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**RESEARCHING PRISONER'S VIEWS  
ON THE CORRUPTION AND  
ANTI-CORRUPTION ACTIONS  
WITHIN THE SYSTEM FOR THE  
ENFORCEMENT OF CRIMINAL  
SANCTIONS IN SERBIA**

**Second round - 2013**



## INTRODUCTION

Centre for Human Rights - Niš conducted a new round of research of prisoners' views on the corruption and anti-corruption, on the level of the System for the Enforcement of Criminal Sanctions. As in the case of the first research that was in function if monitoring and evaluation of the condition of corruption and anti-corruption activities, a methodological framework was created and it took into account topics of the research (corruption and anti-corruption activities), target group and its characteristics (sentenced persons do not serve sentences) and the fact that gathering data needed for the research is conducted by a non-governmental organization.

In line with the previously given framework, a written questionnaire was created combining closed, open and closed-open questions divided into batteries/sub-topics:

- socio-demographic data on the interviewee including the length of imposed sentences;
- corruption (definition, knowledge on corruption, evaluation of the corruption on the level of prison, motivation for participation in the corruption on the level of prison, actors of corruption on the level of prison, motivations for participation in corruption on the level of prison, personal experience with the corruption and motivation to participate in the corruption);
- anti-corruption (volume, actors and evaluation of anti-corruption actions on the level of prison, personal anti-corruption engagement); and
- realization of prisoners rights and efficiency of appeal procedure.

The research was conducted on the specimen of 19 interviews. Differences that occur in the statistics, i.e. where the number of replies is less than 19 is a result of refusing to answer or not filling in the replies by prisoners.

### Findings of the Research

Since it is a research on appropriate sample, the first thing we will do is to present the identity of the participants in the research. In respect of marital status, among the interviewees there is the highest number of those divorced (7)<sup>1</sup> or married (6) and those who have never been married (6). One interviewee is a widower. Among

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Frequencies of replies are given in brackets

those who have children, the highest number is of those with one child (7), two children (3), three (2). Six interviewees replied that they were not parents.

Regarding the level of education, the highest number of interviewees said they finished high school (8), although there were interviewees without school (3), with primary school (7), but there are also those with higher school.

When asked about the vocation, the highest number of interviewees said they were blue collars (6), unemployed (4) and pensioner (3). Two interviewees said they were entrepreneurs, two self-employed and one interviewee was expert.

And in the end of presentation of sample framework we will deal with the remand issue of the prisoners. Namely, two thirds of interviewed prisoners may be put in the category of remand prisoners because only five interviewees said they were in the prison for the first time. The highest number of interviewees served the sentence for the third time (Table 1).

**Table 1. Remand prisoners**

| <b>Number of sentence servings</b> | <b>Frequency</b> |
|------------------------------------|------------------|
| First                              | 5                |
| Second                             | 2                |
| Third                              | 6                |
| Fourth                             | 3                |
| Fifth                              | 1                |
| Sixth                              | 1                |

### **State of corruption and anti-corruption**

Definition of corruption is not only an indicator of recognizing (knowing) corruption but it can be the consequence of self-perception, i.e. self-defining. The findings of this research speak about two things. First, the highest number of interviewees identifies corruption with giving and taking bribe, and other that corruption also stands for what it is basically not - violation and denial of rights and doing injustice (Table 2). That is how we come to a conclusion about the existence of "theoretical" and "situational" understanding of corruption among the prisoners. Different from the first approach which is in line with the existing understanding of corruption, situational definition of corruption is the consequence of the condition (lack) of integrity on the level of prison system in Serbia.

**Table 2. What is corruption**

| <b>Form in which it occurs</b>                             | <b>Frequency<sup>2</sup></b> |
|--|------------------------------|
| Giving and taking bribe                                    | 16                           |
| Bias and preferential treatment                            | 4                            |
| Conflict of interest of state and local officials          | 5                            |
| Abuse of position in public sector                         | 6                            |
| Abuse of position in private sector                        | 2                            |
| Violation of law   | 8                            |
| Extortion of money by someone working in the public sector | 7                            |
| Trade with influence/power that one individual has         | 6                            |
| Doing injustice  | 7                            |
| Denial of rights   | 6                            |

Wishing to measure the ability of prisoners to recognize the corruption, we also asked a question by which we measured recognizing/knowing corruption on the level of forms in which it occurs (Table 3).

**Table 3. Recognizing corruption as occurrence**

|   | <b>Yes</b> | <b>No</b> |
|---|------------|-----------|
| Giving presents to a doctor who paid special attention to you                                       | 8          | 5         |
| Intervention with the professor so as to get free from school obligations                           | 8          | 4         |
| Intervention with a higher official in order to assist in employment of your relative               | 10         | 2         |
| Personal request to Municipal MP to provide a construction permit for you.                          | 11         | 1         |
| Giving money to a police officer not to take your driving licence                                   | 16         | 2         |
| When a prisoner deals with a company owed by his best man   | 11         | 3         |
| Discovering information to acquaintances based on which they would gain some benefit.               | 12         | 3         |
| Accepting to pay the officer to cover or reduce tax obligations.                                    | 14         | 1         |
| Pre-election donations to political parties by entrepreneurs  | 7          | 2         |
| Additional payments to the lawyer for a successful exemption of criminal liability.                 | 4          | 9         |
| When commission, selecting from three candidates, chooses to employ one due to his/her nationality. | 10         | 3         |

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There were multiple replies. The interviewees could choose three answers and that is why the total number is higher than 19.

Based on the research results two tendencies are visible. First, among interviewees a high level of recognition of what is and what is not corruption is recorded. Second, a significant number of interviewees tolerate corruption in the area of public services (education, health).

One of the aims of the research was focused on the issues that need to lay out the corrupt environment in Serbian prisons. That is why we asked the participants in the research who, on the level of the prison in which they serve sentences, practices corruption and who fights against this deviation.

**Table 4.** Who practices the corruption and who fights against this deviation?

|                              | <b>Practices corruption</b> | <b>Fights against the corruption</b> | <b>From case to case</b> |
|------------------------------|-----------------------------|--------------------------------------|--------------------------|
| Head                         | 9                           | 1                                    | 7                        |
| Members of treatment service | 14                          | 0                                    | 4                        |
| Treatment officer            | 13                          | 0                                    | 5                        |
| Shift commander              | 7                           | 2                                    | 6                        |
| Guard                        | 7                           | 1                                    | 6                        |
| Influential prisoners        | 7                           | 1                                    | 5                        |
| Prisoners                    | 0                           | 2                                    | 6                        |
| Judges                       | 11                          | 0                                    | 6                        |

From the Table 4 two facts can be observed. First one- everyone participates in the corruption, and the other one that the fight against corruption happens from "case to case"- i.e. that the fight against corruption in the observed prisons depends on situational and personal factors, i.e. there is no system fight against corruption on the level of these institutions.

Data in Table 5 speak about the relevance of this evaluation and it deals with the source of information based on which the attitude about the participants in the corruption was formed.

**Table 5. Sources for evaluation who deals with the corruption in prisons**

| <b>Sources</b>                            | <b>Frequencies<sup>3</sup></b> |
|---|--------------------------------|
| I had personal experience                 | 11                             |
| A prisoner who had experience told me     | 16                             |
| A guard told me                           | 2                              |
| A member of my family or relative told me | 2                              |
| It is generally known thing.              | 18                             |

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The reply was multiple, the interviewees could chose up to three answers and that is why the total number is 19.

Namely, half of the interviewees based their opinion on corrupt activities and actors on their personal experience, the experience of his family/relatives or the experience that prisoner's family members or relatives had. In favour of the relevance of this evaluation speaks the data that score highest number of interviewees said that "corruption is a generally known thing".

For the image of (anti)corruptive ambiance what is of importance is a perception who and with what motivation deals with the corruption and anti-corruption.

Although it is about the result that was created as a perception of interviewees, the results presented in Table 6 say that instrumental dimension of motivation dominates also when speaking about participation in corruptive actions and in rare cases fight against the corruption. It leads to a conclusion that the corruption from the aspect of realization of labour rights is a form of informal and illegal charge for work by the prison structures that did not or don't want to realize their rights through union activism, but they realize the increase of their salary by the abuse of their own rights, often violation the rights of prisoners.

**Table 6. Perception of motivation for participating in the corruption may be a reliable indicator of state of corruption.**

|                              | <b>Practice(s) corruption</b>   | <b>Fights against the corruption</b>   |
|------------------------------|---|--|
| Head                         | Benefit, the function carries it, it happens everyday, bad material situation, power, due to the membership in some party       |  |
| Members of treatment service | They are protected by the Law, they have a protection of high state officials/ministers, money, benefit, bad material situation | So as to advance                       |
| Treatment officer            | Money, benefit, bad material situation  | So as to advance                       |
| Shift commander              | He became such, money, benefit bad material situation   | So as to advance                       |
| Guard                        | Better life, bad material situation   | For honour                             |
| Influential prisoners        | To preserve their status. They are given that possibility   |  |
| Prisoners                    | To realize their rights over influential and powerful prisoners   | Honour, wish for equality              |
| Judges                       | Benefit, the function carries that, it happens everyday, bad material situation, better position.                               |  |
| Prisoners' relatives         | To make the sentence easier for their ones, better treatment  | They fight for their ones, for honour. |

Associated with the state of corruption in prisons is the issue of overpopulation, which was identified as (one of) the capital problem(s) in the system for the enforcement of criminal sanctions in Serbia. That's why we asked our interviewees about the extent to which, in their opinion, there is an impact of overpopulation on the corruptive behaviour of the prison apparatus.

**Table 7. Impact of overpopulation on the corruption**

|                              | <b>Increases</b> | <b>Reduces</b> |
|------------------------------|------------------|----------------|
| Head                         | 11               | 4              |
| Members of treatment service | 11               | 4              |
| Treatment officer            | 11               | 4              |
| Shift commander              | 6                | 9              |
| Guard                        | 5                | 9              |
| Influential prisoners        | 5                | 10             |
| Prisoners                    | 4                | 9              |
| Judges                       | 4                | 9              |
| Prisoners' relatives         | 5                | 8              |

According to the opinion of the participants in the research the overpopulation in prisons influences the increase of the corruption with the head, head of the treatment service and treatment officers, because the increase in number of prisoners brings the increase in "offer" i.e. number of potential (corruptive) clients.

(Anti)corruption perspective depicted in the vision of actual state of corruption and fight against the corruption, as well as evaluation of their future and it represents a clear indicator of expected (anti) corruptive behaviour of interviewees. Data from Tables 8 and 9 show that corruption is a matter of past, present but also future of prisons in Serbia.

**Table 8. Evaluation of the increase of corruption and anti-corruption in prisons in the past.**

|                     | <b>Corruption</b> | <b>Anti-corruption</b> |
|---------------------|-------------------|------------------------|
| Increased very much | 13                | 0                      |
| Slightly increased  | 2                 | 2                      |
| Remained the same   | 2                 | 2                      |
| Slightly reduced    | 1                 | 2                      |
| Reduced very much   | 0                 | 4                      |



**Table 9. Perception of the increase of corruption and anti-corruption in prisons in the future**

|                     | <b>Corruption</b> | <b>Anti-corruption</b> |
|---------------------|-------------------|------------------------|
| Increased very much | 8                 | 1                      |
| Slightly increased  | 4                 | 1                      |
| Remained the same   | 6                 | 3                      |
| Slightly reduced    | 1                 | 3                      |
| Reduced very much   | 1                 | 5                      |

Besides (anti)corruption perspective an important indicator of corruptive behaviour is attitude towards corruption as an (effective) mechanism for the realization of (il)legal rights and interests, then attitude who participates in it and from which positions, as well as what could be gained with the corruption and what could be lost with anti-corruption fight.

According to the findings of our research, everyone that can participates in corruptive exchanges, especially those who have power and those who have means to pay for the right that does (not) belong to them. In support of this argument speaks the fact that the respondents answered to the question "How great is the power of those involved in corruption?", responded very powerful (2) and powerful (12).

As far as corruptive mediums are concerned, the interviewees said that the corrupter – and these are prisoners or their families/relatives give money or/and obedience. For that one gets from those corrupted ones more freedom, amnesty, narcotics, better accommodation, work position, better treatment and other commodities and (il)legal rights.

As far as corruptive experience is concerned it is very small among our interviewees, because majority of them (14) never participated in the corruption. That is an attitude of the minority in the research.

On the other hand, when asked about the readiness to participate in the corruption, majority of interviewees said that they would have done that if they had had enough means if that was the way to ensure better treatment or shortening of the sentence.

By analyzing anti-corruptive ambience that would have simulative influence that the interviewees report the corruption, the results of the research say that it is necessary to fulfil two preconditions. The first one is related to appropriate level of institutional integrity of the prison as an institution (respect of the Law on the Enforcement of Criminal Sanctions, respect of right of prisoners and non-existence of discrimination). The other one is related to the protection of those that reported

corruption with possibility of award/incentive for prison whistle blowers, and that would relate to shortening of the sentence or realization of concrete commodities (change of the treatment).

When speaking about obstacles in fight against the corruption, from the perspective of our interviewees, they could be divided into system ones and anti-corruptive ones. System obstacles relate to the integrity of a prison as an institution. In this group fall: nature of hierarchy ruling in prison, behaviour of managing cadres from ruling political parties and non-enforcement of the law. In group of anti-corruption obstacles the following may fall: influential prisoners whining those who fought the corruption fear from revanchism, inefficient sanctioning of illegal actions, impossibility of a prisoner, wishing to report the corruption, to address the relevant institution and existence of fear.

### **Respect of prisoners' rights**

Rights of prisoners', i.e. their realization is a corruptive medium around which the issue of corruption in prisons when speaking about prisoners spins.

**Table 10. Denial of rights**

|   |    |
|---|----|
| Accommodation conditions                    | 16 |
| Preservation of health condition            | 16 |
| Medical treatment in time                   | 15 |
| Nutrition                                   | 15 |
| Medical treatment                           | 14 |
| Decision where you serve the sentence       | 11 |
| Informing                                   | 10 |
| Possibility to go to work out of the prison | 9  |
| Provision of legal aid                      | 9  |
| Right to work during sentence serving       | 9  |
| Choosing the work one does.                 | 8  |
| Conditions of social life                   | 8  |
| Sending complaints                          | 8  |
| Received replies to complaints              | 8  |
| Religious rights                            | 8  |
| Education                                   | 7  |
| Selection of education program              | 7  |
| Visits in prison                            | 6  |

|   |   |
|---|---|
| Possibilities of delay of sentence serving                | 6 |
| Right to be visited by persons who are not family members | 6 |
| Awards given by the Head                                  | 6 |
| Sending letters   | 5 |
| Receiving letters   | 5 |
| Telephone calls   | 5 |
| Receiving parcels   | 4 |
| Access to water   | 2 |
| Right to a lawyer   | 2 |

Based on the given data in Table 10 it could be clearly seen that most of prisoners' rights are violated in part of existential rights: nutrition, accommodation and preservation of health condition with not in time medical care and informing.

Issue of realization of complaint is an important instrument of the protection of prisoners' rights. Received results show that complaints, as instruments, are adequately treated in institutions that are out of the prison system, i.e. by the Ombudsman and Centre for Human Rights - Niš as an NGO. Unlike them, competent state organs, starting from the Ministry of Justice, over organs in charge, Head of the prison, Head and Treatment officer, show no interest for the complaints of prisoners.

**Table 11. Efficiency of communication**

|                             | Number of sent requests | Number of received answers | Number of those satisfied with the reply | Percentage of replying | Percentage of satisfaction with the reply |
|-----------------------------|-------------------------|----------------------------|--|------------------------|---|
| Head                        | 5                       | 4                          | 0  | 0.8                    | 0   |
| Ombudsman                   | 3                       | 2                          | 1  | 0.67                   | 0.5                                       |
| Head of the unit            | 3                       | 1                          | 0  | 0.33                   | 0   |
| Center for Human Rights Niš | 3                       | 3                          | 2  | 1                      | 0.67                                      |
| Ministry of Justice         | 1                       | 0                          | 0  | 0                      | 0   |
| Supervision organ           | 1                       | 0                          | 0  | 0                      | 0   |
| Treatment officer           | 1                       | 0                          | 0  | 0                      | 0   |

These data should worry one not only from the aspect of realization of rights but also from the aspect of communication with prisoners, because the complaints are,

in its last instance the way to establish communication on the relation - from one side the prisoner and from the other side prison management and Ministry in charge.

Anticorruption analysis of normative framework showed that discrete powers are core of corruption on the level of prisoners. In Table 12 we presented replies of prisoners to the question by which we wanted to measure whether there were clear criteria when realizing given rights and whether they were respected.

The conclusion is that in the most of the rights the criteria either exist but they are not applied or the criteria do not exist, which opens a way to discrete acting which can easily turn into abuse of public powers to which clear criteria themselves represent the first dam. On the other hand, the interviewees showed a significant level of ignorance or "silence" selecting the option No reply, which is an additional anti-corruption risk from potential abuse of discrete powers because there is significant possibility of prisoners being manipulated by those with discrete powers.

**Table 12. Existence and application of criteria when realizing rights**

|  | <b>Criteria exist and they are respected</b> | <b>Criteria exist and they are not respected</b> | <b>There are no criteria</b> | <b>No reply</b> |
|--|--|--|------------------------------|-----------------|
| Awards given by the Head   | 1  | 9  | 2                            | 4               |
| What does good behaviour mean”   | 1  | 5  | 4                            | 5               |
| What does "Committed to the implementation of programs" mean           | 2  | 5  | 4                            | 5               |
| Extended right to receiving parcels                                    | 7  | 5  | 1                            | 3               |
| Extended right to number of visits                                     | 6  | 6  | 1                            | 3               |
| Extended right to a circle of people that may visit the prisoner       | 7  | 6  | 1                            | 3               |
| Right to visits without supervision in rooms for visits                | 5  | 6  | 1                            | 3               |
| Right to visits in special rooms, without presence of other prisoners. | 6  | 5  | 1                            | 4               |
| Rights to visits out of prison   | 1  | 5  | 3                            | 7               |
| Right to more agreeable accommodation                                  | 0  | 6  | 0                            | 3               |

|  |   |   |   |   |
|--|---|---|---|---|
| Right to free exit to the city   | 0 | 2 | 0 | 4 |
| Right to visit the family and relatives on weekends and holidays                     | 0 | 2 | 0 | 3 |
| Right to award leave from the Penitentiary for up to 7 days in a year.               | 3 | 2 | 2 | 8 |
| Right to extra leave from the prison for up to 7 days                                | 2 | 2 | 3 | 8 |
| Right to use the annual vacation out of Penitentiary                                 | 2 | 4 | 4 | 8 |
| Move of the prisoner   | 0 | 8 | 2 | 4 |
| Conditions for coercive measures   | 2 | 4 | 3 | 4 |
| Forced medical examination   | 2 | 4 | 4 | 6 |
| Confiscation and temporary holding things that are otherwise permitted               | 2 | 5 | 5 | 3 |
| Accommodation under enhanced supervision   | 6 | 2 | 5 | 3 |
| Isolation  | 6 | 2 | 3 | 3 |
| reprimand  | 6 | 2 | 3 | 4 |
| Limitation or ban on receiving parcels for up to three months                        | 5 | 4 | 2 | 4 |
| Limitation or ban on holding and using money in penitentiary for up to three months. | 5 | 3 | 5 | 2 |
| Sending a prisoner to isolation in free time or during the whole night and day.      | 5 | 1 | 3 | 5 |
| Condition for the delay of disciplinary measure                                      | 2 | 3 | 3 | 6 |
| Amnesty  | 1 | 3 | 6 | 5 |

Hypothesis about the relationship of abuse of discretion powers and failure of re-socialization, which results in remand and prison overcrowding has received its confirmation in Table 13. In fact, exactly those rights related to successful re-socialization are those rights for which the criteria either exist but are not applied or the criteria does not exist which opens a space for voluntarism of the Head, Heads of services that are in direct contacts with prisoners and Treatment officers.

**Table 13. Five rights of prisoners for which, according to the opinion of interviewees the criteria exist but are not applied or the criteria does not exist.**

|  | <b>Frequency</b> |
|--|------------------|
| Awards given by the Head   | 11               |
| What does good behaviour mean”   | 11               |
| Move of the prisoner   | 10               |
| Forced medical examination   | 9                |
| Confiscation and temporary holding things that are otherwise permitted | 9                |

## CONCLUSION

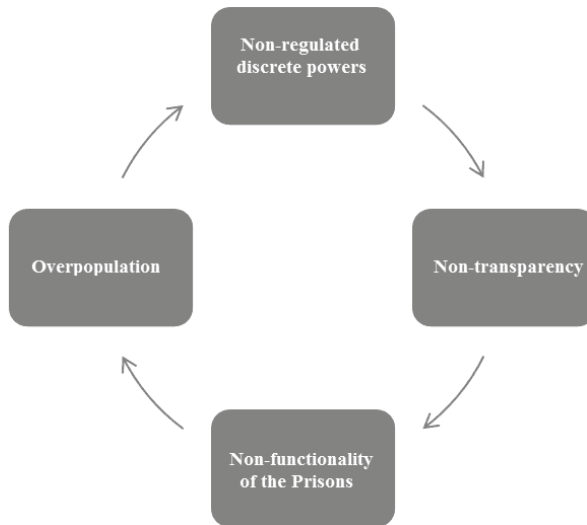
Bearing in mind all the limits necessary in case of interpretation of the research result carried out on adequate sample of 19 interviewees, we can conclude that the trend stated in the first research remains still present. It means that we stated in this research the following:

- Existence of "situational" definition of corruption as a consequence of state corruption and low integrity on the level of prison;
- Tolerance towards corruption in spheres such as health care system and school system, as a consequence of the corruption in prisons and failure of anti-corruption re-socialization with prisoners;
- Corruptive behaviour, in its basis, has instrumental nature, i.e. through it the prison staff makes up for, according to their opinion, low salary;
- Overpopulation increases corruption among the Head of penitentiary, heads of services, treatment officers;
- Existence of corruptive inclusion and it means that it is an effective way for the realization of rights while the anti-corruption may be the cause of denial of rights;
- Unlike the corruption which has system character, anti-corruption happens from case to case and depends on personal integrity and those who belong to prison apparatus;
- All those who have, above all, enough public powers and money participate in corruptive activities;
- Existence of corruptive perspective reflected in attitude that the corruption will increase and anti-corruption decrease on the level of prison;
- Besides the lack of anti-corruption mechanisms, available and effective on the level of prisons, obstacle in anti-corruption is also the delay in reforms in this area and it is reflected in low integrity of prison institutions;
- Integrity building of prison institutions, with availability of prison institutions and existence of incentive/reward for the prisoners would increase the readiness of prisoners for whistle blowing;
- Level of respect of prisoner rights is, at least, interrogative, with the remark that more than the others the rights related to existential needs - accommodation, nutrition, health and informing, are not respected;
- System of appeals on the level of prison system is on the low level of functionality, whether it is about the realization of prisoners' rights or communication on the level of this system.

Non-application of criteria or their non-existence when realizing prisoners rights enable that discrete powers are turned into non-punishable abuses by public

officials and those with powers in the system for the enforcement of criminal sanctions. This is especially related to the area of rights important for re-socialization of prisoners in part of awards and sanctions.

**Scheme 1. Closed circle of corruptive determinism on the level of prison.**



Such determinism of corruptive behaviour creates corruptive functionality in which everyone "gets" something. Prison structures get loyalty and possibility to manage unsustainable. Prison staff in this way charge for their work and have more relaxed relations with prisoners who, with participation in the corruption, gain possibility of certainty that that with paying they can get (il)legal rights. It results in the fact that prisons become institutions where prisoners are denied their right of movement- not re-socialization institutions. The prison becomes trapped institution that does not realize its social functionality.

**Recommendations**

Results of this research show the actuality of the application of the solution from the "Anti-corruption analysis of the Law on the enforcement of criminal sanctions and supporting rulebooks"<sup>4</sup>, cause they guarantee reduction and control of discrete

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<http://www.chr-nis.org.rs/antikorupcijska-analiza-zakona-o-izvršenju-krivicnih-sankcija-i-odgovarajucih-pravilnika/anti-corruption-analyses-of-the-law-text-english/>, page 26.



powers, increase of transparency of the reward system and sanctioning in the part of realisation of treatment program, increase of punishments mechanism efficiency, development of mechanisms of external control of inclusion of explicit anti-corruptive provisions in the Law and rulebooks and development of ethical standards. In that way functional re-vitalization of prisons would be done in a manner that they would become prisoners' re-socialization institutions with the developed personal integrity and working and professional motivation.

Besides the actuality of application of recommendations from the Analysis, this research, as well showed the actuality of the development of integrity plans and establishment of monitoring over this mechanism by civil-society organizations, where prisoners would be involved as a target group.

With the realization of these changes conditions for the improvement of anti-corruption would be created in a manner that would improve the integrity of institutions as a precondition for a successful anti-corruption and readiness of prisoners to be a part of anti-corruption coalition.