

TRANSPARENCY INTERNATIONAL'S TABLE OF STATISTICS AND NARRATIVE REVIEW OF ALAC CASES

PERIOD: **JANUARY – DECEMBER 2012**

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CORRUPTION BY SECTORS

JUDICIAL INSTITUTIONS 21 (10.10%)

COURTS (15 cases in 2012)

In the course of 2012 TI BiH received 15 complaints (7.2%) against courts at all administrative levels. The majority of the complaints (7) concerned the length of the proceedings before the court, then (3) reports by aggrieved parties claiming to have been aggrieved by court decisions, which led them to believe that judges were corrupt, (2) reports by expert witnesses who expressed doubts about the legality of work of some judges, (2) reports about the agreement on the selection of the *ex officio* lawyer by judges in FBiH, and one (1) report by a party claiming that the president of a municipal court in FBiH would not receive them for a meeting. In those cases TI BiH advised the parties of the possibility of filing a complaint with the High Judicial and Prosecutorial Council, and informed them that if they had been aggrieved by a court decision, such decisions could be challenged only by pursuing judicial remedies.

PROSECUTORS' OFFICES (6 cases in 2012)

In the course of 2012, within the ALAC project, TI BiH had six cases (2.8%) related to the work of the prosecutors' offices. The majority of the complaints concerned the failure on the part of the prosecutor's offices to act on criminal complaints filed by parties (3), failure to make information on prosecutors' offices' actions available to the persons who reported criminal offences (2), and "administrative silence" in cases when the party had invoked the Law on Freedom of Access to Information.

In the course of 2012 TI BiH addressed the competent prosecutors' offices 22 times. A total of 11 requests for information were sent to various prosecutors' offices, acting on the reports of the parties complaining that they could not gain access to information held by those institutions. TI BiH also sent three reminders in several cases of failure of the prosecutors' offices to make information available. Also, one complaint was filed for "administrative silence", which was accepted by the General Prosecutor, allowing TI BiH to gain access to information. Also, in 2012 TI BiH won a court case against the Cantonal Prosecutor's Office of the Tuzla Canton relating to access to information – orders about termination/suspension of investigation, which was decided by a judgement of the Supreme Court of FBiH. In the repeated procedure for access to information after the judgement, the Prosecutor's Office denied access to information again, forcing TI BiH to re-take legal action. The action is still awaiting court decision. In 2012 TI BiH filed with the Cantonal Court in Tuzla another legal action against the Cantonal Prosecutor's Office in Tuzla for yet another failure to grant access to requested information. The Court ruled in favour of the Prosecutor's Office exceptionally fast, whereupon TI BiH sought an ancillary remedy with the Supreme Court of FBiH. The case is still pending. TI BiH also filed three complaints against decisions of Prosecutors' Offices to suspend investigations, one of which was dismissed, and two are still pending.

In the course of 2012, three criminal reports and one addendum to the criminal report were sent:

1. Addendum to the criminal report filed with the Cantonal Prosecutor's Office in Sarajevo against Amer Memić, who forged a document to get a job in the Forestry Administration of the Sarajevo Canton, and also against the competent authorities and officials persons who had failed to report the commission of a criminal offence of document forging despite the statutory obligation of official and responsible persons to report a criminal offence.
2. Criminal report of illegal activities in the Gacko Municipal Assembly, which TI BiH received through the Advocacy and Legal Advice Centre. The report was passed on to the District Prosecutor's Office in Trebinje.
3. Criminal report against the management of the Banovići Mine, which TI BiH received from the miners of the mine through the Advocacy and Legal Advice Centre. The report was passed on to the Cantonal Prosecutor's Office in Tuzla.
4. Criminal report against the professor of pharmacology at the Faculty of Veterinary Medicine in Sarajevo for allegations of taking bribe for letting students pass his examinations. This report was passed on to the Cantonal Prosecutor's Office in Sarajevo.

EDUCATION (25 cases in 2012)

Twenty-five reports (12.02%) relate to corruption in the education system, which is 10 more than in previous year 2011. It is interesting to note that as many as 11 reports relate to higher education institutions – universities, mostly in connection with a lack of transparency in competition procedures for the selection of assistant teachers, irregularities related to projects implemented at certain faculties, and the like. TI BiH filed a criminal report against a professor of pharmacology at the Faculty of Veterinary Medicine in Sarajevo, on allegations of taking bribery for letting students pass his exams. This report was passed on to the Cantonal Prosecutor's Office in Sarajevo. Also, in early 2013 TI BiH filed a criminal report against the Faculty of Mechanical Engineering in Zenica for failure to comply with a 2012 court judgement ordering the Faculty to announce a public competition for academic appointment. It is necessary to note that a large number of citizens-whistleblowers complain that there are no clear rules for the selection of teaching staff in higher education institutions. Namely, the applicable laws lay down only the minimum eligibility requirements, which makes it possible for selection commissions to opt for candidates who meet the minimum requirements rather than those with better academic record, references, etc.

As far as primary education is concerned, a total of three reports were received which concerned irregularities in the teacher selection procedures. The same is true of secondary schools (3 reports). In most cases teachers contact TI BiH asking for legal advice on how to file complaints about job competition procedures, as well as how to check whether the competition procedures were conducted in accordance with the law.

The remaining cases in the field of education are related to the violation of the rules for awarding scholarships, changes to the rules on the teaching staff by stipulating, for example, that a school may employ a physiotherapist to work as special education teacher (?), corruption in selection of publishers to print school textbooks, etc.

HEALTH (6 cases in 2012)

A total of six reports received in 2012 (2.88%) concerned the health sector. All reports related to different cases: for example, repeal of the Rulebook on Public Procurement of Drugs by the FBiH Ministry; management staff soliciting bribes to facilitate placement of patients in nursing homes; allowing patients to get CT examinations out of turn disregarding the waiting list; bribing doctors to issue doctor's reports based on which one can claim a disability pension; employment in hospitals without inviting applications for the job. What remains a common characteristic of all these reports is the fact that they do not contain sufficient information on which to act. Despite this, in the majority of cases TI BiH approached the competent authorities and pointed out these problems.

POLICE (7 cases in 2012)

Seven cases (3.37%) in 2012 related to police work. Of those, two reports were related to failures of police departments to act on requests for access to information filed by citizens. Of other reports, it is important to mention that in early 2013 TI BiH

filed a criminal report against a border police officer who, according to the reporting citizen, demanded a bribe in 2012 at the Gradiška border crossing. TI BiH initially reported the behaviour of the said police officer to the BiH Border Police, and after the BiH Border Police failed to determine his responsibility, TI BiH filed the report with the competent Prosecutor's Office. Also, TI BiH gave legal advice to citizens who had clashed with the police during "Save the Picin Park" protests that took place in the summer of 2012 in Banja Luka. Further, an anonymous citizen reported a police officer who forged the diploma based on which he had got employed in the police department, and against whom an investigation was conducted, and subsequently dropped, before the Cantonal Prosecutor's Office of the Tuzla Canton. TI BiH requested a copy of the order to drop the investigation from the Prosecutor's Office, but the Prosecutor's Office refused to make the requested information available, whereupon TI BiH initiated administrative action before the relevant court.

PRIVATE SECTOR (16 cases in 2012)

In 2012 TI BiH received 16 reports (7.69%) relating to irregularities in the operation of private or privatised companies and associations. It is important to note that all reports were different and even the whistleblowers were different. This includes reports of poorly managed privatisation of state-owned enterprises; reports by workers whose employers did not pay contributions or failed to register them; reports by miners from Banovići for nonpayment of wages despite a court ruling in their favour, and the like. The most significant case in this category is certainly the prevention of discrimination in awarding taxi service permits in Zenica. In the case in question, the party who had been on the waiting list for getting a taxi rank in the municipality of Zenica reported to TI BiH the discriminatory provisions of the Regulation on Performing Taxi Activities which was adopted by the Association of Zenica Taxi Drivers, and approved by the Municipality of Zenica. The Regulation contained discriminatory provisions favouring the children of taxi drivers over other candidates applying for a taxi rank. In the case in question, TI BiH approached the Ombudsman of BiH, providing a detailed analysis and demanding that the institution take proper action. The Ombudsman accepted the TI BiH's analysis and sent a recommendation to the Association of Zenica Taxi Drivers urging them to change the disputed provisions of the Regulation, which the Association did.

PROPERTY-LEGAL ISSUES (20 cases in 2012)

TI BiH received 20 reports (9.62%) related to property and legal issues faced by citizens. In most cases citizens contacted TI BiH enquiring about the conduct of judicial proceedings, or, more specifically, to seek advice about procedural deadlines, preparation of submissions to the court, to ask about the course of court proceedings and the like. Also, citizens sought TI BiH's opinion in relation to pension entitlements, compensation for damages, termination of employment, inheritance procedures, use of real estate and the like.

Although such cases do not belong to the type of problems handled by TI BiH, the parties were regularly given legal advice, e.g. on how to lodge claims, which authorities to contact and the like.

PUBLIC ADMINISTRATION (40 cases in 2012)

By far the largest number of cases reported in 2012, namely 40 (19.23%), related to the sector of public administration. This includes complaints about all institutions in BiH at all administrative levels (national, entity, local), as well as reports related to public enterprises and public institutions.

The majority of complaints (16) concerned irregularities in the recruitment process, i.e. irregular competitions for employment of civil servants at all levels of government as well as recruitment of employees in public enterprises and public institutions. Also, TI BiH received two reports of irregular appointments to various positions.

It is important to note that six of the reports received in 2012 related to irregularities in the operation of public enterprises and three related to irregularities in the work of public institutions. What is a common characteristic of the majority of those reports is the fact that the persons reporting irregularities were employees of enterprises or institutions, i.e. whistleblowers.

Five of the reports received concerned irregularities in the awarding of incentives for agriculture, of which it is necessary to point out the case of the election campaign of the party "Work for Betterment" [*Radom za boljitak*], during which subsidies were awarded to farmers who were supposed to vote for the party.

It is also necessary to mention two applications received from employees in the civil service in the Una-Sana Canton, related to the implementation and interpretation of the newly enacted Cantonal Law on Civil Servants of the USC. In the case in question, TI BiH contacted the Federal Ministry of Justice requesting legal interpretation of the implementation of the Law, because the Civil Service Appeals Board of FBiH used to reject appeals against the decisions of the cantonal minister, for lack of jurisdiction. More specifically, the problem lied in the inconsistency between the Federal and Cantonal Laws, which is why parties were at a loss where to file appeals because both authorities declared themselves incompetent to act.

The remaining reports were related to the lack of transparency in the publication of the budget, failure of municipal authorities to act on the request filed by parties, failures in the housing of returnees, complaints about the work of pension and disability insurance funds, etc.

CONFLICT OF INTEREST (10 cases in 2012)

Ten cases (4.81%) related to conflicts of interest of public officials. Citizens most often contact TI BiH asking whether a particular situation constitutes a conflict of interest of a public official. TI BiH responded to the queries in accordance with the Law on Conflict of Interest.

TI BiH sent four reports of conflicts of interest to the Central Election Commission of BiH, but all four cases are still pending:

- Report against Nermin Nikšić, Prime Minister of the Federation of Bosnia and Herzegovina, for media allegations that he bought an apartment at a subsidised price in an office-cum-residential building that had been built by the

“Unipromet” company and that the Government of the Federation of Bosnia and Herzegovina rented 1,500 square metres of office space in the same building to house four federal ministries.

- Report against Jure Zečević from the SNSD caucus, as an elected official of the Posavina Canton, who is the owner of “ZEKO-PROMET” Ltd. Odžak, with which the Government of the Posavina Canton signed contracts.
- Report against Slobodanka Ćurčić from the SNSD caucus, as an elected official of the Brčko District Assembly, whose company “DONA” Inc. Brčko District did business with the Government of Brčko District, where the value of the contract or business exceeded KM 5,000.00 per annum.

ACCESS TO INFORMATION (18 cases in 2012)

In the course of 2012 TI BiH received 18 reports (8.65%) related to the implementation of the Law on Freedom of Access to Information. In the majority of cases, citizens reported that they had been denied access to information held by a public authority, i.e. that the public authorities turned a deaf ear to their requests. These are typical cases of administrative silence. In that regard TI BiH addressed public authorities and, invoking the Law on Freedom of Access to Information, requested information on behalf of the parties. Upon receipt, the information was forwarded to the parties.

In the course of 2012 TI BiH received enquiries in which parties sought legal advice about the application of the Law on Freedom of Access to Information, which TI BiH regularly responded to. It is important to note that TI BiH also received phone calls from officials working in various institutions asking for help in interpreting specific provisions of the Law. Also, TI BiH addresses various institutions on a daily basis using the Law on Freedom of Access to Information and not only in these cases but in all other areas as well.

In 2012 TI BiH filed 12 appeals with the competent courts for violations of the Law on Freedom of Access to Information. Of the total number of appeals, seven were filed for “administrative silence” and the other five for failure to implement the public interest test and refusing delivery of the requested information.

CONSTRUCTION-CITY PLANNING (11 cases in 2012)

In the course of 2012 TI BiH received 11 reports (5.29%) from citizens, related to complaints about the work of local governments for issuing or not issuing various permits (e.g. building or use permits) to ineligible persons or entities. Reports in this category concerned irregularities in the operation of municipal services relating to the issuance of spatial planning documentation, whether in terms of tolerating illegal construction despite reports by injured parties or in terms of municipal spatial planning departments intentionally ignoring to act on second-instance decisions or court rulings.

The most important case in this category is related to protests that took place in Banja Luka following the award of a land plot, the so-called Picin Park, to the businessman Mile Radišić, owner of the “Grand Trade” firm. TI BiH reviewed the documentation related to the award procedure, information on the price of the

building land and conducted a review of the award process by the competent institutions. Also, TI BiH has provided legal assistance to citizens and organisations participating in the protests.

TAXES-FINANCE-CUSTOMS DUTIES (5 cases in 2012)

Five reports (2.40%) concerned the field of taxation, finance and customs. Reports in this category were mainly related to retailers charging goods in Euros instead of convertible marks, failure on the part of private enterprises to pay taxes to the government, and failure to issue fiscal receipts. Given that TI BiH has no adequate staff to deal with this issue, the parties were given legal advice and referred to relevant instances, or TI BiH forwarded their reports to the competent institutions.

OTHER (29 cases in 2012)

This category includes 29 (13.94%) cases, mostly relating to various queries and suggestions filed by citizens, which do not fall into any of the above mentioned categories. These are queries regarding the payment of utility bills, managing condominium associations, establishment of NGOs, proposals for amendments to the laws, and a variety of civic initiatives to solve various problems in society, etc. In most of these cases, TI BiH responded to these queries, either in the form of legal advice or by referring citizens to the competent institutions.

Also, given that 2012 was an election year, TI BiH received citizens' reports on actions of political subjects during the election campaign, about the alleged vote buying, campaign financing, etc. In these cases TI BiH forwarded the reports to the Central Election Commission for a thorough review.

One of the most high-profile reports that TI BiH referred to the CEC was one against the People's Party "Work for Betterment" and FBiH Agriculture Minister Jerko Ivanković Lijanović, for advertising campaign "Buy Local Produce", which was financed from the FBiH budget on the eve and during the election campaign. Based on the TI BiH's report, the Central Election Commission fined the People's Party "Work for Betterment" KM 10,000 for using the government advertising campaign "Buy Local Produce" on the eve of the 2012 local election campaign for its own election promotion.

Cases that TI BiH initiated independently based on, for example, information in the media, also fall into this category. There were 11 such cases.

STATISTICS

In the course of 2012 TI BiH sent 254 letters to the competent institutions, 209 letters to parties (legal advice and various notices), and filed 12 appeals with the competent courts.

As part of the Research of the Implementation of the Law on Freedom of Access to Information, a total of 148 requests for information were sent out in 2012.

The toll-free corruption reporting hotline 0800 55555 received a total of 972 calls.