

CRTA RECOMMENDATIONS FOR THE IMPROVEMENT OF THE ELECTORAL CONDITIONS



PART ONE:

Prevention of the Abuse of Public Resources

The CRTA systematically monitored the extraordinary parliamentary elections of 2016, presidential elections in 2017 and elections to the City Assembly of Belgrade in 2018 and developed recommendations in the field of preventing abuse of public resources

The prevention of the abuse of public resources in the electoral campaign is one of the most important fields when it comes to the improvement of the electoral process in Serbia. It is indispensable that the legislative framework and the practice in the Republic of Serbia harmonise with international standards and examples of good practice.

It is necessary to prevent further abuse of taxpayers' money during the electoral processes on the one hand and to exclude the possibility of public officials' campaigning on the other, in order to ensure equality of all participants in the electoral race.

In the previous period, the majority of complaints submitted to the Anti-Corruption Agency and to the Regulatory Body for Electronic Media during the electoral campaign referred precisely to the abuse of public resources and to public officials' campaigning. However, based on the insight into the few decisions made by these two authorities regarding the filed complaints, the practice of insufficient and untimely response to apparent violations of regulations can be noted.

We insist that, in addition to the consistent application of existing laws and necessary amendments to certain laws, it is imperative to establish an effective monitoring mechanism and timely response in cases of abuse of public resources, so that all participants in the electoral process could have equal treatment.

In order to improve the election process in the field of preventing the abuse of public resources, in its last report, the CRTA brought forwards seven recommendations, five from which had been presented in the previous election cycle in 2017, and two added after the 2018 elections. All recommendations are available on the **Citizens on Watch** website.

Recommendations for Prevention of the Abuse of Public Resources

- ***In order to allow the application of the law and increase the equality of the participants of the campaign we suggest the following:***

Through amendments to the Law on Financing of Political Activities it is necessary to **define activities that can be introduced under election campaign costs**. Until now such provision has stipulated financing of regular activities and not election campaign costs. After the 2018 election, we suggested amendments to the Law on Financing of Political Activities that would **forbid the use of resources intended for regular activities of political entities in campaigning**. The previous solution enabled taxpayers' funds to be used for a different purpose than the one originally intended and caused the inequality of political entities.

- ***In order to influence the decrease in the abuse of public resources in the campaign, the following is necessary:***

Through amendments to the Anti-Corruption Agency Act, it is imperative to **define more precisely the notion of public resources and adequate sanctions in cases of their abuse in the campaign**. A precise definition of the notion would enable the implementation of the law and provide legal grounds for imposing of sanctions. In addition to the existing pecuniary fines, such sanctions should also include disciplinary actions. Through supplements to the Law on Public Companies, **sanctions should be foreseen for political entities and accountable persons in public companies that use the property, activity, name and visual identity of a public company for political purposes**. After the 2018 election, we suggested supplements to the Anti-Corruption Agency Act **that would forbid extraordinary attribution of budgetary and other public resources during the electoral campaign, as well as in the pe-**

riod of 30 days before and after the campaign. All extraordinary disbursements and attributions of resources from public funds, as well as writing-off of different citizens' debts should have to be separated from the electoral campaign.

- ***In order to reduce the public officials' campaigning, we suggest amendments to only one law:***

Through amendments to the Anti-Corruption Agency Act, it is necessary to **forbid the public all public officials to participate in activities that might be abused for campaigning purposes**. All public officials and agents must be forbidden to participate for the entire duration of the campaign in all public gatherings organised on the occasion of the commencement of construction works or the release of use of facilities built from public resources, or by other legal entities that dispose with the public capital. In case of violation of this legal provision, it is necessary to prescribe adequate fines.

- ***Substantiation of recommendations is impossible without an active oversight and sanctioning by the Anti-Corruption Agency:***

We demand the modification of the current practices of the Anti-Corruption Agency so that it **uses its authority ex officio in order to protect the public interest**. The Agency has a possibility to initiate proceedings in case of violation of the Law even ex officio, but it does not exercise that right. It is of a crucial importance that these proceedings be publicly initiated during the campaign and not afterwards and that the public be informed about the abuse of the public resources and officials' campaigning immediately, when the campaign is still underway.

In order to substantiate these recommendations, it is necessary to amend the Anti-Corruption Agency Act, the Law on Financing of Political Activities, the Law on Public Companies and to modify the existing practices used by the Anti-Corruption Agency.

In order to implement these recommendations, it is necessary to include: the National Assembly of the Republic of Serbia, the Ministry of Justice and the Anti-Corruption Agency, while the participation of civil society organisations focused on the fight against corruption and election observation will improve the process.

None of these recommendations has not yet been implemented nor is it included in the Draft Anti-Corruption Agency Act that is being prepared.

By adopting of these seven recommendations, the electoral conditions in the field of using public resources and public officials' campaigning would be improved. In that way, citizens' funds would be used for purposes they were intended for, whereby the equality of the participants in the election race would be increased.

THE CRTA RECOMMENDATIONS FOR THE IMPROVEMENT OF ELECTORAL CONDITIONS:

Prevention of the abuse of public resources

Equality of all participants and equal media representation

Transparency of the process and confidence of the voters

Legal security and protection on the electoral right

Capacity and efficiency of the electoral administration