Ministers of BiH adopted at the 99th session on state level the Strategy for the Fight against Corruption (2009-2014) and the Action Plan to implement the Strategy on 24th September 2009. Now the Agency is working on the Strategy for the Fight against Corruption (2015-2019) and the Action Plan to implement the Strategy.

8. Does your country have right to information legislation?

Yes No

9. Does your country have conflict of interest legislation?

Yes No

10. Does your country have a financial disclosure system to help prevent conflicts of interest?

Yes No

11. Does your country have statutory or constitutional provisions granting immunity from criminal prosecution to elected or appointed officials?

Yes No

12. Is your agency protected from political interference by law?

Yes No

Institutional Framework

13. What functions does your agency perform?

Please check all that apply

Research Prevention Investigation Prosecution Forensics Auditing Policy

14. Is there one agency in charge of coordinating AC efforts across agencies?

Yes No

If yes, please specify: The Agency for the Prevention of Corruption and the Coordination of the Fight Against Corruption is established on state level. Bosnia's Federation entity has adopted, on May 6 2014, a set of anti-corruption laws, which aim to establish specific law-enforcement bodies tasked with pursuing perpetrators of organised crime. The new bodies would be similar to Croatia's Bureau for Combating Corruption and Organized Crime (USKOK), a state attorney-linked body that focuses on corruption and organized crime. The country's other political entity, Republika Srpska, has a separate president and legislative body. It has a [Special Prosecutor's Office](#) Against Organized and Economic Crime.

15. Does your agency have the ability to share information or data with (a) Other agencies within your Government, and

Yes No

(b) Government partners from other countries?

Yes No

16. Please enter the current size of permanent staff. Do you have secondees? If so, are they counted separately?

The ACA has recruited 22 staff members, including 5 administrative employees, 3 Assistant Directors and 11 Expert Advisors.

17. Number of prosecutors (if applicable)

none

18. Number of investigators including legal advisors (if applicable)

none

19. Number of support staff (if applicable)

5 administrative employees

20. Are staff positions permanent? Or subject to periodic renewal? What percentage of each?

All 22 staff positions are permanent.

21. Does your agency keep records on its investigative activity? If it does not, go to question 22. If yes, please show the information you have on the following

a. Number of complaints received

In 2013 the ACA received 113 submissions that contain indications of a corruptive conduct. The ACA doesn't have repressive measures.

b. Number of investigations conducted

c. Number of investigations completed

d. Number of cases recommended for prosecution

e. Number of cases prosecuted by –i) Your agency ii) DPP, AG, or other separate office

f. Number of convictions

22. Please state the number of learning activities and outreach events organized by your agency (if applicable)

12 events and over 350 employees attended on training activities of the
ACA

23. Please state the value of assets recovered by your agency (if applicable)

It is not in the jurisdiction of the ACA.

24. Please enter the names of other agencies with similar functions as this ACA

25. Does your agency have a system to monitor performance of staff?

Yes No

26. Are human resource management actions, i.e., recruitment, promotion, and termination based on staff integrity and professionalism?

Yes No

27. Are new vacancies for your own agency announced publically?

Yes No

28. Are the results of these recruitment processes announced publically by your agency?

Yes No

29. Who appoints the head of your agency?

The Director was appointed by the Parliamentary Assembly of Bosnia and Herzegovina

30. Who has the authority to remove the head of the ACA?

The Parliamentary Assembly of Bosnia and Herzegovina has the right to dismiss the Director.

31. To whom does the head of your agency report to?

The Agency is an independent and autonomous administrative organization, reporting about its operation to the Parliamentary Assembly of Bosnia and Herzegovina.

32. Is there any term limit for the head of the ACA?

Yes No

If yes, please specify: The Director and the two Deputy Directors of the Agency are appointed for the term of five (5) years with the possibility of yet another reappointment.

33. Is the agency subject to judicial review?

Yes No

34. Is the agency subject to expenditure reviews?

Yes No

35. Does your agency measure "performance"?

Yes No

If yes, against which indicators?

- Number of investigations conducted
- Number of investigations concluded
- Ratio of number of investigations/staff
- Percentage of total budget allocated to outreach activities and communication.
- Number of outreach activities delivered
- Others, please specify

36. In practice is your agency protected from political interference?

Yes No

37. Does your agency keep a comprehensive skill list of its staff?

Yes No

38. Is the staff provided with regular training and refresher training to ensure that their skills are up-to-date?

Yes No

39. What training has your agency received from foreign organizations or international agencies in the past year?

By the EU Support to Law Enforcement Project in BiH:
Corruption: Detection, Investigation, Evidence; Mutual legal assistance; Prevention of corruption; Integrity and ethics; Asset recovery; Public procurement

40. Are employees protected by law from recrimination or other negative consequences when reporting corruption (i.e. whistleblowing)?

Yes No

41. Does your agency have a communication strategy?

Yes No

42. Does your agency have a comprehensive corporate plan?

Yes No

43. Is there a strategy for formulating a partnership with outside agencies to fight corruption?

Yes No

44. Is there a strategy for dealing with the media?

Yes No

45. In practice does your agency has sufficient powers to carry out its mandate?

Yes No

46. Has your agency requests for additional powers or authorities pending in the parliament or before the executive?

Yes No

Resource Mobilization

47. Does your agency have budgetary autonomy?

Yes No

48. What is the annual budget of your agency?

Within the 2012 BiH budget of the institutions, the ACA had been allocated 885.000 KM. This was increased in the 2013 State Budget up to 932,000 KM to the ACA. The budget foreseen for 2014 is 1.115.000 KM.

49. The annual budget is determined by (please choose the answer(s) that best fit(s) your agency)

<input checked="" type="checkbox"/>	Number of staff
<input type="checkbox"/>	Number of investigations
<input type="checkbox"/>	Budget is constitutionally mandated
<input checked="" type="checkbox"/>	Other, please specify : overhead costs, salaries of all employees, travel costs, leasing costs for the Agency, IT expenditures, etc.

50. Is there any receive any financing from donors?

Yes No

51. Does your agency use a computerized system to handle cases?

Yes No

If yes, was it developed especially for your agency or was it purchased off-the-shelf? Are you willing to recommend to others? What is its name and where did you obtain?

Social Framework

52. Does your agency provide a mechanism for citizens to report complaints anonymously or provide information on corrupt activities?

Yes No

53. Does your agency or government provide a hotline to report corruption?

Yes No

54. Does your agency produce regular public reports of its activities? Annually? More frequently? Less?

Yes No

Innovation

55. Does your agency use any IT tools to

- Facilitate reporting of corruption and fraud by citizens (like www.Ipaidabribe.org)
- Share information with citizens about its own activities
 - a. Share and/or obtain information for its own investigations
 - b. Other – please explain

56. Does your agency use social media to raise awareness on corruption among the public?

Yes No