

The conclusions and recommendation of the Study "Public institutions' feedback to journalistic investigations: many initiatives, but few results"

CONCLUSIONS

1. The results of the quantitative analysis (reaction/control in 24 out of the 32 cases reviewed) show that the control and law enforcement authorities/institutions have usually reacted to the investigations about civil servants by taking action ex officio. The inconsistent behaviour by such institutions with regard to the facts described by the journalists is indicative of some subjective and objective factors influencing their reaction. Some of the potential factors are as follows: low confidence by the institutions in the facts presented by the journalists; whether investigative stories have been taken over and disseminated by a big number of media institutions; the political position of the concerned individual and his/her party in the ruling algorithm at the time facts are described; pressure put by some of the civil society representatives.
2. Out of the 24 controls conducted, 14 ended with no sanctions (but also with no denial of the facts described by the journalists – this is indicative of the quality of documentation by journalists). Most cases have been dismissed because the civil servants had indicated in his/her declaration of assets that all assets were registered to them; another argument presented in the fact-finding documents of the National Integrity Centre (NIC) was that, while filling in the declaration, the civil servant committed errors that are considered unintentional. The controls initiated by the National Anticorruption Centre (NAC) and the Anticorruption Prosecutor's Office have been ceased; most frequently this was justified by the lack of constitutive elements of a crime.
3. Based on the reviewed investigations, the law enforcement bodies initiated 4 criminal cases. Two of them were initiated 6 months and respectively 1.5 years following the publication. This shows that the actions taken by the investigative bodies were generated by other facts and factors than the publication of investigations.
4. The quantitative analysis also shows that most public institutions do not take into account the integrity issues signalled by the media with regard to the appointment or advance in employment of some individuals; and usually they justify this by the fact that verifying the integrity of civil servants is the exclusive mandate of NIC.
5. More than half of the individuals covered by the investigations (16 cases out of 32) still hold their positions and have not been subject to any consequences, while in 8 cases the individuals have been advanced in employment.
6. The fact that some civil servants have unreported assets, have been involved in conflicts of interest or other acts which raise issues of integrity, most frequently does not affect their path in administrative positions. Thus, at institutional level, there is no strong will to maintain and advance to higher positions integral individuals. In many areas, particularly the judiciary, there are legal and regulatory provisions about the impeccable reputation of the employees, however these are not being observed. Therefore, the

only solutions would be the political will, as a strong commitment to clean the institutions of the civil servants who have integrity issues.

7. The quantitative analysis highlights the legal gaps that impacted the efficiency of the controls conducted by the state institutions. As for NIC, it dismissed some of the cases because it did not check on the assets reported by the individuals, it rather looked at whether such assets had been appropriately reported and whether the data indicated in the declaration of income and properties correspond to the ones existing in the databases (Cadastre, State Registration Chamber, Register, the information from the banks, etc.). The difference between the value of assets and the legal incomes of the individual has not been verified. In addition, in some cases, the persons have not been subject to administrative or criminal punishments because the limitation period expired. In the case of conflicts of interest and asset declaration, the limitation period is interpreted by NIC and NAC in different ways, and this issue has been reported both by NIC and by the media repeatedly but has not been solved yet.

8. So far, the State Fiscal Service has shown no interest in checking, within the limits of its competences, the signals sent by the media on the non-transparent financing of parties and electoral campaigns. In addition, the institution does not check on the persons who are mentioned in the declarations of income and interests for having donated money and assets to civil servants.

RECOMMENDATIONS

For the state institutions

1. In a genuine fight against corruption, the institutions with control mandates, such as the National Integrity Authority (NIA), the National Anticorruption Centre (NAC), the General Prosecutor's Office (GPO), the Anticorruption Prosecutor's Office (APO), and others, should react appropriately to any signal coming from the media about the lack of integrity of the individuals holding public offices. These institutions are urged to initiate verifications based on the journalist investigations that include evidence and documents and show some illegal acts committed by civil servants. In order to show transparency and willingness to take into account any signals, including those of the media, on the lack of integrity by the individuals holding public offices, these institutions should announce publicly, in a transparent and reasoned way about the actions undertaken, through press releases or press conferences. This would be a way for the institutions to bring to the public opinion clear evidence about its genuine willingness to listen to the voice of investigative media, to fight corruption and promote integrity in the public sector, and would increase the impact of journalist investigations on the real changes in public administration.

2. The legislation on the control of incomes and properties of the individuals holding public offices should be amended so that NIA could conduct effective controls over the assets and expenses not only in the databases.

3. It is necessary to have the same interpretation of the "limitation period" by both NIA and NAC, in the case of conflicts of interest.

4. NIA should show will and initiative to thoroughly document the incomes and expenses of the declarants, taking into account inclusively the minimal subsistence level for one individual, thus avoiding cursory controls that result in the dismissal of cases.

5. While NIA is non-operational because of the reform process, the state institutions or the self-administration bodies (such as the Superior Council of Magistracy) should oversee the integrity of their own staff, using the available legal levers, and, if needed, to check the information appearing in the journalist investigations.

6. When advancing or reconfirming staff members to positions, the managers of the self-administration institutions and bodies in different fields (particularly the Superior Council of Magistracy) should take into account the information documented by the journalists, as well as the information from the control documents drafted following the publication of investigations. Maintaining or advancing to higher positions the judges or other civil servants who have been involved in conflicts of interest, who own undeclared assets that are registered to their relatives or are more expensive than their legal revenues, compromises the image of those institutions and undermines confidence in them. In addition, the lack of consistency and concrete results in the investigation of the facts described by the journalists undermines the confidence of the population in the efficiency of the investigative bodies.

7. The State Tax Service should check on the mechanisms of political party financing and the incomes of the individuals mentioned as donors, if the donated amounts exceed the annual incomes reported by the latter. In addition, STS should cooperate more efficiently with the control institutions in order to check on the incomes of the persons indicated as donors of assets and money to civil servants or other categories of public officials.

For the non-governmental organisations

NGOs operating in the anticorruption and integrity field are recommended to draft, as appropriate, in partnership with the media institutions, projects to help follow-up on the authorities' response to the facts described by the journalists, as well as the procedures for recovering the damages caused to the state interests. The representatives of the civil society could take up the role of monitoring how state institutions react the journalist investigations, by sending out inquiries or even whistle blowing. Sending out requests for intervention in the legal form of whistle blowing would oblige the state institutions to come up with a reaction.

For the media institutions

The investigative journalists should continue monitoring the incomes, properties, and activities of public officials in order to provide the public with truthful and well-documented information.

Journalists, not only investigative ones, are recommended to strengthen their investigation capacities by using open, freely available, databases, but also subscription-based ones (such as those from the

Cadastre, State Registration Chamber). Sound documentation of a bigger number of cases of lack of integrity in the public sector, including by the general media, would put stronger pressure on the authorities to eliminate from the central and local administration the individuals who do not meet the standards for an honest civil servant.

Following the publication of investigations, journalists are called to follow up on the reaction of the authorities and to inform their readers about it.