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URGENT OPINION ON THE REVISED DRAFT LAW AMENDING THE LAW ON PREVENTION OFCORRUPTION (AS OF JULY 2026)

SERBIA

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Based on an unofficial translation of the Draft Law, as provided by the requesting body.

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EXECUTIVE SUMMARY AND KEY RECOMMENDATIONS

The Draft Law amending the Law on Prevention of Corruption (Draft Law) was introduced as part of the Government's efforts to strengthen Serbia's anti-corruption framework in light of international recommendations, including those of the Council of Europe Group of States against Corruption (GRECO) and ODIHR, particularly regarding the conduct of public officials during election campaigns and the prevention of the misuse of public office and administrative resources.

The revised Draft Law sent for review in July 2026 contains a number of positive changes which, if effectively implemented, can contribute to strengthening Serbia's anti-corruption framework. It addresses some of the recommendations contained in previous ODIHR's election observation reports and in ODIHR's Urgent Opinion, published in June 2026, which analyzed an earlier version of the Draft Law. Positive amendments introduced in the revised Draft Law include the improved regulatory and monitoring mechanisms, while partially addressing sanctions regime pertaining to the misuse of public office and public resources. The amendments also aim to increase transparency of the Agency for the Prevention of Corruption (APC)'s legislative initiatives and opinions, to provide additional safeguards for better separating public office from activities of political parties and other political entities, as well as to strengthen transparency of asset declarations by requiring digital assets to be reported, although further clarification of the scope of covered digital assets is required to ensure its effectiveness.

At the same time, while acknowledging the efforts undertaken to improve the Draft Law, a number of provisions still require further revision to ensure its compliance with international standards and recommendations. ODIHR notes that various recommendations put forward in June 2026 Opinion have been left unaddressed or only partially addressed, while several amendments introduce new issues requiring further consideration.

Key concerns relate to the categories of individuals covered by the anti-corruption and integrity framework, which continues to rely primarily on a formal definition of "public official" and may leave certain persons exercising significant influence over public decision-making outside of the preventive regime. While the Draft Law should not expand unduly the notion of "public officials", the legislation may distinguish between the obligations and measures applicable to different categories of covered persons – e.g., conflict-of-interest rules, disclosure obligations, incompatibility checks, restrictions on gifts, cooling-off rules – depending on the nature of functions performed and associated risks in terms of potential influence over public decision-making involving public resources, appointments, procurement, regulation or state-owned enterprises.

Furthermore, the revised Draft Law leaves unaddressed earlier recommendation concerning integrity checks prior to the selection, recruitment or appointment of persons assuming top executive functions, including ministers, chiefs of cabinets and advisers, including of the President of the Republic.

In addition, although the Draft Law aims to strengthen the regulatory responses to the misuse of public office and public resources during election campaigns, several provisions require enhancement. In particular, exceptions allowing promotional activities by public authorities during election periods should be more narrowly formulated to avoid their inconsistent application in practice. Similarly, the Draft Law did not address ODIHR's recommendation to expand the Agency's monitoring to cover the entire election period, starting at least from the call for elections rather than from the expiry of deadline for the nominations.

The provisions of the Draft Law concerning post-employment restrictions should also address situations where professional or other forms of engagement by directly elected officials after the end of their mandate could give rise to real or perceived conflict-of-interest and therefore, the blanket exemption for all elected officials should be more narrowly framed, defining the cycle of elected officials and clarifying the types of post-employment activities covered by the restrictions. As previously emphasized, whether a person should fall within the scope of post-employment restrictions should primarily reflect on the nature of the functions previously performed, the influence exercised, access to confidential or otherwise sensitive information.

Finally, remaining gaps include insufficiently defined rules on asset and income declarations, including regarding valuation, cumulative calculation and indirect ownership and control; the absence of specific consequences for non-compliance with obligations concerning the Agency's initiatives and opinions; concerns related to the risk of undue delay in appointment/selection of the new Director; and the lack of clarity regarding the consequences of participation in decision-making despite a conflict of interest.

Therefore, ODIHR reiterates the need to duly address the remaining recommendations, amending the relevant legal framework through an inclusive, transparent and meaningful consultation process involving all relevant stakeholders, well in advance to the next elections, and with sufficient time provided for their effective participation and consideration of their views. ODIHR further emphasizes the importance of effective implementation of the amended norms in accordance with applicable OSCE commitments and norms of international law, thus enhancing prevention of corruption measures and safeguarding integrity of electoral and public decision-making processes.

More specifically, and in addition to what is stated above, ODIHR makes the following recommendations to enhance the provisions of the Draft Law in accordance with international standards, recommendations and good practices:

A. Regarding the personal scope of the anti-corruption and integrity framework and the definition of public officials:

1. to ensure that the anti-corruption and integrity framework, including the Law on Prevention of Corruption, contains obligations and measures applicable to different categories of persons (e.g., conflict-of-interest rules, disclosure obligations, incompatibility checks, restrictions on gifts, cooling-off rules) depending on the nature of the functions and influence exercised over public decision-making involving public resources, appointments, procurement, regulation or state-owned enterprises; [paras 22-23.]

2. to provide that private-sector representatives serving in governing bodies of publicly owned or controlled entities are subject, at a minimum, to the conflict-of-interest, transparency, disclosure and recusal (or abstention)

provisions of the Law when participating in decisions concerning the management, allocation or disposal of public resources, public assets, public funds, concessions, public procurement, public-service obligations, or other matters of significant public interest; [para. 28]

3. to ensure that the expanded definition of "public official" be accompanied by appropriate integrity safeguards, in particular, by requiring that persons falling within the extended scope of the provision be subject, prior to assuming their functions, to integrity screening aimed at identifying potential conflicts of interest, incompatible activities, significant financial interests, beneficial ownership arrangements, business relationships, previous professional engagements and other factors relevant to the impartial and accountable performance of public duties; [para. 30]

B. Regarding the Agency for the Prevention of Corruption:

1. to introduce into the draft Law an obligation to re-initiate without delay the selection and appointment process for the permanent Director of the Agency for Prevention of Corruption where the Director's mandate is extended for one year due to the failure to appoint a new Director, and to establish clear procedural steps and deadlines, including appropriate anti-deadlock mechanisms, to prevent prolonged interim arrangements; [paras. 35-36]

2. to provide for specific consequences in cases of non-compliance by the authorities with the obligation set out in Article 35 (2) of the Law on Prevention of Corruption; [para. 38]

C. To clarify in the Draft Law the consequences of participating in decision-making despite the existence of a conflict of interest and provide clear guidance on the follow-up measures available, such as mandatory review of relevant decisions, contracts or other acts adopted by or with participation of persons in violation of conflict-of-interest regulations, and imposing appropriate disciplinary measures; [para. 41]

D. To clarify the wording of Article 46 (3) to expressly provide that the Agency's assessment and consent must precede the commencement of additional work or business activities, except where narrowly defined exceptions may be justified and accompanied by appropriate safeguards; [para. 43]

E. Regarding misuse of public office and public resources:

1. To review paragraph 13 of Article 50, in order to cover communication campaigns or major announcements by public authorities and other persons that have the purpose or effect of creating a favourable perception of, rather than directly promoting, a political party, political entity, candidate, or electoral list, while preserving exceptions for genuinely necessary announcements responding to unforeseen circumstances or urgent public needs; [para. 48]

2. To clarify and narrowly tailor the exemption of members of parliament, members of the autonomous province assembly and local councillors from the prohibitions on political activities during working hours and promotional statements under Article 50(12–13), while ensuring that directly elected officials may engage in legitimate political and electoral activities without using their official functions, public resources or institutional visibility for campaign purposes; [para 49]

F. To extend monitoring and transparency obligations to cover the entire electoral period, from the calling of elections until the announcement of final election results, rather than limiting them to the period g following the expiry of the nomination deadline, as well as provide APC with adequate resources to carry out expanded responsibilities; [paras 52 and 56]

G. To narrow down the exemption from post-employment restrictions under Article 55 (5) of the Law for directly elected officials whose functions did not give rise to heightened revolving-door risks, while applying appropriate safeguards proportionate to the nature and level of integrity and conflict-of-interest risk to certain category of directly elected officials whose responsibilities, decision-making powers or access to confidential or non-public information create a material risk of misuse, preferential access, regulatory capture or undue influence; [para. 62]

H. To review the relevant articles to ensure that the sanctioning framework provides for effective, proportionate and dissuasive penalties, including a broader range of sanctions where appropriate and distinguish between varying degrees of seriousness, in line with international standards on the misuse of administrative resources during electoral processes. [para. 82]

These and additional recommendations are included throughout the text of this Urgent Opinion, highlighted in bold.

As part of its mandate to assist OSCE participating States in implementing their OSCE human dimension commitments, ODIHR reviews, upon request, draft and existing laws to assess their compliance with international human rights standards and OSCE commitments and provides concrete recommendations for improvement.

Table of Contents

I. INTRODUCTION

1. On 23 July 2026, the Secretary General of the National Assembly of Serbia sent to the OSCE Office for Democratic Institutions and Human Rights (ODIHR) a request for a legal review of a revised version of the Draft Law Amending the Law on Preventing Corruption, as of July 2026 (the Draft Law). This followed the earlier request of 19 May 2026 for a review of a previous version of the Draft Law, which resulted in the publication of an Urgent Opinion on 26 June 2026 (the June 2026 Urgent Opinion).[1]

2. On 24 July 2026, ODIHR responded to this request, confirming the Office's readiness to prepare a legal opinion on the revised Draft Law to assess its compliance with international human rights standards and OSCE human dimension commitments. Given the urgency indicated by the requestor, ODIHR agreed to prepare an Urgent Opinion, which does not provide a detailed analysis of all the provisions of the revised Draft Law, but primarily focuses on several key areas of concern, while recognizing the areas of improvement. The absence of comments on certain provisions of the Draft Law should not be interpreted as an endorsement of these provisions.

3. As the revised Draft Law seeks to address comments and recommendations contained in ODIHR's June 2026 Urgent Opinion, the present Urgent Opinion primarily aims at assessing the extent to which ODIHR recommendations have been reflected in the revised Draft Law, primarily focusing on those that have not been implemented or have only been partially implemented, as well as on potential new issues arising from the introduction of the new provisions. This Urgent Opinion should be read in light of other recent findings and recommendations from previous ODIHR legal opinions and election observation reports with respect to Serbia, especially the June 2026 Urgent Opinion[2] and the two 2026 ODIHR Opinions on the draft amendments to the Law on Financing of Political Activities.[3]

4. ODIHR is grateful for the comments provided by the Serbian authorities in the Explanatory Note on the status of implementation of recommendations from the June 2026 Urgent Opinion, as well as comments by several civil society organizations (COSs) which have been taken into account and/or addressed, as appropriate, in the present Urgent Opinion. At the same time, the present Urgent Opinion does not reproduce in full the analysis contained in the June 2026 Urgent Opinion. Accordingly, the comments and recommendations set out therein remain applicable, to the extent that they have not been addressed by the revised Draft Law, while the present Urgent Opinion further clarifies, elaborates on and/or develops certain aspects of the earlier analysis, where relevant, taking into account the revised Draft Law and the accompanying Explanatory Note.

5. This Urgent Opinion was prepared in response to the above request. ODIHR conducted this assessment within its general mandate to assist OSCE participating States in the

1 See ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption (as of May 2026), published on 26 June 2026.

2 See ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption (as of May 2026), published on 26 June 2026. See also ODIHR, Informal Comments on Two Sets of Draft Amendments to the Law on Prevention of Corruption of the Republic of Serbia (19 November 2024) Sub-Sections 2.11, 2.12 and 2.13. See also ODIHR, Report on Early Parliamentary Elections in Serbia, 17 December 2023, especially Recommendation 17. See also ODIHR, Urgent Opinion on Draft Amendments to Several Pieces of Election-related Legislation of Serbia, Recommendation D, paras. 32-33; ODIHR-Venice Commission, 2022 Joint Opinion on the Constitutional and Legal Framework Governing the Functioning of Democratic Institutions, Electoral Law and Electoral Administration in Serbia, paras. 103 and 114-126.

3 See ODIHR, Opinion on the Revised Draft Law Amending the Law on Financing Political Activities in Serbia (as of May 2026), published on 29 June 2026; and Opinion on the Draft Law Amending the Law on Financing Political Activities, published on 11 May 2026.

implementation of their OSCE human dimension commitments.[4] ODIHR remains ready to continue providing legislative assistance, including through the review of a revised Draft Law and other existing or draft legislation relating to political parties and electoral reform.

II. SCOPE OF THE URGENT OPINION

6. The scope of this Urgent Opinion covers the revised Draft Law submitted for review. Thus limited, the Urgent Opinion does not constitute a full and comprehensive review of the Law on Prevention of Corruption nor of the entire legal and institutional framework governing the prevention of corruption in Serbia.

7. The Urgent Opinion raises key issues and highlights areas of concern. In the interest of conciseness, it focuses on those provisions that require amendments or improvements rather than on positive aspects of the Draft Law. This Opinion does not fully repeat the recommendations contained in the June 2026 Urgent Opinion. Therefore, those recommendations remain, to a large extent, valid unless otherwise specified. The ensuing legal analysis is based on international and regional human rights and rule of law standards, norms and recommendations, as well as relevant OSCE human dimension commitments and international good practices.

8. The Urgent Opinion also highlights, as appropriate, good practices from other OSCE participating States in this field. When referring to national legislation, ODIHR does not advocate for any specific country model but rather focuses on providing clear information about applicable international standards while illustrating how they are implemented in practice in certain national laws. Any country example should be approached with caution since it cannot necessarily be replicated in another country and has always to be considered in light of the broader national institutional and legal framework, as well as country context and political culture.

9. Moreover, in accordance with the Convention on the Elimination of All Forms of Discrimination against Women[5] (CEDAW) and the 2004 OSCE Action Plan for the Promotion of Gender Equality[6] and commitments to mainstream gender into OSCE activities, programmes and projects, the Urgent Opinion integrates, as appropriate, a gender and diversity perspective.

10. In view of the above, ODIHR stresses that this review does not prevent ODIHR from formulating additional written or oral recommendations or comments on respective subject matters in Serbia in the future.

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4 See, in particular, the OSCE Final Document of the Eleventh Meeting of the OSCE Ministerial Council, Maastricht, (2003), para. 2.2.7, which provides: "*We agree to make the elimination of all forms of corruption a priority. We will consider accession to, encourage ratification of, and support full implementation of, international conventions and other instruments in the field of combating corruption, in particular those developed by the Council of Europe and the Organisation for Economic Co-operation and Development (OECD). We welcome the adoption of the UN Convention against corruption and look forward to its early signature, ratification and entry into force.*" See also OSCE, Declaration on Strengthening Good Governance and Combating Corruption, Money-Laundering and the Financing of Terrorism, MC.DOC/2/12, Dublin, 7 December 2012; and 1999 Istanbul Document (Summit of Heads of State or Government), 19 November 1999, para. 33, where OSCE participating States committed to strengthen their efforts to "*promote good government practices and public integrity*" in a concerted effort to fight corruption.

5 See UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted by General Assembly resolution 34/180 on 18 December 1979. Serbia ratified this Convention on 12 March 2001.

6 See OSCE Action Plan for the Promotion of Gender Equality, adopted by Decision No. 14/04, MC.DEC/14/04 (2004), para. 32.

III. LEGAL ANALYSIS AND RECOMMENDATIONS

1. Relevant International Standards and OSCE Commitments

11. For the relevant international standards and OSCE commitments, reference is made to Section III.1 of the ODIHR *Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption (as of May 2026).* In addition, the European Commission's 2026 Rule of Law Report on Serbia specifically noted that *"[t]he Law on Prevention of Corruption […] still needs to be amended to broaden the definition of public official in line with GRECO recommendations*", while also noting that the APC's "*human and technical resources remain insufficient to effectively and comprehensively carry out its corruption prevention tasks*" and that steps should be taken "*to enhance the independence, impartiality and accountability of the Agency*".[7]

2. Background and General Comments

12. The Draft Law amending the Law on Prevention of Corruption was introduced in 2026 as part of the Government's efforts to revise Serbia's anti-corruption legal framework in light of international recommendations and practical implementation challenges. ODIHR reviewed the previous version of the Draft Law proposed in May 2026 and published an Urgent Opinion in June 2026 assessing its compatibility with international standards and OSCE human dimension commitments.[8] The present Urgent Opinion analyses the revised version of the Draft Law submitted by the requesting authority and accompanied by an Explanatory Note on the implementation of the previous ODIHR recommendations from the June 2026 Urgent Opinion.

13. According to the Explanatory Note accompanying the revised Draft Law, the proposed amendments aim to strengthen integrity safeguards and address gaps identified in the current legal framework[9]. They also aim to align the law with ODIHR recommendations[10]. In addition, the amendments introduce technical clarifications to improve the law's consistency, legal certainty, and overall effectiveness.

14. At the outset, it is important to acknowledge that a number of provisions of the revised Draft Law contain positive developments and address, fully or partially, some of the recommendations made by ODIHR in its June 2026 Urgent Opinion, particularly with respect to the following:

    - improved safeguards with respect to the extension of the Director's mandate, with the introduction of some limitations to the extension of the interim leadership mechanism (Recommendation B, see also Sub-Section 4.1 *infra*);
    - enhanced transparency regarding the Agency's legislative initiatives and opinions, although the revised Draft Law does not provide for the specific consequences in cases of non-compliance by the authorities with the obligation

7 See European Commission, 2026 Rule of Law Report Country Chapter on the rule of law situation in Serbia, SWD(2026) 931 final, 17 July 2026, pp. 10-11.

8 See ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption (as of May 2026), published on 26 June 2026.

9 See GRECO, *Fifth Evaluation Round – Evaluation Report Serbia*, adopted by GRECO at its 103rd Plenary meeting (Strasbourg, 8-12 June 2026).

10 Article 2 (8) of the Law on Prevention of Corruption defines a "political entity" by cross-referencing the meaning provided in the Law governing the financing of political activities, which provides that political parties, coalitions and groups of citizens are collectively referred to as "political entities" (Article 1). See ODIHR, Election Observation Reports on Serbia and ODIHR Opinions on Serbia

set out in Article 35 (2) of the Law on Prevention of Corruption (Recommendation C, see also Sub-Section 4.2 *infra*);

- additional safeguards, enhanced regulation and monitoring aimed at preventing the misuse of public office and public resources during election campaigns (Recommendation D, see also Sub-Section 7 *infra*);
- improvements concerning post-employment restrictions (Recommendation E, see also Sub-Section 8 *infra*);
- strengthened transparency of asset declarations by extending mandatory reporting to digital assets, although further clarification of the scope of covered digital assets would ensure its effectiveness (see Sub-Section 9 *infra*);
- improvements of certain aspects of the sanctions regime (Recommendation F, see Sub-Section 11 *infra*).

15. While acknowledging the positive developments outlined above, the following sections identify remaining gaps, ambiguities and areas where amendments should be considered to further strengthen the legal framework and ensure compliance with international standards and recommendations, as well as effective implementation of the legal framework.

3. Personal Scope of Application of the Anti-corruption and Integrity Framework and Definition of Public Officials

16. Article 1 of the revised Draft Law retains the amended definition of "public official" as analysed in the June 2026 Urgent Opinion.[11]

17. As previously noted,[12] the expansion of the definition constitutes a welcome development and contributes to addressing a number of concerns previously raised regarding gaps in the personal scope of integrity and anti-corruption legislation, by explicitly including within the scope of the Law certain categories of advisers and senior officials operating in close proximity to the highest executive authorities.[13]

18. Similarly to the previous version of the Draft Law,[14] the proposed definition of public officials in the revised Draft Law explicitly refers to the Heads of the Office of the Prime Minister and of the Office of the Deputy Prime Minister, advisors to the Prime Minister and to the Deputy Prime Minister, and special advisors to ministers.

19. It is acknowledged that the President of the Republic and the President's chiefs of cabinet are already recognized as public officials under the Law on the President of the Republic of Serbia. At the same time, as recommended by GRECO and ODIHR's June 2026 Urgent Opinion, additional safeguards and requirements should apply to all officials having top executive functions (PTEFs), including those relating to conflicts

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11 As in the earlier draft amendments of May 2026, the extended definition adds, in addition to "any person who was elected, appointed or designated to a public authority, with the exception of persons who are representatives of private capital in managing bodies of companies that are public authorities" currently provided under Article 2 (3) of the Law on the Prevention of Corruption, appointed civil servants, the Deputy Director of the Agency for the Prevention of Corruption, the Head of the Office of the Prime Minister, the Head of the Office of the Deputy Prime Minister, advisers to the Prime Minister and Deputy Prime Minister, and special advisers to ministers; a director, a member of the supervisory board or of the executive board of a public enterprise and of a legal entity in which the Republic of Serbia, an autonomous province, a unit of local self-government or a city municipality holds majority ownership or controlling ownership on another legal basis; a representative of the Republic of Serbia, an autonomous province, a unit of local self-government or a city municipality in the assembly of a legal entity in which the Republic of Serbia, an autonomous province, a unit of local self-government or a city municipality holds ownership.

12 See ODIHR *Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption (As of May 2026)*, paras 19-20.

13 See, among other, GRECO, *Fifth Evaluation Round – Evaluation Report Serbia*, adopted by GRECO at its 103rd Plenary meeting (Strasbourg, 8-12 June 2026), Recommendation iv.

14 See ODIHR *Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption (As of May 2026)*, para 20.

of interest, asset and interest declarations, post-employment restrictions, transparency and oversight by the competent authorities.[15] Accordingly, the Law on the Prevention of Corruption should be fully applicable to these office-holders, including in context of preventive obligations and integrity requirements envisaged under that Law. The mere recognition of these persons as public officials under another law may not necessarily, in itself, ensure that they are clearly and effectively subject to the full range of obligations, safeguards, oversight mechanisms and sanctions established under the Law on the Prevention of Corruption. To avoid any ambiguity in this regard, the Law on the Prevention of Corruption could expressly clarify their coverage or provide an explicit cross-reference to the applicable provisions of the Law on the President of the Republic of Serbia. This would help ensure consistency and legal certainty in the application of the preventive framework.

20. In addition, it is reiterated that a purely formal definition of the personal scope of application of the Law on Prevention of Corruption may itself create legal and integrity risks where advisory, preparatory or co-ordination functions are performed by consultants, experts, informal advisers, service-contract personnel or other actors who do not formally hold public office, nor fall within the definition of "public official" provided in the Law, but nevertheless participate in shaping decisions of public importance. ODIHR has previously emphasized that whether a person falls within the scope of integrity legislation should depend primarily on the nature of the functions performed and the influence exercised, rather than on the duration, frequency or formal basis of the engagement.[16] This approach is likewise consistent with GRECO's focus on persons entrusted with top executive functions and the need to ensure that advisers and other persons operating in close proximity to senior executive decision-making are not excluded from appropriate integrity safeguards merely because they do not formally occupy public office or qualify as a "public official".[17]

21. This does not imply, however, that every (external expert or occasional) participant in public decision-making should automatically be regarded as a "public official". This could be addressed through a more precise functional test, objective statutory criteria, a defined list of functions, or another mechanism capable of capturing persons who, in practice, participate in high-level public decision-making.

22. Overall, the applicable integrity and anti-corruption legislation should ensure that persons who regularly and substantially participate in preparing, co-ordinating and/or implementing high-level public decisions do not remain outside the integrity framework solely because their role is not described by a traditional public title or they do not qualify as a "public official". While the functional criterion should not be open-ended to ensure legal certainty and foreseeability, **the Law could limit the criterion to persons who participate on a regular or substantial basis, whose role is documented or authorized by a public authority, and/or whose activities may materially influence specified categories of decisions**; the Law could also require

15 See GRECO, *Fifth Evaluation Round – Evaluation Report Serbia*, adopted by GRECO at its 103rd Plenary meeting (Strasbourg, 8-12 June 2026), paras. 21-24; and ODIHR, *Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption of Serbia*, 26 June 2026, Recommendation A.2 and para. 28.

16 See ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption of Serbia, 26 June 2026, paras. 24-26.

17 See GRECO, *Fifth Evaluation Round – Evaluation Report Serbia*, adopted by GRECO at its 103rd Plenary meeting (Strasbourg, 8-12 June 2026), Recommendation iv and para. 21; see also ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption of Serbia, 26 June 2026, paras. 20, 23 and 25.

public authorities to identify such persons, notify the Agency, and publish basic information on their role, area of responsibility and legal basis of engagement[18].

23. **Moreover, the applicable legislation may distinguish between the obligations and measures applicable to different categories of officials – e.g., conflict-of-interest rules, disclosure obligations, incompatibility checks, restrictions on gifts, cooling-off rules – depending on the nature of the functions performed and the associated risks in terms of potential influence over public decision-making involving public resources, appointments, procurement, regulation or state-owned enterprises.** While persons covered by such provisions but not qualifying as "public officials" may not be subject to sanctions applicable to public officials, such as removal from public office, they could nevertheless be subject to other appropriate obligations, enforcement measures, including publication of relevant decisions and sanctions imposed on them, such as recusal or other measures to address conflicts of interest, restrictions on participation in particular decisions or activities, administrative or disciplinary measures, fines or other legally available penalties, as well as, where appropriate, publishing information on violations or imposing sanctions.

24. The current definition of "public official" excludes "*representatives of private capital in managing bodies of companies that are public authorities*" (i.e., owned, controlled by public authorities.[19] While such persons may, by virtue of their private status, appropriately not be classified as "public officials" for the purposes of the Law, their participation in decisions concerning the allocation or management of public resources, or in other decisions affecting the public interest, warrants the application of appropriate preventive integrity safeguards.[20]

25. In this respect, it is recalled that international anti-corruption standards generally favour a functional and risk-based approach rather than a purely formal approach when determining the scope of integrity frameworks. Such standards emphasize that integrity obligations should extend to persons who, irrespective of the formal basis of their appointment, exercise public functions, provide a public service or are in a position to influence the management of public resources or decision-making in the public interest.[21] In addition, Article 12 of the UN Convention against Corruption (UNCAC)

18 Recent European developments and comparative practice also indicate a clear trend towards a functional and de facto understanding of the concept of an official person in anti-corruption legislation. Under such an approach, a person's formal legal status, title, employment relationship or contractual basis is not, in itself, determinative. Rather, the relevant consideration is the substantive function performed and the degree of authority or influence exercised by the person in relation to public decision-making. This approach is reflected, in particular, in Directive (EU) 2026/1021 on combating corruption, which defines a "public official" not only as a Union or national official, but also as "any other person assigned and exercising a public service function", including persons mandated by or acting under the authority of a public authority. Importantly, the Directive expressly recognises that a national official may be appointed, elected or employed on the basis of a contract, whether permanent or temporary, paid or unpaid, irrespective of seniority. The Directive therefore deliberately extends the concept beyond a narrow, formal employment-based understanding of public office. A functional approach can also be identified in French anti-corruption law and its interpretation, as reflected in the OECD's review of **France**. The OECD notes that the category of persons "charged with a public service mission" encompasses both private and public persons, irrespective of whether the function is performed on a temporary or permanent basis and whether it is undertaken voluntarily or pursuant to an assignment by the public authorities. The French authorities further indicated that persons who do not formally perform public functions may nevertheless fall within the relevant framework where they effectively exercise powers delegated by the government. See OECD, Review of Implementation of the Convention and 1997 Recommendation Phase 1 Report: France. **Switzerland** provides a further and particularly clear illustration of this approach. Article 322decies(2) of the Swiss Criminal Code expressly provides that private individuals who fulfil official duties are subject to the same anti-corruption provisions as public officials. The provision thus makes the application of the relevant anti-corruption rules dependent, at least in part, on the performance of official duties, rather than exclusively on the person's formal public-law status or employment relationship.

19 According to the Law on Prevention of Corruption, a "public authority" is an authority of the Republic of Serbia, autonomous province, local self-government unit and city municipality, an institution, a public enterprise and another legal person whose founder or member is the Republic of Serbia, the autonomous province, a local self-government unit or a city municipality.

20 See also OECD, Western Balkans Competitiveness Outlook 2024: Serbia, Anti-Corruption Policy Section, p. 107.

21 See e.g., UNCAC, Article 2 (a), which adopts a broad functional approach to the notion of public official, including persons performing a public function or providing a public service and underlines that for the purpose of some specific measures contained in Chapter II of the UNCAC on preventive measures (including Articles 7 (4) and 8 (5) of the UNCAC, which provide for systems preventing conflicts of interest and, where appropriate, declarations concerning outside activities, employment, investments, assets

specifically requires States Parties to take measures aimed at preventing corruption and conflicts of interest in the private sector. Further, the OECD Guidelines on Corporate Governance of State-Owned Enterprises (2024) underline that all members of the governing bodies of state-owned enterprises should have equivalent legal responsibilities and recommend that mechanisms should be implemented to avoid conflicts of interest, preventing any board member from objectively carrying out their board duties and to limit political interference in board processes.[22] Accordingly, the fact that a representative of private capital in managing bodies of a state-owned or -controlled company was appointed by a private shareholder does not in itself justify excluding that person from preventive anti-corruption and public integrity rules.

26. There are number of good examples across the OSCE, as well as EU directive, which support the proposition that a person serving on the management, governing or supervisory body of a state-owned or state-controlled enterprise may, for the purposes of anti-corruption, integrity and related legislation, be regarded as a public official, even where the person is not a civil servant and the relevant body includes or represents private interests[23]. While it may be excessive to suggest that every representative of private capital serving on the board of a state-owned or state-controlled enterprise is automatically regarded as a public official, the precise classification depends on the applicable national legal framework, including the legal status and functions of the entity concerned, the individual's position within it, and the nature and scope of the functions performed.

27. This is particularly relevant in the context of mixed-ownership companies, state-controlled enterprises and other entities performing public functions, where decisions may concern the management or disposal of public assets, public procurement, public-service obligations, tariffs, subsidies, state guarantees or other matters with significant public consequences.[24] Where representatives of private capital participate in such decisions while remaining outside conflict-of-interest related regulations, disclosure or transparency obligations, the preventive purpose of the Law may be undermined. At the same time, they may not necessarily be subject to the full regime applicable to public officials, but rather the Law could establish proportionate integrity obligations corresponding to the functions exercised when the public interests are at stake.

28. **In this regard, the Law should include appropriate provisions ensuring that private-sector representatives serving on the governing bodies of publicly owned or controlled entities are subject, at a minimum, to the conflict-of-interest,**

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and benefits), "public official" may mean any person who performs a public function or provides a public service as defined in the domestic law of the State Party. See also OECD Recommendation of the Council on Public Integrity (2017) stating that "*public sector includes the legislative, executive, administrative, and judicial bodies, and their public officials whether appointed or elected, paid or unpaid, in a permanent or temporary position at the central and subnational levels of government. It can include public corporations, state-owned enterprises and public-private partnerships and their officials, as well as officials and entities that deliver public services (e.g. health, education and public transport), which can be contracted out or privately funded in some countries*".

22 See OECD Guidelines on Corporate Governance of State-Owned Enterprises (2024), pp. 21 and 64, Guidelines VI.C and VI.E.

23 See, among other, **Slovenia**, where the ZIntPK expressly includes managing persons and members of management, governing and supervisory bodies of entities within the public sector, including companies in which the State or local community holds a majority share or exercises dominant influence – see Republic of Slovenia, Integrity and Prevention of Corruption Act (ZIntPK), Article 4; **Croatia**, where the OECD confirms that chairpersons and management board members of majority-owned SOEs have the statutory status of officials – see OECD, OECD Review of the Corporate Governance of State-Owned Enterprises: Croatia (2021); **Chile**, where directors, managers and officials of state-owned enterprises are treated as government officials for specified probity and criminal-law purposes- see OECD, OECD Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises: Implementation Guide (2019/2021); and **Italy**, where under Italian Legislative Decree No. 231/2007, persons entrusted with prominent public functions include "members of the administrative, management or supervisory bodies of undertakings controlled directly or indirectly by the Italian State or by a foreign State"; **Austria**, where under the Austrian framework concerning politically exposed persons (PEPs), persons entrusted with prominent public functions include: "members of the administrative, management or supervisory bodies of State-owned enterprises". See also the EU Directive (EU) 2026/1021 that expressly extends the concept of "public official" to persons performing public-service functions in state-owned and state-controlled enterprises.

24 See OECD Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises, especially the sections on integrity, conflict-of-interest management and governance of state-owned enterprises.

transparency, disclosure and recusal provisions of the Law when participating in decisions concerning the management, allocation or disposal of public resources, public assets, public funds, public procurement, public-service obligations, or other matters of significant public interest.

29. This should, however, be distinguished from the separate offence of trading in influence. For example, Directive (EU) 2026/1021[25] maintains this distinction: Article 6 concerns persons who exert improper influence over a public official, whereas the definition of "public official" in Article 2 focuses on persons who themselves exercise a public service function. Accordingly, not every private person who has influence over public decision-making should, by that fact alone, be regarded as an official person. At the same time, as mentioned above, under the functional approach, the decisive consideration is the nature of the functions actually performed and the authority or substantive role exercised in public decision-making, rather than the person's formal legal, employment or contractual status.

30. In addition, the revised Draft Law does not implement the earlier recommendation concerning integrity checks prior to the selection, recruitment or appointment of persons assuming top executive functions, including chiefs of cabinets and advisers, including of the President of the Republic.[26] While prior integrity checks for ministers may appropriately be regulated in the Law on the Government, the Law on the Prevention of Corruption should establish general preventive integrity safeguards for other high-risk categories of public officials brought within the scope of the Law,[27]or cross-reference relevant legislation (such as the Law on Government) where such safeguards are established. The revised Draft Law also does not require the publication and regular update of information concerning the names, functions, areas of responsibility and legal basis of engagement of advisers, consultants and other persons covered by the functional criterion. **Accordingly, the previous recommendations remain valid, although acknowledging that specific regulation of integrity checks prior to appointment and/or transparency requirements may be provided under other laws. The scope of the integrity checks could be proportionate to the nature of the function, the level of access to decision-making, and the risks associated with the management of public resources or other matters of significant public interest.**

RECOMMENDATION A.

1. To ensure that the anti-corruption and integrity framework, including the Law on Prevention of Corruption, contains obligations and measures applicable to different categories of persons (e.g., conflict-of-interest rules, disclosure obligations, incompatibility checks, restrictions on gifts, cooling-off rules) depending on the nature of the functions and influence exercised over public decision-making involving public resources, appointments, procurement, regulation or state-owned enterprises;
2. To provide that private-sector representatives serving on the governing bodies of publicly owned or controlled entities are subject, at a minimum, to the conflict-of-interest, transparency, disclosure and recusal (or abstention)

25 See Directive (EU) 2026/1021 on combating corruption.

26 See ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption (as of May 2026), 26 June 2026, para. 28. See also GRECO, *Fifth Evaluation Round – Evaluation Report Serbia*, adopted by GRECO at its 103rd Plenary meeting (Strasbourg, 8-12 June 2026), paras 6-14.

27 See, among other, https://rm.coe.int/horizontal-study-5th-round-eng/1680b631a3 and https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0435

provisions of the Law when participating in decisions concerning the management, allocation or disposal of public resources, public assets, public funds, concessions, public procurement, public-service obligations, or other matters of significant public interest

3. To ensure that the expanded definition of "public official" be accompanied by appropriate integrity safeguards, in particular, by requiring that persons falling within the extended scope of the provision be subject, prior to assuming their functions, to integrity screening aimed at identifying potential conflicts of interest, incompatible activities, significant financial interests, beneficial ownership arrangements, business relationships, previous professional engagements and other factors relevant to the impartial and accountable performance of public duties.

4. Provisions Pertaining to the Agency for the Prevention of Corruption

4.1. Appointment of the New Director

31. Article 2 of the revised Draft Law further amends Article 15 of the Law on the Prevention of Corruption by introducing a maximum one-year period during which the outgoing Director of APC may continue to perform his/her functions following the expiry of the term of office. if a new Director has not assumed office within that period, the competent committee of the National Assembly shall appoint an Acting Director in accordance with Article 18 of the Law.

32. This amendment partially addresses the concerns previously raised by ODIHR regarding the need for safeguards against prolonged, indefinite, interim leadership arrangements,[28] while introducing an additional continuity mechanism to ensure the uninterrupted functioning of the Agency.

33. It is noted that according to the according to Article 15 (2) of the Law, the Ministry in charge of judicial affairs shall announce a competition for the election of a new Director three months prior to the expiry of the term of office, and if the office of Director terminates prior to the expiry of the term - within 15 days of the date of termination.

34. This requirement does not and should not cease to apply where the incumbent's mandate is extended for one year, as such an extension is intended as a temporary measure to ensure smooth operation of the Agency in case of the inability to appoint a new Director. The key concern, however, is whether the appointment process should be resumed without delay or may be deferred for the duration of the extended mandate. The Law should not be interpreted in a way that would allow for or can be sued to suspend obligation to carry out competition for the period of the temporary appointment. In this respect the draft Law should clarify that, where no candidate is appointed, the appointment procedure should be repeated without undue delay.

35. Therefore, to reduce the risks of undue or even intentional delays in the appointment of a permanent Director, **in case the mandate of the Director is extended by one year**, **the drat Law should ensure the obligation to re-initiate the selection and**

28 See ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption of Serbia, 26 June 2026, paras. 30-32.

appointment process immediately,[29] while clearly defining relevant procedural steps and deadlines designed to prevent prolonged interim arrangements and providing for appropriate mechanisms to address potential deadlocks in the National Assembly.[30] Further, the temporary (one year) appointment should terminate upon the appointment of a new Director. Thus, the decision to prolong the mandate of the Director, in case of inability to elect/appoint a successor, should made for not longer than one year, while the section and appointment process should be relaunched immediately.

36. The proposed amendment to Article 18 which provides that, where the Director ceases to hold office, the competent committee of the National Assembly shall appoint an Acting Director from among the Assistant Directors, further aims to ensure continuity. While the introduction of the revised interim leadership arrangement ensures institutional continuity, it does not resolve the underlying and potential risk of prolonged reliance on interim leadership if the National Assembly fails to complete the appointment procedure within a reasonable timeframe.[31] For example, the draft Law could provide that the Acting Director may perform the duties of the Director for a maximum specified period, during which the procedure for appointing a new Director must continue without delay. More importantly, consideration should also be given to specifying what happens if the National Assembly still fails to appoint a permanent Director within that additional period. This would provide a genuine anti-deadlock mechanism rather than merely replacing one form of prolonged interim leadership with another.

4.2. Transparency and Accountability in Decision-making

37. Article 4 of the revised Draft Law further enhances the proposed amendments to Article 35 of the Law on the Prevention of Corruption reviewed in the June 2026 Urgent Opinion[32] by requiring state administration authorities to submit a reasoned statement regarding the Agency's opinions on draft laws.[33] Furthermore, the revised Draft Law also requires the publication on the Agency's website of the Agency's legislative

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29 By way of comparative practice, in **Croatia**, the Law on the Prevention of Conflict of Interest provides that, if the Croatian Parliament does not elect the President and members of the Commission for the Resolution of Conflicts of Interest before the expiry of their mandate, they remain in office until the election of their successors, but for no longer than six months; the competent parliamentary committee is required to initiate the selection procedure six months before the expiry of the mandate (see Article 34 of the Law on the Prevention of Conflict of Interest).

30 See, as an example, with respect to potential deadlocks and delays when Parliament appoints certain public office-holders, ODIHR Opinion on the Draft Law of Albania on the People's Advocate (2026), paras. 67-68. Any anti-deadlock mechanism needs to be devised carefully in order to be effective and not to be perceived as undermining an objective of seeking consensus. The primary function of the deadlock-breaking mechanism is to push the majority and the minority to find a compromise to avoid the crisis or malfunctioning of an institution; therefore, such a mechanism should continue to incentivise the majority and the minority to seek an agreement, which may not be the case with rapidly decreasing a requirement for a qualified majority. The challenges of designing appropriate and effective anti-deadlock mechanisms must be acknowledged as there is no single model. Various solutions could be explored in this respect. For example, the participation in the vote could be made mandatory in order to have the required quorum. As underlined by the Venice Commission, beyond decreasing majorities in subsequent rounds of voting, which may not reach the intended goal, it is also possible to have recourse to the involvement of other, independent or more neutral institutional actors or consider establishing new relations between state institutions but each state has to devise its own formula; see Venice Commission, Updated compilation of Venice Commission opinions and reports relating to qualified majorities and anti-deadlock mechanisms in relation to the election by parliament of constitutional and supreme court judges/presidents, prosecutors general, members of judicial and prosecutorial councils, independent/non-political bodies and ombudspersons, CDL-PI(2025)023-e.

31 See Jakarta Statement on Principles for Anti-Corruption Agencies (2012), Principle 5 - Continuity, which reads verbatim: "*In the event of suspension, dismissal, resignation, retirement or end of tenure, all powers of the ACA head shall be delegated by law to an appropriate official in the ACA within a reasonable period of time until the appointment of the new ACA head.*" See also the Colombo Commentary on the Jakarta Statement, adopted at a Global Expert Group Meeting in Colombo and published by UNODC in 2020, which explicitly discusses continuity in the leadership chapter (para. 35). See also, as a comparison, ODIHR, Urgent Note on International Standards and Comparative Practices Regarding the Continuation of Ombudspersons' Terms of Office until the Appointment of a New Office-Holder (2020).

32 The proposed new paragraph 2 of Article 35 of the LPC included in the Draft Law reviewed in the June 2026 Urgent Opinion introduces an obligation for state administration authorities to notify the Agency, within 30 days, whether its initiatives for the adoption of legislation have been accepted or, where they are not accepted, to provide reasons for such a decision. See ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption (as of May 2026), 26 June 2026, Sub-Section 4.2.

33 See GRECO, Fifth Evaluation Round – Evaluation Report Serbia (2022), para. 38, concerning the role of the Agency for the Prevention of Corruption in legislative procedure concerning regulations which bear a risk of corruption and the need for public recommendations and responses by the competent authorities.

initiatives, its opinions on draft laws, notifications concerning their acceptance or non-acceptance, and the corresponding reasoned statements of state administration authorities.[34] This represents a positive development and addresses the previous concerns regarding the lack of transparency surrounding the follow-up to the Agency's recommendations and opinions.

38. At the same time, the Draft Law does not appear to address the recommendation made in the June 2026 Urgent Opinion,[35] that it **should provide for specific consequences in cases of non-compliance by the authorities with the obligation set out in Article 35 (2) of the Law on Prevention of Corruption. The Draft Law should therefore be supplemented in this respect**. Such consequences need not necessarily take the form of a sanction. For example, the Draft Law could require the competent authority to provide a response within a further mandatory time-limit, require the Agency to formally record and publish any failure to respond, or provide for notification of the relevant supervisory or political authority in cases of continued non-compliance.

39. While the publication of the above-mentioned information strengthens transparency and public accountability, further safeguards could be considered to ensure effective follow-up. In this regard, Article 39 of the Law provides that, *"[a]t the request of the National Assembly or on its own initiative, the [APC] may submit to the National Assembly reports on the state of corruption and on the risks of corruption in public authorities*". To enhance the impact of such reporting in practice, the competent parliamentary committee could be encouraged to examine the Agency's annual, extraordinary and thematic reports within a reasonable timeframe, provide an opportunity for the Director of APC to present the findings in a public hearing, and publish conclusions and recommendations for follow-up. Any such oversight mechanism should, however, preserve the APC's institutional and operational independence by focusing on systemic issues and implementation of recommendations, while avoiding interference with individual cases, confidential information or ongoing proceedings.

RECOMMENDATION B.

1. To introduce into the draft Law an obligation to re-initiate without delay the selection and appointment process for the permanent Director of the Agency for Prevention of Corruption where the Director's mandate is extended for one year due to the failure to appoint a new Director, and to establish clear procedural steps and deadlines, including appropriate anti-deadlock mechanisms, to prevent prolonged interim arrangements.

2. To provide for specific consequences in cases of non-compliance by the authorities with the obligation set out in Article 35 (2) of the Law on Prevention of Corruption.

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34 See GRECO, *Fifth Evaluation Round – Evaluation Report Serbia*, adopted by GRECO at its 103rd Plenary meeting (Strasbourg, 8-12 June 2026), para. 16 and Recommendations iii concerning the role of the Agency, public follow-up to recommendations and transparency of the legislative process, recommending specifically that "the role of the Agency for the Prevention of Corruption be strengthened by making public its recommendations and the response of the Government and Presidential administration" (para. 38). See also OECD, Western Balkans Competitiveness Outlook 2024: Serbia – Anti-corruption policy, concerning implementation, institutional accountability and follow-up to anti-corruption measures; OECD Public Integrity Handbook states under "*12.2.1. Fostering adequate responses by public sector organisations to oversight bodies' advice*": "*To facilitate organisational learning and demonstrate the accountability of public sector organisations, adequate responses to oversight bodies' sanctions, rulings and formal advice is required*".

35 See ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption of Serbia, paras 34-35.

5. Conflict of Interest

40. As already noted in the June 2026 Urgent Opinion, the proposed amendment to Article 42 of the Law on Prevention of Corruption removes the vaguely framed exception under which a public official may continue acting in a matter where there is a suspicion of a conflict of interest in cases of "danger of delay", which is welcome and in line with the GRECO recommendations.[36]

41. As previously recommended,[37] unless separately regulated by other laws**, the Law on Prevention of Corruption should also clearly specify the consequences of participation in decision-making despite the existence of a conflict of interest and provide clear guidance on the follow-up measures available. These could include, where appropriate and in accordance with the applicable legal framework, reviewing decisions, contracts, or other acts adopted in such situations, as well as possible disciplinary measures**. This would also be consistent with the 2026 OECD Guidelines for Managing Conflict of Interest in the Public Service.[38]

RECOMMENDATION C.

To clarify in the Draft Law the consequences of participating in decision-making despite the existence of a conflict of interest and provide clear guidance on the follow-up measures available, such as mandatory review of relevant decisions, contracts or other acts, adopted by or with participation of persons in violation of conflict of interest regulations, and imposing appropriate disciplinary measures.

6. Incompatibility of Other Work with the Discharge of Public Office

42. Article 6 of the Draft Law seeks to amend Article 46 (3) of the Law on Prevention of Corruption by providing that a public official shall submit a request for the APC's consent to engage in additional work or a business activity within 15 days from the commencement of such engagement or activity. As noted in the June 2026 Urgent Opinion,[39] while proposed amendment attempts to introduce procedural clarity, it seems to allow a public official to commence an additional work or business activity before obtaining the Agency's consent and thus undermine the preventive purpose of conflict-of-interest rules. It is noted that Article 46 (3) of the existing Law requires the public official to obtain a positive opinion from the authority that elected, appointed or designated them before submitting a request to the APC, and that, without such consent, the official may not engage in the additional activity. This procedural requirement

36 See GRECO, Fifth Evaluation Round – Evaluation Report Serbia (2022), para. 74 and Recommendation xi, which specifically recommends that the exception allowing action in cases involving a "risk of delay" be removed from the Law on Prevention of Corruption.

37 See ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption of Serbia, para. 48.

38 See OECD, Recommendation of the Council on OECD Guidelines for Managing Conflict of Interest in the Public Service, OECD/LEGAL/0316, 2026, Section 2.3.1, which envisages possible personal consequences: "*Non-compliance with the organisation's Conflict of Interest policy should generally be regarded as, at minimum, a disciplinary matter, while more serious breaches involving an actual conflict could result in sanctions for abuse of office, or prosecution for a corruption offence […] Sanctions should be enforceable, to the extent of ultimately affecting the appointment or career of the public official involved where appropriate*" as well as management consequences: "*positive management can provide effective complementary forms of redress for breaches of Conflict of Interest policy, and can be effective in dissuading those who would seek to benefit, directly or indirectly, from such breaches. Such measures could include retroactive cancellation of affected decisions and tainted contracts, and exclusion of the beneficiaries – whether corporations, individuals, or associations, etc. – from future processes. Such exclusion measures may operate for a given period of time, within given contract monetary limits, or for certain types of activities*".

39 See ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption of Serbia, paras. 49-52.

provides an important safeguard against the commencement of activities that may be incompatible with the impartial and independent performance of public office. At the same time, the opinion of the appointing authority and the APC's assessment serve different purposes: while the former provides an institutional assessment, the latter ensures an independent review by the body specifically mandated to assess corruption and conflict-of-interest risks.

43. To avoid any uncertainty in the application of the provision, the Draft Law should clearly reflect that the commencement of additional work or business activities is conditional upon the completion of the relevant approval procedure. **The legal drafters may therefore consider clarifying the wording of Article 46 (3) to expressly provide that the Agency's assessment and consent must precede the commencement of such activities, except where narrowly defined exceptions may be justified and accompanied by appropriate safeguards.**

RECOMMENDATION D.

To clarify the wording of Article 46 (3) to expressly provide that the Agency's assessment and consent must precede the commencement of additional work or business activities, except where narrowly defined exceptions may be justified and accompanied by appropriate safeguards.

7. Misuse of Public Office and Public Resources

7.1. Public Officials' Membership and Function in a Political Entity

44. As noted in the June 2026 Urgent Opinion, the proposed amendments to Article 50 of the Law on Prevention of Corruption introduce additional safeguards aimed at ensuring a greater separation between the exercise of public office and membership or function in a political party or other political entities,[40] with the aim to address the concerns raised by ODIHR regarding regulation of the misuse of public office and public resources during electoral campaigns.[41]

45. The revised definition of "promotional activity" under paragraph 8 of Article 50 now more broadly refers to activities "*that influence the creation of a favourable perception*" among potential voters of a candidate or an electoral list, not just those aiming at influencing potential voters.[42] While this is a positive development aiming to address

40 In particular, these include an assumption of acting in official capacity unless explicitly stated otherwise, regulation of the use of social media accounts, ban on promotional activities during electoral campaigns with exceptions along with a definition of "promotional activity", a ban on party activities during working hours during electoral campaigns, an obligation not to present oneself in official capacity at party events; and an obligation to correct incorrect announcements, see ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption of Serbia, para. 53. These measures align well with the CoE Recommendation CM/Rec(2022)12 of the Committee of Ministers to member States on electoral communication and media coverage of election campaigns, particularly regarding transparency, identification of political actors, accountability in online campaigning, and strengthened oversight of electoral communication, including on social media.

41 See ODIHR, Republic of Serbia, Early Parliamentary Elections, 17 December 2023, Final Report, recommendation 5; and ODIHR, Republic of Serbia, Local Elections, 2 June 2024, Final Report, recommendation 14, which states: "*To prevent misuse of state resources, consideration could be given to prohibiting the announcement and implementation of extraordinary social welfare programmes and public infrastructure projects after the call of elections*". See also ODIHR, Informal Comments on Two Sets of Draft Amendments to the Law on Prevention of Corruption of the Republic of Serbia, 19 November 2024; and 2022 Joint ODIHR-Venice Commission Opinion on the Constitutional and Legal Framework Governing the Functioning of Democratic Institutions, Electoral Law and Electoral Administration in Serbia, paras. 114-126.

42 Under the Draft Law of May 2026, "promotional activity" was defined as "an activity of a public authority or of another person which is aimed at influencing a potential voter to vote for a candidate or an electoral list proposed by a political party upon whose

the previous ODIHR recommendation to cover indirect forms of promotion in addition to explicit campaign promotion,[43] it is essential that it is interpreted in practice to cover both direct and indirect electoral advantage arising from the use of public office, institutional visibility or public resources.

46. With respect to the exceptions related to promotional activities planned prior to the calling of elections (paragraph 7 of Article 50 of the Law), the revised Draft Law now requires the submission of supportive documentation (paragraph 9 of Article 50) and the publication of the list of pre-planned events by the APC, while also explicitly prohibiting the holding of a promotional activity that has not been published on the said list (paragraph 11 of Article 50).[44] **For legal clarity, and to strengthen the effectiveness of this mechanism, paragraph 9 of Article 50 could further specify that supportive documentation should include evidence of prior planning,** e.g., prior budget allocation, contractual commitments, procurement documentation, or public announcements made before elections were called.

47. The revised Draft Law also introduces a new prohibition that, during the election campaign and after the expiry of the nomination deadline, a public official may not issue statements relating to the performance of his or her public office where such statements have the purpose or effect of promoting a political party, political entity or candidate (paragraph 13 of Article 50).[45] Although this proposed amendment moves to the right direction, it only partially addresses previous ODIHR recommendations.[46]

48. At the same time, the scope of the provision is limited to statements issued by public officials and may not fully capture activities that may provide an indirect electoral advantage, such as institutional communication campaigns or major announcements by public authorities, beyond statements relating to the performance of one's public office. The legal drafters may consider **reviewing paragraph 13 of Article 50 to cover communication campaigns or other major announcements by public authorities and other persons that have the purpose or effect of creating a favourable perception of, as well as directly promoting, a political party, political entity, candidate, or electoral list, while preserving exceptions for genuinely necessary announcements responding to unforeseen circumstances or urgent public needs.**

49. It is noted that new paragraph 14 of Article 50, introduced by the revised Draft Law, excludes members of parliament, members of the assembly of the autonomous province and councillors in local self-government assemblies from the prohibition on political activities during working hours and from the prohibition of promotional statements set out in paragraphs 12-13. **It is therefore recommended to clarify and narrowly tailor this exemption to ensure that it does not enable directly elected officials who participate in electoral campaigns to use their official functions, public resources or institutional visibility for campaign purposes, while preserving their ability to engage in legitimate political and electoral activities.**

50. The Agency's expedited election-period procedure has been expanded to cover violations of the newly introduced obligations under paragraphs 1, 3, 4, 6, 7, 12, 13 and 15 of Article 50 (paragraph 17), which is commendable.

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proposal the public official was elected or appointed in that public authority" whereas the revised paragraph 8 of Article 50 as of July 2026 defines a promotional activity as "an activity of a public authority or another ***person that influences the creation of a favourable perception*** among potential voters of a candidate or an electoral list nominated by the political party on whose proposal the public official was elected or appointed in that public authority, as well as the decision of a potential voter to vote for that candidate or electoral list".

43 See ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption of Serbia, para. 56.

44 See ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption of Serbia, para. 55.

45 *Ibid.* para. 56.

46 See ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption of Serbia, para. 56.

51. Finally, it is noted that throughout Articles 50 and 50a, some provisions prohibit the use of public resources, public gatherings or official activities for the promotion of a "political party" or "political entity", while other provisions expressly extend the prohibition to the promotion of a "candidate" and/or electoral list. This inconsistent terminology may create uncertainty as to whether the relevant prohibitions apply where public office or public resources are used primarily to promote an individual candidate, rather than a political party or political entity as such. It is therefore recommended to harmonize the terminology throughout Article 50 and, where relevant, Article 50a, by consistently referring to the promotion or effect of creating a favourable perception of a "political party, political entity, candidate or electoral list".

RECOMMENDATION E.

1. To review paragraph 13 of Article 50, in order to cover communication campaigns or major announcements by public authorities and other persons that have the purpose or effect of creating a favourable perception of, rather than directly promoting, a political party, political entity, candidate, or electoral list, while preserving exceptions for genuinely necessary announcements responding to unforeseen circumstances or urgent public needs.

2. To clarify and narrowly tailor the exemption of members of parliament, members of the autonomous province assembly and local councillors from the prohibitions on political activities during working hours and promotional statements under Article 50(12-13), while ensuring that directly elected officials may engage in legitimate political and electoral activities without using their official functions, public resources or institutional visibility for campaign purposes.

7.2. Monitoring of Activities of Public Officials During the Election Campaign

52. As noted in the June 2026 Urgent Opinion, the introduction of a new Article 50a providing for an explicit monitoring mandate for the APC and a framework for monitoring public officials' compliance with the obligations set out in Article 50 during election campaigns is positive and partially responds to concerns previously raised by ODIHR regarding the need to strengthen oversight and monitoring of compliance with the rules to prevent the misuse of public office and public resources during election campaigns, and align with international recommendations.[47] However, the recommendation to expand the period during which monitoring is to be conducted to start at least from the call for elections, rather than from "the expiry of the nomination deadline" as provided in paragraph 1 of Article 50a, remains unaddressed.[48] As previously noted, the risks related to the misuse of administrative resources may arise before the formal election campaign period begins, including after the calling of

47 See ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption of Serbia, para. 61.

48 See ODIHR Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption of Serbia, para. 62. See also ODIHR, Republic of Serbia, Early Parliamentary Elections, 17 December 2023, Final Report, recommendation 17, which provides that "monitoring the compliance with this law should be a designated task for the Agency's field monitors, if they continue to be deployed in future elections"; ODIHR, Informal Comments on Two Sets of Draft Amendments to the Law on Prevention of Corruption of the Republic of Serbia, p. 14; 2022 Joint Opinion on the Constitutional and Legal Framework Governing the Functioning of Democratic Institutions, Electoral Law and Electoral Administration in Serbia, paras. 101 and 105, recommending requiring the publication of the campaign observers' monitoring reports by the APC.

elections but prior to the expiry of the nomination deadline.[49] The legal drafters should consider **extending monitoring and transparency obligations to cover the entire electoral period, from the calling of elections until the announcement of final election results, rather than limiting them to the period following expiry of the nomination deadline.** It is noted that the ODIHR-Venice Commission, Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources During Electoral Processes (2016) do not necessarily require continuous monitoring mechanisms to operate systematically or in an identical manner throughout the electoral cycle; a substantially broader, process-based and risk-based approach to monitoring, allowing for enhanced scrutiny where particular categories of public office-holders may be particularly exposed to or capable of influencing the electoral process should be favoured.[50] Restricting the APC's monitoring function categorically to the period following the nomination deadline does not fully reflect this approach and may limit the APC's ability to identify at an early stage potential instances of misuse of public office or public resources intended to influence the electoral process before candidates or electoral lists are formally registered.

53. It is welcome that the revised Draft Law strengthens the methodology used for selecting public officials subject to monitoring by shifting from a purely random sampling approach towards a combined random and risk-based model.[51] This addresses the previous concerns raised in the June 2026 Urgent Opinion that random sampling alone may not be sufficient to identify and prevent serious abuses, and the recommendation to provide the APC with greater flexibility to take into account previous violations, established patterns of misconduct, and identified risk factors.[52]

54. In addition, the revised Draft Law introduces mandatory monitoring of "*the activities of the President of the Republic and members of the Government*" and increases the minimum sample sizes, which is overall welcome. It will also be important to ensure that the modalities of the risk assessment, including the relevant technical and methodological details, are defined through secondary regulation or other guidance documents of the APC. **Such regulations could further clarify that the APC may consider other objective risk indicators, such as recurring allegations, findings from previous electoral cycles, or publicly available information indicating an increased risk of misuse of administrative resources.**

55. Further, the revised Draft Law now requires weekly publication of more detailed information relating to the monitoring results, including "*the types of activities monitored, the type and number of monitored appearances of public officials, and the proceedings initiated and measures taken by the Agency in respect of breaches of the obligations set out in Article 50 of this Law*" (paragraph 8 of Article 50a). This

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49 See ODIHR-Venice Commission, Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources During Electoral Processes (2016), para. 13, which states: "*an electoral process should be understood as a period much longer than the electoral campaign as strictly understood in national electoral law. It covers the various steps of an electoral process starting from, for example, the definition of the electoral constituencies, the nomination or the registration of candidates or lists of candidates for competing in elections. This period lasts until the election of public authorities. It includes all activities in support of or against a given candidate, political party or coalition by incumbent representatives before and during the election day. This broad definition covers the multifaceted ways in which administrative resources may be misused during the entire electoral process, not only the official electoral campaign period.*"

50 See ODIHR-Venice Commission, Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources During Electoral Processes (2016), especially read together Guideline A.1.1, which calls for a general prohibition of misuse of administrative resources "during electoral processes"; Guideline A.3, which requires public officials to act impartially during the whole electoral process; Guideline B.2.2, which provides that the responsible institution should be sufficiently empowered to supervise public expenditure and the use of administrative resources and to report misuse in a timely and comprehensive manner.

51 The previous version of the provision as reviewed in the June 2026 Urgent Opinion provided that the list of officials to be monitored was to be established "by means of a random selection method (sample)", while the revised proposed amendments introduce a more comprehensive approach, requiring that the monitoring plan be prepared using "*a software tool for random selection, as well as on the basis of a risk assessment based on the Agency's decisions and reports of violations of this Law during previous election campaigns*" (proposed paragraph 4 of Article 50a of the Law, as per the revised Draft Law).

52 See ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption of Serbia, paras. 63-64.

additional reporting and disclosure obligation would provide the public with clearer information not only about the APC's observations but also about enforcement actions the APC undertakes in response to identified violations. This addresses a previous recommendation from the June 2026 Urgent Opinion.[53] To further support public scrutiny, monitoring findings could be presented in a sufficiently detailed, structured and comparable manner, and published in accessible and user-friendly formats.[54]

56. Finally, while equipping the APC with enhanced mandate and duties, **it should however be noted that the effective implementation will also depend on ensuring that the APC has adequate staffing, technical capacity and financial resources to carry out expanded monitoring and enforcement responsibilities, and acting *ex officio* in case there are grounds to suspect a breach, as well as exercises these responsibilities independently, impartially and consistently, including towards all electoral contestants.**

57. In this respect, an expanded mandate of the APC should be accompanied by a comprehensive assessment of the capacity and resources required to fulfil it, including adequate staffing, digital monitoring tools, access to relevant data, analytical capacity, and dedicated budgetary resources.

RECOMMENDATION F.

To extend monitoring and transparency obligations to cover the entire electoral period, from the calling of elections until the announcement of final election results, rather than limiting them to the period g following the expiry of the nomination deadline, as well as provide APC with adequate resources to carry out expanded responsibilities.

8. Post-Employment Restrictions

58. The June 2026 Urgent Opinion positively noted the expansion of the circumstances triggering post-employment restrictions.[55] At the same time, it underlined in the Explanatory Note on the status of implementation of recommendations from the June 2026 Urgent Opinion that the key recommendation related to narrowing or removing completely the exemption from post-employment restrictions for directly elected officials provided under Article 55 (5) of the Law has not been accepted by the authorities.[56] In addition, the revised Draft Law does not expand the application of post-employment restrictions to all high-risk categories of public officials, and does not clarify that the restrictions should cover all forms of professional engagement beyond formal employment or business co-operation.[57]

59. First, the period following the termination of a public mandate is documented to give rise to particular integrity and conflict-of-interest risks, including abuse of office, undue

53 See ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption of Serbia, para. 66.
54 See ODIHR, Opinion on the Draft Law Amending the Law on Financing Political Activities in Serbia, 29 June 2026, para. 52.
55 See ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption of Serbia, para. 69.
56 See ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption of Serbia, para. 70.
57 See OECD Public Integrity Handbook (2020), Section 13.3.2. See also Council of Europe, Legislative Toolkit on Conflict of Interest (2015), Article 19 (4), which provides that post-employment restrictions apply to Members of Parliament insofar as they have exercised preparatory, decision-making or supervisory functions in relation to individual private sector entities; it further provides that lobbying of Parliament is prohibited for a specified period after leaving office. The Toolkit extends a broadly comparable approach to local government, stipulating that the provisions applicable to Members of Parliament apply *mutatis mutandis* to members of local councils (Article 23 (1)). See also OECD, Western Balkans Competitiveness Outlook 2024: Serbia – Anti-corruption policy, p. 104; OECD, Strengthening the Transparency and Integrity of Foreign Influence Activities in France, 2024, referring to Article 23 of Law No. 2013-907 on transparency in public life.

influence, profiteering, switching sides and regulatory capture, or the misuse of confidential or other non-public information obtained in the course of the mandate.[58] Several European countries have introduced primary legislation to deal with the "revolving door", i.e., the practice of individuals moving back and forth between parliament or government jobs and business roles, and related risks.[59] These concerns are also reflected in Article 12 (2) (e) of the UNCAC, which calls on States Parties to consider, where appropriate and for a reasonable period, restrictions "*on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure*".[60] The OECD Recommendation on Transparency and Integrity in Lobbying and Influence (2024) supports measures to manage post-public-office risks, including cooling-off periods, subject-matter restrictions, disclosure of post-term engagements, restrictions on the use of insider information, and/or independent oversight and proportionate sanctions.[61] As also specifically recommended by GRECO, post-employment restrictions rules should apply to all persons with top executive functions, including the President, the Prime Minister's and Deputy Prime Ministers' chiefs of cabinet as well as special and government advisers.[62] The purpose of such restrictions is not to prevent former public officials from pursuing professional activities after leaving office, but to prevent the misuse of public office, privileged information, institutional access or influence acquired during public service for private benefit, and to preserve public confidence in the impartiality of public institutions.

60. Accordingly, the fact that an official has been directly elected does not, in itself, eliminate the integrity risks associated with professional or other forms of engagement following the termination of the mandate, nor does it justify the automatic exclusion of all directly elected officials from appropriate, proportionate post-mandate restrictions. Comparative practice across some of the OSCE countries further demonstrates that directly elected status does not, in itself, rule our completely the application of targeted post-employment safeguards.[63] At the same time, it may not be necessary or proportionate to subject every member of parliament, member of an autonomous province assembly or local councillor to identical and comprehensive post-employment restrictions, which should be proportionate to the particular integrity and conflict-of-interest risks associated with the functions carried out while in office.

61. Consequently, the personal scope of the exemption could be narrowed down to directly elected officials whose functions did not give rise to heightened revolving-door risks, while applying appropriate safeguards to those whose responsibilities, decision-making

58 See e.g., ODIHR, Parliamentary Integrity: A Resource for Reformers (2022), p. 72; see also ODIHR, Background Study on Professional and Ethical Standards for Parliamentarians (2012), p. 58, which similarly identifies risks including abuse of office to secure future opportunities, undue influence over former colleagues, profiteering from public office, switching sides in matters previously handled and regulatory or legislative capture, with heightened risks where officials exercise particular responsibilities or have access to confidential information, including in sensitive sectors such as defence, energy, transport and healthcare.

59 For some examples, see e.g., ODIHR, Parliamentary Integrity: A Resource for Reformers (2022), p. 72.

60 Article 2 (a) of the UNCAC expressly includes persons holding legislative office within the concept of "public official".

61 See OECD, Recommendation on Transparency and Integrity in Lobbying and Influence (2024), Recommendation VIII.c).

62 See GRECO, *Fifth Evaluation Round – Evaluation Report Serbia*, adopted by GRECO at its 103rd Plenary meeting (Strasbourg, 8-12 June 2026), paras 62-66 and Recommendation xii.

63 See some country examples in European Parliament – Think Tank, Rules on 'revolving doors' in the EU: Post-mandate restrictions on members of EU institutions and parliamentarians in Member States (2024), referring among others, to **Croatia**, where former public officials are subject to an 18-month restriction on certain management appointments involving entities they previously supervised; in **Ireland**, former officials are prohibited for one year from engaging in lobbying activities connected with their previous public functions; in **Latvia**, former officials are subject to a two-year restriction on certain commercial transactions with companies they previously supervised, administered or affected through procurement decisions; in **Lithuania**, former officials are prohibited for one year from taking up employment with an undertaking that they supervised or in relation to which they participated in financing decisions during the preceding year; in **Slovenia**, former officials are prohibited for two years from representing an entity that had business relations with their former institution. See also the OECD's 2024 *Anti-Corruption and Integrity Outlook*, for example, expressly discusses conflict-of-interest obligations applicable to members of parliament, alongside members of government and other public office holders.

powers or access to confidential or non-public information create a material risk of misuse, preferential access, regulatory capture or undue influence. This could include, in particular, officials exercising significant responsibilities in relation to public expenditure, procurement, concessions, privatization, taxation, regulation, public infrastructure or state-owned enterprises, as well as committee chairs, rapporteurs or other officials with substantial influence over legislation or those involved in certain sectors that are particularly vulnerable, such as defense, energy, banking, transport, investment, health care or possibly other regulated sectors.[64] Depending on the nature and level of risk, the following safeguards could be considered alone or in combination, including the notification of intended professional or other activities to the APC, prior assessment by the APC, time-limited restrictions on lobbying or representing private interests before the former institution, restrictions on involvement in matters in which the official was personally and substantially involved, and temporary restrictions on professional engagements with entities directly affected by decisions taken or supervised by the public official during his or her mandate. Such an approach would focus on the substance of the functions exercised during the mandate, rather than solely on the fact that the official has been directly elected.

62. **In light of the foregoing, ODIHR reiterates its recommendation to narrow down the exemption from post-employment restrictions applicable to directly elected officials provided under Article 55 (5) of the Law to be limited to directly elected officials whose functions did not give rise to heightened revolving-door risks, while applying appropriate safeguards proportionate to the nature and level of integrity and conflict-of-interest risk to those whose responsibilities, decision-making powers or access to confidential or non-public information create a material risk of misuse, preferential access, regulatory capture or undue influence.**

63. In addition, the existing wording "*that has a business relationship with the public authority in which the public official has been discharging a public office*" may be interpreted as referring only to an existing business relationship at the time when the post-employment restriction is assessed, rather than also covering previous business relationships established during the official's mandate. This may create uncertainty in practice and could allow situations where a former official enters into co-operation with an entity that used to have a relevant relationship with the public authority during the official's tenure, but no longer maintains such a relationship at the time of assessment. In addition, in the Explanatory Note on the status of implementation of recommendations from the June 2026 Urgent Opinion, the Serbian authorities clarified that the restrictions set out in Article 55 paragraph 1 of the Law on the Prevention of Corruption, together with the proposed amendment contained in Article 8 of the Draft Law, are considered sufficiently broad to encompass all forms of professional engagement. However, in order to avoid potential errors in application of these norms or misinterpretation after entry into force of the amendments, **it is recommended to specify whether certain elected officials are covered by post-employment restrictions cover all relevant forms of professional engagement, including employment, consultancy, lobbying, advisory and other representational activities, where former officials may use knowledge, contacts or influence acquired through public office or engage in activities relating to matters or sectors over which they previously exercised legislative, supervisory or decision-making influence.**

64 See e.g., ODIHR, Parliamentary Integrity: A Resource for Reformers (2022), p. 72.

RECOMMENDATION G.

To narrow down the exemption from post-employment restrictions under Article 55 (5) of the Law for directly elected officials whose functions did not give rise to heightened revolving-door risks, while applying appropriate safeguards proportionate to the nature and level of integrity and conflict-of-interest risk to certain category of directly elected officials whose responsibilities, decision-making powers or access to confidential or non-public information create a material risk of misuse, preferential access, regulatory capture or undue influence.

9. Disclosure of Assets and Income

64. Article 17 of the Draft Law amends Article 69 by further clarifying the circumstances in which a "significant change" in assets or income triggers an obligation to submit an extraordinary asset and income report. However, several issues identified previously remain unaddressed in the revised Draft Law, unless further elaborated in secondary regulation. In particular, the amended provision continues to rely on the concept of a "significant change" without fully clarifying how the threshold should be calculated and applied in practice, especially whether it applies to individual transactions or cumulative changes over time, whether the relevant value is based on acquisition value, market value or another valuation method, and how changes in the value of existing assets should be treated. Similarly, the provision does not clarify whether and how the reporting obligation applies to changes in liabilities, financial obligations or other economically relevant interests that may affect the official's financial position.

65. Furthermore, it is noted that GRECO specifically recommended that "*asset and income declarations of persons with top executive functions be subject to regular substantive control and that the Agency for the Prevention of Corruption be provided with adequate resources for that purpose*".[65]

66. Furthermore, while the amendment expands the understanding of changes in the structure of declared assets by referring to "ownership and lease rights" over registered movable property, it does not expressly address situations involving indirect ownership, beneficial ownership, control or use of assets through associated persons or legal entities.[66] Nor does it clarify whether transfers of assets to third parties, while the public official retains effective control or benefits from such assets, fall within the scope of reportable changes. Unless clear guidance and clarification are provided in secondary regulation, **further elaboration in the Law should be considered to ensure predictable application, including by defining the relevant valuation method, cumulative calculation rules, treatment of indirect ownership and control arrangements, and the scope of changes covered by the concept of "structure of declared assets"** (see also the specific recommendations relating to "digital assets" in paras. 81-83 of the June 2026 Urgent Opinion, which remain applicable). Moreover, while secondary legislation may appropriately regulate technical and procedural aspects of asset declarations, the essential elements determining the scope and trigger of a

65 GRECO, *Fifth Evaluation Round – Evaluation Report Serbia*, adopted by GRECO at its 103rd Plenary meeting (Strasbourg, 8-12 June 2026), paras 67-72 and Recommendation xiii, concerning substantive control of asset and income declarations of persons entrusted with top executive functions. See also EU report on Serbia, 4 November 2025, p. 36.

66 See the OSCE Ministerial Council Decision No. 5/14 on the prevention of corruption, which recommends to *"[a]dopt, maintain and strengthen systems that prevent conflicts of interest in the public sector, including, for example, by […] strengthening asset declaration systems applicable to public officials and politically exposed persons, in accordance with the fundamental principles of their domestic law […]."*

statutory reporting obligation, particularly where non-compliance may give rise to sanctions, should be sufficiently clear and foreseeable in the primary legislation.

10. Procedural Safeguards

67. It is understood that the legislation governing general administrative procedure applies accordingly to proceedings before the APC and that final decisions of the APC's Board may be subject to judicial review through administrative proceedings.

68. Article 21 of the Draft Law amends Article 78 of the Law on Prevention of Corruption by revising the definition of a report submitted by a natural or legal person to clarify that it is "a written submission presenting facts that give rise to suspicion of a violation of the Law". It also introduces a new provision requiring the Director of the APC to issue a decision rejecting a request or report where there are no grounds to initiate proceedings, and grants the applicant the right to appeal that decision to the APC's Board within 15 days of receipt. The introduction of a formal rejection decision and an internal appeal mechanism is a positive development, as it strengthens procedural safeguards by requiring the APC to adopt a reasoned decision and providing applicants with an opportunity to seek review. At the same time, certain aspects of the procedure would benefit from further clarification to ensure legal certainty and full respect for due process guarantees, as also recommended in the June 2026 Urgent Opinion.[67]

69. First, although the APC is required to adopt a decision rejecting a request or report, the Law does not specify the time frame within which such a decision should be issued. The absence of a statutory deadline may result in undue delays, which could undermine legal certainty and the effectiveness of the complaints mechanism, particularly in time-sensitive contexts such as election periods.[68] **It is advisable therefore to introduce a reasonable time limit for deciding on requests or reports.**

70. Second, while the amended provision implies that a request or report may be rejected where it fails to present facts giving rise to suspicion of a violation of the Law, it does not specify the criteria or threshold that the APC should apply when determining whether proceedings should be initiated. This confers a broad margin of discretion on the APC without establishing sufficiently clear parameters for its exercise. In line with the principles of legal certainty and the prohibition of arbitrariness, discretionary powers should be exercised on the basis of clear, objective and foreseeable criteria.[69] **It is thus recommended to provide clearer criteria to ensure the consistent application of the Law and reduce the risk of arbitrary decision-making.** This could include criteria such as where the allegation is manifestly unfounded, lacks sufficient factual or evidentiary substantiation, falls outside the Agency's competence, or does not contain sufficient information to warrant further action.

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67 See ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption of Serbia, para. 40, where ODIHR recommended that "*it may be beneficial to further address the threshold for rejection of the request, the procedural rights of the reporting person, as well as the absence of a general time limit within which the Agency should either initiate proceedings or issue a rejection decision*".

68 To ensure the right to an effective remedy, it is imperative that judicial procedures, including appeal and review, fully comply with international fair trial standards, as enshrined in Article 14 of the ICCPR and elaborated in General Comment No. 32 of the UN Human Rights Committee. Furthermore, such procedures must be timely, accessible, and affordable, consistent with the obligations under Article 2(3) of the ICCPR and the Basic Principles on the Independence of the Judiciary. See also OSCE 1990 Copenhagen Document, particularly paragraphs 5.10 to 5.18, which reaffirm the right to a fair and public hearing by a competent, independent, and impartial tribunal, and emphasize due process guarantees, including the presumption of innocence, access to legal counsel, and the right to appeal.

69 See the Venice Commission's Code of Good Practice in Electoral Matters, p.II.3.3.C.c.

71. It is noted that the 15-day time limit for lodging an appeal is excessive in the context of electoral disputes where delays may affect the timely resolution of disputes and the protection of electoral rights [70].

72. Moreover Article 22 of the Draft Law amends Article 80 by regulating the Agency's decision-making procedure following the examination of a request or report. The amendment provides for a right of appeal to the Agency's Board within 15 days and requires the Board to decide on appeals within 30 days from the date of receipt, or within 15 days during an election campaign. Similarly, the 30-day deadline for the Board to decide on appeals, even though reduced to 15 and exercises these responsibilities independently, impartially and consistently, including towards all electoral contestants.

73. [71] . **The legal drafters should consider introducing shorter and more proportionate timelines for both lodging and deciding upon appeals during electoral periods, while ensuring that parties retain a meaningful opportunity to exercise their right to appeal.**

11. Misdemeanour Proceedings and Sanctions

74. Article 25 of the Draft Law amends Article 86 of the Law on Prevention of Corruption by introducing new provisions regulating the Agency's obligation to initiate misdemeanour proceedings where a violation of the Law on Prevention of Corruption constituting a misdemeanour has been established by the Agency (paragraph 2). However, the Draft Law further provides that where a public official commits a minor violation for the first time and is issued a warning measure by the Director of the Agency, the Agency shall not initiate misdemeanour proceedings (paragraph 2). If the same public official repeats such a violation, the Agency shall be required to initiate misdemeanour proceedings without first imposing a warning measure. The amendment also renumbers the existing paragraphs accordingly (paragraph 4). It is understood that procedural and other matters relating to misdemeanour sanctions and the determination of sentences are governed by the provisions of the Law on Misdemeanours, which, as the general law in this field, regulates these issues in detail.

75. While the possibility of applying a warning measure for minor first-time violations may support the principle of proportionality and allow for a graduated enforcement approach, certain aspects of the provision would benefit from further clarification.

76. First, the Law does not specify the time frame within which the APC is required to submit a request for the initiation of misdemeanour proceedings once a violation has been established. The absence of a clear deadline, unless this is specifically regulated in the Law on Misdemeanours, may result in delays and uncertainty regarding the timely initiation of proceedings. The legal drafters should c**onsider establishing a reasonable time limit within which the Agency must submit a request for the initiation of misdemeanour proceedings, or cross reference relevant norms of national legislation, while allowing for expedited procedures during electoral periods.** Furthermore, it would be useful to clarify that any exception from misdemeanour proceedings for first-time minor violations should apply only where the violation has been remedied within a prescribed deadline and where the violation does not concern serious integrity, conflict-of-interest or election-related misconduct.

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[70] Ibid. Guideline II.3.3.g of the Code of Good Practice provides that "time-limits for lodging and deciding on appeals must be short (three to five days for each at first instance)".

77. Second, the provision allowing the APC not to initiate misdemeanour proceedings where a public official has received a warning measure for a first-time minor violation raises concerns regarding consistency of the enforcement framework. While remedial action by the offender may be relevant when determining the appropriate sanction, it may not necessarily justify exemption from liability for an already established violation.[72] This is particularly relevant as the APC is not the only authority empowered to initiate misdemeanour proceedings. Thus, provision may lead to inconsistent outcomes depending on whether proceedings are initiated by the APC or another authorized body. **It is thus recommended to clarify the relationship between the Agency's discretion to refrain from submitting a request and the powers of other competent authorities to initiate misdemeanour proceedings, in order to enhance legal certainty and consistent application of the law.**

78. It is welcome that the recommendations from the June 2026 Urgent Opinion relating to anonymous complaints[73] have been addressed by removing the requirement to submit "supporting evidence" while clarifying that it is sufficient for such complaints to contain only clear allegations giving rise to suspicion of corruption. The revised provision should not be interpreted strictly, as shifting from a positive obligation to act where the threshold is met to a negative obligation not to act where the threshold is not met, in order not to set an unduly high threshold at the initial stage of proceedings.

79. In addition, from a whistleblower protection perspective, anonymous reporting mechanisms are an important channel through which individuals may disclose suspected corruption, particularly where they cannot safely reveal their identity or obtain supporting documentation. International standards have recognized the importance of whistleblower protection laws as part of an effective anti-corruption framework.[74] The effectiveness of such mechanisms depends on ensuring that complaints are assessed based on the credibility and relevance of the information provided, rather than on an overly demanding threshold at the initial stage. **The Draft Law should therefore clarify that anonymous complaints are assessed on the basis of whether they contain sufficient information to give rise to a reasonable suspicion of corruption, while allowing the Agency to undertake further verification or preliminary inquiries before deciding whether to initiate formal proceedings.**

80. The proposed amendments to Articles 103-106 are largely technical in nature and do not appear to address the outstanding ODIHR recommendations as outlined in the June 2026 Urgent Opinion.[75] In particular, while the amendments introduce additional misdemeanour provisions related to breaches of the rules on promotional activities during the election period and establish mandatory public disclosure of judgments as a protective measure, they do not appear to provide a comprehensive response to previously identified concerns regarding the effectiveness, proportionality, and deterrent impact of the sanctions framework.[76]

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72 See Updated Rule of Law Checklist, CDL-AD(2025)002, 16 December 2025, para 107, which provides that *"[o]ffences leading to disciplinary sanctions and their legal consequences should be set out clearly in law and disciplinary sanctions should comply with the principle of proportionality. The disciplinary system should fulfil the requirements of procedural fairness by including provision for a fair and public hearing and the possibility of an appeal, as a rule before an independent judicial body*."

73 See ODIHR, Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption of Serbia, paras. 43-44.

74 For instance, whistleblower protection requirements have been introduced in Article 33 of the UNCAC, the 2021 OECD Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions and the Council of Europe Civil and Criminal Law Conventions on Corruption.

75 See Urgent Opinion on the Draft Law Amending the Law on Prevention of Corruption (as of May 2026), paras. 84-90.

76 ODIHR, Informal Comments on Two Sets of Draft Amendments to the Law on Prevention of Corruption of the Republic of Serbia, 19 November 2024, concerning enforcement and sanctions for violations related to public officials' conduct during electoral campaigns, p. 14; 2022 Joint Opinion on the Constitutional and Legal Framework Governing the Functioning of Democratic Institutions, Electoral Law and Electoral Administration in Serbia, recommendation D.

81. ODIHR reiterates that provisions do not distinguish between varying degrees of seriousness as they are only limited to administrative fines. The absence of a differentiated approach based on the nature, gravity, and circumstances of the offence may undermine the proportionality and effectiveness of the sanctions' framework.[77] As provided by ODIHR-Venice Commission Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources During Electoral Processes, "*[s]anctions for misuse of administrative resources have to be provided for and implemented. Such sanctions need to be enforceable, proportionate and dissuasive*" and that "*[c]ivil servants who misuse administrative resources during electoral processes should be subject to sanction, including criminal and disciplinary sanctions, up to the dismissal from office*".[78] It is acknowledged that some aspects are regulated by other pieces of legislation such as the Law on Misdemeanours. At the same time, **including clear cross-references to such other pieces of legislation would ensure that the rules are clear and accessible to all stakeholders**, in line with good practices and recommendations.[79] Furthermore, the existence of a general misdemeanour framework does not, in itself, demonstrate that the specific sanctioning regime applicable to violations of the Law on the Prevention of Corruption provides for sanctions that are effective, proportionate and dissuasive in cases involving the misuse of administrative.

82. In line with previous recommendation, it is **recommended that the sanctioning framework be further reviewed to ensure that penalties are fully effective, proportionate and dissuasive in line with international standards on the misuse of administrative resources during electoral processes**. **The legal drafters could also consider providing for a broader range of sanctions, including disciplinary or, where appropriate, criminal sanctions for particularly serious violations.**

RECOMMENDATION H.

To review the relevant articles to ensure that the sanctioning framework provides for effective, proportionate and dissuasive penalties, including a broader range of sanctions where appropriate and distinguish between varying degrees of seriousness, in line with international standards on the misuse of administrative resources during electoral processes.

12. Process of Amending the Law

83. The importance to ensure inclusive and open lawmaking procedures in the process of amending the Law on Prevention of Corruption of Serbia should be highlighted. In paragraph 5.8 of the 1990 OSCE Copenhagen Document, OSCE participating States have committed to ensure that legislation will be adopted at the end of a public procedure.[80] Moreover, key commitments specify that *"[l]egislation will be formulated and adopted as the result of an open process reflecting the will of the people, either directly or through their elected representatives"*[81]. The ODIHR Guidelines on Democratic Lawmaking for Better Laws (2024) underline the importance of an

77 See 2022 Joint Opinion on the Constitutional and Legal Framework Governing the Functioning of Democratic Institutions, Electoral Law and Electoral Administration in Serbia, para. 116.

78 See ODIHR-Venice Commission, Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources During Electoral Processes, Section A.1.1. Furthermore, Section C.2.2 of the Joint Guidelines stipulates that "Civil servants who misuse administrative resources during electoral processes should be subject to sanction, including criminal and disciplinary sanctions, up to the dismissal from office."

79 *Ibid*, para. 1.1.3

80 See 1990 OSCE Copenhagen Document, para. 5.8.

81 See 1991 OSCE Moscow Document, para. 18.1.

evidence-based, open, transparent, participatory and inclusive lawmaking process, offering meaningful opportunities to all interested stakeholders to provide input at all its stages[82]. Sufficient time should also be provided to ensure that the consultation process is meaningful, allowing adequate time to stakeholders to prepare and submit recommendations on draft legislation throughout the legislative process.[83]

84. ODIHR notes that the public consultations on the draft amendments to the Law on Prevention of Corruption of Serbia had commenced and were ongoing during the preparation of the current Opinion. At the same time, ODIHR reiterates that legislative amendments should be developed through a transparent and inclusive process, allowing sufficient time for meaningful consultation with all relevant stakeholders, including CSOs and opposition parties, at all stages of the lawmaking process. In this regard, while the initiation of public consultations is welcome**, the consultation process should provide the general public and stakeholders with a particular interest in the subject matter of the draft legislation with adequate opportunities and sufficient time to review and comment on the proposed amendments and for their views to be duly considered**.

85. In light of the above, **the public authorities are should ensure that adoption of the Draft Law, as well as any amendments to the existing anti-corruption and electoral legal framework in general, are preceded by a proper impact assessment and subjected to inclusive, extensive, effective and meaningful consultations throughout the legislative process, including with representatives of various political parties, academia, CSOs and other experts on prevention of corruption, which should enable equal opportunities for women and men to participate**. According to the principles stated above, such consultations should take place in a timely manner, at all stages of the lawmaking process, including before the Government and the Parliament. As a principle, accelerated legislative procedure should not be used to pass such types of legislation. A consistent monitoring and evaluation system on the implementation of legislation should also be put in place that would efficiently evaluate the operation and effectiveness of the draft laws, once adopted.[84]

[END OF TEXT]

82 See ODIHR Guidelines on Democratic Lawmaking for Better Laws (January 2024), in particular Principles 5, 6, 7 and 12. See also Venice Commission, Updated Rule of Law Checklist, CDL-AD(2025)002, 16 December 2025, Part II.A.6.

83 See ODIHR Guidelines on Democratic Lawmaking for Better Laws (January 2024), paras. 169-170. See also ODIHR, Guidelines on the Protection of Human Rights Defenders (2014), Section II, Sub-Section G on the Right to Participate in Public Affairs.

84 See ODIHR Guidelines on Democratic Lawmaking for Better Laws (January 2024), para. 23. See OECD, International Practices on Ex Post Evaluation (2010).