

КОНФЕРЕНЦИЈА

Ефективна борба против корупција на високо ниво: прашање на личност или на систем?

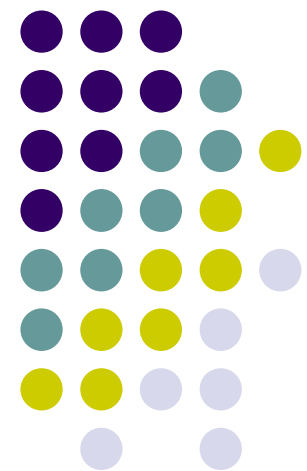
хотел Холидеј ин Скопје, 22 март 2016

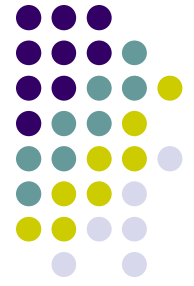
Д-р Слаѓана Тасева

Chair Transparency International Macedonia

Member of the IACA IAAB

Member of the MEC in Afghanistan

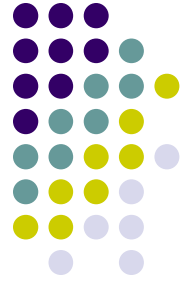




Q to be addressed

- Is Romania the example that we should follow?
- Do our institutions have the legal basis for adequately combat corruption (above all concerning State Commission for the Prevention of Corruption).
- But now also with the Special Public Prosecution?
- What should be changed in the existent institutional system and legal framework?
- Do we miss will and courage for effective fight against corruption in Macedonia?

Is Romania the example that we should follow?



Yes

Legal and institutional framework are similar and in place

Romania: Two anti-corruption agencies:

- The National Anti-corruption Directorate (DNA) and
- The National Integrity Agency (NIA)

Macedonia

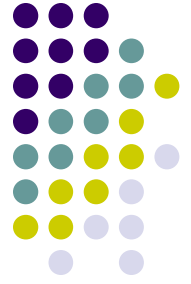
- Public Prosecutors Office on Organized Crime and Corruption (PPOOCC)
- SCPC
- Special Public Prosecutor

The National Anti-corruption Directorate (DNA)



- DNA was established with the Government Emergency Ordinance no. 43 in 2002.
- The DNA is an independent judicial structure and operates within the Prosecutor's Office attached to the High Court of Cassation and Justice.
- DNA jurisdiction covers the whole of Romania with its head office in Bucharest and local offices in 15 territories.
- The DNA is headed by a chief prosecutor who is assisted by two deputy chief prosecutors.
- There are 145 prosecutors, 170 police officers and 55 experts specialized in economics, finance, banking, customs, and information technology working in DNA.
- DNA has wide investigative authorities.

The National Anti-corruption Directorate (DNA)



- The DNA is a specialised prosecution office tasked to investigate high-level corruption cases.
- The DNA has established a solid track record of non-partisan investigations into allegations of high-level corruption
- However the DNA is not compatible to the SCPC

The National Integrity Agency (NIA)



- **NIA** was established with the Law no. 144/2007
- NIA is an autonomous **administrative authority**, with legal personality, operating at national level, a unique structure, with headquarters in Bucharest.
- The role of the NIA is:
- to verify **wealth and interest statements**,
- control the **filling-in on time of the statements**
- **assess the failure to follow legal provisions regarding conflicts of interest**, incompatibilities and wealth and
- formulate complaints to the criminal investigation bodies if there is evidence or solid suspicion regarding the existence of such activity.



NIA mandate

- NIA conducts administrative type of investigations and is subject to judicial control.
- The NIA has access to all documents / records from public authorities or any other public or private persons (tax registers, personal ID databases, motor vehicle register, real estate register, F.I.U. databases, land register, etc).
- The Agency performs **evaluation activities ex-officio or upon notification by any individual or legal entity. The assessment of wealth, conflicts of interests and incompatibilities is performed during the mandate of public dignities and within three years after its end.**



NIA capacity

- The Public Portal of Assets and Interests Disclosures (<http://declaratii.integritate.eu>) contains 5.697.459 millions of asset and interest disclosures filed over 2008-2016 (up to 11.March 2016), and all are available to the public.
- The operative activity is conducted by the integrity inspectors through an informatics system of integrated management for assets and interests declarations (SIMIDAI)

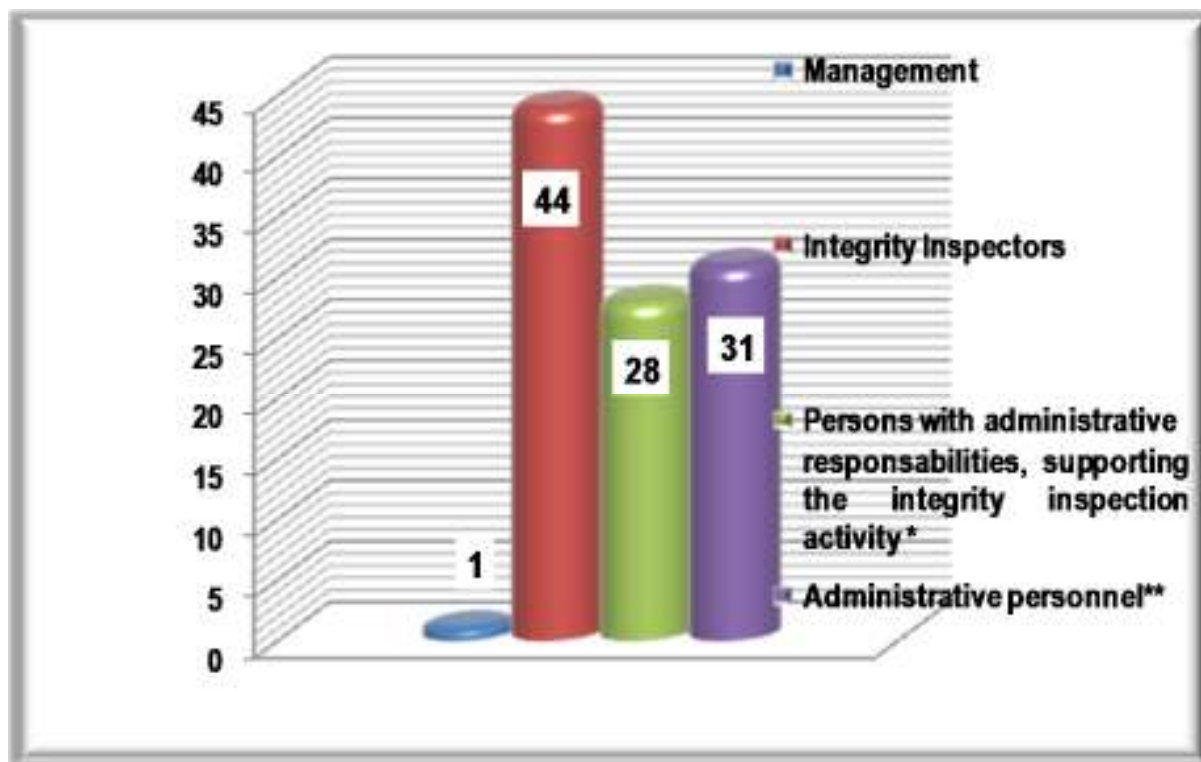
According to NIA, about 300,000 dignitaries have the obligation to file asset and interest disclosures every year. Such statements should include the dignitary's spouse and under-age children

NIA resources



- NIA is chaired by a President, Vice President and Secretary General.
- It has 6 units, 83 employees and vacant 117 positions
- **The NIA budget for 2014 based on the last info published on the NIA web site was 41,642,597 Leu (RON) or 9.317.913 EUR.**

NIA





integritate



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Name and surname

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Statement type

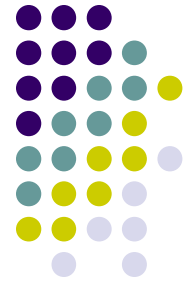
Year

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**ASSETS AND INTERESTS
DISCLOSURES CAN BE VIEWED NOW
ON ANI PORTAL**

The portal is constantly updated and enables you to visualize assets and interests disclosures submitted to the National Integrity Agency (ANI) in the years **2008**



Capacity indicators

Macedonian SCPC

408.000 EUR

26 employees

Number of civil servants 160.000

No officially published number of officials

4000 asset declarations and
4000 statements of interest

Romanian NIA

9.317.913 EUR

83 employees

Civil Servants: 178,000

5.697.459 assets and interests disclosures published

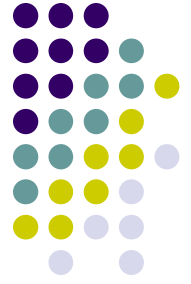
300,000 dignitaries have the obligation to file asset and interest disclosures every year.

SCPC



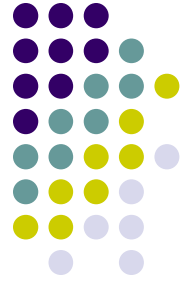
- The SCPC has 45 in systematization and 26 employees, they are public servants
- **The SCPC works on administrative investigations**
- The State Commission prepare and enact the State Program for the Prevention of Corruption.
- The SCPC collects the asset declaration forms, updates the register and publishes the data on the web.
- SCPC collects the statements for interest, providing opinion on conflict of interest of the officials
- **Macedonian SCPC and NIA have aces to bank information upon direct request**

But now also with the Special Public Prosecution?



- There is big difference between the DNA and **Special Public Prosecution**
- The DNA is an independent judicial structure and operates within the Prosecutor's Office attached to the High Court of Cassation and Justice

What should be changed in the existent institutional system and legal framework?



- Institutional System exist
- There is the Public prosecution Office for the Fight against Corruption and Organized Crime (PPOOCC)
- There is the SCPC
- There was a **special need** for establishment of the **Special Public Prosecution**

What can be done?

- To implement the existing laws
- To develop Culture of Integrity
- To enhance personal accountability for lack of performance

Do we miss will and courage for effective fight against corruption in Macedonia?



- There is also obvious lack of political will
 - Lack of capacity
 - Lack of resources
 - Lack of institutional cooperation
 - Lack of independence of the institutions
 - Lack of courage
- There is obvious tendency towards the institutional integrity rather than the personal integrity

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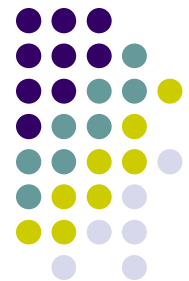


- Tomić, S. (2016). *Explaining Enforcement Patterns of Anticorruption Agencies: Comparative Analysis of Five Serbian, Croatian and Macedonian Anticorruption Agencies.*
- PhD thesis, London School of Economics and Political Science

Centralno istraživačko pitanje: koji faktor najbolje objašnjava enforcement antikorupcionih agencija?



- Tri vrste teorija sam testirao:
- 1. *Organizacioni faktori* (uključuju formalnu nezavisnost agencija, kao i orgnaizacione resurse)
- 2. *Vremenski faktori* (koliko je agencija stara, koliko su daleko naredni izbori)
- 3. *Ljudski faktor* (tj. uticaj lidera)



Na primeru pet agencija

Srbija:

- Savet za borbu protiv korupcije (2001-2012)
- Republički odbor za rešavanje o sukobu interesa (2005-2009)
- Agencija za borbu protiv korupcije (2010-2012)

Makedonija:

- Državna komisija za borbu protiv korupcije (2002-2012)

Hrvatska:

- USKOK (2001-2012)

Ključni nalaz:



- **Ljudski faktor je bio ključna varijabla za enforcement agencija.** Promene u lidersvu agencija (da li direktora, ili sastava Boarda), bile su praćene promenama u enforcementu. Organizacioni faktori nisu bili ključni – neke agencije su imale oštri enforcement čak i uz mali nivo formalne nezavisnosti, ili uz male resurse; slično, druge agencije su imale blag enforcement čak i uz veliku formalnu nezavisnost ili visoke resurse.
- Slično, **suprotno vremenskim teorijama**, agencije nisu slabile svoj enforcement kako je vreme prolazilo, ili kako su se izbori približavali. Postoji neki efekat u nekim slučajevima, ali je on daleko od sistematskog.
- Enforcement sam merio pomoću koncepta koji sam nazvao *enforcement pattern*, koji se sastoji iz 3 elementa, od kojih je ključan *enforcement style*



Type of actions

predatory i *entrepreneurial* akcije su one akcije u kojima su agencije nastupile brzo i angažovano kako bi rešile problem eventualne korupcije (tzv. zealous akcije).

Razlika između dva stila je što *predatory* uključuje slučajeve gde je kazna visoka (npr. zahtev za prosecution) a *entrepreneurial* slaba kazna (npr. javna opomena).

Aloof i *retreatist* su non-zealous akcije, u kojima su agencije ili kasno reagovala, ili se nisu založile za rešavanje slučajeva koji su se pojavili javno ili ih je neko prijavio.

Ovi grafikoni prikazuju enforcement style za svaku od agencija, koje sam sačinio na bazi analize svih slučajeva visokih funkcionera (big-fish) koje su agencije sprovele tokom svog rada.



Those two stages also saw two different patterns of enforcement style of the SCPC:

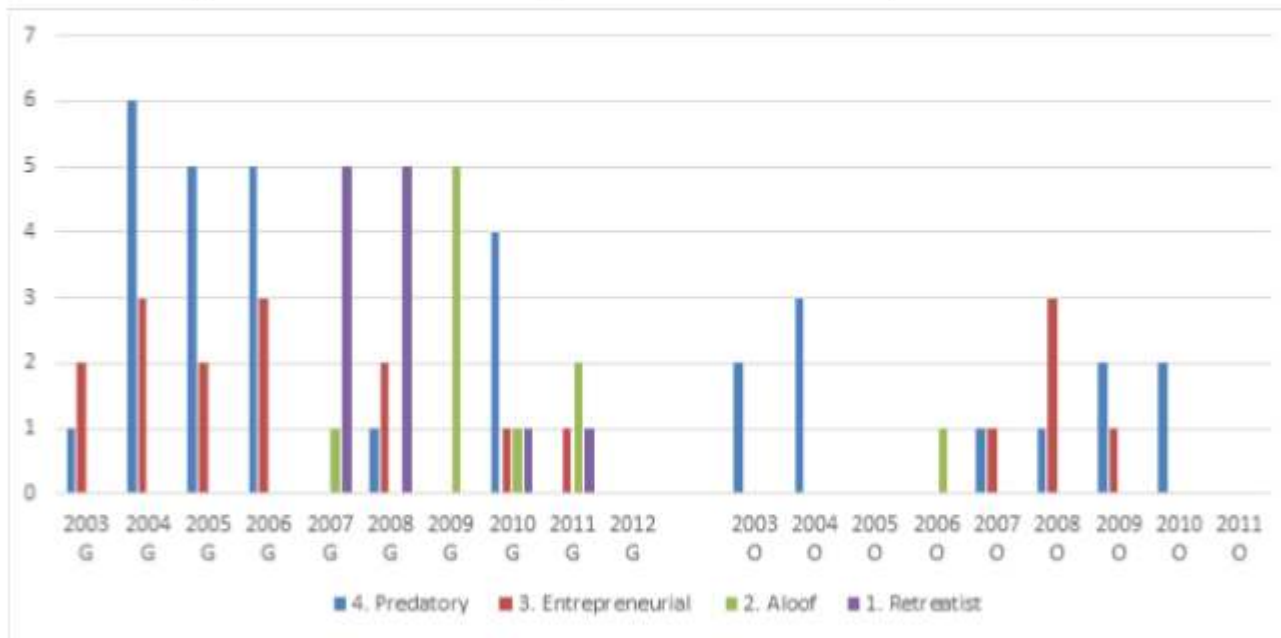


FIGURE 6 Enforcement style of SCPC's actions against 'big-fish, for 2001-2012 period (G-actions involving government 'big-fish; O-actions involving opposition 'big-fish').

Personal changes are crucial



- Gornji grafikoni pokazuju da one godine kada su se menjali direktori (ili Board, zavisno od modela kako se donosi odluka), agencije su uglavnom menjale i svoj *enforcement style*.
- Npr. u makedonskoj Komisiji se jasno vidi promena nakon 2006g, kada se javlja mnogo non-zealous akcija, plus nesrazmerno targetiranje opozicije sa zealous akcijama.
- Slično je Savetom, od 2003g, kada je imenovana Barać, ili USKOK-om od 2005g. nadalje, kada sa dolaskom Cvitana postepeno kreću zealous akcije protiv big-fish političara.

Thank you



Q/A