

3. INFORMATION ON THE IMPLEMENTATION OF THE ACTION PLAN FROM SEPTEMBER 2006 TO DECEMBER 2007

"Little has been done on the implementation of the Action Plan to Combat Corruption and Organized Crime."

*Progress Report for Montenegro for 2007
European Commission, Brussels, 6th November 2007*

3. INFORMATION ON IMPLEMENTATION OF THE ACTION PLAN FROM SEPTEMBER 2006 TO DECEMBER 2007

This chapter contains information on the implementation of measures defined by the Action Plan to Combat Corruption and Organized Crime since its adoption, in September 2006, to the end of 2007.

The Government adopted the Action Plan to Combat Corruption and Organized Crime at its session held on 24th August 2006.

The Action Plan covers a number of systemic reforms, as well as a range of specific measures to strengthen capacities of state authorities in charge of fight against corruption and organized crime. The Plan stipulates the timeframe for taking specific measures, the implementing agencies, success indicators, and risk factors for the implementation.

MANS is monitoring the implementation of the Action Plan by submitting requests for information as per each of the 280 activities envisaged by the document to the competent state authorities, pursuant to the Law on Free Access to Information. In order to monitor the implementation of the envisaged activities, requests are filed for each indicator set by the Action Plan to those authorities which have been, in line with the Plan, entrusted to undertake the specific activity.

From September 2006 to the end of 2007, the competent authorities were sent over 2500 requests for information; this report was made based on the responses provided.

Information on the implementation of measures is given as per chapters of the Action Plan itself and concern political and international obligations for action, general goals and specific measures to combat corruption and organised crime.

Figures are given for each area covered by the Action Plan on the number of measures fully implemented, partly implemented, not implemented at all and those on the implementation of which there is no information available. We also provide the information on the implementation of measures in relation to the observance of set deadlines.

Detailed information on the implementation of each of the measures envisaged by the Action Plan, in tabular form, are given in Chapter 4

3.1. Summary

Over the period September 2006, when the implementation of the Action Plan started, to the end of 2007, some 26% of envisaged measures were implemented, 28% were partly implemented, and 38% were not implemented at all, while for 8% of the measures competent authorities failed to provide any information on their implementation.

The implementation of most of the measures actually carried out was done within the deadlines envisaged by the Action Plan, while the deadline has expired for almost half of the measures which have only been partly realized so far. Two thirds of activities which have not been carried out should already have been fully implemented, as envisaged by the Action Plan. The same goes for half of the total number of measures concerning which we were denied access to information.

In the area concerning **political and international obligations for taking action**, which sets the frame for the implementation of all other measures envisaged by the Action Plan, the total of 39% of activities were carried out, 24% were partly implemented, while 35% was not implemented, while for 2%, information were not available.

The Parliament adopted the Declaration on Combating Corruption and Organized Crime, but as yet it has not established a body in charge of monitoring its implementation. Also, two anticorruption conventions of the Council of Europe have been ratified and a number of laws were adopted.

Drafting amendments to criminal legislation has not been completed yet, nothing was done on amending tax legislation concerning seizure of illegal proceeds which has not been taxed, nor has the new Law on Conflict of Interests been adopted.

Within **general goals**, approximately one third (29%) of measures has been implemented, for 39% implementation is ongoing, while 32% measures were not implemented.

Particularly important advancement in this area is the establishment of the so-called tripartite working group consisting of the members of the judiciary, prosecutors and police, which is in charge of enhancing efficiency in proving corruption and organized crime cases, but there are no data of its achievements.

What still remains a huge problem is the lack of control over the implementation of surveillance measures and non-comparability of statistical data on corruption and organized crime cases conducted by the police, the prosecutors and the judiciary, which would enable assessment of the efficiency of work of each of the institutions.

The police have not established procedures for citizens to report corruption, nor has it undertaken any investigation concerning the forms, causes and methods for corruption within the police.

Nothing has been done to identify discretionary powers of public officials, and the Law on Unlawful Media Concentration has not been adopted yet. Local Anticorruption Action Plans are not adopted.

One fourth (23%) of **specific measures to combat corruption and organized crime** has been carried out, 26% have been partly implemented, while nothing was done towards the implementation of 40% of measures, for two thirds of which the deadline set by the Action Plan has expired.

One of the tasks envisaged is to provide to the police the access to databases by signing memoranda with Tax Administration and a telecommunications company and links to the Tax Administration database have been provided. On the other hand, the police is not capable of protecting persons who report corruption and organized crime, nor there are established mechanisms to protect police officers.

The salaries of judges and prosecutors have been increased, but the independent court budget has not been established, nor have the members of the Judicial Council been appointed, neither are criteria and procedures for election of judges in place. Electronic case coding and allocation system and IT system for prosecutor's office have not been introduced yet.

Among all the institutions involved in the implementation of the action Plan, the Privatization Council had the lowest percentage of implemented measures, having partly implemented 25%, and not implementing as many as 75% of the envisaged activities, for most of which the deadline set by the Action Plan has expired.

The Report also shows that even in cases when the authorities have undertaken certain activities, they did not produce desired outcomes. Thus, there are no reports of conflicts of interest and corruption in privatization, while 4 complaints on privatization process were submitted, only one inspector was reported to the Tax Administration for corruption, and the Customs Administration did not receive any complaint on alleged corruption of its officers. Both administrations have carried out thousands of internal controls, leading to reports against 3 customs officers being filed with the Prosecutor's Office.

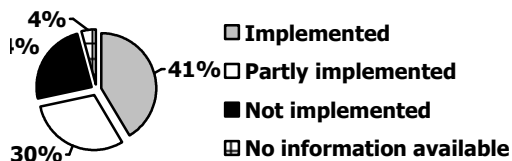
The table enclosed shows a summary overview of the implementation of measures envisaged by the Action Plan.

Chapter	Implemented				Partly implemented				Not implemented				No information				Total
	Total	On time	After deadline	In %	Total	On time	After deadline	In %	Total	On time	After deadline	In %	Total	On time	After deadline	In %	
Political and international obligations to act	19	15	4	41%	14	5	9	30%	11	2	9	24%	2	1	1	4%	46
General goals	12	12	0	24%	22	18	4	45%	15	11	4	31%	0	0	0	0%	49
Efficient Criminal Prosecution	2	2	0	18%	4	3	1	36%	5	4	1	45%	0	0	0	0%	11
Prevention and Education	8	8	0	30%	14	12	2	52%	5	4	1	19%	0	0	0	0%	27
Public, Civil Society, Media and Local Government	2	2	0	18%	4	3	1	36%	5	3	2	45%	0	0	0	0%	11
Specific measures	38	35	3	20%	55	20	35	30%	69	21	48	37%	24	14	10	13%	186
Efficient criminal prosecution and trial	25	23	2	26%	25	6	19	26%	30	8	22	32%	15	8	7	16%	95
<i>Prosecutor's Office</i>	5	3	2	29%	7	0	7	41%	3	0	3	18%	2	0	2	12%	17
<i>Police</i>	20	20	0	29%	16	4	12	23%	22	5	17	31%	12	7	5	17%	70
<i>Judiciary</i>	0	0	0	0%	2	2	0	25%	5	3	2	63%	1	1	0	13%	8
External and Internal Budgetary Audit	1	1	0	17%	1	1	0	17%	2	2	0	33%	2	2	0	33%	6
Privatisation Council	0	0	0	0%	3	0	3	25%	9	1	8	75%	0	0	0	0%	12
Anti Money Laundering Administration	3	2	1	23%	4	3	1	31%	4	1	3	31%	2	2	0	15%	13
Commission for Public Procurement	1	1	0	8%	2	0	2	17%	7	4	3	58%	2	0	2	17%	12
Commission for Conflict of Interest	0	0	0	0%	5	1	4	56%	4	0	4	44%	0	0	0	0%	9
Tax Administration	5	5	0	38%	3	2	1	23%	4	2	2	31%	1	0	1	8%	13
Customs Administration	2	2	0	14%	5	2	3	36%	6	0	6	43%	1	1	0	7%	14
Directorate for Anti-Corruption Initiative	1	1	0	8%	7	5	2	58%	3	3	0	25%	1	1	0	8%	12
TOTAL (01.09.20067 to 31.12.2007)	69	62	7	25%	91	43	48	32%	95	34	61	34%	26	15	11	9%	281
Total in period from 1.09.2006 to 31.08.2007	58			21%	61			22%	120			43%	42			15%	281
Data for period from 31.08.2007 to 31.12.2007	11				30				-25				-16				

Table 4: Percentage of implemented measures per areas as defined by the Action Plan to Combat Corruption and Organised Crime

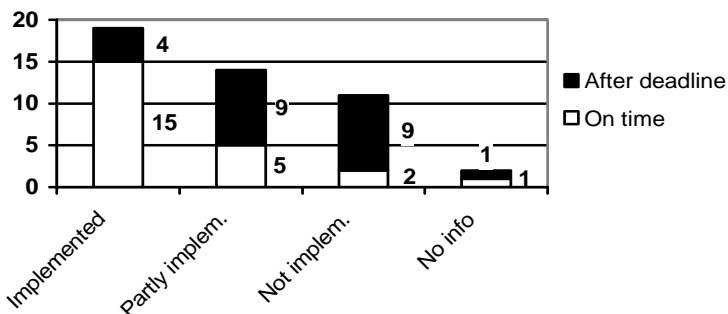
3.2. Political and international obligations to act

The first chapter of the Action Plan defines measures which represent a prerequisite for the realization of other parts, where special emphasis is put on adoption of legal regulation and its harmonization with the international conventions, as well as establishment of conditions for regional cooperation in fight against corruption and organized crime.



Out of 46 measures planned in the area of political and international obligation to act 19 have been implemented, 14 partly implemented, 11 of the planned measures have not been implemented, and the institutions did not have information on the realization of two measures.

Most of the measures fully implemented were carried out within the deadline stipulated by the Action Plan, while the deadline has expired for half of the measures which have only partly been implemented. Deadline has passed for most of the measures which were not implemented by the end of 2007 and one measure for which there is no information available.



The Parliament of the Republic of Montenegro on the last work day in 2007 adopted the Resolution on Fight Against Corruption and Organized Crime¹, but a special parliament body for monitoring its implementation has not yet been established.

The National Commission for Implementation of the Action Plan for Carrying out the Program of Fight Against Corruption and Organized Crime was established by the Government on 15 February 2007 and since its establishment until the end of 2007 held three sessions and adopted one report on the implementation of the Action Plan.

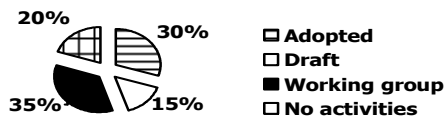
At its session held on 16 March 2007 the Commission adopted Rules of Procedure² and a form according to which the institutions will report monthly on the implementation of the Action Plan. At the second session held in July the First Report on the Implementation of the Action Plan was adopted and it was decided for institutions to submit quarterly reports to the Commission in the period to come. At the third session held on 25 December the decision was made to establish a work group which was to analyze the implementation of the Action Plan and propose amendments also of the Program for Fight Against Corruption and the Action Plan itself, and which will be made up of the representatives of institutions participating in the work of the Commission³.

¹ 51 MPs voted in favor of Resolution, 5 were against and no one abstained, and 25 MPs were not present during the vote.

² The text of the Rules of Procedure of the Commission is given in annex 2

³ Commission members are: Deputy Prime Minister, 3 ministers, Supreme State Prosecutor, President of Supreme Court, two MPs, Directors of Police Directorate & of Directorate for Anticorruption Initiative and MANS as only NGO representative.

Laws directly relevant to fight against corruption and organized crime



6 laws directly relevant to the fight against corruption and organized crime were adopted, 3 laws were forwarded to the Parliament for adoption, work groups have been formed for adoption of 7 laws, and there have been no activities to develop 4 planned laws.

Since the adoption of the Action Plan until the end of 2007 the following laws have been adopted:

1. The Law Amending the Law on Prevention of Money Laundering and Financing of Terrorism (29 November 2007)
2. Law on the Provision of International Legal Assistance in Criminal Matters (26 Dec 2007)
3. Law on Salaries and Other Revenues of State Officials (26 December 2007)
4. Law on Responsibility of Legal Persons for Criminal Acts (27 December 2006)
5. Law on Salaries and Other Revenues of Judicial and Constitutional Law Functions Bearers, (came into force on 1st September 2007)
6. Public Procurement Law (came into force on 29 July 2006)

The following proposals have been established

1. Law on Determining the Degree of Data Secrecy,
2. Law on Amendment to the Law on Banks,
3. Law on Financing of Political Parties,

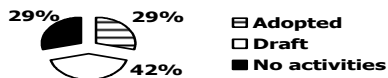
Work groups have been established and the development of the following is under way:

1. Law on Protection of Personality Data,
2. Law on Telecommunications,
3. Criminal Code and Criminal Procedure Code (no activities on development of Criminal Code)
4. Law on Amendments to the Customs Law,
5. Law on Taking Care of Temporarily and Permanently Seized Property ,
6. Law on Prevention of Conflict of Interest,
7. Law on the Protection of Persons Reporting Corruption.

There were no activities of the competent state institutions to develop the following laws:

1. Tax Laws, with regard to seizure of unlawfully obtained property on which no tax was paid,
2. Law on Lobbying,
3. Amendments to the Law on Budget, in relation to the distribution of gain obtained from seized property,
4. Law on the National DNA register.

Laws in the area of the general legislation reform relevant for fight against corruption



In the area of general legislation reform, 2 laws relevant for fight against corruption have been adopted, 3 were proposed to the Parliament by the Government, and there were no activities of the state bodies for development of 2 laws.

- Law on Asylum was adopted and came into force on 25 July 2006.
- Amendments to the Law on Financing of Local Self Government were adopted on 27 Dec 2007
- Draft Law on Aliens was forwarded to the Parliament for adoption.
- Draft Law on Property Legal Relations has been forwarded to the Parliament for adoption
- Draft Law on Obligation Relations has been forwarded to Parliament for adoption
- There were no activities of competent institutions for development of Anti-monopoly Law and Amendments to the Economy Privatization Law.

Direction for Anti-corruption Initiative submitted an analysis of harmonization of the national legislation with the UN Convention Against Corruption (UNCAC), which has been innovated according to the inputs of the competent bodies from May 2007 in cooperation with the OSCE Mission in Montenegro and the UNDP Office. In August 2007 the Direction submitted also the "Self-assessment checklist on the implementation of the UNCAC". In cooperation with the Direction the UN experts analyzed the degree of harmonization of the Public Procurement Law, the Criminal Code and the Criminal Procedure Code and the Law on Conflict of Interest with UNCAC. In the observed period there were no amendments to the existing laws with the aim of their harmonization with the UNCAC.

On 26 December 2007 the Parliament adopted a Draft Law on Ratification of the Civil Law Convention on Corruption, and on 27 November it ratified an additional protocol along with the Criminal-legal Convention on Corruption.

In cooperation with Council of Europe, Ministry of Justice analyzed harmonization of the Criminal Code (in area of extended confiscation of property) with international standards. Nothing has been done so far in view of the harmonization of legislation with the UN Convention (Palermo, UNTOC convention), and other conventions from the area of fight against organized crime.

Since the adoption of the Action Plan the Prosecutor's Office has signed five bilateral agreements on cooperation with the Prosecutor's Offices of Russia, Ukraine, Macedonia, Serbia and Albania, while the Police Directorate signed an agreement with the Police of Belgium. The Ministry of Internal Affairs and Public Administration and the Ministry of Justice did not sign any agreements on cooperation in fight against corruption with the ministries in the region. The Customs Administration signed an agreement on cooperation and mutual assistance with Slovenia, Albania and Serbia, Protocol on administrative assistance in customs affairs between Montenegro and EU, came into force at the beginning of 2008.

Prosecutors do not keep separate records on crime reports filed in the framework of regional cooperation, since according to their explanation, they do not have the legal obligation to do so, while according to the data submitted by the Police Directorate, 8 international police operations were conducted. The Ministry of Foreign Affairs and the Ministry of Justice have no information on the measures undertaken to improve regional cooperation in this area.

The Directorate for Anti-corruption Initiative made a Report on Implementation of National Priorities from the Declaration on 10 joint measures for fighting corruption which refers to implementation of three out of 10 envisaged measures.

The relevant Institutions⁴ didn't develop reports on the realization of GRECO recommendations on the assessment of anti-corruption activities, and the first report is expected to be made in May 2008.

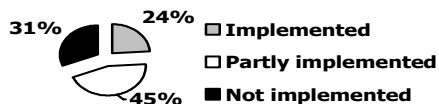
The budget funds have been increased for all the institutions competent for implementation of the Action Plan, both in 2007 and in 2008.

Of all the institutions competent for defining priorities, project development and their nomination with international organizations and institutions⁵, the Customs Administration submitted 9 project proposals requiring over 1,9 mil €, Directorate for Anti-corruption submitted 4 projects, and one is currently under way, implemented in cooperation with the UNDP office, worth EUR 250.000€. The Police Directorate submitted 3 projects of 1.7 mil € total worth, 2 have been implemented, and 2 of 400.000 € total worth are under way. Within IPA 2007 program, Tax Administration was granted, one project, while another one was submitted for IPA 2008. Funds from IPA 2007 in amount of 3 mil € allocated for projects in area of fighting corruption and organized crime are expected in second half of 2008.

⁴ The Ministry of Finance, Justice, Interior, Police, Supreme State Prosecutor, Directorate for Anti-corruption

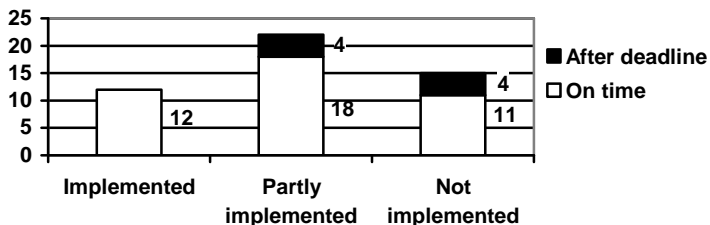
⁵ The Ministry of Finance, Interior, Customs, Secretariat for EU Integrations, Directorate for Anti-corruption, Police

3.3. General Goals

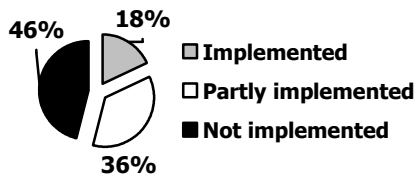


Out of the total of 49 measures envisaged in the area of general goals, 12 measures were implemented, 22 were partly implemented and 15 measures were not carried out.

All measures implemented were completed within the timeframe envisaged by the Action Plan, while the deadline has expired for 3 measures which have been only partly implemented. The time has expired for the implementation of 5 measures which were not implemented by the end of 2007.



3.3.1. Efficient Criminal Prosecution



Out of the 11 measures planned in the area of efficient criminal prosecution to suppress corruption and organized crime, 2 were carried out within the timeframe stipulated by the Action Plan, 4 were partly implemented and for one of them deadline expired. Five measures were not implemented with one measure whose deadline expired.

From the Action Plan entering into force in September 2006 to the end of 2007 none of the competent authorities, judiciary, prosecutors or police, has undertaken the training needs analysis in fight against corruption and organized crime, but series of seminars was organized, mostly by international organizations.

There were no assessments of the current state of affairs, definitions of standards for case evaluation, development of joint analysis of the judiciary, prosecutors and police on finding evidence in pre-trial and investigative procedures, or development of any recommendations for further work.

The Law on Liability of Legal Persons for Criminal Acts was adopted and entered into force on 19th January 2007.

There was no control exercised over the secret surveillance measures (SSM): neither the Supreme Court nor the Supreme State Prosecutor holds any information on the control performed by courts, or prosecutors; the Parliament did not perform any oversight over the application of SSM. There was either no internal control concerning the application of SSM since, as the Police Directorate notes, they received no complaints from citizens on these grounds.

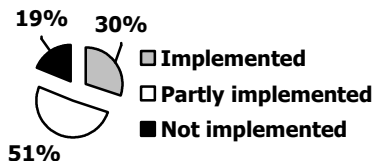
The Parliament failed to appoint the members of the Judicial Council, and the term of office of the previous Council expired on 2nd December 2006.

The Supreme Court and the Police Directorate did not carry out any analysis of human resources needs, Police Directorate employed several new members of staff and took over near 500 former employees from Ministry of Interior and Public Administration, while there is no reliable data on increase of staff in Prosecution.

No separate independent body for managing the seized assets has been established.

There are no analyses on joint statistical indicators covering judiciary, prosecution and police. Tripartite Commission was established to develop monitoring methodology for statistical data that could be used all mentioned institutions and their data comparable. Tripartite Commission held 11 sessions, and in Draft Second Report of the National Commission, data of judiciary and prosecution are segregated by number of reports and number of persons reported for corruption, i.e. number of verdicts, while data of Police Directorate are still referring to criminal act, therefore it is not possible to compare it with statistical data of judiciary and prosecution.

3.3.2. Prevention and Education



Out of the envisaged 27 measures concerning prevention and education, the total of 8 measures were carried out within the time frame envisaged by the Action Plan, 12 were partly implemented, and for 2 of them the deadline has expired, while 5 envisaged measures have not been carried out, and the deadline has expired for 1 of these measures.

According to the most recent available data, the 2006 Supreme State Prosecutor's Report, office space has been provided for six basic prosecutors, while the data on the state of affairs in the court system are not available, since the Supreme Court does not possess such information. Salaries of judges and prosecutors were, pursuant to the new law, increased for 35%, the increase becoming effective as of 1st September 2007.

The Code of Ethics of State Prosecutors and Deputy Prosecutors was adopted, but there were no reports of violations. According to the Supreme Court data, the Code of Ethics adopted by the Association of Judges of Montenegro, founded as an NGO, is in application, while the Judicial Council failed to be appointed by the Parliament, with the term of office of the previous Council having expired on 2nd December 2006. There is no information on violations of Code of Ethics for Judges.

The Office for Reporting Corruption in Judiciary was established with the Supreme Court on 17th October 2005, and over the period of the Action Plan implementation observed, from September 2006 to the end of 2007, the total of 6 cases were reported, currently still pending.

According to the Police Directorate data, within 16 months of the Action Plan implementation, the Ethics Committee considered 38 alleged violations of the Code of Police Ethics, having decided that 36 police officers should be processed to responsible prosecutor. There are no data of the percentage of Police Directorate staff familiar with the Code.

The Police Directorate notes that in order to create legal conditions to define the procedures to report corruption in police, the Directorate sent a proposal to the Ministry of Interior and Public Administration to adopt the Law on Protection of Persons Reporting Corruption.⁶

Criteria for employment in the police⁷ are defined by the Internal Organization and Systematization Regulation of the Ministry of Interior and Public Administration (Article 17). Staff are employed pursuant to a public announcement, except to those jobs for which the internal organization and systematization of the police stipulates otherwise.

⁶ Case Study no. 5

⁷ A trainee police officer may be any person who, in addition to general requirements for employment, is not above 28 years of age and holds at least a secondary school degree.

The Regulation adopted in December 2006 envisages the new organization of the Department of Internal Control and Use of Powers, training was carried out in part, but no equipment has been procured since the Action Plan adoption.

No research was done into current conditions, forms, causes and methods of corruption within the police force.

The Internal Organization and Systematization Regulation of the Ministry of Interior and Public Administration established the Sector for Security and Protection Matters and Supervision within which there is a Department for Complaints, Applications and Second Instance Proceedings and Police Supervision. In June the head of the department was appointed, but there are still no prerequisites in place for its proper operation due to the lack of staff and technical capacities.

The Ministry of Justice and Customs Administration do not hold information of any violations of the Code of Ethics for Civil Servants and State Employees, while the Tax Administrations reports only one such case.

According to the information made available by the Commission for Establishing the Conflict of Interest, most of the central government and local public officials disclosed their assets and the data are available on the Commission's website. Out of some 1800 public officials, 11 of them reported having received 18 gifts in total exceeding the value of 50 euros, and the Commission has ascertained the value of only two of these.

Over the period in question, the Ministry of Justice did not work on the identification of discretionary powers, analysis and review of the existing legislation.

Apart from press releases and a Guide for Access to Information, an obligation imposed for all state authorities by the Law, the Customs Administration, the Tax Administration and the Directorate of Anticorruption Initiative published on their websites the rules and procedures for the exercise and protection of the rights of citizens and conducted a public campaign to promote the telephone line for complaints. The Police Directorate, on the other hand, did not draft, publish or promote any procedures for submission of citizens' applications and complaints.

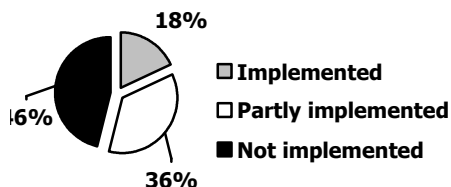
All responsible institutions⁸ dedicated a separate part of their progress reports to conducted activities related to combating corruption and organized crime, but only report of the Supreme State Prosecutors was made public.

A team of educators for training civil servants and state employees on the implementation of the Law on Free Access to Information was established carrying out 26 seminars for over 300 civil servants, but there were no trainings for citizens organized. The Guide for Civil Servants and the Guide for Citizens have been developed but it is not known how they were disseminated, while the Ministry of Culture which is in charge of supervision over the adoption of guides for access to information holds no data on the number of guides adopted and the institutions which, in contravention to the legal requirement, failed to publish them. Other competent institutions, Customs Administration, DAI, MIPA and Tax Administration adopted their Guides for Access to Information.

In their responses, most of the institutions claim to have fully implemented the Law on Free Access to Information, but the experiences of MANS so far show that certain institutions obstruct considerably the law implementation. When it comes to requests for information concerning the Action Plan, we encountered greatest problems with the Police Directorate, which not only failed to submit information but declared some to be state secrets, as well as the Tax Administration which was persistently claiming all information was available from its website, although quite often they couldn't be found.

⁸ Customs Administration, Police, Tax Administration, Ministry of Interior, Directorate for Anticorruption Initiative

3.3.3. Public, Civil Society, Media and Local Government



Out of the envisaged 11 measures in the area concerning publicity, civil society, media and local governments, 2 were implemented within the deadlines stipulated by the Action Plan, 4 were partly implemented, 3 in due time, while 5 were not implemented, the deadline having expired for two of them.

The campaign to encourage public participation in combating corruption and organised crime has been only partly implemented. Customs Administration promoted its line to report irregularities via press conferences and billboards. Tax Administration published two public releases at its website and promoted the telephone line to report irregularities in their occasional press releases, while the Police Directorate did not develop any specific promotional materials. Directorate for Anticorruption Initiative has conducted a public campaign inviting citizens to report instances of corruption via announcements, fliers, posters and billboards and organised lectures for students on the topic of anticorruption measures.

As for intensifying cooperation of institutions in charge of fight against corruption and the NGOs active in the filed, no memorandum of cooperation has been signed since the adoption of the Action Plan.

Among all the authorities, it is known only for the Customs Administration to have developed the Integrity Plan, but the very text of the document is not available.

Apart from surveys conducted among students who attended the lectures, the Directorate of Anticorruption Initiative has not undertaken any research into the forms, causes and mechanisms of corruption. They intend to undertake research covering the areas of judiciary, local government and education.

By the amendments to the Decree on the Organisation and Operation of State Administration, the powers of the Directorate for Anticorruption Initiative have been extended to include research and studies into the current situation and areas of corruption.

Since the adoption of the Action Plan, the Directorate for Anticorruption Initiative has held 8 lectures on corruption and organised crime at six higher education institutions.

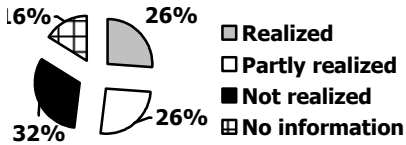
Montenegro Media Institute organised 4 trainings for over 20 journalists. As early as in the beginning of 2004 the Drafting Group for the Law on Unlawful Media Concentration was established, but there is still not even the working draft of this law.

There were no activities undertaken to improve fair and competitive business operation and investment, while Government adopted Programme "Elimination of barriers for entrepreneurship development in Montenegro". Working draft of the by-law to stipulate the contents of the Register of Punitive Record of Companies convicted of crimes involving corruption has been developed, which will enable to compile the "black list" of companies convicted of crimes involving corruption.

The drafting group for Local Anticorruption Action Plans was set up, but have not come up with the draft document as yet.

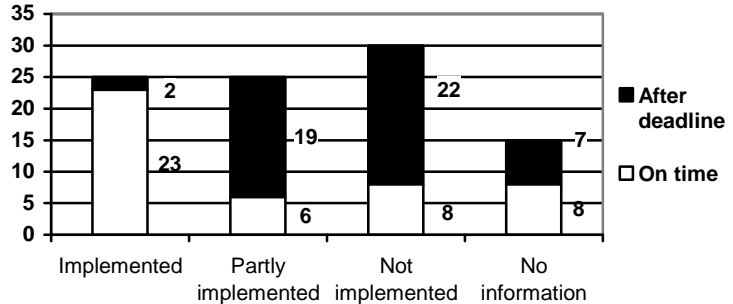
3.4. Specific Measures against Corruption and Organized Crime

3.4.1. Efficient criminal prosecution and trial

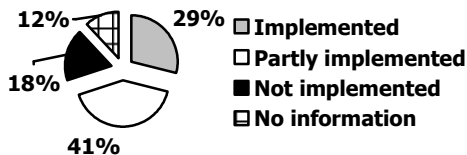


The part of the Action Plan referring to efficient criminal prosecution and trial foresees measures to build the capacities of the police, the prosecutor's office and the judiciary. Out of the 95 measures planned, 25 have been realized, 25 partly realized, 30 have not been realized, and there is no information on the implementation of 15 measures.

Most measures that have been realized have been completed within the time limit envisaged by the Plan, while the time limit for those partly realized and those not realized has expired. For almost half of measures on whose realization there is no information the time limit for realization has expired.

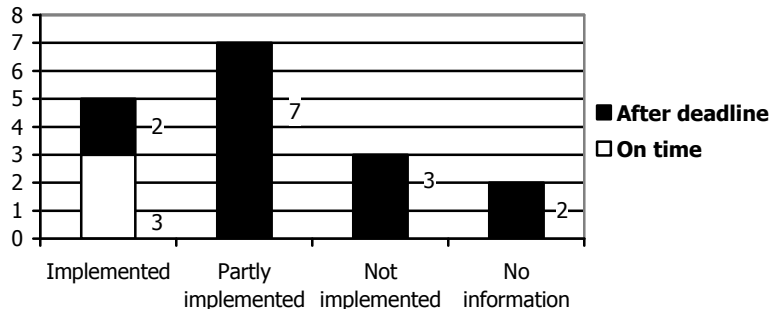


Prosecutor's Office



Out of the 17 measures planned referring to the role of the prosecutor's office in efficient prosecution 5 have been realized, 7 measures have been partly realized, 3 have not been realized, and there is no information on the realization of 2 measures.

Half of the implemented measures have been realized within the time limit, the time limit for the measures that have been partly realized has expired, as well as for all the measures that have not been realized. There are no data on realization of two measures the time limit for which has also expired.



Six deputy state prosecutors were employed. The Law on Salaries and Other Revenues of Judicial and Constitutional Law Functions Bearers foresees that justices and prosecutors are entitled to an increase of salary by 35%, as of September 1 2007. The Ministry of Justice has adopted a Rulebook on the Internal Operation of the State Prosecutor.

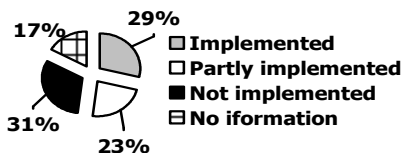
In the period from the adoption of the Action Plan until the end of 2007, series of seminars were organized, but there is no data on number of prosecutors that attended seminars, or covered topics. The Prosecutor's Office states that they continuously acquire professional literature, especially that related to Conventions and International Agreements.

No information system or a data base has been established, nor has there been any training of prosecutors for collection, development and analysis of statistical data, with regard to perpetrators and the structure of criminal acts.

Salaries of prosecutors have been raised, based on the new Law. No equipment has been acquired for the Department for Fighting Organized Crime, the salaries of officials in that department have been raised for 50%, and there are no data on new staff employed. One deputy Special Prosecutor for Prevention of Organized Crime has been appointed.

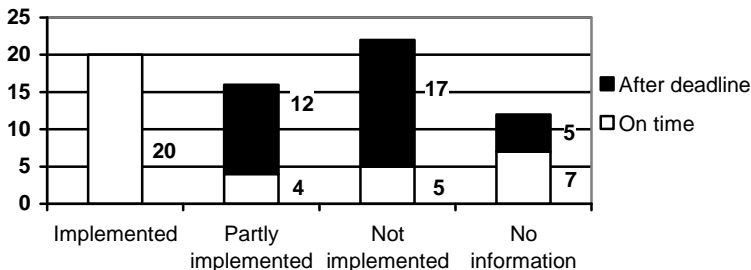
Since the adoption of the Action Plan the Prosecutors have signed agreements on cooperation with the State Prosecutor of the Russian Federation, Ukraine, Macedonia, Serbia and Albania.

Police



Out of the 70 measures planned referring to the role of the police in efficient criminal prosecution, 20 have been realized, 16 have been partly realized, 22 have not been realized, and there is no information on the realization of 12 measures.

All the realized measures were carried out within the time limit, for most measures that were partly realized the time limit for realization has expired, as well as for most of those that were not realized. For almost half of the measures on whose realization there is no information or deadline for realization has expired.



General measures for strengthening the capacities of the police

A Rulebook on the Internal Organization and Systematization of the Police Directorate and the Rulebook on the Implementation of Powers of the Police have been adopted. The Rulebook defined a Group for Prevention of Corruption with two executive officers in the Department for Fight Against Organized Crime and Corruption, but no special organization unit has been formed, as the Action Plan foresees.

Procedures for submission of citizens' reports and complaints on corruption, which would ensure protection of identities of those persons, are not separately defined, and thus they have not even been promoted.

The mechanisms and institutes for the protection of officers who are involved into fight against corruption and organized crime have not been defined.

The Police Directorate has adopted new rules for engagement of collaborators, but it proclaimed that act a secret.

Department for Fight against Organized Crime and Corruption

According to the Rulebook on Job Systematization no special organization units have been formed in the area of financial organized crime and classical – general organized crime, but these jobs are performed within other organization units. No special organization unit has been formed for the problems of money laundering, but a work position for the fight against money laundering has been formed within the group for financial crime.

The functional work space of the Department for Fight and Prevention of Organized Crime has not been provided, and the officials of that department participated in over 30 trainings from the adoption of the Action Plan until the end of 2007. No equipment was purchased for this Department.

The operative data base in the area of organized crime has not been formed.

Department for Prevention of Economic Crime

The Rulebook on Job Systematization, within the Department for Prevention of Economic Crime did not form an organization unit to deal with the problems of money laundering and financial investigations, i.e. identification and seizure of unlawfully obtained property, but only job systematization was done. No functional and work space has been provided for the existing Department for Prevention of Economic Crime.

Nine seminars for the officials of the Department for Prevention of Economic Crime have been organized in order to build its capacities for carrying out investigations of criminal acts of corruption and financial investigations, and equipment worth 10.000, 00 € obtained from donations was acquired.

Department for Special Investigation

The Rulebook on Systematization defined the organization level and reorganized the existing Department. According to a report of the Police Directorate submitted to the National Commission, a new draft of amendments of Department organization and systematization has been developed.

The Police Department proclaimed a secret the following information: whether and when units for the application of MTN and operative analyses were formed within that Department, how many MTNs were applied, and what the relation between the required and the granted MTNs is. According to the reports submitted to the National Commission, units were formed, with the 54% of staff positions filled in, the filling in of work positions being under way, the work space is being secured, and until June 2007 the Directorate provided a part of the equipment necessary for carrying out MTN⁹, while no equipment was acquired after that. One basic training for 16 officials was carried out, and one specialist trainings at which 2 officials participated were realized.

No unique operative data base has been formed, and a work group for improvement of the computer system of the Police Directorate has been established. A new standard has been introduced in the process of registration of information for resolving serious criminal acts and connecting with the district units has been started and the act „Instruction on the Work with Operative Connections “ was adopted.

⁹ It is not known what kind of equipment has been purchased and of what value.

According to the data the Directorate submitted to the National Commission, the obligation was established to enable police access to electronic data bases through concluding of agreements with the Tax Administration and one telecommunication services operator, and links with the data base of the Tax Administration have been secured. The concluding of an agreement with the Customs Administration and two other telecommunications services operators is under way.

No operative fund within the police budget has been formed, nor has an agreement with the Central Bank been concluded, in order to secure funds for the needs of MTN implementation (fictitious ransom, fictitious giving of bribe, money for indication).

Special Team for Fight against Human Trafficking

The Rulebook on Jobs Systematization moved the Special Team for Fight against Human Trafficking into the Department for Fight against Organized Crime and Corruption, and there has been no adaptation or providing of the work space, nor purchase of equipment for that department.

There are no data on whether the teams for fight against human trafficking in all territorial organization units have been formed, or whether a data base with the aim of their uniting and centralization has been formed, whether special training has been carried out and in which areas, nor whether police training with the aim of identification of victims of human trafficking has been carried out. There are no data even on the establishment of bilateral cooperation in the region, and it is well known that the quality of realized cooperation has not been analyzed.

The Ministry of Internal Affairs and Public Administration concluded a contract on cooperation with two non-government organizations (Safe Women's House, Montenegrin Female Lobby). An Agreement on Mutual Cooperation and Prevention, Criminal Prosecution and Education and Protection of Victims of Human Trafficking has been signed in October between the Police Directorate, the Supreme State Prosecutor, the Ministry of Health, Work and Social Welfare, the Ministry of Education and Science and NGO („Montenegrin Female Lobby”, „Safe Women's House ” and „Center plus”). There have been no special analyses of the quality and level of cooperation between the competent ministries and NGOs.

Department for Fight against Drugs and Smuggling

The Procedures on Organization and Systematization established a new organization of the Centre for Fight against Drugs and Smuggling, no equipment was acquired, nor has adequate work space been secured. Seven specialist trainings for the Centre for Fight against Drugs have been organized and 5 basic trainings for 56 officials of the Crime Police on the procedure of fight against drugs.

An inter-sector group is working on the National Strategy for Fight against Drugs and Smuggling.

Department for Witness Protection

The new organization of the Police Department has been regulated by the Rulebook on Internal Organization and Systematization, but the data on the organization structure of the Department for Witness Protection, the purchase of equipment and provision of space have been proclaimed a secret. According to the reports which the Police Directorate submitted to the National Commission, the department has been reorganized, the necessary equipment purchased and adequate space secured.

Six specialist trainings have been organized, but it is not known of what kind, with what number of participants; no trainings have been organized for the use of specialized equipment.

Before the adoption of the Action Plan an Agreement on Mutual Cooperation and Understanding has been signed with the units for witness protection of the Republics of Serbia and B&H, but after the adoption of the Action Plan no bilateral agreements have been signed with the corresponding services

of other states, with the aim of exchange of protected witnesses. It is not known whether there were any exchanges of protected witnesses after the signing of the agreement.

Department for Criminal Technical Expert Opinions

The forensic centre is still not functioning. The purchase of modern laboratory and other equipment is under way, and most of it has been provided. From the beginning of realization of the Action Plan until the end of 2007 12 trainings with no data on number of participants.

Line of Work for Fight against Terrorism

Specialist units for collection and processing of data have been formed for protection from mines as well as organizational units in the safety centers. Data on the purchase of equipment have been proclaimed a secret, but according to the reports of the Police Directorate submitted to the Commission, from the adoption of the Action Plan until the end of 2007 only the laser system for training in handling of arms has been purchased. Two trainings have been organized for eliminating danger from improvised explosive devices, three specialist trainings for protection against diversions, and three trainings for negotiations with kidnappers.

There are no data on whether and in what manner the functionality of the organization unit has been improved through improvement of horizontal and vertical connection of all the work lines.

Sector for the State Border

Directorate for State Border and Border Affairs has been reorganized and the Sector of Border Police established with a centralized organization within which four Departments have been organized: supervision, crossing control, operative work and aliens and prevention of illegal migrations. 10 seminars have been organized attended by 115 participants, part of the equipment has been provided and the realization of several donations is under way.

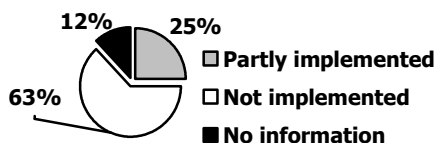
A multilateral memorandum of agreement has been signed on cooperation of bodies from the Southeast European countries and the exchange of information on identification, seizure and taking away of gain obtained by criminal acts, and no agreements with the police of other countries have been signed.

National Central INTERPOL Office

The National Central INTERPOL Office has been established but no functional work space has been provided for it, while a smaller part of the equipment has been purchased.

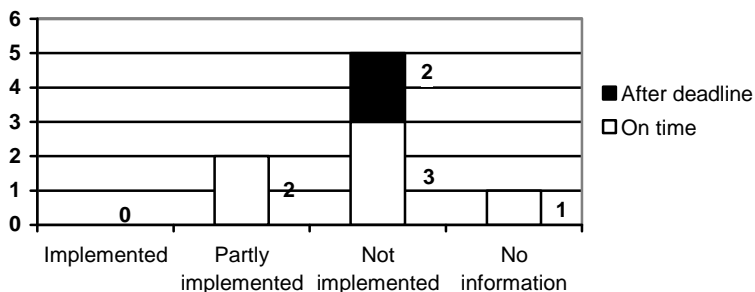
By becoming an Interpol member on 19 September 2006, the Police Directorate has become connected to the Interpol system of secure communication I-24/7. Training has been organized for the use of information system of Police Directorate, but with no data on date or number of participants. Training for the use of Interpol system I-24/7 for all employees. No trainings have been organized for the use of information system I-2, as they are organized within Department for Special Checks, but there is no data about number of trainings or participants. There is no information on the specialist courses of Interpol.

Judiciary



Out of 8 measures planned which regard the role of the police in efficient criminal prosecution, none has been fully realized, 2 partly realized, 5 have not been realized, and there is no information on the realization of 1 measure.

For measures that have been partly realized the time limit is still valid, for almost half of the measures that have not been realized the time limit has expired, and there is no information on the realization of one measure the time limit for which is still valid.



Consistent implementation of the principle of random award of cases has not been secured, for only in three courts has electronic coding and distribution of cases been introduced, as a pilot project.

In the period from the adoption of the Action Plan until August 2007 a partial supervision of the Court Administration by the Ministry of Justice was performed, in compliance with the Law on Courts. The work two Higher Courts and 11 Municipal Courts were supervised.

Strict implementation of provisions on disciplinary responsibility of justices has not been secured, nor have new criteria and procedures for the election of justices been adopted, because the Court Council has not been elected in the Parliament of Montenegro.

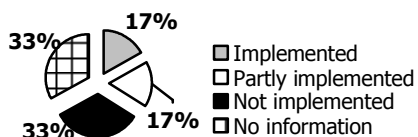
No independent court budget has been formed.

The Centre for Education of Judicial Function Bearers has organized seven modules of training with the aim of studies specialization.

From the adoption of the Action Plan until the end of June 2007 only one training of judges and employees in court administration on corruption and organized crime was organized, but there is no information on the number of participants.

In a report submitted to the National Commission, the Supreme State Prosecutor states that a tripartite commission has been established made up of the representatives of the police, the judiciary and the prosecutor's office. The President of that Commission is also a deputy of the Supreme State Prosecutor, who made up a tabular framework according to which complete monitoring of work on the cases will be performed, through activity and work of the State Prosecutor, until the court proceedings begin, for all criminal acts with elements of corruption. Tripartite Commission held 11 sessions, but there is no information about number of reviewed cases, interpretations of legal acts or recommendations for improvement of inter-institutional cooperation.

3.4.2. External and Internal Budgetary Audit



Out of the envisaged 6 measures concerning the State Audit Institution, 1 was fully implemented, 1 partly, and 2 measures were not implemented, while for 2 measures there is no information. Each of these measures is envisaged for continuous implementation.

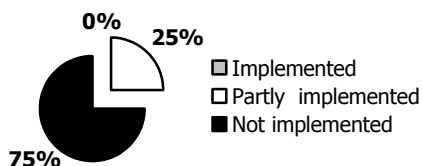
The 2006 annual report of the State Audit Institution was published at their website at www.dri.cg.yu, and since the Action Plan adoption, the SAI has conducted five individual audits, the fourth being currently in progress. Nonetheless, audit reports contain no information pursuant to which the quality of implemented measures may be assessed, and according to the information published at the SAI website, this institution filed no criminal charges after completion of audits.

Responding to MANS' request for information, the Ministry of Finance claimed not to hold information on internal audits of budgetary spending by budget users. Within Draft of the Second Report of the National Commission, it is stated that 21 audits were conducted during 2007, but audit reports are not available neither the number of recommendations, number of corrective measures compared to total number of non-conformities, or number of criminal charges after the audit

Since the Action Plan adoption, there were 8 trainings of responsible persons in charge of budget management attended by 60 participants.

The Comment of the Law on State Audit Institution was published and the Regulation on State Auditor Examination was adopted. There is no specific guide to educate citizens on spending budgetary resources, SAI has not conducted any communication campaign, nor has it published periodic reports or kept the public informed of their work.

3.4.3. Privatisation Council



Out of the envisaged 12 measures pertaining to the Privatisation Council, none was implemented, 3 were partly implemented and their due time has expired, while the remaining 9 have not been implemented, with the deadline which has expired for 8 of them.

The procedure to report conflict of interest instances and corruption in privatisation with the relevant contact telephone number is published at the website of the Agency for Economic Restructuring and Foreign Investments and once in the daily papers. The procedure is utterly inefficient, since it implies to report such instances to the Agency for Economic Restructuring and Foreign Investments, which forwards them to the Agency for Anticorruption Initiative, only to be subsequently forwarded to the Police Directorate.

From the procedure setting up in July 2007 until the end of the year, the Council received 4 complaints for which there is no data whether they are processed, and Council made no quaternary reports on corruption in privatisation.

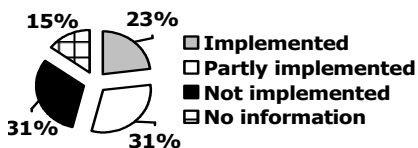
A mixed composition working body was established which dealt with cases, suggestions and complaints filed by citizens concerning the process of privatisation, but it had not held one single meeting and it received four complaints on privatisation process.

The determination of discretionary powers of the Council members, as stipulated by law, Government and the Council decisions, has not been conducted, nor have the proposed amendments to laws and decrees been drafted.

No specific procedure for achieving publicity and transparency when hiring privatisation consultants has been established. There is no system in place to monitor investment in privatised companies, but they are stipulated on case by case basis and are not publicized. Minority shareholders of privatised companies are not involved in monitoring the privatisation processes.

The website of the Privatisation Council has not been set up yet. Since the Action Plan adoption, the Council has not organised any single discussion on privatisation issues, nor has it informed the citizens and employees of their rights to participate in decision-making and supervision over the privatisation process. The Privatisation Council does not implement the Law on Free Access to Information, and to date not a single privatisation agreement nor tender commission report on privatisation of specific companies has been published.

3.4.4. Directorate for Anti Money Laundering



Out of 13 measures, the Anti Money Laundering Administration carried out 3, 2 of them in due time, 3 partly implemented, still in due time, while 5 were not implemented, the deadline having expired for 3 of them, and there is no information on 2 measures, both in due time.

The new Anti Money Laundering Law has been adopted, so the Directorate is yet to adopt the new Internal Organisation and Systematisation Regulation, following which the Department for Supervision of Reporting Parties will be established and new staff recruited.

The level of on-job training was increased with eight seminars organised by international institutions; the representatives of the Directorate also participated to two meetings of working groups of the EG MONT Group, and there was one consultative meeting organised with authorised persons to transfer knowledge acquired at international seminars.

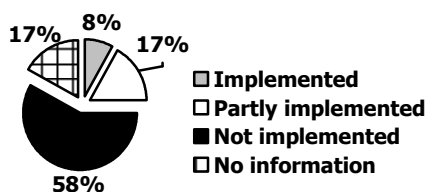
In March the Directorate came up with the Revised List of 65 Suspicious Transaction Indicators, with no participation of the Central Bank of Montenegro. The revised list was submitted to reporting parties, but the Directorate holds no information on how many reporting parties have adopted their lists of suspicious transaction indicators.

The Directorate organised a seminar for authorised persons within reporting parties and the employees in direct contact with clients.

Since the start of Action Plan implementation, the Directorate has not signed any new agreement with the countries in the region, while three regional meetings of relevant services were held.

The Administration only concluded the New Memorandum of Cooperation with the Central Bank, and there were no revisions of existing memoranda. Since the Action Plan adoption, 97 cases were processed through inter-institutional cooperation with other competent authorities.

3.4.5. Commission for Supervision over Public Procurement



Out of the envisaged 12 measures pertaining to the Public Procurement Commission and Public Procurement Directorate, only 1 was carried out in due time, 2 were partly implemented and the deadline for their implementation has expired, while 7 were not undertaken at all, with expired deadline for 3 among them, and there is no data on 2 measures, both of which deadline has expired.

The Ministry of Finance passed the bylaws required for the implementation of the new Law. From the Action Plan adoption until the end of 2007, four trainings for some 293 public procurement officers and members of Commissions for Bid Opening and Evaluation were organised, aimed to train the staff for the implementation of the new Law.

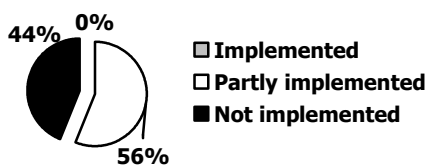
There are no data on the number of new staff employed within the Commission and the Directorate, or on their trainings. The Public Procurement Handbook has not been developed yet; the same applies for the comparative study of the protection of rights of bidders in the Western Balkans countries.

Public Procurement Directorate notes that the telephone line to report irregularities has been established but not promoted; there are no data of reported instances of corruption, and since the Action Plan adoption, neither the Commission nor the Directorate have informed the competent bodies of the irregularities with elements of corruption in the public procurement procedures, nor has the Police Directorate filed any criminal charges pursuant to the information provided by the Commission.

The Commission has not drafted any reports on the state of affairs within the public procurement system, the irregularities noted or proposed measures to enhance the system.

No electronic public procurement system has been established, while the electronic register is currently being established. There was no IT training for public procurement officers or bidders.

3.3.6 Commission for Conflict of Interest

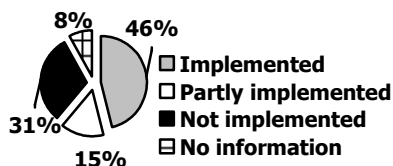


Out of the envisaged 9 measures pertaining to the Conflict of Interest Commission, none was fully implemented, 5 were partly implemented with expired deadline for 4 among them, while 4 envisaged measures were not implemented, with expired deadline for each among them.

The new Law on Conflict of Interest was not adopted, there were no changes in the definition of public officials towards its alignment with the UN Convention against Corruption, no efficient and proportional penalty system was introduced or proper sanctions for submission of false information on revenues and assets. The duty to check and ascertain the correctness of data on declared revenues and assets has not been imposed on the Commission.

The Commission submitted to the State Prosecutors 5 notifications of illegal proceeds, but the prosecutor's office has taken no steps in this direction. The Commission has implemented a number of programmes for education of public officials, NGO representatives and journalists.

3.4.7. Tax Administration



Out of the 13 measures envisaged for the Tax Administration, 5 were carried out with 1 implemented after deadline, 3 were partly implemented, while in case of the 4 envisaged measures which were not carried out, the deadline has expired for 2 of them. There is no information about implementation of 1 measure.

In December 2006 the Tax Administration has introduced a phone line to report corruption and by the end of 2007 it received 739 calls, but only one concerned the corruption of a tax inspector and it was sent to the Police Directorate. There were no reports of wrongdoings involving corruption filed using "boxes for reports and complaints by citizens".

On its website the Tax Administration has conducted a number of surveys concerning its operation, but has not conducted any research into the current situation, forms, causes and methods of corruption in tax administration.

There are no data on trainings of staff of the Internal Control Department, and the Work Procedures were adopted on 20th November 2006. Tax Administration notes that from the beginning of the Action Plan implementation until the end of 2007, 6700 internal controls were carried out, but no irregularities were noted that would indicate corruptive behaviour of tax inspectors or other employees.

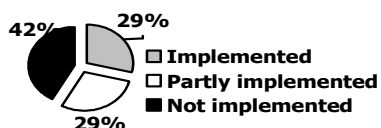
Sector for tax and customs system within Ministry of Finance is responsible for over the operation of the Tax Administration, but Ministry do not have information on supervision reports.

There were no rotations of the Tax Administration employees. The Code of Ethics for Tax Administration employees was adopted on 20th November 2006.

Training of 302 members of staff in IT skills was conducted, and computer skills now constitute one of the requirements for entering employment with the Tax Administration. All regional offices and branches of Tax Administration are networked into a unified IT system, and the project concerning the united registration and reporting on tax and dues calculation and payment is currently being implemented.

The police is provided with direct access and use of the Tax Administration's database and all the data concerning tax payers are periodically submitted in electronic form, while they are submitted as a matter of urgency in case of criminal investigations. The number of reports filed pursuant to the memorandum signed is not known.

3.4.8. Customs Administration



Out of the envisaged 14 measures concerning the Customs Administration, 2 were carried out within the set deadline, 5 have partly been implemented, where the deadline has expired for 3 among them, while 6 among the measures envisaged were not implemented. There is no information about implementation of one measure.

There is no special line at the Customs Administration to report corruption, but there is a phone line to report irregularities concerning customs proceedings which was used to report seven instance of un-conscientious work of customs officers and there is no information whether they were sent to the Police Directorate.

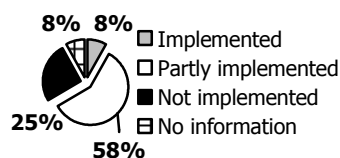
No research into the current situation, forms, causes and methods of corruption in Customs Administration was done, other than a survey conducted at border crossing points. No handbook for citizens was made, nor has the Code of Ethics of customs officers and employees been developed. There were rotations of Customs Administration officers, but there is no available information on the number of jobs for which the need for rotation was established.

Work Procedures for Internal Control Department have been developed, some training for the staff of this department was carried out. Internal control conducted 27 investigations and for 3 investigations they submitted information to the relevant State Prosecutor, while for 5 of them disciplinary measures were proposed.. According to the Customs Administration, reports on internal control are being made, but they were not made available upon requests for information.

Sector for tax and customs system within Ministry of Finance is responsible for over the operation of the Customs Administration, but Ministry do not have information on supervision reports.

The IT system with a unified database has been established, 6 IT trainings were organised with no data on number of participants. They signed a memorandum with the Prosecutor’s Office, but not with the Police Directorate, thus the Police Directorate is not able to use the database of the Customs.

3.4.9. Directorate for Anti-Corruption Initiative



Out of the total of 12 envisaged measures related to the Directorate for Anticorruption Initiative, 1 was carried out within the set timeframe, 7 have been partly implemented, for 5 of which the deadline has not expired, 3 were not carried out, with ongoing deadline, and there is no information on 1 measure with expired deadline.

Directorate has limited capabilities to implement the Action Plan, but this authority does not gather reports of competent authorities on the implementation of the Action Plan, nor it performs their expert analysis, but the reports are submitted to the Police Directorate. The Directorate has not submitted to the National Commission any proposed amendments to the Action Plan, and since the establishment of the Commission it has been submitting its monthly reports, Draft Work Procedures, decision on setting up the National Commission and the list of competent authorities.

The Directorate developed the new Regulation concerning its organisation, which envisages the establishment of a service and two departments which have not been set up yet. The Directorate developed and disseminated promotional materials to the participants of the lectures on anticorruption actions held at various faculties, published announcements in daily newspapers, and completed the preparation of brochures and posters.

Civil Law Convention was ratified, but there were no activities of the Directorate on its implementation. They analysed the alignment of four laws with the provisions of UN Convention against Corruption: the Law on Public Procurement, the Criminal Code and Code of Criminal Procedure, and the Law on Conflict of Interests. The Directorate did not take part in drafting amendments towards the harmonisation of this legislation with the UN Convention against Corruption.

It is not known whether the recommendations given in the GRECO Report have been followed, since the progress report is due only in May 2008. The Directorate made a report on the activities undertaken within the Anticorruption Initiative of the Stability Pact envisaged by the Declaration on 10 Joint Measures to Suppress Corruption. The report indicates that 3 out of 10 measures have been implemented. The activities carried out within PACO Impact project of the Council of Europe have been completed.