Legal Framework

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, 37/08, 62/10. 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. 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).

Legal Framework

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

- 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, 37/08, 62/10 and 87/14
- 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 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
- 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

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


8. **Does your country have right to information legislation?**
   - x Yes  ○ No

9. **Does your country have conflict of interest legislation?**
   - x Yes  ○ No

10. **Does your country have a financial disclosure system to help prevent conflicts of interest?**
    - x Yes  ○ No

11. **Does your country have statutory or constitutional provisions granting immunity from criminal prosecution to elected or appointed officials?**
    - x Yes  ○ No

12. **Is your agency protected from political interference by law?**
    - x Yes  ○ No

### Institutional Framework

13. **What functions does your agency perform?**
    Please check all that apply
    - x Research  x Prevention  ○ Investigation  ○ Prosecution  ○ Forensics  ○ Auditing  x Policy

14. **Is there one agency in charge of coordinating AC efforts across agencies?**
    - x 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**
    - x Yes  ○ No

    **(b) Government partners from other countries?**
    - x 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?

x Yes  ○ No

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

x Yes  ○ No

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

x Yes  ○ No

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

x 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?
   x 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  x No

34. Is the agency subject to expenditure reviews?
   x Yes  ○ No

35. Does your agency measure “performance”?
   x 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?
   x Yes  ○ No

37. Does your agency keep a comprehensive skill list of its staff?
   x Yes  ○ No

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

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41. Does your agency have a communication strategy?
   x Yes  ○ No

42. Does your agency have a comprehensive corporate plan?
   x 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?
   x Yes  ○ No

45. In practice does your agency have sufficient powers to carry out its mandate?
   ○ Yes  x No

46. Has your agency requests for additional powers or authorities pending in the parliament or before the executive?
   x Yes  ○ No

### Resource Mobilization

47. Does your agency have budgetary autonomy?
   x 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)

<table>
<thead>
<tr>
<th></th>
<th>Number of staff</th>
<th>Number of investigations</th>
<th>Budget is constitutionally mandated</th>
<th>Other, please specify: overhead costs, salaries of all employees, travel costs, leasing costs for the Agency, IT expenditures, etc.</th>
</tr>
</thead>
</table>
   x | Number of staff   | Number of investigations| Budget is constitutionally mandated | 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    x No

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

52. Does your agency provide a mechanism for citizens to report complaints anonymously or provide information on corrupt activities?
   x Yes    ○ No

53. Does your agency or government provide a hotline to report corruption?
   x Yes    ○ No

   x Yes    ○ No

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?
   x Yes    ○ No