

**CENTRAL ANTI-CORRUPTION BODY IN BOSNIA AND HERZEGOVINA:
BALANCING REALITY AND NECESSITY**

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Abstract

Bosnia and Herzegovina, as a post-conflict society, is in the process of developing and reconstructing its public-administrative institutions. The inherent part of this agenda is issue of establishment of an anti-corruption office, with so far an undefined mandate or required legal framework. Corruption as a real and documented phenomenon and requires an adequate institutional response, such as the reconstruction of the judicial-police system, but it also requires a central office that would deal continuously, specifically and in an organised way with corruption cases. In devising a proper institutional response to corruption, we have take account here of the fact that BH has undergone recently mass destruction and a grave loss of inter-segmentary trust, and such disposition stimulates corruption practices. In such circumstances, a formalistic and loose approach to the issue of an anti-corruption body might not be affordable in case of Bosnia and Herzegovina. We argue instead here for the institutionalisation of a “strong” anti-corruption body.

INTRODUCTION

The scope and purpose of this research is to explore the necessity and feasibility of an independent and specialized anti-corruption body in Bosnia and Herzegovina. For the purpose of familiarizing the reader to the so far achieved goals in endeavours of BH Government to fight corruption, we shall provide a disclosure of the given effort and results, while prior to that we will feature some aspects of post-conflict development of BH society, as critical for understanding of the necessity for an central anti-corruption body conceptualized in an optimal manner.

After this, the paper will conduct an informative-comparative overview of anticorruption agencies elsewhere; feature their successfulness and the necessary

preconditions for that success, as well as modus operandi and status of those agencies. By reviewing major preconditions for functioning of these bodies, we should be able to design relevant question for two interview groups that will be examined in the ensuing course of the research. Those are namely state parliamentarians and leading officers' of the agencies that are included in activities related to implementation of BHs Anticorruption Strategy, as well as members of the Working group in charged to provide a draft of the Law against Corruption.

The major hypothesis of this research is that primary law-enforcement institutions alone are not capable of nurturing flawed BH society, from such a serious plague as corruption. The suggested reason for this is that Bosnia and Herzegovina is a post-conflict society, where there never was a clear break with the corrupt practices of the war ethno-elites, either through the declared and witnessed commitment of some new political wave or through technical systematic processes such as lustration, which was so far practiced selectively by the High Representative in Bosnia and Herzegovina. Not to mention delicacy of the states arrangement where it is difficult to follow the lines of responsibility, which often blurs in dysfunctional administrative-jurisdictional alignment, or disappears in the Bermuda triangle of implicit/explicit ethno-political interpretations of national interests.

It is therefore important to understand that corruption, even taken without clear indicators of its scope and impact (e.g. incompatibility of media coverage and real judicial-penal proceedings activated, or positively ended with full fetched verdict), has a fertile ground in BH, which is due to lack of accountability mechanism developed in advanced democracies. This assumption provides the basis to ask about the feasibility of

an independent and specialized anti-corruption agency in Bosnia and Herzegovina with a wide spectrum of powers, including an investigative and preventory mandate. Thereafter three mayor questions occur in subsequent order, which we will discuss in this research, namely: (1) does BH needs such an agency; (2) is there political will on the state level to give impetus to the law, that will push forward this idea and (3) what is disposition of the judicial-professional core in BH on this matter.

The overall frame of the research is the assertion that BH, as a post-conflict society, is particularly sensitive to organized and systematic corruption, whose centre of gravity is in the public-political-administrative sector. In those circumstances, disorganized and uncoordinated work of other state institutions that directly or indirectly deal with corruption, cannot answer post-conflict residuum's, such as dysfunctional administrative organisation and unhindered persistence of the same political elites that have induced and participated in the last war in BH. Since war, by its definition, reflects unlawful, chaotic, asocial values, it is likely to assume that criminal practices would persist even among war elites, and that these practices or networks would persist in the post-conflict development, which is another detrimental factor to the transition of the war torned societies into peaceful and democratic ones. In those circumstances, it is important to ask what role a strong anti-corruption body can play in remedying malfeasances inherited from the recent tumultuous past of BH society. Although there are different types of anti-corruption agencies in the world, with different roles assigned to them, we shall argue here for the necessity of a “strongly” conceptualized body: specialized, with high investigative powers, level of independence and strong status (initiative and coordination; that can approach any information relevant to inquiry of the

corruption cases, held by any other institution or private person) in the network of other state agencies that encounter and deal with corruption cases, especially those gravest ones.

OVERALL RESEARCH CONTEXT

The Post-conflict peculiarities of BH society

Unavoidably relevant to this research is the question of feasibility of anticorruption bodies in post-conflict societies, where overall social stability could be at stake due to corrupt practices of ruling groups. The overall assumption is that corruption in divided societies, such as BH, can be defeated only through powerful institutions, which would have capacities to implement adequate domestic and international legal regulations. Capable anticorruption agency can prevent reversible streaming¹ and a “state capture”² phenomenon. Considering formerly alleged social stabilization role of anti-corruption

¹ Ackerman S. (1999), *Corruption and Government: Causes, Consequences and Reform*, Cambridge University Press; Working Paper, pp. 131: “A recent study suggests that a high level of ethnic fragmentation makes it difficult to establish a functioning, competent government (Easterly and Levine 197), but a state can overcome the disadvantages of ethnic divisions by establishing strong, corruption free government institutions. Where ethnic divisions have not been well handled, as in Nigeria, the result can be a state focused on sharing the spoils; not promoting overall prosperity...Divisions can be so severe that government can aim for no more than the avoidance of civil war.

² An Overview of Corruption in Central and Easter Europe, given by UNDP March 2002 provides following definition of the state capture phenomena: “*State capture*, in contrast, refers to the illicit actions of both private sector and public sector actors in actually shaping the “*formation*” of the basic rules of the game through the illicit and non-transparent provision of payments or other benefits to public officials. It describes activities on the part of enterprises and individuals to purchase preferential advantages directly from the state by subverting the formation of laws, rules, regulations and decrees. It includes not only the behavior of influential oligarchs who buy off legislators, but also the behavior of political leaders who shape the legal and regulatory framework to ensure their own private control over key resources. In each case, the state is captured to serve private interests and in each case, state capture encodes preferential advantages in the very rules of the game.”

body, it is worth analyzing its importance and feasibility with a view of possible influence on the experts and political actors concerned with this issue.

The post-conflict peculiarity of BH society is a fact that needs to be taken into account if one wishes to deal with the phenomenon of corruption in Bosnia and Herzegovina, which has its strong social implications, which are largely determined by the recent violent past and immediate and long term effects that the past has produced. The immediate effects, such as collapse of governmental infrastructure and massive destructions, might not be as relevant to this research as, on the other side, some of the long term effects that affect the social fabric, such as collapse of inter-segmentary trust and binding values. These later issues greatly affect BHs corruption agenda. One of the effects of such a climate that requires attention is politization of corruption, as a direct consequence of the recent conflict-induced ethno-political fragmentation, which results in diluted social and public responsibility.

In many cases ethno-political loyalty is useful for the assessment of public behaviour, and is social frame of thinking that is often used to rationalize or relativise corruption cases³. *The lack of responsibility arising therefrom emerges from the intentional identification of the political parties with ethnic groups.* A politicized conception of ethnicity might be seen as an obstacle in assertion of civil responsibility toward state, since, *due to recent historic circumstances, administrative functions in BH have been directly deduced from ruling political layers distributed along ethnic lines.* Another peculiarity is an extremely fragmented

³ Transparency International's Global Corruption Barometer for 2004 shows that BHs political parties corruption index rates highest in relation to other States institutions and sectors, which might be related to ethno-political fragmentation of BHs society.

administrative organization, which renders difficult the control of corruption in public sector.

During the war in Bosnia and Herzegovina, the collapse of institutions and absence of any regulations have created fertile ground for the wide development of organized crime along different levels of the hierarchical structures of the involved ruling ethno elites. The conclusion of the war was brought in the form of legitimization of political subjectivity of the engaged ethno-political parties, which paradoxically meant, at the time being, a legitimization of the criminal activities directly or indirectly related to ruling ethno-national elites. There was no all-encompassing lustration process, given the fact that conclusion of the war and ensued process of peace building were both consigned to the same those elites, some of whose members have earned during the war and immediately after a considerable criminal history. This acceptance and legitimization of the involved ethno parties is a price of the peace, and it relates to a type of the post-conflict policy delivered by the international community in a given context.⁴ On top of it, the latest reports given by leading international agencies dealing with corruption, suggest that corruption is a growing phenomena in the world as well as in BH, whose effects largely induce poverty, distrust in state institutions and affects overall instability of the social system.⁵

⁴ Global Corruption Report, 2005: Special feature – *Corruption in post-conflict reconstruction*: “The international community may wisely let corruption buy a temporary peace when the risk of renewed conflict is too high. The legacy of such an approach is risky...” – Absence of the lustration process implies that the same international policy has been applied immediately after the war in Bosnia and Herzegovina.

⁵ Transparency International’s Global Corruption Report 2005, shows that corruption undermines economic development and threatens reconstruction of the countries that are exiting war or other crisis situations. Bosnia and Herzegovina has slipped down from 73 to 83 place on the TI’s global list of corruption, which is strikingly bad for the image of the county and attracting of foreign investments, and goes along discouraging thesis about the corruptions growth in this Country.

Contextualizing the question of an anti-corruption body within current state anti-corruption efforts

An important factor of anti-corruption struggle represents the establishment of adequate institutions that would be supported by adequate laws and regulations.⁶ Although in BH during last couple of years, a lot had been done in the field of judicial reform, both at the state and entities levels, and considering ongoing activities in the area of police reform (though this proved to be an extremely cumbersome process), still anti-corruption strategy remains to be dealt with *collaterally*, in the shadow of the reconstruction of the primary police-judicial institutions.

The OHR (Office of the High Representative) in Bosnia and Herzegovina launched its Anti Corruption Unit in 1999 under the auspices of its Economic Department, followed by several subsequent reform measures in the area of judiciary, penal legislation system both on Entities and State level, as well as the establishment of the State Prosecution Office. The latter had filed a several complaints and launched investigations against ex high-level officials of the political parties. Such a practice should suggest that this problem has begun to unfold and that permanent solution in the form of repressive measures of international community in BH would bring this issue of political-administrative corruption close to an end. On the other hand, there still remains

⁶ The Need for, and Role of, an Independent Anti-Corruption Agency Prepared by Jeremy Pope for Transparency International (TI): “As the corrupt grow more sophisticated, conventional law enforcement agencies are becoming less able to detect and prosecute complex corruption cases. Furthermore, in a system in which corruption is endemic, conventional law enforcement mechanisms may themselves harbor corrupt officials and they will tend to lack the sophistication and expertise essential to the task. In recent years, governments have sought to bolster detection efforts by introducing independent Anti-Corruption Agencies or Commissions. Given that prevention is always better than prosecution, a small investigative and monitoring unit with appropriate authority and independence from politicians (where much of the problem can lie) may be much better placed to ensure that effective preventive steps are identified and taken. “

legitimate question about sustainability of such a system, where temporary repressive actions of the OHR or foreign prosecutors do not guarantee the durability of positive practice once the BH government assumes complete responsibility, which is inevitable if BH should eventually enter European integrations.

The fact is that the OHR, as a prominent institution in the fight against corruption, although endowed with Bonn powers, which were am piously used in the past, either in the sense of imposition of the laws and regulations or dismissal of the political functionaries, still remains out of the governmental system, although having all precedence and prerogatives. *There are no guarantees that administrative-political persons, who have been involved in criminal activities in the war and after-war period, would not venture to assume governmental functions in the future and misuse their position for personal benefit.*⁷ In the light of OHRs intention to fight corruption problem in BH, there have been undertaken serious institutional and legislative measures, whose function is indirectly related to the issue of corruption: we are talking about establishment of primary institutions at the state level Ministry of Security (including State Boarder Service and State Police), ongoing reform of the police, conducted reform of the penal legislation system and ongoing efforts in creating *lex specialis* against corruption. Bosnia and Herzegovina, then years after Dayton Peace Agreement still has no anti-corruption law, which is often criticized by the media, who warn about consequences of the vacuum

⁷ This can be supported by the Study of the General Accounting Office, research organisation of the American Congress which had issued a special Report on Bosnia and Herzegovina at the request of Benjamin A. Gilman, president of the Committee for International Relations of the USA Congress, and his members Sam Gejdenson i Douglas K. Bereuter, in 2000, titled: "Criminal and Corruption Threatens Successful Implementation of the Dayton Agreement". According to this study, corruption blocks progress in implementation of Dayton Agreement. This report paid special attention to the missing of hundreds of millions of dollars of the International money intended for reconstruction and development and irregularities of the privatisation process: Independent magazine "Dani", July 14, 2000.

in this part of codification, and very often reflect sceptical in terms of applicability of crucial BHs Laws.⁸

For the time being, there are some hints that the state level Working Group⁹ for fight against corruption would recommend establishing an anti-corruption Office that would coordinate activities of the various actors like financial police, customs, prosecutors offices etc. and it would be situated under auspices of the Ministry of Security, where investigative activities would be led by the separate branch within SIPA (State Information and Protection Agency). On the other side, an imperative for having effective anti-corruption body understands centralized data basis, high investigative powers and its complete depolitisation. Therefore, it is justifiable to ask if any of those conditions could be answered by the Working Group's proposal of a loose "coordination" body, in particularly because there are some practical examples, which shows importance of an independent and empowered central anti-corruption body.¹⁰

⁸ *Free lance journalist Nidzara Ahmetasevic, in the article "Bosnia opposition urges anticorruption law", published in the Anti-corruption Gateway For Europe and Asia – April 2005, warns: "Bosnian opposition parties are angry that the internationally appointed authority in the country has refused to support what they say is a crucial law aimed at cutting down corruption, tax evasion and money laundering. They say the lack of legal provisions enabling courts to seize illegally acquired property and other assets is costing the state millions of euro in lost money. Although they presented a draft law on the seizure of illegally obtained assets almost 18 months ago, the ruling nationalist parties have refused to adopt it and the office of the High Representative (OHR) under Paddy Ashdown, has also held aloof.*

⁹ On 14 February 2002, the BiH Council of Ministers formally established a Working Group for the Fight Against Corruption and Organized Crime. The Working Group's task was to work on the preparation of a strategy to fight corruption and organized crime in BiH. It is composed of representatives of the BiH Council of Ministers, Interpol, of competent entity ministries, and of representatives of the judiciary and the police from both the BiH entities and the District of Brcko.

¹⁰ Ackerman S. (1999), *Corruption and Government: Causes, Consequences and Reform*, Cambridge University Press; Working Paper, pp. 159: "Often prosecutors ignore corruption and focus on less politically sensitive issues. One response is creation of independent anticorruption commissions or inspector generals reporting only to the chief executive or parliament. The best known examples are provided by Hong Kong an Singapore, both city states and former British colonies. In both cases the turnaround in corruption combined commitment from the top, credible law enforcement by an independent agency operating under a strong statute, and reform of the civil service."

Reasons for anti-corruption body

Related to previous discussion, the question arising is how is it possible to coordinate anti-corruption activities with the high discretion required, when dealing with top level corruption. It would be rather more acceptable to have the state level body that would coordinate anti-corruption actions at the lower levels, but when it comes to answering top level corruption, things need to be concentrated and isolated at one single spot, where homogeneity of organization of such a body would prevent its politization.

There is also another argument that pushes forward the necessity for an independent and specialized anti-corruption body with the wide range of powers. Namely, the fact is that, although reformed judiciary and prosecution in BH can enhance procedures falling under their auspices, namely processing of given cases, prevention and early localization of corruptive actions cannot be enhanced without continuous effort of a specialized agency, which would be in position to evaluate corruption cases, patterns and overall trends on all territory of Bosnia and Herzegovina.

Here should be also noticed a generally low rate of corruption cases of governmental officials, mostly due to the unprofessionally conducted preinvestigatory actions. Furthermore, although there have been filled a relatively high number of criminal reports against high ranked governmental officials, only one case in R. Srpska so far had been finalized with an unconfirmed court decision.¹¹ Not to mention the fact that no political functionary had to step from is position due to initiated penal proceeding against them, and if they did so, that was due to the pressure of the OHR. Furthermore, delicacy of dealing with high level corruption is perceivable through the fact that no ex official has

¹¹ Transparency International: National Integrity Report for Bosnia and Herzegovina – 2004

been charged by domestic prosecutors, but instead by foreign prosecutors, which distrust the maturity of domestic judiciary, but signals, as well, a lack of self-confidence within those organs. The lack of this confidence relates to wider socio-political climate present in this Country. Therefore this climate shall be focused through the later examination of the *political will* variable and follow up of the disclosure of what we consider as post-conflict characteristics of BH society.

However, the former point implies necessity that more domestic efforts need to be brought about in strengthening attention and overall consensus of the political publicity in combating top corruption phenomena, in as much possibly effective manner. This would than “free” the hands of the police and judiciary organs in coping with this problem. With reference to what was previously said, a strong and central anti-corruption body is needed in the case of relative lack or presence of cross-sectoral political will to deal with the issues of grave corruption. In the case of the lack of the political will, it serves as a safeguard of social stability, while in the case of political will’s presence, it serves as an instrument of its implementation. So it can be viewed either or both as stabilization or developing factor. In either case, the very presence of such a body and public faith in it can positively influence at large public relation to the phenomena of high corruption and the “untouchables”. Though, the paradox here arises because of the fact that initiation of such a body in its optimal form, at the end, is also determined by the level of political consensus, which would then reflect itself in the Anti-corruption Law that is to lay grounds to the issue of top-level anti-corruption struggle.

What are possible new approaches in dealing with corruption in BH?

The fact is that in the past period, anticorruption approach on the state level has been dealt with collaterally, and not as a matter of direct concern, but now has come a time to put an accent on the concrete actions and inauguration of the explicit anti-corruption measures. *Thereof, the purpose of this research aims along current efforts of BH government and international community to implement a state level comprehensive plan for the fight against corruption, by considering an explicit institutional response with primary regard to political corruption, in the form of empowered central anticorruption body.*

The main hypothesis raised thereby is that BH cannot overcome the malfeasance of its complex and difficult to control administrative organization, as well as lack of the competitive environment, which is typical for consociational¹² types of democracy, solely by reconstructing primary police-judicial institutions. In addition, it requires a centralized anti-corruption agency endowed with high investigative powers, which would answer to the parliamentary instance of government and would have the task not only to coordinate, but also to launch investigative and prosecutive initiatives, and itself conducts investigation when a need occurs.¹³ A sole membership to the international initiatives,

¹² Democracy systems based on sharing of sovereignty among more groups. In case of Bosnia and Herzegovina it is about constitutive peoples Bosniacs, Croats and Serbs and institutionalized forms of their political representation, based on parity and proportionality principles. This system is well known for the lack of political pluralism among participating ethnicities and constitutional impediments for accommodation of cross-sectoral programs and policies that are often refused through argumentation about protection of ethno-national interests. On top of it, a lack of political competitiveness leaves more space for malfeasances of ethno-political functionaries, due to lack of the control, which is in classical democracy systems provided by control check-competitive acting of other political parties.

¹³ Croatia is a good example as a state that shares similar historical legacy and corruption patterns related to complex political corruption. It had established in 2002 the USKOK (central organ for fight against

adoption of the various laws that indirectly deal with the issue of corruption; ratified international treaties¹⁴ etc. are not adequate parameters, which can assure us that grave corruption is being suppressed parallel with these developments, which are also subject to critics.¹⁵

The complexity of BHs constitutional arrangement, ethnic borders and political representation, including lack of regular democratic competition and insufficient pluralism in the political sector, provides grounds for the hypothesis that *administrative and political functions in BH are corruption sensitive to corruption with regard to their inter-ethnic allocation*, which opens questions on *professionalism* and primarily **independence** of anti-corruption organs. Or, if we put it another way around, the question is how to organize anti-corruption mechanisms in a BH type of consociational democracy, in order to have a system which has capacity to surmount rather flexible, interpretable, unpredictable and often by politicians produced public discourse on national interests¹⁶, which can be misused to hold back processes that could lead toward illumination of certain illegal practices.

corruption and organized crime), with high powers and jurisdiction over all other agencies in cases of organized crime and corruption.

¹⁴ See SPAI Progress Report on Anticorruption Efforts in Bosnia and Herzegovina – April, 2004.

¹⁵ The Report of the Evaluationary Meeting of the Centre for Provision of the Legal Help in Fight Against Corruption, mentions that ...as for the anti-corruption strategy in Bosnia and Herzegovina, which is a part of the Middle term Strategy for fight against poverty, it was pointed out that large financial means have been spent already, without having established adequate, neither Office nor functional action plan. Further on, the quality of implementation is criticized as well as given dead lines and recommended measures: slow adoption of necessary laws, too many new commissions and sub commissions, which bring no concrete results, while at the same time those burden already over pressured state budget.

¹⁶ It is worth noticing that there is disproportion between BHs ethno-elites concern with the issue of national interest and actual ethnic problem indicators: According to the research of SELDI (Southeast European Legal Development Initiative) from 2002, corruption was seen along with unemployment, poverty and low incomes, as a most conspicuous problem in BH, as well in other Southeast European countries, while ethnic problems have been placed on the last place. See www.seldi.net

INDEPENDENT AGENCIES IN OTHER COUNTRIES

Introduction

Many countries have state bodies that deal with corruption cases, which are usually specialized units within primary Law enforcement agencies, such as various specialized departments within ministries of interior, special prosecutor offices or similar solutions, but the type of institution we are here interested in, which is the object of this research primarily represents an “independent”¹⁷, empowered and “specialized”¹⁸ anti-corruption body. By the example of some other states and their anti-corruption agencies, we can deliver a clear disclosure of the necessity of the so conceptualized body.

Chapter 11 of the TI Source Book 2000 notes:

“As the corrupt grow more sophisticated, conventional law enforcement agencies are becoming less able to detect and prosecute complex corruption cases. Furthermore, in a system in which corruption is endemic, conventional law enforcement mechanisms may themselves harbour corrupt officials. In recent years, governments have sought to bolster detection efforts (or at least to create the impression of their

¹⁷ This term primarily suggests independence from political interference, which can be assured first of all through a sound and clear public-political will for such an agency, and as second, through adequate statutory and physical positioning of such a body in a way to be self-sufficient, in terms of designing and applying its policy, which means that the same should not be only a part or division within already present law enforcement institution, but the same has to have political backing for complete infrastructural independence and should answer to the top governmental instances, preferably parliament. The success of Hong Kong and Singapore models, which both were initiated and developed from the beginning from the top level, supports here given qualification of “independence” of an anti-corruption body.

¹⁸ The term “specialized” stands for a body that deals only and explicitly with corruption issues; which is a sole matter of its concern. On the other hand, a corruption has been usually viewed as an integral part of the organized crime, which does not necessarily, in reality has to be so. Action matrix of institution oriented primarily toward suppression of organized crime tracks cases falling under category of the organized crime, whereby investigations of the corruption cases get secondary value, dependent upon investigative procedures conducted in cases that fit in the definition of organized crime. For instance Bosnia and Herzegovina’s has established the Special Prosecutor for Organized Crime and Corruption, which has raised several indictments in the last one and a half years against ex-high officials, although State Court has not yet reached a valid verdict in any of these cases, except for setting free of charge in couple of cases. On the other hand, anti-corruption can be a primary focus of a law enforcement body, but this can than treat only lower levels of corruption.

intention of doing so) by introducing “independent” Anti-Corruption Agencies or Commissions. It is, of course, possible to combine such an Agency with the office of the conventional Ombudsman (as in Uganda and Papua New Guinea). Others would argue that there is a clear distinction between the two roles: that the Ombudsman is there to promote administrative fairness, and that this is best achieved by winning the confidence of the bureaucracy. An Agency or Commission which is also charged with the investigation and prosecution of public servants is more likely to be feared than trusted.”

Further on, it has been elaborated why the Hong Kong model has proved effective:

“This is not just because of the quality and determination of its staff, and of the excellent legal framework which has facilitated their work, but because the concepts of prevention and prosecution have both been functions of the Commission. Prevention has not been a last, single line - a draftsman’s after-thought - in the law establishing their responsibilities. Prevention (and the community education and awareness-raising that goes with it) has been a core activity of the Hong Kong model, often informed by the revelations of investigators working on the enforcement side. This enabled the Commission to develop a coherent and coordinated set of strategies, with results that are the envy of many. Those who have tried to copy the model have largely failed because they have lacked both this coherent approach and the resources necessary to carry it through. The usual “model” is the Hong Kong Independent Commission Against Corruption. This Commission serves not only to accept and investigate (but not prosecute) allegations of corruption, but also to run public awareness campaigns and to audit the management systems of individual government departments and agencies, from an anti-corruption perspective.”

As a matter of fact, the Hong Kong Independent Commission Against corruption is an ideal paradigm of an anti-corruption agency, because it fits well here with the posed major parameters of independence, empowerment and specialization. It was mentioned that this Commission has power to accept and investigate allegations of corruption, next to the usual set of prevention measures, which, not diminishing their importance, are of less relevance for this research, since prevention has been envisaged as part of the concept of BHs anti-corruption body right from the very outset of public discussions

related to this issue, initiated primarily through the Stability Pact initiative. However, one should not be misled that every anti-corruption agency can be celebrated about its success. Unfortunately, Hong Kong and Singapore are rare examples of the success, which can be owed to many different things. Those relevant to our research shall be mentioned in the ensuing part of this text. However, there is general impression that African models (Tanzania, Nigeria, Botswana etc) have failed, while Asian models (Hong Kong, Brunei, Bangladesh, Indonesia) have been successful. The former probably owe this to the different aspects related to the level of democratic development, whereby establishment of an effective anti-corruption agency can be dependent upon political culture, disposition of social values, economic progression up to credibility of other law enforcement and judicial institutions, whose quality service directly or indirectly affects functioning of an anti-corruption agency.

Independence of anti-corruption agency and how to achieve it

Independence can be rightly named as a major conceptual characteristic of an efficient anti-corruption body. Although its meaning has been elaborated here, there is yet another question of the way in which it can be actually realized in a given context. As for the Hong Kong ICAC, it becomes clear that this has become possible because of several major preconditions: first of all there is a matter of credibility of a source of the initiative for the establishment of such a body. Namely, a good example is Governor of Hong Kong, who was able to push things forward by the strength of his public reputation an

authority.¹⁹ Another important moment in providing grounds for a sustainable independence of ICAC was strong accountability mechanism. Namely, citizens' advisory committees monitor the daily work of the Hong Kong Independent Commission Against Corruption (ICAC), building added public confidence in this institution.²⁰

A very important aspect of the independence and at the same time a recognized precondition for the success of an anti-corruption agency, is a solid financial basis for its operative activities and public understanding and support for its expenditures, because an under funded exercise will be doomed to failure. Some administrations provide their agencies with a "share" of what they recover, although this approach can lead to overzealousness and abuse.

Hong Kong already had a functioning judicial system, upholding the Rule of Law, and a prosecution service that could be relied upon to exercise discretion to prosecute, and to conduct prosecutions, in a highly professional manner. (It subsequently prosecuted and jailed a director of public prosecutions when he stepped out of line.) Some such Agencies have failed to get started at all because of a reluctance (or refusal?) to make adequate resources available to them.²¹

, which makes financial resources an important operative precondition for having a functional Commission.

¹⁹ TI Source Book 2000: "Hong Kong started with unusual advantages. It had an expatriate senior public servant as its Governor and head of government, not someone with family and a history of connections in the then-colony, He enjoyed a handsome pension and high status in retirement. He was thus someone uniquely quarantined from most of the pressure points to which a local citizen can become subject."

²⁰ Ibid. "The Agency's relationship with the public is also critical to success. Some Agencies, such as the highly-successful Hong Kong ICAC, have established formal arrangements whereby public participation in policy formulation is ensured. By providing for such an arrangement, which could take the form of a committee chaired by the Minister of Justice, the anti-corruption framework encourages public accountability. The relationship with the public is also important in laying the foundation for the "prevention" function of an Anti-Corruption Agency"

²¹ TI Source Book 2000, Chapter 11, pp. 95.

There is also a technical aspect that is of critical importance for independence, which is namely the procedure of the appointment of the office holder. It is naturally desirable that independent agency has an independent and committed leader, but how can this be achieved in the best interest of the agencies independence? One of the principal proposals in dealing with this issue is that in the appointment procedure as much possible institutional actors should be involved. Appointment procedure focused on the executive branch is rather uncertain because it can be driven by narrow interests of a political party or even worst of the one single person.²²

The proper positioning of an anti-corruption office is of high relevance. It is good to place such an agency parallel to the highest executive footing, but in the same time to keep it separate and independent from it, and even to admit to the anti-corruption agency a principal monitoring status in relation to the highest levels of government. Otherwise the same would be at least deprived of its major reason d etre, while at worst it could be used as a mean for settlement of the political accounts. Also it is of highest importance to separate source of initiative from the relation of supremacy, which might follow this line of initiative. Again these issues have been finely resolved in HKs ICAC, but in Singapore's Commission as well:

²² TI Source Book 2000, Chapter 11: “. A flaw in many legislative schemes involves giving a President (or any political figure) too much control over the appointment and operations of an Anti-Corruption Agency. The President is the head of the Executive, and members of the Executive can also succumb to temptation. This could place the President in the impossible position of deciding whether or not to prosecute close political colleagues. As for the case of Bosnia and Herzegovina, a misuse of the agency by a one person, chief of the executive or president are minimized, since by the very nature of its constitutional arrangement, which is in essence a parliamentary one, it is unlikely to imagine a power been focused in the hands of the one person. Further more, because every BHs Government, up till now, had to be assembled by a very wide and often tough to reach political consensus. But another possibility, namely that the alleged misuse could involve political parties plots or those of different lobbies within parties themselves, is of a greater likelihood to happen.

” Success in Singapore owes much to the determination of its former Prime Minister and Head of Government, Lee Kuan Yew. Some writers have pointed to the Agency’s placement in the office of the Prime Minister as being an important factor in its success. The positioning of the office was also a key factor in Hong Kong’s highly successful onslaught, where it was placed in the office of the Governor, but where at the same time it reports to the Legislature and its separateness from the public service and its autonomy of operation were, and are, reflected in law and practice. “²³

In the case of Bosnia and Herzegovina, which is a parliamentary democracy and, on top of it, a post-conflict society with consociation principles involved, the highest source for credibility and initiative might be able to be found only in the state Parliament, which is the only true institutional crossing of intersegmentary political interests. Other executive functions have been perpetually distributed among ethnic constituents, and as for now, among parties that have up to now shown minor level of mutual trust. Further on, a Parliament is a place which gathers largest spectra of political actors, which is a good ground for developing here mentioned accountability mechanisms, including appointing procedures, monitoring, control and definitely avoidance of the highest danger of miss usage of the agency for settlement of political accounts.

Empowerment of anti-corruption agency

As for the empowerment of an anti-corruption agency, it is where the principle takes place: *it is not up to the gravity of the proscribed punishment, but to the likeliness to be caught*. This is where true distinction between solid legal basis for action and empowered executive body comes to surface. The plain question deducible said the principle, is whether corruption can be fought off without a watchdog in the form of an agency as here

²³ Ibid.

argued, which presumes its empowerment in terms of provided operative abilities. The main pillars of empowerment are: special operative measures provided to the officers of such an agency; unimpeded access to necessary information²⁴; public hearings²⁵; monitoring assets and incomes of public sector decision-makers; freezing assets, seizing travel documents, protection of informers, professional privilege etc. Naturally, the only way to empower an anti-corruption body is a solid legal base that can open the path to efficient action. This can be nicely illustrated with the example of the Singapore Corruption Investigation Protection Bureau (CIPB), which was founded in 1952. However, only in 1960, a more effective legislation against corruption was introduced, that is the Prevention of Corruption Act was overhauled and additional powers of investigation were given to the CPIB and punishment enhanced.²⁶ It must be noted, however, that this was possible only after People's Action Party came into power in 1959, when a firm action plan was taken against corrupt officials, many of whom were dismissed from the service, while others left the service on their own to avoid investigation. The result was that public confidence in the CPIB grew as people realized

²⁴ Ibid. "Another important factor to be considered in establishing the legal framework for an Anti-Corruption Agency or Commission is that adequate powers are given to access documentation and to question witnesses. In some countries, efforts are made to restrict the access of an Agency to information. However, there is no reason, in theory or in practice, why an Agency ought not to enjoy, as the Ombudsman does, all the rights of law enforcement officers and full access to government documents and public servants."

²⁵ Ibid: "The ICAC in New South Wales (Australia), another of the world's leading Anti-Corruption Agencies, has for some years been empowered to hold public hearings. On these occasions, witnesses are summonsed to give evidence and although their evidence cannot be used against them in criminal proceedings, the hearings provide an opportunity to enlighten the public as to precisely what has been taking place. Once illegal and highly questionable patterns of behavior have been exposed in this way, it is reasonable to expect that those involved are likely to be shamed into changing their ways."

²⁶ See www.anti-corruption.gov.bn: "The Prevention of Corruption Act, Chapter 241, today provides the CPIB with all the necessary powers to fight corruption. In 1989, the Corruption (Confiscation of Benefits) Act was passed. The Act empowers the court to freeze and confiscate properties and assets obtained by corrupt offenders. In 1999, the Corruption (Confiscation of Benefits) Act was replaced with a new legislation called the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act. New legislation against money laundering has been introduced in addition to giving the same powers to the court for the freezing and confiscation of properties and assets by offenders."

that the Government was sincere in its anti-corruption drive.²⁷ This illustrates the importance of political will vis-à-vis the establishment of an efficient anti-corruption body, which makes examination of this variable important part of this research.

There is another important aspect of empowerment, which is namely its dependency. The point is that any anticorruption agency, even if given wide investigative powers, is always dependent upon the efficiency of the prosecution force. Namely, if the judiciary and prosecution are not functioning well, either in terms of being perceived as corrupt or incapable due to suffocation with loads of cases, what might be perceived as equivalent to inefficiency, then public credibility of the agency itself cannot be preserved. Again this issue has been recognized in the TI Source Book, by referring to the Hong Kong Commission:

“The relationship between the Anti-Corruption Agency and the Director of Public Prosecutions (DPP) is also a critical one. What use is evidence if the suspect cannot be prosecuted? Generally a DPP is given, under the Constitution, sole oversight for all prosecutions and is empowered to intervene in any criminal proceedings initiated by any other person or authority. However, in assessing the independence and the likely effectiveness of the Anti-Corruption Agency, the question arises whether, under the Constitution, the DPP enjoys sufficient independence in exercising the discretion to prosecute so as to ensure that there will be little scope for political interference after investigations by the Agency have been completed.”²⁸

As for Bosnia and Herzegovina, although huge amounts of money have been fused into the two waves of reforms of BH judiciary, there still remains the fact that this prosecutive-judicial segment of BH administration has to work hard in order to earn and

²⁷ Ibid.

²⁸ Ibid.

maintain its reputation in the society, in which now for some time persists low faith in public institutions, along with the general feeling of social apathy. Not to mention issues often noted by the media: the lack of physical incapacity to process large amounts of cases, exposure to political pressures that are, in spite to the reform, difficult to rule out; lack of concrete results (up till now no single valid verdict against ex medium/high functionaries has been brought). There is also the fact that BH judiciary has not yet been accustomed to the reformed Penal Code, which has introduced novelties imported directly from the USAs penal legislation (e.g. cancellation of examining magistrate and empowering of prosecutors function, introduced bargaining methods etc.). In these circumstances, it is legitimate to ask what the perspectives on the herein argued anti-corruption body in Bosnia and Herzegovina are. This relation obviously needs to be examined as well, within the course of our planed research by both examining groups: parliamentarians and experts.

Other relevant models

The success of Asian model, featured in previous discussion, could seem distant in many ways from countries such a Bosnia and Herzegovina, which might be used as an argument against the compatibility of a strong anti-corruption agency concept in our domestic context. The majority of Western countries²⁹ have anticorruption units as an

²⁹ Ackermann S, (1999) yet to find source: with the exception of France, other West European states use this institutional frame to deal with the corruption, but the lack of a separate and empowered anti-corruption agency might be argued by the fact that those countries have well developed democratic system, where other institutions in this respect bare large loads of work. In U.S. the situation is somewhat specific, by many influenced by the Watergate affair from 70ties, which had heavily shaken public trust in Government. Namely, there is the Office of Government Ethics (OGE) which functions preventional, but

integral part of their prosecution offices, which is, at the moment very much the case in Bosnia and Herzegovina as well. Although this approach can be defended in the light of overall democratic development, it could be misleading in the case of the transitional democracies and specifically when speaking about post-conflict societies, where overall stability constantly remains at stake, being viewed as a primary focus and so as an impediment to any swift and decisive reform moves.

As for the transitional states, fortunately there are already a couple of successful examples of anti-corruption agencies established, namely the two Baltic States of Latvia and Lithuania. Lithuania has its Special Investigation Service (STT), which could be, for instance, used as a model for Bosnia and Herzegovina. First, both countries are post communist; experiencing ethnic complexities, although in somewhat different manner; both are finally European states and face more or less the same transitional problems. In the Lithuanian case it becomes clear that corruption has been inherited from the communist regime and thereof the battle against corruption can be viewed as an integral part of transitional development.³⁰ Thereby, as seen in the case of Asian models, a solid legal basis was once again a prerequisite to empower STT officers to deal with corruption

strongly cooperates with other institutions and watches out on the respect of the individual codes of ”: www.usinfo.state.gov

³⁰ STT: “Since the adoption of the Act of Independence in 1990, efforts have been made to forestall corruption in Lithuania. Nevertheless, there were clear traces of symbiosis of organized crime groups and corrupt public officials. With corruption invading into government institutions and the crime situation getting worse, the general public began to lose confidence in law enforcement and other bodies, and the rule of law was put at risk. With that in mind, the Government established the Special Investigation Service under the Ministry of the Interior on 18 February 1997. The tasks of the Service were to collect and use intelligence about criminal associations and corrupt public officials as well as carry out prevention activities.”

in an effective manner.³¹ As for the independence of Lithuanian STT, experience has shown that more accountability mechanisms need to be employed via adequate legal solutions, which is why the Special Law on STT was enacted.³² It is also important to notice that an independent anti-corruption body does not mean that it is isolated at the same time: on the contrary, the same has to be source of the initiative for bringing wider anti-corruption measures at national level, which clearly illustrates the case of STT.

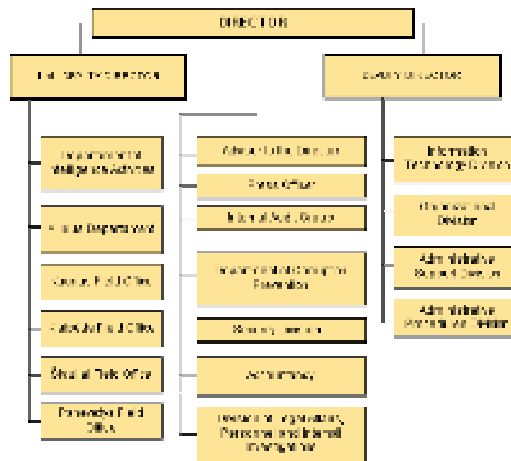
Latvia is an even better example for the purpose of grounding discussion of the independent, empowered and specialized anti-corruption body to the size and possibilities of Bosnia and Herzegovina. These two countries, in addition to the usual transitional similarities, have nearly the same population and, while, Latvia is only somewhat better of economically than BH, it still was able to develop and sustain its Corruption Prevention and Combating Bureau (CPCB) with roughly 600 officers and other staff working there. The Corruption Prevention and Combating Bureau (CPCB) of Latvia has a statutory duty to submit its activity report to the Cabinet of Ministers and to the Parliament, at least once in every six months. Since the moment when CPCB became fully operation (February 2003), the same has submitted five of such reports of approximately 25 to 35 pages in length.

In addition CPCB has assumed an obligation to present an overview of its activities at least once every six months to its Consultative Council (where non-governmental organizations are represented) as well as to give

³¹ STT: “Respective legislation of the Republic of Lithuania grants general and special rights to the STT officer facilitating prevention and investigation of corruption. The STT officer has the right to: monitor mail and electronic communications; covertly monitor a person's correspondence, telegraph and other communications, wiretap telephone conversations and make their recordings; model conduct simulating a criminal act; use special equipment; covertly monitor residential premises; enter the premises of enterprises, institutions and organizations and inspect them etc”.

³² See the Web page of Lithuanian Special Investigation Service www.stt.lt.

explanations if the Bureau fails to implement the Council's recommendations. According to the State Program for the Prevention and Combating of Corruption for Years 2004-2008 all agencies, which have been assigned specific tasks under this program, are required to report to CPCB on the progress of implementation biannually.³³



Scheme of the Latvian CPCB

As for the situation in the immediate surroundings there is only the case of Croatia, where an anti-corruption body has been established. After more than two years in operation, meeting difficulties related to the lack of the actual independence and operative modalities, the Office for Prevention of Corruption and Organized Crime in Republic of Croatia (USKOK), set up a working party on the creation and implementation of amendments to its Charter in March, 2004. The changes are being sought to ensure that USKOK has the power to work more effectively with the police and other state bodies, and to take a leading role in the investigation of criminal matters. According to information from the state attorney's office, USKOK has received 410 reports accusing 261 people during 2003, of which 57 were sent for trial: 1 TI CR 2004.

³³ Ibid.

POSITION OF POLITICAL AND EXPERT COMMUNITIES IN BH VIS-A-VIS ESTABLISHMENT OF A STRONG ANTI-CORRUPTION BODY

General remarks about research materials

For the purpose of examining the quality and strength the political will for the establishment of an anti-corruption body in BH, we have distributed questionnaires to BH Parliamentarians, whom from, at the time being, we have received eight answers. Seven of the received answers were filled out by the members of the parties who represent opposition in BH Parliament, while only one was completed by one of the national parties composing ruling position. The former could imply lack of interest in these issues, due to several possible reasons: it is an uncomfortable subject, which is in accordance to the premises outlined in the introductory part of the research. Namely, ruling position in ideological and also, considerably, in personal sense, seems to be burdened by the residues of the last conflict, being aware of the potential connection of their ex or present members with illegal activities, which could weaken their overall position. The other possible reason could be general lack of interest in subject area, possibly perceived as being off the present political agenda. The former should not be the case, since corruption is a socio-political phenomenon that requires continuous attention. A government that displays lack of readiness to deal sincerely and resolutely with these issues hardly can win the sympathies of the publicity, at least not lasting ones. The opposition seems to be keen to inaugurate strong anti-corruption measures and

accordingly identifies corruption as a grave problem. In several cases they have as well used sharp comments to bolster their anti-corruption orientation and interest.

On the other side, members of the addressed expert community have shown more willingness and interest in the subject, by providing 21 filled questionnaires, completed by the high ranking servants in State and Entity institutions that are involved in present initiatives related to anti-corruption actions in BH. On the other hand they have displayed high concern for discretion of the research methods, being somewhat suspicious and apprehensive in expressing themselves about subject issues, probably because of the perceived taboo of corruption issues in general. In addition to this, the impression is that public servants in BH don't feel sovereign and secure enough to articulate themselves about subject issues, although the research itself was anonymous. The implication is that similar research needs to be conducted further, so that an adequate cooperative culture of public responsibility and connectivity could be furthered.

There has to be noticed, however, that one other important aspect of this research was realized even in this earlier phase, which is namely heterogeneity of respondents in terms of sex, age and nationality. Nationality is a particularly important category, since research of this or similar types draw their validity also from the crosssectoral – national character of the research. This also helps to see inasmuch certain questions produce group's implications, esp. in BH as multilayered - multicultural society.

The questions posed to the Parliamentarians can be sorted in two groups, namely those aimed at the assessment of the general perception of the corruption problem by this group, and correspondently the sort of measures they are prepared to accept, in terms of the institutional response presented to them in the form of an empowered, specialized and

independent anti-corruption body. The questionnaires presented to the expert group are almost the same, except for five questions, which were explicitly technical and professional. The next section assesses the two groups' attitudes and compares them with reference to the questions that were identical to both groups and in accordance with the overall goals of this research.

Parliamentarian response

Based on the received answers from the group of Parliamentarians, it is clear that the majority of them see the problem of corruption in BH as important, and they see its focal point as being in administrations, not among politicians, doctors and other offered groups. As for the key opportunity to better fight against corruption they have pointed out equally: development of the specialized institutions, profesionalisation of the investigators and focusing the problem at the state level. The position that corruption has been more dispersed in BH than in other countries has gained a slight edge over the sense that corruption is more-less equal in BH as in other countries, while only one respondent signaled that corruption in BH is not more dispersed as in other countries. Former question goes along ensued slight edge of the position that corruption in BH is progressing over the one that we classified as a permanent and constant phenomena. Only one respondent thought corruption is falling in BH. However the top answer featuring their disposition toward the problem of corruption in BH, relates to the unanimous dissatisfaction with what has been done so far on the plan of fight against corruption. Five respondents hold that, for successful fight against corruption, bigger importance

play efforts taken via national anti-corruption programs, while three of them hold those are of equal importance. However, none of them thinks that national programs are less important than regional programs.

The perception of the negative connection between political and administrative sector in BH is quite clear, namely a great majority of respondents feels that those are narrowly connected, which leaves space for corrupt activities. In connection to that, the next question verifies their attitude about the former one: again a large majority thinks that there is negative cohesion of the administrative and political sector in BH, because of the recidivism of the last conflict, which is still strongly present in the BH governmental-administrative system. The majority of respondents also believe that if there a lustration process would have been conducted in the post-war period, the level of corruption would be lower today, while only one stated that the level of corruption would be even greater. We should add to this that one respondent left a blank field, maybe because of indecisiveness, or because of lack of familiarity to the term of lustration; or it is simply an omission.

The next explicitly probed parliamentarian's position toward the eventual inauguration of a specialized, empowered and independent anti-corruption body in BH. Further to that, only one respondent admitted that he was familiar with the concept of an anti-corruption body, while others admitted they had basic knowledge, whereas one had no knowledge at all. The key question about the current necessity for such a body in BH was signalled by 6 respondents as necessary, due to the general gravity of the problem of corruption in the country, while two respondents showed concern and scepticism toward the efficiency of those bodies in general and the possibility of realizing major

requirements of an anti-corruption body, namely its financial and political independence. As for the perception of the general political will for establishment of anti-corruption body, the majority of respondents believed that such political will does **not** exist. However, they admitted that the idea could be good for BH, but they don't believe in the possibility of obtaining political consensus about this issue. Only one respondent believes that there is political will, but the question was not examined and actualized enough, while one is of the belief that political will is not strong enough.

In accordance with the ongoing initiative to situate investigatory section of the anti-corruption office under umbrella of the Ministry of Security, namely its sub organisation SIPA (State Investigation and Protection Agency), 6 respondents think that is not a good idea in terms of preserving independence, empowering and specialization, as the major standards of functional anti-corruption body. The Parliamentarians were generally for strong empowerment of the officers of the anti-corruption office, while on top of it, three delegates think that there should be added, along to high investigative powers, a prosecutive function and authorization as well. Only one respondent holds that anti-corruption officers should have classical powers given to police officers in BH.

The overview of the position of the respondents about satisfaction about present legislative frame for fight against corruption in BH is quite clear: seven respondent think there has been little done on this plan and notice lack of “friendly laws”. Only one representative belonging to one of the ruling parties believes that until present *enough has been done, but the legislative framework still has weak spots*. The same pattern of response aligns to the next question about territorial authority of the eventual anti-corruption body in BH: seven respondents believe that such body should *have*

unconditional application to all territory of BH, while again the ruling position respondent from the R. Srpska believes that function of that body should be *conditioned exclusively by cooperation with other Entity and State organs*.

As for the accountability issue, 100% of questionnaires believe that control of the work of such a body should be performed by the Commission of the State Parliament, while no one was of the opinion that this should be done by the Presidency, Council of Ministers or President of the Council of Ministers.

As for the inquiry related to question of whether the present administrative organization of BH presents obstacles in terms of realization of a strong concept of anti-corruption body, six respondents see it as an *obstacle* while two of them, including one from the R. Srpska, *believe that is not the case*. As for the examining connectivity of anti-corruption body and its establishment with the idea of vital national interest of BH ethnicities, 50% of the respondents believe those issues are *completely independent and do not correlate* at all, while 50% believes there is either *small, pretty big or strong* connection between two issues. The former implies that the question of an anti-corruption body as outlined here, if it reaches level of public-political debate and finally gets actualized in BH Parliament, could be viewed as an impediment for actual-prevailing conceptions of national-ethnic interests in BH, which could certainly deflect initiatives for installation of strong anti-corruption body.

Resume of the Parliamentarians position

As it has been previously seen the respondents from the group of Parliamentarians supplied following feed back:

- Respondents perceive corruption in BH as a serious phenomenon, which has tendency of growth and should be addressed on the national level;
- Respondents also admit negative connectivity of the administrative and political sector as a residuum of the last war, whether in terms of inherited nepotism, private, political or criminal connections. (The former could imply the existence of the sense of the lack of de facto independence of the administration with regard to political sector, as naturally superior and still opt for nurturing informal connections in BH governmental-political system, as possible atavism of the last war);
- Respondents lack a basic familiarity with the possibilities in searching for the institutional part of the response to the challenges of corruption in BH (The former finding implies the necessity for further research and advocacy work in subject field).
- The majority of respondents holds that BH needs specialized, empowered and independent anti-corruption body, which would be able to deal with all levels of corruption, especially those gravest ones,
- Respondents considerably doubt in the possibility of achieving primarily financial and political independence of such a body.

- The prevalent assessment that there is no political will for inauguration of such a body, or at least that there is no in sufficient measure, could seem to contradict the previously expressed view that BH is in real need for such a body. However, we should note that only one respondent belongs to the ruling group, while the rest of them are oppositionist's parties, which reveals a lot about the positioning of the ruling parties vis a vis subject mater.
- Majority of respondents have supported a high level of empowerment of the anti corruption body and territorial supremacy in corruption cases over all the territory of BH, while only one respondent from R. Srpska replied that such a body should not go around already existent Entity institutions and other state ones. (We can only assume that a similar position would be shared with other respondents delegated from R. Srpska, who traditionally share status quo sentiment and scepticism toward centralization initiatives. It is very likely that this discourse could include the issue of protection of the vital national interest, which, although here largely delivered by oppositional parties, tends to be to a certain measure in connection to the initiative for anti-corruption body with high investigative powers, complete independence and inherence over all territory of Bosnia and Herzegovina).

Expert group position

The expert community is composed of the chief and high officers out of major Law Enforcement State and Entity institutions, and also prevalently perceives the corruption

problem in BH as *big* - eight respondents and *very big* – six respondents, but also as a problem that is *no bigger than other problems* which BH is facing – six respondents. Unlike parliamentarians, examined expert community recognizes that the most corrupted social group are actually *politicians* – 7 and *administrative workers* – 5. Most of them perceive *professionalisation of the investigation officers* as a primary opportunity for the successful fight against corruption, while equal number of them – 5, holds that an answer lies in *development of specialized institutions* and *corruption fight on the state level*. Four respondents favour provision of *financial means* as a key for successful allocation of the anti-corruption efforts.

Interestingly, the majority holds that corruption in BH is *more or less the same as in other countries* – 14, whereas smaller number - 6 holds that corruption in BH is *bigger than in other countries*. A majority of 13 respondents holds that corruption in BH is *permanent and steady phenomena*, while a smaller number – 8, feels that *the same is rising*. The respondents also gave particularly strong *equal weight to the national programs and regional initiatives*, while 6 of them *prefer solely national programs*. However, they are equally 100% unsatisfied, the same as Parliamentarians are, with what *has been done up until now on the plan of fight against the corruption on the national level*.

Most of the respondents – 9, are of opinion that *political and administrative sectors in BH are narrowly connected, which leaves space for corrupt activities*, while 6 have chosen a somewhat milder option, namely that *their narrow connectivity could represent a negative factor*. Only one respondent feels those two sectors are *completely independent from one another*. This is ascertained by the attitude about the existence of

the negative cohesion of the administrative and political sectors in BH, as recidivism of the last war. Nine of the respondents hold that *this cohesion is still present in a certain measure*, while 8 of them think that *this connectivity is still strong*; whereas three respondents believe that *there is strong cohesion, which is a direct consequence of the last war*. Again, only one respondent feels that such cohesion *does not exist at all*.

Interestingly, the great majority, namely 16 respondents hold that the *level of corruption would be lower if a lustration process had been conducted within the state apparatus*. Only one respondent is of opinion that *lustration would only deteriorate corruption*, while two of them believe that *level of corruption would not be lower* and two hold that *lustration would have no influence to the corruption*. As for the presence of the “state capture” phenomenon in BH society, the majority of 10 respondents believe that *this phenomenon is present in BH society and that it represents a great menace for the same*; 7 respondents hold that *there is “state capture” in BH as a consequence of the recent war, but that this shall vanish through post-conflict stabilization and the transition of BH society*. No one believes that the “state capture” *phenomenon is not present*, or that the same is *present to a certain measure, but it does not represent a serious problem*. Only one respondent thinks that *BH judicial system can handle practical reflexions of the “state capture” phenomena in BH*, and only one respondent thinks that *this phenomenon is decreasing, due to the achieved institutional development of the BH court-judicial system in the after-war period of BH development*.

Quite surprisingly, 9 respondents had only a *superficial knowledge of the concept of anti-corruption body* as outlined in the theoretical part of this research; 6 respondents were *more or less familiar with the concept*, 4 of them were *not familiar at all*, while

only two respondents had a fair *knowledge of the concept and know its practical examples in other countries*. Interestingly, none of the respondents had a *very good knowledge of the concept, its advantages and lacking*. As for the recognition of the need of such an anti-corruption body in BH, the majority of respondents – 13 felt that BH *requires such a body, due to the gravity of corruption*, while 11 held that *it is not possible, at present, to realize basic parameters of what we have argued here is a strong concept of anti-corruption body, especially with regard to its financial and political independence*. Only one person felt *unsure about it, because of a general suspicion in the efficiency of such bodies*. However, no one believes that BH *does not need an anti-corruption body*. Some of the respondents, who are of opinion that BH needs an anti-corruption body, have also disclosed a dose of scepticism, by circling as well an option about the *impossibility of insuring independence and other relevant parameters of an anti-corruption body*.

The perception of the political will for the establishment of anti-corruption body in BH, among expert, community is more colourful. Namely, the majority of 8 respondents feels that the idea of an anti-corruption body, as outlined above, is a *good one and that the same could be useful for BH, but it is impossible to reach overall political consensus about this issue*. Five respondents think that there is *no sufficient level of political will* and five hold that the *political will is there, but the question is not researched and actualized enough*. Two respondents are of the opinion that there is *no political will whatsoever*, while only one person states unconditionally that *there is political will in BH* for realization of such a project.

We also probed the technical aspect of the possibility that investigatory section of a prospective anti-corruption office body should be with in SIPA (suborganisation of the Ministry of Security BH). The majority, numbering 12 questionnaires feels that former would *not be a good solution vis-à-vis securing independence and self-sufficiency of an anti-corruption body in infrastructural, operative and even in political sense*. However, 5 respondents were of the opposite opinion and they favoured the suggested solution, while 4 others were *not sure about the possible connotations of such organizational solution*. *Highest level of authorization* of an anti-corruption body and its officers was supported by 14 respondents, while 5 of respondents would add to it a *prosecutive function* as well. Only two respondents argue for *classical police authorizations* and two limited themselves sole to *preventory and coordinatory role* of central anti-corruption office in BH.

As for the achieved results in building legislative frame for anti-corruption fight, 11 respondents held that *little have been one in subject field*, while 9 hold that *enough was done, but legislative frame still has some weak points*. Only one respondent thinks that *present situation in this field is satisfactory*. Majority of 17 respondents feels that an anti-corruption body *should be able to conduct investigative actions on all territory of BH*, while only one person thinks that something like that is *not in accordance with the Constitutional spirit of BH*. Three respondents consider that such agency *can not operate self-sufficiently, but only in cooperation with other relevant Entity and State organs*. As a mechanism for control of the anti-corruption body, majority of experts, namely 10 of them, recommend *Parliamentary Assembly* of BH, while seven have recommend the *commission be close to the President of the Council of Ministers BH*. Four respondents

recommended the *commission be close to Council of Ministers*, while no one recommended *Presidential control* of the anti-corruption body.

A slight majority of questionnaires – 8 of them, were of the opinion that the *present administrative-political organization of BH and its decentralization hinder the possibility of the realization of a strong concept of anti-corruption body*, whereas seven were *uncertain and thought this could be a case*. Five respondents thought there *are no administrative – organizational impediments in the way of eventual realization of the strong concept of an anti-corruption body in BH*.

The next set of questions was designed specifically for the group of experts as it was assumed that they were well informed about the subject area and in a position to answer more specialized questions. Namely, we asked whether for a successful fight against corruption already existing court - judicial institutions in BH would suffice. A great majority of respondents informed that *primary institutions are not enough*, while only 3 respondents had the *opposite opinion*. As for the belief that the BH prosecutive-judicial system in BH is reformed enough, 14 respondents answered negatively, namely holding that *the same could not follow/service operations of the strong anti-corruption body*. However, 6 respondents had contrary opinion and they disclosed *faith in capacities of BH judicial system*.

The majority of 18 respondents also held that preventive actions and successful follow up of the corruption trends on the state level correspondently *requires a central anti-corruption body*, while only 3 respondents felt that *this was not the case*. Seven respondents believed that an anti-corruption body should be dealing with *all types of corruption* and four that it should be dealing only with *gravest corruption* cases. No one,

however, recommended that such a body should *focus only corruption on the local level*. Somewhat depressing is the view of the majority of respondents, namely 14 of them, who believe that at present it is *not possible* to ensure the complete independence of an anti-corruption body from political interference and influences. As a contrast, only half of that number, namely 7, believes the *opposite*.

Resume of experts position vis-à-vis the one of the parliamentarians

Based on here gathered samples, we were able to see following:

- That in recognizing the gravity of the problem of corruption in BH, both groups of respondents have designated the named problem as serious. What they differ about, is that politicians perceive a focus of corruption in administration, while experts are more inclined to believe that the main corruption lies in political circles;
- Parliamentarians feel that chance for successful fight against corruption should be looked at prevalently in the development of specialized institutions and dealing with the problem on the state level, instead on lower administrative levels. On the other side, experts are primarily concerned with the professionalism of the investigative officers;
- The professionals, also quite convincingly, support the thesis that corruption in BH is more or less as widespread as in other countries, whereas parliamentarians, somewhat more, suggested that corruption in BH is greater than in other

- countries. Accordingly experts believe that corruption in BH is continuous - permanent, whereas a slight majority of parliamentarians feels that the same has tendency of growth;
- While the majority of experts hold that the quality of national programs and regional initiatives are equally important for the successful fight against corruption, parliamentarians are more inclined to national programs. However, one thing is for sure: none of the examined groups is satisfied with what has been so far achieved in the field of anti-corruption in BH;
 - Quite compatible answers have been offered in asserting whether there is a negative connection of the administrative and political sectors in BH, as favourable for the wide spread prevalence and exercise of corrupt activities. They all generally agree that there is a negative connectivity of two mentioned sectors, which, either could be a negative factor, or already opens room for corrupt activities;
 - Both groups agreed that the level of corruption would be smaller if there had been lustration process in the after-war period, and they also agree that “state capture” phenomena is present in BH and represents great menace for BH society;
 - As for the familiarity with the concept of an anti-corruption body, it is surprising that both groups have roughly the same deficits in knowledge. Surprisingly, none of the respondents out of the expert group possessed a very good knowledge of the anti-corruption body concept, its advantages and disadvantages, while four of the respondents had virtually no knowledge of the mentioned concept;

- While politicians, in the majority, believe that BH needs a strong anti-corruption body, although somewhat doubting in its efficiency, experts are on the other side more divided about this question. Namely, almost equally as they recognize the need for such a body, they show concern that in the present circumstances in BH it is not possible to realize the basic requirements of a specialized, empowered and independent anti-corruption body, particularly with regard to its financial and political independence;
- Both groups share the opinion that there is at present no political will for establishing of such a body, or that, although the idea itself might be good for BH, they doubt it is possible to reach overall political consensus about this important issue. However, experts are a bit more optimistic: they also generally suggest that there is not enough political will for the realization of an institution, or in other words, that the question itself has not been researched or advocated enough;
- While the majority of both groups holds that it would not be a correct solution to situate the investigative branch of the prospective anti-corruption office within the auspices of SIPA Department of the Ministry of Security, there is noticeable uncertainty among expert group about the possible consequences of this action;
- Both groups are equally *pro* high investigative powers of the anti-corruption investigators, while some of them even support the possibility of uniting the prosecutive and investigatory functions in an infrastructural and operational sense;

- Whereas parliamentarians expressed themselves quite unanimously -- that there has not been enough done in the field of legislative response to the problem of corruption and that there is a lack of “friendly laws” -- experts are slightly more inclined to believe that a lot has been done, but that the legislative framework still has weak spots;
- The majority of both groups favour high investigative powers of the anti-corruption agency over all the territory of BH;
- Finally, the majority of both groups agreed that the administrative-political organization of BH could represent an impediment for the operationalization of a strongly conceptualized anti-corruption body.

CONCLUSIONS AND RECOMMENDATIONS

Although parliamentarians have generally admitted the existence of corruption, as a real and grave phenomenon, they are not ready to accept its political dimension as a particularly important one. Consequently, they might not be interested in the installation of the body which would be a watch-dog of the corrupt behaviour on all political-administrative levels. However, both groups have shown dissatisfaction with anti-corruption actions produced until now, which is a good environment for the affirmation of specific anti-corruption initiatives, such as this one.

A lot of doubts have been expressed from both expert and political levels, namely that it would be impossible to have a body with a high level of political and material independence; and also that the administrative-political organization (constitutional categories) might get in the way of the realization of such body and, correspondingly, that the same could be blocked by revitalization of the discourse about protection of “vital national (ethnic) interests”.

However, in spite of these expressed doubts and scepticism, attention should be paid to the fact that both groups have insufficient knowledge of the possibilities and capacities of a strongly institutionalized anti-corruption body, which is something that needs to be remedied. Better knowledge of the issue could ameliorate distrust and embolden attitudes towards such an initiative.

It should be also taken into account that both examined groups have disclosed a general lack of trust in the level of democratic development of BH society, which considerably conditions their attitude about subject matter. Namely, both groups have

recognized the presence of negative connectivity of the administrative and political sectors in BH, as recidivism of the recent war. Such connectivity ensures a simulative environment for further corruptive activities. There is a clear correlation between lustration and corruption, and both groups shared the concern that responsible political-administrative functions could, and probably are, still held by “irresponsible” persons, who represent a network of informal connections and interests, which can substantially postpone democratic development. Otherwise, if it is too late for s lustration process, then it is not too late for strong anti-corruption body, which can handle the problem and gradually “clean up” the public-political sector.

We should add to this that experts have shown more optimism with regard to this issue, which could be communicated to decision-makers, as an enticement for advancing the institutional aspect of the anti-corruption struggle. The experts have pointed to the present, but insufficiently comprehensive, legislative frame for the anticorruption struggle. They also noted that the subject needs to be further researched and advocated, so that the willingness of political actors can be brought about.

Recommended measures:

- To draw the attention of the public and interested actors to the continuing negative cohesion of the administrative and political sectors, especially vis-à-vis their physical (e.g. mechanisms of personal nomination, formal and informal leverages of influence etc.) and socio-psychological (administrative, namely

- professional officers still don't feel safe and secure enough, and correspondingly independent from the political influences) correlation;
- To propose an environment of dialog between the expert and political communities; enhance they interaction with a view of sharing knowledge and visions of the subject, by referring to the high awareness of the corruption phenomenon, that BH indeed needs such a body (BH will eventually have some kind of an anti-corruption body, but what kind will it be?). The problem articulated here suggests that there is a real need for a strong and effective, instead of the formal coordinatory-preventory anti-corruption body in Bosnia and Herzegovina, whose independence and autonomy should be of highest concern, due to the delicacy of its task, on one side, and persistence of immature democracy and weak democratic practices, on the other);
 - Further reforms and enhancements of the operative abilities of the judicial and law enforcement services, as auxiliary institutions in the context of the anticorruption struggle, whose quality of work affects the quality of an anti-corruption agency;
 - Development of specialized departments in key institutions (Financial Action Unit, Financial Police, Office for Indirect Taxation, State and Entity Prosecutions, State Police – SIPA; Internal control organs);
 - Further professional development and training of the officers whose work is related to the anti-corruption struggle, with a view to creating the required number of well trained and highly professional individuals, who would be the core of anti-corruptive action by the side of Bosnian anti-corruption office;

- To campaign for the raising of public sensibility and overall feeling for fundamental accountability principles, in order to deliver pressure that would be mediated to decision makers;
- Finally and most importantly, this research has shown that there exists awareness, both in the political and administrative segments, concerning the corruption phenomenon in BH, and it has delineated the connection between the post-conflict development of this country and the heavy corruption in its administrative-political system. This work suggest, as a response to the post-conflict peculiarity of corruption in BH, which is primarily administrative-political, the establishment of a strongly empowered; highly professionalized, central anti-corruption body, specialized in corruption, whose independence and public stand and authority would allow it to investigate top level corruption cases on all administrative and political levels, which would then be accordingly treated by the prosecutive-judicial branch.

Questionnaire on the position of the members of the Working group of the Council of Ministers for fight against corruption and members of the Working group for drafting Office for fight against corruption

Respected,

This questionnaire was designed to examine opinion of the members of a/m expert groups in respect to establishment of the unique body for fight against corruption in Bosnia and Herzegovina, where main purpose is to oppose corruption threat in as much successful manner. It is completely anonymous, which means that researcher is not interested for the identity of questioned person, nor shall the results be used to any other purpose but scientific one. The researcher is at the disposal of respondents for any informations related to this research.

Please provide one answer – one option per question!

Thank You in advance for your cooperation!

1. Respondents sex

1. male
2. female

2. Year of birth_____

3. Place of residence_____

4. Nationality – ethnicity_____

5. How big, in your opinion, is the problem of corruption in Bosnia and Herzegovina?

1. very big
2. big
3. average, no bigger than other problems
4. small
5. not a problem at all

6. Where, in your opinion, the corruption is most dispersed?

1. in the administration
2. among politicians
3. among medicine workers

4. among university professors
5. something else_____

7. Where do you think the opportunity for more successful fight against corruption should be sought?

1. better financial means
2. better cooperation with other institutions
3. professionalisation of the investigative officers
4. dealing with the corruption on the state level
5. development of specialised institutions
6. something else_____

8. Do you believe that corruption is more present in Bosnia and Herzegovina than in other countries?

1. Yes
2. No
3. More – less as in other countries

9. Do you think that corruption in Bosnia and Herzegovina is rising or falling?

1. it is rising
2. it falls down
3. corruption in BH is a permanent phenomena

10. What is more relevant for the fight against corruption, regional initiatives or strong national programs?

1. more significant are regional initiatives such as the one of the Stability Pact
2. more significant are quality national programs
3. their significance is of equal weight

11. Are you content with what has been done so far in the field of anti-corruption fight at BHs national level?

1. Yes
2. No

12. How do you estimate the relation between administrative and political sectors on different levels in BH, in the sense of the possibilities that such connection open for corrupt actions in BHs administrative-political system?

1. those are narrowly connected, but that fact is not relevant for corruption
2. those are narrowly connected, which could be a negative factor

3. narrowly connected, which opens wide space for corruptive actions
4. medium connected, but they do not condition one another – in that sense there is no particular fear for corruption
5. separate and completely independent – their relation is irrelevant for question of corruption in Bosnia and Herzegovina

13. Do you deem that there is a negative cohesion³⁴ of administrative and political sectors in BH as recidivism of the recent war?

1. such cohesion does not exist
2. it existed immediately after the war, now not any more
3. it is still present to a certain measure
4. there is strong connection between those two sectors
5. there is strong connection between those two sectors and the same is direct result of the war

14. Do you think that corruption would be lower in the after war period of BH development if there would had been lustration of the whole administrative - political system in BH?

1. Yes – the corruption would be lower
2. No – the corruption would not be lower
3. If there would had been lustration process, the corruption problem now would be even bigger
4. lustration has no influence to corruption

15. Scientific literature dealing with issues of corruption knows the term “state capture”³⁵. Do you think this phenomena is present in BH society and, if so, to what measure?

1. State capture is not present in BH society
2. it is present to a certain measure but it represent no serious problem
3. that is an occasional phenomena which can be handled by BH judicial system

³⁴ The cohesion in the sense of politization of the administrative apparatus, which is over influenced by political sector, esp. in personal – cadres sense: which is conspicuously manifested in the process of appointment of administrative functionaries, nepotism and existence of the informal connections.

³⁵ An Overview of Corruption in Central and Easter Europe, given by UNDP March 2002 provides following definition of the state capture phenomena: “*State capture*, in contrast, refers to the illicit actions of both private sector and public sector actors in actually shaping the “*formation*” of the basic rules of the game through the illicit and non-transparent provision of payments or other benefits to public officials. It describes activities on the part of enterprises and individuals to purchase preferential advantages directly from the state by subverting the formation of laws, rules, regulations and decrees. It includes not only the behavior of influential oligarchs who buy off legislators, but also the behavior of political leaders who shape the legal and regulatory framework to ensure their own private control over key resources. In each case, the state is captured to serve private interests and in each case, state capture encodes preferential advantages in the very rules of the game.”

4. state capture is present but the same is consequence of the war, and as such it shall vanish through programs of post-conflict stabilisation and transition of BH society
5. this phenomena is progressing in BH
6. this phenomena is decreasing in BH due to achieved institutional development of the legal-judicial system in the after war period of BH development
7. this phenomenon is wide spread and represents great menace to BHs society

16. Are you familiar with the concept of independent, specialised body for fight against corruption, with wide powers, primarily investigative ones?

1. I am not familiar
2. I have superficial knowledge of the concept
3. this concept is more-less known to me
4. I am well familiar with the concept and the examples of such bodies in other countries are well known to me
5. I know this concept very well, both its lacks and advantages

17. Considering all the objective and subjective indicators of the corruption in BH, do you feel BH needs a unique anti-corruption body as indicated in the former question?

1. BH needs such a body: too big is the problem of corruption in the country
2. not sure: I am sceptical about efficiency of such bodies
3. BH is in position where it is not possible to realise basic parameters of the concept of anti-corruption body as provided in question 17th, in particularly its financial and political independence:

- a.) Yes
- b.) No

4. BH is not in the need for such a body: the problem of corruption, esp. its gravest forms, is not serious enough in BH to require such an institutional response.

18. Is there a political will in BH for the institutionalisation of strong anti-corruption body?

1. I don't think there is political will at all
2. there is no enough of the political will
3. the idea is good and it could be useful for BH, but it is not possible to reach overall political consensus about this issue
4. I believe there is political will but the question itself was not researched and actualized enough
5. undoubtedly there is political will for realisation of such a project

19. Do you consider that investigative branch of the planned Office for fight against corruption should be within SIPA, in the sense of necessity for preservation of the high standards of independence, specialisation and empowerment?

1. Yes, that is a good solution
2. No, that is not a good solution: the Office for fight against corruption must be completely independent and self handling in infrastructural, operative and political sense
3. I am not sure because I don't know what are possible consequences of that proposal

20. What is the level of empowerment that officers of the unique anti-corruption body in BH should have in your opinion?

1. high level of empowerment: understands all investigative activities³⁶
2. as under no. 1. plus possibility for initiating prosecutive action
3. middle level: common for police officers
4. exclusively preventive roll and coordination of other institutions that deal with corruption

21. How content are you with legislative anti-corruption framework in BH?

1. little has been done: there is not enough of "friendly laws"³⁷
2. enough has been done but the legislative framework still has some weak points
3. situation is satisfying: legislative framework will be completely answered with the foreseen Law against corruption

22. Do you think that anti-corruption body in BH should be empowered to undertake necessary investigative actions over all territory and on all administrative levels in BH?

1. Yes, it should be empowered
2. Yes, but only in cooperation with other entity and state organs
3. No, something like that is not in the spirit of BH constitution

23. When a unique anti-corruption body with wide spectra of powers in the form of agency or commission would be established in BH, which segment of State power should have control over such body?

1. the commission of the Council of Ministers

³⁶ Right to access documents and question witnesses; usage of "friendly laws" (including criminalisation of "illegal enrichment"; special operative measures, unimpeded approach to required informations, public hearings conducted by the agency, insight to personal assets and incomes of high functionaries, freezing illegally obtained assets, seizure of passports, protection of informants, professional privileges etc.

³⁷ It understands all the laws and regulations that are directly or indirectly related to corruption

2. agency or Commission that would directly answer to the President of the Council of Ministers
3. Presidency of BH
4. Parliamentary assembly

24. Do you perceive administrative-political organisation and decentralisation of BH as an impediment in the way of realisation of the strong anti-corruption body in BH?

1. Yes
2. No
3. Maybe

25. Do you think that already existing judicial-police institutions in BH are sufficient for successful fight against corruption?

1. Yes
2. No

26. Do you think that judicial system in BH is reformed enough to be able to serve/follow the work of a specialized, independent and overall empowered unique body for fight against corruption in BH?

1. Yes
2. No

27. Do you think that for successful diagnose of the corruption trends and designing preventive action at the state level, a unique body on the state level would suffice?

1. Yes
2. No

28. In your opinion, should a central office for fight against corruption be dealing with:

1. corruption on local level
2. gravest forms of corruption
3. all manifestations of corruption

29. Do you believe that, at present, it is possible to secure complete independence of anti-corruption body from the political interference in BH?

1. Yes
2. No

Remark: (here You can write down your remarks, observations or additional comments to any of these posed questions):

Questionnaire on the position of the delegates/representatives in the Parliamentary Assembly of Bosnia and Herzegovina with regard to acceptable concept of anti-corruption body in Bosnia and Herzegovina

Respected,

This questionnaire was designed to examine opinion of the members of a/m expert groups in respect to establishment of the unique body for fight against corruption in Bosnia and Herzegovina, where main purpose is to oppose corruption threat in as much successful manner. It is completely anonymous, which means that researcher is not interested for the identity of questioned person, nor shall the results be used to any other purpose but scientific one. The researcher is at the disposal of respondents for any informations related to this research.

Please provide one answer – option per question!

Thank You in advance for your cooperation!

1. Respondents sex

2. Year of birth _____

3. Place of residence _____

4. Political party _____

5. Nationality – ethnicity _____

6. Delegate/representative in:

1. House of the people
2. House of representatives

7. How big, in your opinion, is the problem of corruption in Bosnia and Herzegovina?

1. very big
2. big
3. average, no bigger than other problems
4. small
5. not a problem at all

8. Where, in your opinion, the corruption is most dispersed?

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1. Yes
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3. More – less as in other countries

11. Do you think that corruption in Bosnia and Herzegovina is rising or falling?

1. it is rising
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3. corruption in BH is a permanent phenomena

12. What is more relevant in the fight against corruption, regional initiatives or strong national programs?

1. more significant are regional initiatives such as the one of the Stability Pact
2. more significant are quality national programs
3. their significance is of equal weight

13. Are you content with what has been done so far in the field of anti-corruption fight at BHs national level?

1. Yes
2. No

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3. that is an occasional phenomena which can be handled by BH judicial system
4. state capture is present but the same is consequence of the war, and as such it shall vanish through programs of post-conflict stabilisation and transition of BH society
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2. not sure: I am sceptical about efficiency of such bodies
3. BH is in position where it is not possible to realise basic parameters of the concept of anti-corruption body as provided in question 17th, in particularly its financial and political independence:

- a.) Yes
- b.) No

4. BH is not in the need for such a body: the problem of corruption, esp. its gravest forms, is not serious enough in BH to require such an institutional response.

20. Is there a political will in BH for institutionalisation of strong anti-corruption body?

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3. No, something like that is not in the spirit of BH constitution

25. When a unique anti-corruption body with wide spectra of powers in the form of agency or commission would be established in BH, which segment of State power should have control over such body?

1. the commission of the Council of Ministers
2. agency or Commission that would directly answer to the President of the Council of Ministers

⁴⁰ Right to access documents and question witnesses; usage of "friendly laws" (including criminalisation of "illegal enrichment"; special operative measures, unimpeded approach to required informations, public hearings conducted by the agency, insight to personal assets and incomes of high functionaries, freezing illegally obtained assets, seizure of passports, protection of informants, professional privileges etc.

⁴¹ It understands all the laws and regulations that are directly or indirectly related to corruption

3. Presidency of BH
4. Parliamentary assembly

26. Do you perceive the administrative-political organisation and decentralisation of BH as an impediment in the way of realisation of the strong anti-corruption body in BH?

1. Yes
2. No
3. Maybe

27. How big is the connection between here argued concept of anti-corruption body and question of protection of the vital national interests of BH constitutive peoples?

1. very connected
2. quite connected
3. little connected
4. there is no connection at all

Remark: (here You can write down your remarks, observations or additional comments to any of here posed question):

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