

**Support to Electoral Reforms in the Western Balkans
OSCE/ODIHR**

**Informal Comments on Two Sets of
Draft Amendments to the Law on Prevention of Corruption of the Republic of Serbia**

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Introduction and Scope

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) prepared these Informal Comments on the basis of a request by the Working Group for Improvement of the Election Process (Working Group), as part of the Support to Electoral Reforms in the Western Balkans Project.

The Comments refer to two Draft Laws on Amendments to the Law on Prevention of Corruption (LPC), i.e., the Draft Law submitted by the Serbian Progressive Party (SNS) (hereinafter Draft Law I) and the Draft Law submitted by Transparency Serbia (hereinafter Draft Law II).

It should be noted that any assessment based on translated documents may be affected by issues of interpretation resulting from translation and that these Comments are only for internal use and not for public dissemination.

These Informal Comments do not constitute a full and comprehensive analysis of the entire electoral legal framework of the country, but of the text of the Drafts submitted for review, focus on the conformity of the Drafts with international standards and good practice in electoral matters, and highlight the proposed changes that might address previous ODIHR election-related recommendations as well as those issues which remain unaddressed. Consequently, these Comments should be read in conjunction with the recommendations made by previous ODIHR election observation activities.¹

These Comments are addressed to the Working Group and aim to assist the election reform efforts and the public consultation process which should be broad and inclusive, and take into account all relevant stakeholders, including state institutions, election and regulatory bodies, political parties, media and civil society organizations.

In view of the above, these Comments would not prevent ODIHR from formulating additional written or oral recommendations or comments on the respective legal acts or related legislation pertaining to the conduct of elections in Serbia in the future.

ODIHR welcomes the readiness of the Serbian authorities to follow-up on electoral recommendations and stands ready to provide a formal review of the newly proposed election-related legislation that the Working Group will present to the Parliament, potentially jointly with the Council of Europe's Venice Commission, and to assist the authorities of Serbia to further improve the electoral process.²

Summary and Conclusions

The two Draft Laws propose a number of amendments aimed to address previous ODIHR recommendations pertaining to the separation of the state and the party, abuse of public office, and misuse of state resources, as identified and described in previous ODIHR reports. The amendments proposed by the Draft Laws constitute, to some extent, an improvement in addressing prior ODIHR recommendations to enhance the separation of state and party and the equality of opportunity for election contestants.

¹ See all previous [ODIHR election-related reports on Serbia](#).

² In paragraph 25 of the [1999 OSCE Istanbul Document](#), OSCE participating States committed themselves "to follow up promptly the ODIHR's election assessment and recommendations".

Some amendments proposed by Draft Law I enhance the legislation on some provisions and issues while those put forward by Draft Law II offer more effective solutions on others. Additional legal amendments, including the suggestions mentioned throughout these comments, remain necessary to address the ODIHR recommendations. The implementation and effectiveness of these changes must also be assessed in practice.

Background and Context

The LPC was adopted in May 2019. It regulates campaign finance and issues pertaining to the use of state resources in the campaign, including abuse of office and misuse of state resources.

The proposed draft amendments pertain mainly to Article 50 of the LPC. They are related to ODIHR recommendations 2, 4 and 8/2017, 1, 3 and 4/2022, and 5 and 17/2023. The Working Group is expected to review proposals pertaining to ODIHR recommendations 1, 14, 15 and 16 issued following the June 2024 local elections.

It is noted that the Working Group is currently discussing the two sets of draft amendments to the LPC, and plans to prepare an aligned joint text of the amendments proposed by both Drafts.

Relevant International Standards and Good Practices

1. Paragraph 5.4 of the [1990 OSCE Copenhagen Document](#) calls for “a clear separation between the State and political parties”.
2. Paragraph 7.6 of the 1990 OSCE Copenhagen Document requires the OSCE Participating States to “respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities”.
3. Paragraph 7.7 of the 1990 OSCE Copenhagen Document requires OSCE participating States “to ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution”.
4. The 2013 Venice Commission [Report on the Misuse of Administrative Resources](#).
5. The 2016 ODIHR and Venice Commission [Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes](#).

In addressing recommendations 3/2020, 4/2022, 5/2023, and 1, 14, 15 and 16/2024 (to enhance separation of the state and the party and prevent abuse of public office and misuse of state resources), the legal amendments and the practice should be guided by the above international standards and good practice. For example, the 2016 ODIHR and Venice Commission Joint Guidelines on Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes suggest that:

1. In order to ensure neutrality of the civil service during electoral processes and consequently to avoid any risk of conflict of interest, the legal framework should provide for a clear separation between the exercise of politically sensitive public

positions, in particular senior management positions, and candidacy. In this respect, the legal framework should provide for a range of adequate and proportionate rules. Such rules may include a clear instruction on how and when campaigning in a personal capacity may be conducted, suspension from office or resignation of certain public authorities running for elections. **(A.4.2)**

2. The legal framework should ensure the objective, impartial, and balanced coverage of election-related events by publicly-owned media. Law and practice should both ensure that publicly-owned media are not involved in “hidden” campaigning for or against particular political competitors. **(A.4.4)**
3. No major announcements linked to or aimed at creating a favourable perception towards a given party or candidate should occur during campaigns. **(B.1.3)**
4. The legal framework should stipulate that there should be no non-essential appointments to public bodies during the electoral campaign. **(B.1.4)**
5. There should be a regulation put in place by a competent authority – electoral management body, branch of the civil service or special committee – identifying what activities are considered to be campaign activities and therefore forbidden to civil servants when acting in their official capacity. The competent authority should have an advisory role in relation to queries during the election period as to whether something falls under the prohibition on campaign activities by the civil service. **(B.1.5)**
6. The legal framework should provide for a clear distinction between ‘campaign activity’ and ‘information activity’ of public media in order to ensure equity among political competitors in the media as well as a conscious and free choice for voters. **(B.1.6)**
7. In addition to national legislation, charters of ethics or codes of conduct could be appropriate instruments to prevent the misuse of administrative resources during electoral processes. **(B.1.7)**
8. Effective implementation of legislation requires that any restrictions on the use of administrative resources be implemented in good faith. **(B.3.1)**
9. The legal framework should foresee that in case of violations of the rules on public finances which imply a misuse of administrative resources or when illicit financial advantages are given to political parties or candidates, such financing has to be returned to the state or municipal budget, regardless of other applicable sanctions. **(C.2.4)**

To address recommendations 4/2020, 5/2022, 6/2023 and 16/2024 (related to voter intimidation and pressure on public employees), the amendments and practice should follow the Venice Commission and ODIHR Joint Guidelines:

1. In order to ensure neutrality of the civil service during electoral processes and consequently to avoid any risk of conflict of interest, the legal framework should provide for a clear separation between the exercise of politically sensitive public positions, in particular senior management positions, and candidacy. In this respect, the legal framework should provide for a range of adequate and proportionate rules. Such rules may include a clear instruction on how and when campaigning in a personal capacity may be conducted, suspension from office or resignation of certain public authorities running for elections. **(A.4.2)**
2. Effective implementation of legislation requires that any restrictions on the use of administrative resources be implemented in good faith. **(B.3.1)**
3. Where necessary, public authorities could make clear statements and issue written instructions that no pressure on civil servants will be tolerated and that no civil servant or citizen should fear for their employment or social services as a result of supporting

or not supporting any political party or candidate. Civil servants should accordingly benefit from protection against any intimidation or pressure. **(B.3.2)**

4. Civil servants as well as their relatives should be protected against (hidden) sanctions, pressure or intimidation when they disclose an alleged fraud or misuse of administrative resources. If the law does not protect whistleblowers in general, there should be specific rules in the context of electoral processes. **(B.3.3)**
5. Authorities, including electoral management bodies, should create wide-reaching information activities, in which citizens and civil servants, candidates and political party leaders, are aware of their rights and responsibilities during electoral processes. Clear criteria should be established to distinguish electoral campaign activities from information activities. Such information should be distributed consistently. **(B.4.1)**
6. Internal instructions and training for civil service need to be developed to promote legally based non-partisan conduct within the executive branch. Guidelines for civil servants, public commitments, codes of conduct and other instruments, should be disseminated. **(B.4.2)**

Prior ODIHR Recommendations

A number of prior ODIHR recommendations issued after the adoption of the LPC in 2019 pertain, directly or indirectly, to the separation of the state and the party, prevention of abuse of public office and misuse of state resources in the election campaign. Namely:

1. ODIHR recommendation 3/2020: “Authorities should undertake measures to prevent misuse of office and state resources. The monitoring of compliance should be effective, and sanctions imposed should be proportionate and dissuasive.”
2. ODIHR recommendation 4/2020: “Authorities should undertake measures to prevent pressure on voters, including employees of state or state-affiliated institutions and enterprises. Cases of alleged duress must be thoroughly investigated and individuals responsible brought to account.”
3. ODIHR recommendation 1/2022: “To enhance legal certainty and provide equal opportunities for electoral contestants, the legislation could benefit from a further review to address challenges related to misuse of administrative resources and access to media, and eliminate remaining gaps and inconsistencies, well in advance of the next elections, and within an inclusive and transparent consultation process.”
4. ODIHR recommendation 4/2022: “Authorities should take measures to prevent misuse of office and state resources. The law should provide for a clear separation between the official functions and campaigning activities of the incumbents. Violations should be proactively prevented and addressed by the relevant authorities through proportionate and dissuasive sanctions.”
5. ODIHR recommendation 5/2022: “Authorities should put in place and implement effective legal and institutional oversight mechanisms to prevent intimidation and pressure on voters, including employees of public and state institutions and enterprises.”
6. ODIHR recommendation 17/2022: “The Anti-Corruption Agency should be obliged by law to identify violations proactively and in a timely manner, and respond to complaints by issuing formal decisions, subject to a judicial review. The law should prescribe expedited deadlines for the entire dispute resolution process related to campaign finance violations.”
7. ODIHR recommendation 5/2023: “The law should provide for a clear separation between the official functions and campaigning activities of the incumbents.

Authorities should take measures to prevent misuse of office and state resources and any violations should be proactively addressed through proportionate and dissuasive sanctions.”

8. ODIHR recommendation 6/2023: “Authorities should prevent intimidation and pressure on voters, including employees of public and state institutions and enterprises and strengthen the oversight mechanisms.”
9. ODIHR recommendation 17/2023: “The law should be amended to require the Agency for the Prevention of Corruption to promptly make public its decisions on violation of the Law on the Prevention of Corruption during election campaigns, along with any related appeals. Additionally, 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.”
10. ODIHR recommendation 1/2024: “In line with OSCE commitments, measures should be taken to ensure the separation of the state and party and the impartiality of the public administration during the campaign.”
11. ODIHR recommendation 14/2024: “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.”
12. ODIHR recommendation 15/2024: “The law should clearly regulate online campaigning, including by public institutions and officials. Responsible oversight institution should be mandated to monitor contestants and other stakeholders in the campaign, and equipped with effective and proportionate sanctioning mechanisms for violations.”
13. ODIHR recommendation 16/2024 elections: “To prevent abuse of public office and pressure on public employees and other voters, holders of senior management positions in public institutions and public companies should be required by law to temporarily resign from office in order to run as candidates, in line with international standards.”

These ODIHR recommendations stem from ODIHR’s findings, *inter alia*, that:

1. “Many ODIHR (Election Observation Mission) EOM interlocutors described what they perceive as excessive budgetary allocations to different categories of voters prior to elections.” (2022)
2. “A large number of public infrastructure projects were announced, initiated or inaugurated during the campaign by the incumbent president or government representatives who were also candidates.” (2022)
3. “Several opposition party representatives, civil society organizations and voters reported to the ODIHR EOM that municipal and public company workers were coerced to pledge their vote and contribute to mobilization of voters for the ruling coalition, attend rallies or post comments in support of the coalition on social networks.” (2022)
4. “Pressure on voters to support the incumbent and the ruling coalition and misuse of administrative resources by state and municipal actors prior to the elections blurred the line between state and the party, contrary to the OSCE commitments and international good practice.” (2023)
5. “Campaign regulations fall short of ensuring a level playing field and lack effective enforcement mechanisms; the law allows public officials, including the president, to participate in political activities; President Vučić, while not a candidate, assumed a central role in the SNS campaign, including by the naming of the SNS-led candidate lists after Mr. Vučić, providing an undue advantage to his party.” (2023)

6. “Instances of pressure on public sector employees, misuse of public resources, and voter inducement schemes raised concerns about voters’ ability to make a choice free from undue pressure.” (2023)
7. “While the APC is authorized to investigate the potential misuse of public offices in breach of the LPC, which prohibits officials from using public resources for promoting political parties, proper enforcement and sanctioning mechanism are lacking. If a violation is found, the APC’s lowest sanction is a warning, which is not public. Furthermore, decisions on other sanctions are published only after the conclusion of the administrative appeal process, which remains lengthy, despite a prior ODIHR recommendation.” (2023)
8. “SNS lists across the country bore the name of the President of the Republic. Most city lampposts in Belgrade featured a variation of the city’s coat of arms with the president’s name and the SNS list number. The President and leading government officials featured prominently on campaign billboards, in television spots, and in campaign meetings, while they also received extensive media coverage promoting their achievements, including on national issues and meetings with foreign dignitaries.” (2024)
9. “The ODIHR EOM received widespread allegations about pressure on public employees, including those with temporary employment contracts, to attend public events and campaign meetings and to vote for the ruling SNS. A significant number of candidates on SNS lists holding senior positions in public institutions and companies allegedly misused their office to influence the voting choices of public employees and other voters. Several interlocutors referred to “capillary voting”, whereby each public employee is required to secure a number of votes among family and friends.” (2024)
10. “Interlocutors also informed the ODIHR EOM about cases of vote buying, particularly of vulnerable groups, and the trading of medical services to voters by candidates who were in management positions in public health institutions.” (2024)
11. “After the call of elections, several municipalities, including the interim Belgrade City authority, offered social welfare programmes, raising concerns about misuse of state resources.” (2024)
12. “Campaign and partisan posts were noted on some official social network accounts of public institutions, including mayors and municipalities, raising concerns about misuse of state resources in the campaign.” (2024)

Definitions

The 2013 Venice Commission Report defines administrative resources as follows: “administrative resources are human, financial, material, *in natura* and other immaterial resources enjoyed by both incumbents and civil servants in elections, deriving from their control over public sector staff, finances and allocations, access to public facilities as well as resources enjoyed in the form of prestige or public presence that stem from their position as elected or public officers and which may turn into political endorsements or other forms of support”. “The misuse of administrative resources may also include related offences, such as forms of pressure or threats exerted by public authorities on civil servants.” (paragraphs 9 and 10)

The 2015 ODIHR Handbook for the Observation of Campaign Finance defines ‘abuse of state resources’ as the “undue advantage obtained by certain parties or candidates, through use of

their official positions or connections to governmental institutions, in order to influence the outcome of elections”.³

Comments on Draft Law I

Transparency Serbia submitted Draft Law I to the Working Group in May 2024. It proposes amendments to Article 50 of the LPC. The proposed amendments relate to ODIHR recommendations 2, 4 and 8/2017, 3/2020, 1 and 4/2022, and 5 and 17/2023.

Terminology pertaining to the separation of state and party

Draft Law I proposes to amend the wording of the existing Article 50 of the LPC. It proposes changing the title of the article from “membership and function in a political entity” to “separation of public office and activities in a political entity”. Article 50 proposes deleting “political party” and maintaining only the term “political entity” which encompasses political parties, candidate lists etc. In paragraph 1, it proposes replacing [a public official may] “have a function in a political party and a political entity” with “be a member of a political party and be a candidate or representative of a political entity”. These proposals also appear to enhance the clarity of the provision.

In paragraph 2, it proposes adding [using public resources] “for causing damage to a political entity”, to include negative campaigning against opposition political entities, which enhances the provision.⁴ It also proposes deleting the types of political activities listed in the law: “working with voters and membership, organizing and holding gatherings and promotions, creating and distributing advertising material, brochures, leaflets and publications, political advertising, public opinion research, media, marketing and consulting services, and conducting training for party activities”, as the concept of political activity is already defined by another law. Since the provision also applies to public officials who do not stand as candidates for election, it may be necessary to maintain the list of political activities in the LPC, provided that the definition is harmonized across all laws.

Public officials subject to the requirement of separation of state and party

Paragraph 4 stipulates that “A public official is obliged to unambiguously state to the interlocutors and the public whether he or she expresses the position of the public authority body in which he or she performs a public office or the position of a political entity”. The Draft Law I proposes adding “except when it is obvious, based on the place and occasion in which the position is expressed and the visible symbols of the public authority body in which he or she performs public office, i.e. of the political entity”. In regard to paragraph 4, Draft Law II appears to propose stricter, clearer and more objective criteria than Draft Law I, since it establishes a presumption that public officials act by default and beyond doubt in their capacity as public officials.

³ See the 2015 ODIHR [Handbook for the Observation of Campaign Finance](#), page 22.

⁴ Paragraph 13 of the 2016 ODIHR and Venice Commission Joint Guidelines state: “[The electoral process] 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.”

While both Drafts foresee restrictions on the participation of public officials in promotional activities of the public authorities, none foresees restrictions on the participation of public officials in promotional activities of political entities, i.e., in the actual campaign (campaign events, spots, materials etc.), even when they do not stand as candidates. To the extent that this issue pertains to public officials who do not stand as candidates, it could be regulated by the LPC rather than the election laws.

The draft would benefit from further regulation of the participation of public officials in the actual campaign, i.e., the promotional activities and materials of a political entity, when they do not stand as candidates.

Public officials exempted from the requirement of separation of state and party

In paragraph 4, Draft Law I, similar to Draft Law II, proposes to maintain that the requirement is not applicable to elected public officials, i.e., members of parliament (MP), deputies in the assembly of the autonomous province and councillors in the assembly of a local self-government unit and a city municipality. The rationale is that, in the case of elected public officials, such separation is neither possible nor appropriate, as these are elected on party tickets, belong to parliamentary groups of political entities and it is natural that they represent the interests of their political entities. This blanket exception of all elected public officials diminishes the effectiveness of the regulation and does not address ODIHR recommendations 3/2020, 4/2022, 5/2023 and 1/2024.

ODIHR has noted in several reports issued on elections in Serbia that the president and leading government officials, including elected ones, feature prominently in the campaign, including in billboards and campaign spots, which is widely known as the “officials’ campaign” (*fonkcionerska kampanija*). While public officials featuring in the campaign is legitimate in case they stand as candidates, regulatory challenges arise in case they do not stand as candidates but actively participate in the campaign. Such leading state officials generally receive extensive media coverage of both their contributions to the campaign as well as their state functions.

Such practices may enable incumbents to take unfair advantage of their positions and create a favourable perception in the campaign, constitute undue use of advantages of incumbency and tilt the level-playing field.⁵ For instance, ODIHR has noted that the President featured prominently in the campaign billboards, campaign events and campaign spots for the 2023 and 2024 parliamentary and local elections, despite not running as a candidate. Moreover, although the President stepped down as president of SNS, the SNS-led candidate lists bore his name and he also announced the election results from the SNS Headquarters. In some cases, it has been noted that the prominence of leading government officials, including the President, in the campaign, despite not running as candidates, misled voters to think that the officials did stand as candidates, thus impacting their ability to make an informed choice. None of the proposed amendments of Article 50 addresses these issues.

⁵ Paragraph 251 of the ODIHR Guidelines on Political Party Regulation defines the incumbency advantage as follows: “While there is a natural and unavoidable incumbency advantage, legislation must be careful to not perpetuate or enhance such advantages. Incumbent candidates and parties must not use state funds or resources (i.e., materials, work contracts, transportation, employees, etc.) to their own advantage”. Paragraph 15 of the 2013 Venice Commission Report on the Misuse of Administrative Resources states: “it is important that authorities of all levels stay away from the election process in order to avoid any kind of interference and guarantee fairness and impartiality during the entire electoral process” and “officials in public positions that are running for office should not use their opportunities as officials when they campaign and act as candidates.”

Additional measures could be considered to enhance the separation of the state and the party and to ensure equal opportunities for contestants, including by providing for a clear separation between the official functions and campaigning activities of the incumbents, including those who do not stand as candidates.

In paragraph 4, Draft Law I proposes adding that “Presidents and Vice-Presidents of the Assembly and the Presidents of the Assembly working body” are also required to state whether they express the position of the authority or the political entity. In the English translation, it is unclear whether the proposed amendment by “Assembly” means the Local Assemblies.

Consideration could be given to clarifying whether “Presidents and Vice-Presidents of the Assembly and the Presidents of the Assembly working body” refers to the assemblies of the local self-government units.

Definition of promotional activities of public officials (Article 50 paragraph 8)

Draft Law I proposes to refer to the Article as “Separation of public office and activities in a political entity” and proposes a definition that “*Promotional activity from paragraph 8 of this Article is the activity of a public official, public authority or other person that is aimed or may be expected to result in the publication of the word, image or voice of a public official in the media*”. This definition provides more clarity and is broader than the proposal of Draft Law II.⁶ This definition considers all activities of public officials, public authorities or third parties that may result in media publicity as a promotional activity. While the proposal is correct to refer to public officials and public authorities, the text should be clear if it refers to any other person involved in such activities or defines who falls under this provision. Moreover, the law should clearly differentiate between promotional activities of political and non-political entities.

Banned and permissible promotional activities of public officials

Draft Law I seeks to address the issue of potential misuse of administrative resources and states that a public official may be a member of a political party, perform a function in a political party, be a candidate or representative of a political entity and participate in their activities, if this does not jeopardize the performance of public office and if it is not prohibited by law. It proposes additional provisions prescribing exceptions to the restrictions on the activities of public officials, which are largely similar to paragraphs 8, 9 and 10 proposed by Draft Law II. Namely, it proposes adding that if MPs, deputies in the assembly of the autonomous province and councillors in the assembly of a local self-government unit and a city municipality perform functions of the president and vice-president of the assembly and the president of the assembly working body.

During the election campaign, a public official may not, in that capacity, organize promotional activities of public authorities, conduct them, or participate in promotional activities organized by other persons, except: a) when the obligation to carry out a promotional activity at a certain time and in a certain manner is prescribed, and when only a public official is authorized to fulfil that obligation; b) in the case of public manifestations, which, according to established

⁶ Draft Law II proposes that “Promotional activity from paragraph 8 of this Article is an activity of a public authority that *aims to influence a potential voter* to vote for a candidate or electoral list nominated by a political party upon whose nomination a public official in that public authority was elected or appointed.”

practice, are carried out at a certain time and with the participation of the holder of a certain public office; (c) when the participation of a public official is necessary for the maintenance of international relations”. The suggested provisions conflate two different issues, i.e., the first sentence refers to political party publicity/promotional activities while the remaining language refers to promotional activities/publicity of public authorities.

Consideration should be given to distinguishing the promotional activities of political parties from those of public authorities during the election campaign and regulating them separately.

The suggested paragraphs 8, 9 and 10 aim to restrict promotional activities of public authorities during the election campaign which are likely to create a favourable perception of the public official or public authority to the electorate and as such constitute undue use of advantages of incumbency. Both Drafts foresee several exceptions to the restriction, i.e., promotional activities of public officials are permissible under some conditions. These exceptions are reasonable as they aim to allow for the ordinary work of the government and public administration.⁷ However, the exceptions may render the regulation ineffective in practice, if they are not implemented in good faith.⁸

Draft Law I, similar to Draft Law II, does not clarify whether the restrictions prescribed by the proposed additions to Article 50 are applicable from the call of elections or only during the official campaign period.⁹

Consideration could be given to stipulating that the restrictions prescribed by proposed paragraphs 8, 9 and 10 are applicable from the call of elections and not only during the official campaign period.

Definition of public resources

Draft Law I proposes an amendment to the definition of ‘public resource’ in 4a) of Article 2 of the LPC. Namely, it proposes replacing **“the founder of which or member”** with **“where members or shareholder is the Republic of Serbia, an autonomous province or a local self-government unit”**. The proposed amendment to the definition of public resources enhances its accuracy.

As it is common in similar cases, it may be necessary to clarify the shareholder percentage for state, public or local self-government units.

Comments on Draft Law II

⁷ Guideline B.1.3 of the 2016 Venice Commission and ODIHR Joint Guidelines state: “The ordinary work of government must continue during an election period. However, in order to prevent the misuse of administrative resources to imbalance the level playing field during electoral competitions, the legal framework should state that no major announcements linked to or aimed at creating a favourable perception towards a given party or candidate should occur during campaigns. This does not include announcements that are necessary due to unforeseen circumstances, such as economic and/or political developments in the country or in the region, e.g. following a natural disaster or emergencies of any kind that demand immediate and urgent action that cannot be delayed.”

⁸ Idem, Guideline B.3.1: “Effective implementation of legislation requires that any restrictions on the use of administrative resources be implemented in good faith.”

⁹ Paragraph 9 of the 2013 Venice Commission Report states “An electoral process as understood in the report is a period going beyond the electoral campaign as strictly understood in electoral laws.”

SNS submitted Draft Law II before the Working Group on 2 October 2024. Articles 1-6 of the Draft Law II propose changes to Articles 50, 80, 85, 103 and 104 of the LPC and to include a new Article 50a.

Separation of state and party

The proposed change of Draft Law II to Article 50 paragraph 4 reads as follows: “It shall be deemed that a public official presents to the interlocutors and the public the position of the authority in which one performs one’s public function, except when one unequivocally presents to the interlocutors and the public that one is presenting the position of a political entity”.

The revised paragraph 4 stipulates that public officials represent by default the public authority unless they state otherwise. Therefore, the suggested provision establishes a presumption that public officials represent the public authority, rather than their political entity. In that sense, the suggested amendment prescribes more clear and objective criteria than the existing provision.

Separation of state and party in social networks

The new paragraph 5 obliges public officials “to mark and report to the Agency for Prevention of Corruption (APC) the social network accounts they use in their capacity as public officials”. Furthermore, public officials may not post about political party activities on these social network accounts (used in their capacity as public officials) while may not post about their performance as public officials on other social network accounts (other than those reported to the APC).

The new paragraph 5 regulates the use of social network accounts by public officials, which had not been previously regulated and which is increasingly significant in election campaigns. It contains a mechanism for distinguishing which social network accounts public officials may use for the official announcements pertaining to their office and which ones they may use for posts related to their political party. This proposal may address recommendation 15/2024 on the issue of separation of public office and party function in the field of social networks, if supplemented with effective, proportionate and dissuasive sanctioning mechanisms, such as an order for immediate content removal or content flagging.

Consideration could be given to broadening APC’s mandate to be able to order content removal (ordering removal of the post on social networks) or content flagging and labelling as political advertising (adding a notice). The law should envisage sanctions, proportionate to the violations and imposed following a court process for severe and/or repeated violations.

Public officials exempted from the requirement of separation of state and party

Draft Law II suggests that the existing paragraph 6 becomes paragraph 7 and is amended as follows: “The provision of paragraph 4 of this Article shall not apply to MPs, deputies in the assembly of the autonomous province and councillors in the assembly of local self-government units and city municipalities.” This proposal only adds “city municipalities” to the existing provision.

Therefore, Draft Law II maintains the requirement for separation of public office and party function does not apply to elected public officials. This is a position shared by Draft Law I. As

explained earlier, this blanket exception of all elected public officials, including those who do not run as candidates, diminishes the effectiveness of the regulation.

Additional measures could be considered to enhance the separation of state and party and equality of opportunity for contestants, including pertaining to the participation in the campaign of leading public officials who do not stand as candidates.

Prohibited public activities of public officials during the election campaign

Draft Law II suggests that new paragraphs 8, 9 and 10 be added. The proposed paragraph 8 stipulates that “during the election campaign period and after the deadline for submission of candidate lists, public officials may not organize, carry out or participate in promotional activities of public authorities”. It is unclear whether the restrictions prescribed by the proposed paragraphs 8, 9 and 10 are applicable from the call of elections or only during the official election campaign period whereby equal campaign conditions in the media apply.

Permissible promotional activities of public officials

At the same time, the proposed paragraph 8 prescribes that “as an exception, public officials may organize, carry out and participate in such promotional activities of public authorities” in a number of cases, namely “if these had been planned before the call of elections or if these are public manifestations taking place according to established practice with the participation of a certain public office-holder or if the participation of a public official is deemed necessary for the maintenance of international relations”.

Therefore, the suggested paragraphs 8, 9 and 10 aim to restrict promotional activities of public authorities during the election campaign which is likely to create a favourable image of the public official to the electorate and as such to constitute undue use of advantages of incumbency. However, a number of exceptions are stipulated which may render it ineffective in practice.

Consideration could be given to stipulating that the restrictions prescribed by proposed paragraphs 8, 9 and 10 are applicable from the call of elections and not only during the official campaign period.¹⁰

Definition of promotional activity of public officials

Furthermore, the suggested new paragraph 9 defines “promotional activity” as “any activity of a public authority that *aims* to influence a potential voter”. If this provision is interpreted and applied narrowly, it may leave out activities of public authorities that do not aim to influence voters but are likely to do so by creating a favourable image of the public authority and the public official.¹¹

¹⁰ Paragraph 13 of the [Venice Commission and ODIHR 2016 Joint Guidelines on Preventing and Responding to the Misuse of Administrative Resources During Electoral Processes](#) states: “According to the 2013 Report on the misuse of administrative resources during electoral processes, an electoral process should be understood as a period much longer than the electoral campaign as strictly understood in national electoral law.”

¹¹ Idem Paragraph II. B. 1.3: “no major announcements linked to or aimed at creating a favourable perception towards a given party or candidate should occur during campaigns”.

Consideration could be given to reviewing the definition of promotional activity in the new proposed paragraph 9 of Article 50 to include “activities of public authorities which create a favourable perception of a candidate or electoral list upon whose nomination [...]”¹²

Oversight competences of the Anti Corruption Agency

The proposed Article 50a relates to recommendation 17/2023. It mandates the APC to monitor all public activities of public officials during the campaign whereby they present information about their activities in their capacity as public officials in the media, at press conferences, at public meetings, the official social network of public authorities and other public fora. The APC is required to publish the results of monitoring once a week and initiate proceedings *ex officio*, in case of violations. While the proposed regulations are comprehensive, they could benefit from clarifications.

It is noted that “within three days from the call of elections, the APC Director is required to adopt a plan for monitoring the activities of public officials during the election campaign”. It is understood that the APC will monitor only during the official campaign period, after candidate registration, which may not be sufficient to deter abuse of public office.

Consideration could be given to mandating the APC to monitor the legally prescribed public activities of public officials from the call of elections rather than during the official campaign period.

It is noted that a legally defined number of public officials who will be monitored will be selected “based on risk assessment, by the method of random selection”. These criteria appear contradictory and would benefit from clarification.

Consideration could be given to clarify whether the public officials who will be monitored by the APC during the election campaign will be selected based on risk assessment or by the method of random selection. This methodology should be further addressed by the APC regulations.

Sanctions for violations

In Article 103 paragraph 2, while the sanctions remain unchanged, Draft Law II proposes replacing “if [a public official] performs a function in a political party, that is a political entity and participates in their political activities contrary to article 50 paragraphs 1, 2, 4 and 5” with “if [a public official] acts contrary to article 50, paragraphs 1, 2, 4, 5, 6 and 8 of this law.” The proposed rephrasing does not appear to change the scope of this provision.

Monetary fines are recommended sanctions for violations, as long as the prescribed amounts are considered proportionate to the violation and dissuasive. However, fines are imposed by courts after a lengthy, usually year-long, process, which diminishes their effectiveness. Similarly, criminal proceedings are also likely to be lengthy and therefore diminish evidence

¹² Idem, Paragraph 5.1.3: “No major announcements linked to or aimed at creating a favourable perception towards a given party or candidate should occur during campaigns.”

and the effectiveness of possible sanctions.¹³ The submitters of Draft Law II also noted these shortcomings of the judicial and prosecutorial proceedings.

Consideration could be given to prescribing a graduate system of effective, proportionate and dissuasive sanctions which can be imposed promptly, including mandating the APC to order the ceasing of an activity, labelling it as election campaign activity/political advertising and issuing a public reprimand. For instance, regarding posts on social networks, the APC could order content removal (removing the post which is in breach of the law and/or content flagging (adding a notice that the post is in breach of the law). In addition, fines could be prescribed by law for severe or repeated violations. In case violations of Article 50 constitute in-kind funding from public sources, they could be treated as such in terms of campaign finance income, expenditure and reporting requirements.

¹³ Paragraph 18 of the 2013 Venice Commission Report on Abuse of State Resources states “The implementation of sanctions against abuse of administrative power is possible only if the investigation, auditing, prosecution and justice systems are independent from the ruling political power.”

ANNEXES

Annex I Article 50 of the LPC Membership and Function in a Political Entity

A public official may have a function in a political party and/or a political entity and participate in its activities if that does not jeopardize the discharge of public office and is not prohibited by law.

A public official may not use public resources for the promotion of political parties that is political entities, which specifically refers to the use of public resources for the purpose of public presentation of election participants and their election programs, inviting voters to vote for them in the elections, that is, to boycott the elections, as well as the use of public resources for other types of political activities, such as working with voters and membership, organizing and holding gatherings and promotions, creating and distributing advertising material, brochures, leaflets and publications, political advertising, public opinion research, media, marketing and consulting services, and conducting trainings for party activities.

Notwithstanding paragraph 2 of this Article, a public official may use public resources for the protection of personal security, if such use of public resources is governed by relevant regulations or by a decision of services in charge of the security of public officials.

A public official is obliged to always unambiguously inform his/her interlocutors and the public whether s/he is expressing the position of the authority in which s/he discharges a public office or the position of a political party and/or political entity.

A public official may not use public gatherings in which s/he participates and meetings s/he holds as a public official, for the promotion of political parties, that is, political entities, which specifically refers to the use of such public gatherings and meetings for public presentation of election participants and their election programs, inviting voters to vote for them in certain elections, that is, to boycott the elections.

Provisions in paragraph 4 of this Article do not apply to members of parliament, members of the parliament of an autonomous province and councilors of assemblies of units of self-government. During the election campaign, in the procedure referred to in the Article 78, paragraph 1 and 2 of this Law, in which it decides whether there is a violation of paragraph 1, 2, 4 and 5 of this Article, the Agency shall decide within five days from the day of initiating the proceedings ex officio, that is, from the day of receipt of the complaint of legal entity or natural person.

Separation of public office and activities in a political entity

Article 50

A public official may be a member of a political party, perform a function in a political party, be a candidate or representative of a political entity and participate in their activities, if this does not jeopardize the performance of public office and if it is not prohibited by law.

A public official may not use public resources for the promotion of political entities or for causing damage to a political entity, which in particular includes the use of public resources for the purpose of presenting participants in elections and their election programs, inviting voters to vote for them or not to vote for them in the elections, or to boycott elections, as well as the use of public resources for other types of political activities.

Notwithstanding with paragraph 2 of this Article, a public official may use public resources, to the extent necessary for the protection of personal safety, if such use of public resources is regulated by regulations in that field or by a decision of the competent institution, responsible for the safety of public officials.

A public official is obliged to unambiguously state to the interlocutors and the public whether he or she expresses the position of the public authority body in which he or she performs a public office or the position of a political entity, except when it is obvious, based on the place and occasion in which the position is expressed and the visible symbols of the public authority body in which he or she performs public office, i.e. of the political entity.

A public official may not use public gatherings in which he participates and meetings that he has in the capacity of a public official, for the promotion of political entities or causing damage to a political entity, which in particular includes the use of these public gatherings and meetings for the presentation of participants in elections and their election programs, inviting voters to vote for them or not to vote for them in certain elections, or to boycott the election.

The provision of paragraph 4 of this Article shall not apply to MPs, deputies in the Assembly of the autonomous province and councillors in the assembly of a local self-government unit and a city municipality who do not perform the function of the President and Vice-President of the Assembly and the President of the Assembly working body.

A public official may not participate in the activities of a political entity in this capacity.

During the election campaign, a public official may not, in that capacity, organize promotional activities of public authorities, conduct them, or participate in promotional activities organized by other persons, except:

- a) when the obligation to carry out a promotional activity at a certain time and in a certain manner is prescribed, and when only a public official is authorized to fulfil that obligation;
- b) in the case of public manifestations, which, according to established practice, are carried out at a certain time and with the participation of the holder of a certain public office;
- (c) when the participation of a public official is necessary for the maintenance of international relations.

Promotional activity from paragraph 8 of this Article is the activity of a public official, public authority or other person that **is aimed or may be expected to result in the publication of the word, image or voice of a public official in the media.**

During the election campaign, in the procedure referred to in Article 78. 1 and 2 of this Act, in which it is decided whether there is a violation of the paragraph 1, 2, 4, 5, 7 and 8 of this Article, the Agency shall decide within five days from the date of initiation of the procedure ex officio, i.e. from the date of receipt of the application of a legal or natural person.

Meaning of Specific Terms Article 2

For the purpose of this Act, the following terms shall mean:

1. "Corruption" is a relationship which occurs when a public office or social status or influence are used for acquiring personal benefits for oneself or another;
2. "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;
3. "Public official" is any person who was elected, appointed or nominated to a public authority, with the exception of persons who are representatives of private capital in managing bodies of companies that are public authorities;
4. "Public office" is office discharged by a public official;
4a) "public resource" means immovable property, movable property, right and any other good that is in public ownership, i.e., in another form of ownership but used by the authorities of the Republic of Serbia, autonomous provinces, local self-government units, public companies, companies, institutions and other organisations where members or shareholder is the Republic of Serbia, an autonomous province or a local self-government unit, waiver of future income and commitments at the expense of the public sector within the meaning of the law governing the budget system.
5. "Family member" is a spouse or common-law partner, parent or adoptive parent, child or adopted child of a public official;
6. "Associated person" is a family member of a public official, a blood relative of a public official in the direct line and/or in the collateral line up to the second degree of kinship, as well as a legal or natural person whose interests, based on other grounds and circumstances, may be reasonably assumed to be associated with those of the public official;
7. "Strategic document" means strategies and action plans in the field of combating and/or preventing corruption;
8. "Political entity" is a political entity within the meaning of the law governing the financing of political activities;
9. "Area that is particularly susceptible to the risk of corruption" is the area which is determined as such in a strategic document.

Article 50 Membership and Function in a Political Entity

1. A public official may have a function in a political party and/or a political entity and participate in its activities if that does not jeopardise the discharge of public office and is not prohibited by law.
2. A public official may not use public resources for the promotion of political parties that is political entities, which specifically refers to the use of public resources for the purpose of public presentation of election participants and their election programs, inviting voters to vote for them in the elections, that is, to boycott the elections, as well as the use of public resources for other types of political activities, such as working with voters and membership, organizing and holding gatherings and promotions, creating and distributing advertising material, brochures, leaflets and publications, political advertising, public opinion research, media, marketing and consulting services, and conducting trainings for party activities.
3. Notwithstanding paragraph 2 of this Article, a public official may use public resources for the protection of personal security, if such use of public resources is governed by relevant regulations or by a decision of services in charge of the security of public officials.
4. It shall be deemed that a public official presents to the interlocutors and the public the position of the authority in which one performs one's public function, except when one unequivocally presents to the interlocutors and the public that one is presenting the position of a political entity.
5. A public official shall mark and report to the Agency the account one uses in its capacity as a public official on social networks, and on that account one must not post posts related to the activities of a political party, that is, a political entity. A public official may not post announcements related to the performance of one's public office on an account on a social network that is not marked as an account one uses in its capacity as a public official.
6. A public official may not use public gatherings in which s/he participates and meetings s/he holds as a public official, for the promotion of political parties, that is, political entities, which specifically refers to the use of such public gatherings and meetings for public presentation of election participants and their election programs, inviting voters to vote for them in certain elections, that is, to boycott the elections.
7. The provision of **paragraph 4** of this Article shall not apply to MPs, deputies in the assembly of the autonomous province and councillors in the assembly of local self-government units and city municipalities.
8. During the period of the election campaign and after the deadline for submission of the electoral list, i.e. the submission of the candidate nomination for the President of the Republic, a public official cannot, in that capacity, organize promotional activities of public authorities, carry them out or participate in promotional activities organized by other persons, except:
 - when it is planned in advance, before the calling for elections, that the promotional activity shall be carried out at a certain time and in a certain manner;
 - when it comes to public manifestations which, according to established practice, are carried out at a certain time and with the participation of the holder of a certain public function;
 - when the participation of a public official is deemed necessary for the maintenance of international relations.
9. Promotional activity from paragraph 8 of this Article is an activity of a public authority that aims to influence a potential voter to vote for a candidate or electoral list nominated by a political party upon whose nomination a public official in that public authority was

elected or appointed.

10. The public authority shall publish on its website, or otherwise make available to the public, six-month data on promotional activities from paragraph 8 of this Article. The plan of promotional activities for the first six months of the current year shall be published no later than February 1, and for the second six months no later than July 1 of the current year.”
11. During the election campaign, in the procedure referred to in Article 78, paragraphs 1 and 2 of this Law, in deciding whether there is a violation from paragraphs 1, 2, 4, 5, 6 and 8 of this Article, the Agency shall decide within five days from the day of initiation of the procedure ex officio, that is, from the day of receipt of a legal or natural person’s report.

Article 50a

During the election campaign, the Agency shall monitor compliance with the obligations of public officials from Article 50 of this Law.

Monitoring from paragraph 1 of this Article shall necessarily include the activities of public officials who appear in the media, at press conferences, speak at public meetings, publish statements on the websites of public authorities, official social networks of public authorities, as well as on open private channels of communication with the public where the public official publishes information about the activities one undertakes in that capacity.

The monitoring referred to in paragraph 1 of this Article shall be carried out by reviewing the information published in the media and on social networks, by collecting information from public authorities, media service providers, public officials, and other legal and natural persons. Within three days of the announcement of the election, the director of the Agency shall adopt a plan for monitoring the activities of public officials during the election campaign, which establishes a list of public officials who will be monitored, based on risk assessment, by the method of random selection (sample).

The list of public officials referred to in paragraph 4 of this article shall contain no less than 50 persons when elections for MPs or the President of the Republic are held, no less than 30 persons when elections for deputies in the assembly of the autonomous province or elections for councillors in the assembly of the city of Belgrade are held, and no less than 20 persons when elections are held for councillors in the assembly of a local self-government unit or a city municipality.

When elections are held simultaneously in several cities, municipalities or city municipalities, the list of public officials from paragraph 4 of this article shall contain at least three persons who hold public office in the bodies of each of those cities, municipalities, or city municipalities.

During the election campaign, the Agency shall publish the results of monitoring from paragraph 1 of this Article once a week.

In case of suspected violation of the obligations from Article 50 of this Law, the Agency shall immediately initiate the procedure ex officio.

Funds for monitoring the activities of public officials during the election campaign shall be provided to the Agency in the budget of the Republic of Serbia, and in the case of extraordinary elections from the current budget reserve, in accordance with the proposal submitted by the director of the Agency.

Article 80 Decisions and Remedies

“The Director of the Agency shall issue a decision establishing a violation of this Law and impose a measure or suspend the procedure initiated ex officio or upon reporting.

The procedure shall be suspended when it is established that there are no grounds for conducting the procedure for deciding on the existence of a violation of this Law.

An appeal can be filed with the Council of the Agency against the decision of the Director of the Agency, within 15 days from the date of receipt of the decision.

The Council of the Agency shall decide on the appeal within 30 days from the date of receipt of the appeal.

Exceptionally from paragraph 4 of this Article, during the election campaign, the Council of the Agency shall decide on the appeal within 15 days from the date of receipt of the appeal.

The decision of the Council of the Agency shall be final and an administrative dispute can be initiated against it.

In an administrative dispute, the court shall resolve the administrative matter with a decision.

If a violation of this Law is determined in the proceedings before the Agency, the director of the Agency shall submit a request for the initiation of misdemeanour proceedings.”

Article 85 Public Announcement of the Decision

The operating part and the summary reasoning of the final decision imposing the measure of public announcement of the recommendation for dismissal of public official from public office and the measure of public announcement of the decision on the violation of this Law shall be published on the website of the Agency and in the “Official Gazette of the Republic of Serbia”. The disposition and the summary explanation of the decision by which the measure from Article 82 of this Law was imposed on a public official during the election campaign, due to the violation of the provisions of Article 50 of this Law, shall be published on the Agency's website within 24 hours from the date of adoption.

An appeal filed against the decision referred to in paragraph 2 of this Article shall be published on the Agency's website within 24 hours from the day the appeal is received.

The final decision from paragraph 2 of this Article shall be published on the Agency's website and in the “Official Gazette of the Republic of Serbia.”

Article 103 Misdemeanour Offences of Public Officials

A fine in the amount of 50,000 to 150,000 dinars shall be imposed on a public official for a misdemeanor offence if s/he:

1. Fails to respond to the call of the Agency (Article 37);
2. Fails to notify the Agency within the prescribed time limit of suspicion of the existence of his/her conflict of interest, or that of a person associated with him/her (Article 42, paragraph 1);
3. Fails to notify the Agency within the prescribed time limit about other work or business activity (Article 45, para. 1);
4. Performs another work or business activity contrary to Article 46 of this Law;
5. Advises legal and natural persons contrary to Article 47 of this Law;
6. Establishes a company and/or public service or starts performing an independent business activity while discharging a public office (Article 48, paragraph 1);
7. Becomes a representative or a member of the body of a privately owned legal person or exercises management rights while discharging a public office (Article 48, para. 2);
8. Becomes a member or representative of an association contrary to Article 49 of this Law;
9. Fails to transfer management rights within the prescribed time limit (Art. 51, para. 1);
10. Fails to submit data to the Agency within the prescribed time limit (Art. 51, para. 2);
11. Discharges another public office contrary to Article 56 of this Law;
12. Receives a gift contrary to Article 58 of this Law;

13. Fails to hand over an occasional or protocol gift within the prescribed time limit (Article 59, paragraph 4);
 14. Retains ownership of a protocol or occasional gift contrary to Article 60 of this Law;
 15. Fails to notify the public authority of the received gift in the prescribed manner and within the prescribed time limit (Article 62);
 16. Fails to report assets and income within the prescribed time limit or rather submits an inaccurate or incomplete report on property and income (Articles 68 and 69);
- “A public official shall be fined from 100,000 to 150,000 dinars for a misdemeanour if one acts contrary to Article 50, paragraphs 1, 2, 4, 5, 6 and 8 of this Law.”

For the misdemeanour offence referred to in paragraph 1, item 1 of this Article, employees and other persons engaged to perform tasks in a public authority shall be fined in the amount of **100,000** to 150,000 dinars.

For the misdemeanour offence referred to in paragraph 1, items 13 and 15 of this Article, a family member of a public official shall be fined in the amount of **100,000** to 150,000 dinars.

For the misdemeanour offence referred to in paragraph 1, item 17 of this Article, a person whose public office has been terminated shall be fined in the amount of 50,000 to 150,000 dinars.

Misdemeanour Offences of Responsible Persons in Public Authorities Article 104

A fine in the amount of **100,000** to 150,000 dinars shall be imposed on the responsible person in a public authority for a misdemeanor offence, if the public authority:

1. Fails to provide the Agency with direct insight into the data and documents and/or fails to submit to the Agency the documents and information at its disposal within the prescribed time limit (Article 36, paragraphs 1 and 2);
2. Fails to take a decision on the termination of office within the prescribed time limit (Article 56, paragraph 8);
3. Fails to keep a record of gifts in accordance with Article 63 of this Law;
4. Fails to submit to the Agency a copy of the record of gifts for the preceding calendar year within the prescribed time limit (Article 64, paragraph 1);
5. Fails to notify the Agency within the prescribed time limit concerning the election, appointment or nomination of a public official and/or the termination of the office of a public official (Article 67, paragraph 1);
6. Fails to inform the Agency within the prescribed time limit what action it has taken after receiving a criminal report, a request for the initiation of misdemeanour proceedings or an initiative for the initiation of disciplinary proceedings (Article 86, paragraph 2 and Article 90, paragraph 4);
7. Fails to submit to the Agency an integrity plan and a report on the implementation of the integrity plan (Article 95, paragraph 3);
8. Fails to appoint a person to perform coordination tasks related to the adoption, implementation and reporting on the implementation of the integrity plan (Article 97, paragraph 2)
9. Fails to conduct the training of employees and managers in accordance with the training programme and training instructions, and fails to inform the Agency in writing about the implementation of the training (Article 99, paragraph 3)
10. Does not publish on its website, or otherwise make available to the public, data on promotional activities in accordance with Article 50, paragraph 8 of this Law (Article 50, paragraph 10).

A person exercising public powers shall be fined in the amount of **100,000** to 150,000 dinars for the misdemeanour offence referred to in paragraph 1, item 1 of this Article.

Article 50 Function in a political entity

1. A public official may have a function in a political party and/or a political entity and participate in its activities if this does not jeopardise the discharge of public office and is not prohibited by law.
 2. A public official may not use public resources for the promotion of political parties that is political entities, which specifically refers to the use of public resources for the purpose of public presentation of election participants and their election programs, inviting voters to vote for them in the elections, that is, to boycott the elections, as well as the use of public resources for other types of political activities, such as working with voters and membership, organizing and holding gatherings and promotions, creating and distributing advertising material, brochures, leaflets and publications, political advertising, public opinion research, media, marketing and consulting services, and conducting trainings for party activities.
 3. Notwithstanding paragraph 2 of this Article, a public official may use public resources for the protection of personal security, if such use of public resources is governed by relevant regulations or by a decision of services in charge of the security of public officials.
 4. It shall be deemed that a public official presents to the interlocutors and the public the position of the authority in which one performs one's public function, except when one unequivocally presents to the interlocutors and the public that one is presenting the position of a political entity
 5. A public official shall mark and report to the Agency the account one uses in its capacity as a public official on social networks, and on that account one must not post posts related to the activities of a political party, that is, a political entity. A public official may not post announcements related to the performance of one's public office on an account on a social network that is not marked as an account one uses in its capacity as a public official.
 6. A public official may not use public gatherings in which s/he participates and meetings s/he holds as a public official, for the promotion of political parties, that is, political entities, which specifically refers to the use of such public gatherings and meetings for public presentation of election participants and their election programs, inviting voters to vote for them in certain elections, that is, to boycott the elections.
 7. The provision of paragraph 4 of this Article shall not apply to MPs, deputies in the assembly of the autonomous province and councillors in the assembly of local self-government units and city municipalities
7. During the period of the election campaign **and after the deadline for submission of the electoral list**, i.e. the submission of the candidate nomination for the President of the Republic, a public official may not, in that capacity, organize promotional activities of public authorities, carry them out or participate in promotional activities organized by other persons, except:- when it is planned in advance, before the calling for elections, that the promotional activity shall be carried out at a certain time and in a certain manner;
- when it comes to public manifestations which, according to established practice, are carried out at a certain time and with the participation of the holder of a certain public function;
 - when the participation of a public official is deemed necessary for the maintenance of international relations.
- Promotional activity from paragraph 8 of this Article is an activity of a **public authority that aims to influence** a potential voter to vote for a candidate or electoral list nominated by a

¹⁴ The proposals of Draft Law II appear in track changes.

political party upon whose nomination a public official in that public authority was elected or appointed.

The public authority shall publish on its website, or otherwise make available to the public, six-month data on promotional activities from paragraph 8 of this Article. The plan of promotional activities for the first six months of the current year shall be published no later than February 1, and for the second six months no later than July 1 of the current year.

During the election campaign, in the procedure referred to in Article 78, paragraphs 1 and 2 of this Law, in deciding whether there is a violation of the paragraph 1, 2, 4, 5, 6 and 8 of this Article, the Agency shall decide within five days from the day of initiation of the procedure ex officio, that is, from the day of receipt of a legal or natural person's report.