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ANNEX 1: CHRONOLOGY OF COMMISSION FOR CONFLICT OF INTERESTS' DECISIONS ON NATIONAL COMMISSION FOR MONITORING IMPLEMENTATION OF THE ACTION PLAN

On May 25th the Commission rejected the request for reexamination and confirmed its earlier opinion with the following explanation:

„The Commission is of the opinion that the request for reexamination of the concerned Decision is not aimed at changing the Decision, in terms that the subject person is not a public functionary. The person submitting the request insists on saying that due to the manner of appointment in the National Commission the members of the Government are violating the Law on Conflict of interests because they have other public functions.

The Commission for determination of conflict of interests, upon the Initiative and request of the NGO MANS, in both first instance and second instance procedure, gave its opinion that for the Government members this is not the second and prohibited public function, but a duty that they have within Government institutions and bodies.”

It's not and it is a public function

On April 2nd, 2007 Vanja Čalović applied to the Commission again asking for the opinion about whether she as a member of the National Commission had to resign from her duty of the Executive Director of the NGO MANS:

„According to the Article 16 I should resign from the position of the Executive Director of MANS because as a public functionary I can be only a member of an NGO.

On the other side, I was appointed to the position of a member of the National Commission in my capacity of the Executive Director of MANS. If I resign from the function of the Executive Director of MANS I automatically cease to be a member of the National Commission, because I was appointed to that function as the Executive Director, i.e. I cease to be a public functionary.

On the other side, if I am not a public functionary then I can be the Executive Director of MANS, but thus I meet the condition again to be appointed member to the National Commission as the Executive Director of MANS which brings us back to the beginning.”

On April 27th the Commission expressed the opinion that membership of Vanja Čalović as a public functionary in the National Commission was not incompatible with her duty of the Executive Director of the NGO MANS and that it was not a behaviour contrary to the Law.

Željka Vuksanović, member of the Commission for conflict of interests expressed a different opinion:

“The opinion of the Commission that membership in the National Commission for Vanja Čalović is a public function and that it is not for the other members is unsustainable and therefore it is necessary that the Commission reexamines its opinion.”

ANEKS 2: RULES OF PROCEDURE OF THE NATIONAL COMMISSION

Pursuant to paragraph 1 of the Decision of the Government of the Republic of Montenegro on establishing the National Commission for monitoring the Action Plan for implementation of the Programme for the Fight against Corruption and Organized Crime („Official Gazette of the Republic of Montenegro“, no. 15/07) and Action plan for implementing the Programme for the Fight against Corruption and Organized Crime, adopted by the Government of the Republic of Montenegro on August 24 2006, the National Commission for monitoring the Action plan for implementation of the Programme for the Fight against Corruption and Organized Crime, on its session held on March 16 2007, adopted:

THE RULES OF PROCEDURE OF THE NATIONAL COMMISSION FOR MONITORING THE ACTION PLAN FOR IMPLEMENTATION OF THE PROGRAMME FOR THE FIGHT AGAINST CORRUPTION AND ORGANIZED CRIME

(“Official Gazette of the Republic of Montenegro“, no. 39/07 of June 29, 2007)

I GENERAL PROVISIONS

Article 1

The Rules of Procedure regulate issues of organization, work methodology and reaching decisions by the National Commission for monitoring the Action Plan for implementation of the Programme for the Fight against Corruption and Organized Crime (hereinafter: the National Commission).

Article 2

Composition, terms of reference and competences of the National Commission are laid down in the Decision of the Government of the Republic of Montenegro on establishing the National Commission for monitoring the Action Plan for implementation of the Programme for the Fight against Corruption and Organized Crime (“Official Gazette of the Republic of Montenegro “, no. 15/07).

Article 3

The composition of the National Commission is as follows: the chairperson, deputy chairperson and nine members.

The National Commission has a secretary.

II RIGHTS AND DUTIES OF MEMBERS OF THE NATIONAL COMMISSION

Article 4

Members of the National Commission are equal in their rights and duties.

Article 5

Member of the National Commission is obliged to attend sessions of the National Commission and is entitled to participate in its work and reaching decisions.

Chairperson, deputy chairperson and members of the National Commission may authorize other persons from the institutions that they are representing, to participate at the sessions of the National commission, without having the right to vote.

Article 6

Should a member of the National Commission not be able to attend a session, he/she is obliged to inform the chairperson of the National Commission accordingly.

Member of the National Commission may submit his/her opinion on particular items of the agenda, relating to the session he/she is unable to attend.

Article 7

Member of the National Commission is obliged to perform his/her duties in good faith.

Member of the National Commission is entitled to request submission of data and information from competent bodies as well as to check files and documents with reference to the scope of work of the National Commission, through communication with the chairperson of the National Commission.

Member of the National Commission has the right to be regularly informed on all issues examined and decided upon by the National Commission, including all other issues that may be relevant for his/her participation in the National Commission's work.

Article 8

Member of the National Commission is entitled to initiate a discussion on particular issues pertaining to the scope of work of the National Commission, to propose measures for improving the Action Plan for implementation of the Programme for the Fight against Corruption and Organized Crime, as well as to vote on proposed decisions, other acts and opinions.

Member of the National Commission is obliged to adhere to the session's approved agenda.

Article 9

In its work, the National Commission is obliged to keep state, official, business or other secrets.

Awaiting the adoption of relevant legislation, the National Commission shall, on proposal of the chairperson, reach a decision on marking specific data as secret.

III CONVOCATION AND WORK ON THE SESSION

Article 10

The National Commission works and reaches decisions on its sessions.

The chairperson or deputy chairperson shall convene the session of the National Commission, at least four times per year.

The chairperson or deputy chairperson are obliged to convene the session of the National Commission, upon request of at least one third of all members of the National Commission, not later than fifteen days following the receipt of such a request.

Article 11

The chairperson, i.e. deputy chairperson shall submit the convocation letter, as well as proposal of the agenda and supporting documents and minutes from the previous session, to the members of the National Commission, not later than eight days prior to the session.

Exceptionally, the chairperson or deputy chairperson may convene the session of the National Commission, upon proposal of the member of the National Commission, in a shorter period of time, while proposal of the agenda and supporting documents may be submitted on the session itself.

Article 12

The chairperson moderates the sessions of the National Commission, and in case of his/her absence the session is moderated by the deputy chairperson.

The chairperson determines whether the session is attended by the required number of members of the National Commission and manages the work of the National Commission in accordance with the agenda, adhering to the Rules of Procedure.

In order to reach a valid decision, the session must be attended by more than a half of all members of the National Commission.

Should it be determined that the session is not attended by the required number of members, the chairperson shall postpone the session and set the date for the next session.

Article 13

The National Commission reaches decisions on its sessions, by public vote.

Exceptionally, the National Commission may decide to reach decisions by secret vote.

When more than a half of all members of the National Commission vote for a decision, it is considered to be adopted.

Article 14

Following the opening of the session, the National Commission shall approve the agenda.

Every member of the National Commission is entitled to propose changes and amendments of the agenda.

Article 15

According to the approved agenda, minutes from the previous session shall be discussed, prior to the start of work of the National Commission.

The minutes contain information on: attendance and absence of members of the National Commission, on proposals which were discussed, decisions, conclusions and other acts adopted on the session, as well as on the outcome and voting methods for each question that was discussed.

The member of the National Commission is entitled to produce comments related to the minutes, while the validity of these comments shall be discussed on the session.

Following the request of the member of the National Commission that expressed individual opinion, minutes shall include information on the member that specified his/her individual opinion, as well as reasons behind it.

Should there be no comments produced to the minutes, or should they be changed according to the submitted comments, the minutes shall be considered adopted.

Producing and approving comments, or statements that the minutes were adopted without comments shall be noted in the minutes of the current session of the National Commission.

Article 16

The chairperson represents and acts on behalf of the National Commission, proposes the adoption of the reports on work of the National Commission and verifies with his/her signature the decisions, minutes and other acts adopted by the National Commission.

The National Commission shall submit the report on its work, in writing to the Government of the Republic of Montenegro, at least twice per year, and the chairperson of the National Commission or his/her deputy shall elaborate on the report on the Government's session.

The report on the work of the National Commission is submitted to the Committee on Economy, Finance and Budget, as well as to the Committee on Political System, Judiciary and Administration of the Parliament of the Republic of Montenegro.

The report on the work of the National Commission may be submitted to the international organizations that express such an interest.

Article 17

The secretary of the National Commission produces minutes from the sessions.

The secretary shall organize and prepare the session of the National Commission and provide necessary administrative and technical support to the work of the National Commission.

The secretary shall collect monthly reports of the competent state bodies, in charge for implementing the Action Plan of the Programme for the Fight against Corruption and Organized Crime.

Article 18

Expert support in analysing and drafting monthly and semi-annual reports of the competent bodies shall be provided by the Directorate for Anti-corruption Initiative, in part which refers to the issues of corruption.

Expert support in analysing and drafting monthly and semi-annual reports of the competent bodies shall be provided by the Police Directorate, in part which refers to issues of organized crime.

IV TRANSPARENCY OF WORK OF THE NATIONAL COMMISSION

Article 19

The sessions of the National Commission are, as a rule, held without public presence.

The transparency of work of the National Commission shall be ensured through public presentations of semi-annual and other reports on its work, through press releases following its sessions and through holding

press conferences, as well as disclosing the documents on work of the National Commissions, in accordance to specific regulations.

All documents in relation to the work of the National Commission shall be published on the internet portal of the Government of the Republic of Montenegro, provided that they are not declared secret, pursuant to Article 9 of the Rules of Procedure.

The chairperson or his/deputy, or a member of the Commission or its secretary, authorized by the chairperson, shall inform the public on the work of the National Commission.

Article 20

All documents and data of the National Commission that were declared secret shall not be published, pursuant to Article 9 of the Rules of Procedure.

V FINAL PROVISIONS

Article 21

Issues relating to the work of the National Commission that are not regulated by means of these Rules of Procedure may be regulated by a decision of the National Commission, in accordance with these Rules.

Article 22

These Rules of Procedure shall enter into force on the day of their publication in the „Official Gazette of the Republic of Montenegro“.

Number: 10-5159
Podgorica, March 16 2007

Chairperson of the National Commission
Mrs Gordana Djurovic, PhD, signed.

ANNEX 3: COMMENTS ON THE DRAFT REPORT OF THE NATIONAL COMMISSION

1. POLITICAL AND INTERNATIONAL OBLIGATIONS OF ACTING

1.4.12. It cannot be claimed that an obligation is fulfilled if only a portion of the tax laws have been changed, in this case, the section that relates to the physical person income tax; at the same time, nothing was done to improve the fight against corruption, which is the essence of the Action Plan measures.

1.5.5. The enactment of the Law on Protection of Competition does not include guidelines for regulating natural monopolies and their impact on competition.

2. GENERAL GOALS

2.1. Efficient criminal prosecution

2.1.2. The seminars and reports that are sent to the European Commission, and the assessment of overall state conducted by experts do not relate to the define measure, since it concerns the cooperation among the prosecution, police and judiciary in implementing the proving-related activities. Therefore, seminars and reports do not mean much if this obligation is not at least partially implemented.

2.6.1. The information on the implementation of this measure was submitted solely by the Police Administration. However, it stated that the number of the necessary staff will be determined only in the period to follow; this means that the obligation was not fulfilled at all.

2.5.1, 2 and 3 – The Law provides that, apart from the internal control of the Police Administration, there should be parliamentary, judicial and the control of the secret supervision measures by the Supreme State Prosecutor. In the period September 2006-May 2007, the Parliament did not perform the control of the SSM implementation; the Police Administration states that there were no reported cases, and therefore no need for controlling the measures implementation; the Supreme State Prosecutor and the Supreme Court state that there were no abuses, but they do not state whether there was supervision over the SSM implementation. Therefore, it has to be stated that this measure was not implemented because the controls were not performed.

2.1.6.2 Without the data on recruiting the missing staff in the judiciary, it cannot be stated that the measure was implemented, but only that it was partly implemented.

2.2. Prevention and education

2.2.14. The Action Plan provides for the adoption and publication of the objective criteria for employment in the police. According to the reply from the Police Administration, it is obvious that the measure was not implemented, because they only state minimal requirements that had been defined by the law even before the Action Plan defined the need for objectivization of the criteria. Therefore, this measure was not implemented.

2.2.15. The reorganization of the Department was only partly performed, because the Police Administration stated that 23 working positions were systematized, while only 13 were filled, so it cannot be stated that the obligation was fully met.

2.2.20. The placing of the Code of Ethics on the institution's website and the distribution of the Code text to the institutions' staff cannot be considered as its promotion, because the citizens must be informed about the Codes of Ethics in order to expect its full implementation. Apart from distributing the Code text, there were no other ways of promoting it. That is why this obligation was only partly fulfilled.

2.2.21. It cannot be stated that the obligation was fully met when there still exists a significant percentage of public officials who did not submit the report on incomes and properties.

2.2.22. It cannot be stated that the obligation was fulfilled when the Commission did not find the way to assess the value of the gifts, let alone to administer this issue in an efficient way.

2.2.24. The obligation was not fulfilled, and the fact that the Ministry of Justice does not understand the meaning of discretionary authorization does not imply that the measure should be re-examined, but that it should be clarified to the competent officials in the Ministry of Justice; therefore, the recommendation is unacceptable.

2.2.25. Public announcements, replies to the requirements for information, announcing invitations for the citizens on the institutions' websites, and technical instructions for the employees do not relate to this measure, because it is about the citizens guidelines that explain the procedure of protecting their rights. Judging by the indicators stated in the Action Plan, such as "number of brochures and guidelines, covered areas" and "the level of the citizens' confidence in the system institutions is determined by public opinion polls", it is obvious that the measure was not implemented.

2.26. The Police Administration, the Ministry of Interior, and the local government bodies that are stated as the implementers of the measures, did not implement the defined activities, so it cannot be stated that the measure was implemented, but only partly implemented.

2.30. Only the education of civil servants is being conducted, but not the citizens' education on the free access to information, because the INFO telephone cannot be considered a method of mass education. The citizen manual was not prepared; there were no NGO trainings. Therefore, this measure was only partly implemented.

2.31. The obligation was only partly fulfilled, because, according to the Ministry of Justice data, a large number of local level bodies did not prepare guides for free access to information.

2.33. The court practice shows that there are numerous abuses regarding the enforcement of the Law on Free Access to Information. A number of employees still do not possess the necessary capacities to enforce the Law, and some institutions do not have rooms and conditions for accessing the documentation; on the other hand, where information on privatization and public spending is concerned, some individuals invest more effort in obstructing the Law enforcement rather than supporting it. Therefore, this measure is only partly implemented.

2.3. Public, civil society, and media

2.34. Public campaigns aimed at a more efficient citizen participation in fighting corruption and organized crime are most intensively conducted by the NGO sector. It is well known that several announcements in the papers or a sporadic distribution of fliers cannot be considered a campaign, and it is obvious that the competent state institutions did not fully implement this measure. In addition, this measure provides for improving the cooperation between the state institutions and the NGO sector, but there are no indicators to show that there is improvement in the cooperation between the civil society and the state bodies in the area of fighting corruption and organized crime.

2.36. Considering that only one of the institutions that hold executive power developed the integrity plan, it cannot be stated that this obligation was even partially fulfilled.

2.37. Researches on the forms, causes and mechanisms of corruption were not conducted; the research is expected to begin, but only related to a part of the legislative regulations, so it cannot be stated that the obligation was even partly fulfilled.

2.39. The indicators for this measure are related to a number of visited institutions and organized lectures, so, four lectures during nine months cannot be considered as a fully, but only partly implemented measure.

2.42. It cannot be stated that the measure was partly implemented based on the fact that the Police Administration submitted the document to the Ministry of Economy. This measure defines implementation of specific activities concerning the promotion of fair and competitive business operations, which implies active private sector participation. Therefore, the measure was not implemented.

3. SPECIFIC MEASURES AGAINST CORRUPTION AND ORGANIZED CRIME

3.1. Efficient criminal prosecution and adjudication

3.1.1. Prosecution

3.1.1.1. It cannot be stated that the obligation was partly fulfilled, and, at the same time, state that there is a need for increasing the number of executive officers in the Department for Organize Crime. The indicator for assessing the implementation of this measure is the number of newly employed; therefore, the obligation was not fulfilled.

3.1.1.3. The prosecution states that three daily seminars were organized, but related to only one area; since four different types of training were defined, the measure is not implemented as the number of training areas is one of the implementation indicators.

3.1.1.6. It cannot be stated that the obligation was partly fulfilled, since the activities on preparing the implementation have only begun. The indicators to assess the success of the measure are: the number of linked prosecution offices, the number of cases per institution, the total number of cases in the data base per institution, etc. Therefore, the measure was not implemented.

3.1.2. Police

3.1.2.18 The Special Unit to conduct investigations on corruption offences was not formed, as had been recommended by the foreign experts of the Council of Europe; the unit was incorporated into the Department for Fighting Corruption and Organized Crime, and it has only two officers who monitor corruption in the state and private sector. Therefore, the obligation was only partly implemented.

3.1.2.19.2. No special unit was formed within the framework of financial crime, but one working position was defined in the area of money laundry. Therefore, the measure was only partly implemented.

3.1.2.22. Operational data base was not established; the Police Administration itself admits that the activities concerning this measure should be intensified. Therefore, the measure was not implemented.

3.1.2.24.1. The special organizational unit that is defined by the Action Plan was not formed, so the measure was not implemented.

3.1.2.27.1. It cannot be stated that the obligation was even partly fulfilled when neither the equipment was provided nor the working space.

3.1.2.32.2. Specialist trainings were not conducted and, therefore, the obligation was not fulfilled.

3.1.2.34. The Police Administration only stated the plans related to establishing the consolidated base of operational data and it stated that it had started with preparatory activities, but this cannot mean that the obligation was even partly fulfilled; therefore, it is necessary to start with its implementation in the following period.

3.1.2.35. The standardization of the model of information process was not performed; according to the Police Administration, it is only expected to begin with. Therefore, the obligation was not fulfilled.

3.1.2.38.1. The formation and the training of the teams are under way, so the measure was partly implemented.

3.1.2.38.2. The working space was not provided, so the measure was not implemented.

3.1.2.38.3. It was not stated that the data base of the Special Team was established, so the obligation was not fulfilled.

3.1.2.38.4. The technical equipment was not provided, so the obligation was not fulfilled.

3.1.2.38.5. The reports showing the quality of the cooperation were not prepared; as this is one of the indicators, this measure can be considered as partly implemented.

3.1.2. 41. The measure provides for the adoption of the strategy, so it cannot be considered that the initial activities on establishing the working team to develop the strategy are enough to state that the measure was partly implemented. This measure was not implemented.

3.1.2.54. The Police Administration report does not list all the three defined types of specialist training, so it can be stated that the measure was only partly implemented.

3.1.3. Judiciary

3.1.3.67. The Plan defines a consistent implementation of the principle of random allocation of cases through the introduction of electronic encoding; the success indicator is the number of courts which introduced the electronic encoding. It cannot be stated that the measure was partly implemented when only preparatory activities were initiated; so, the measure is yet to be implemented.

3.1.3.72. It cannot be stated that the measure was partly implemented when the indicators for measuring the implementation success are "number of meetings, number of considered cases, number of explanations of legal provisions and a number of recommendations per meeting". The establishing of state prosecutors as contact persons for customs officers and the signing of agreements on cooperation among state bodies are not indicators of the measure implementation. This measure was not implemented.

3.2. External and internal budget auditing

3.2.75.5. The indicators for assessing the implementation success are "number of controls, number of identified and corrected irregularities, and a number of criminal complaints based on a conducted audit". Based on the data submitted by the State Auditing Institution, it can be stated that the SAI only partly fulfilled this obligation.

3.1.3.77. The preparations for the development of the comments on the Law on State Auditing Institution do not represent the manual that is defined by this measure, nor did SAI implement the planned media campaign. Therefore, this measure was not implemented.

3.1.3.78. The SAI has only started with the preparation of the strategy for the public relations, which means that this measure was not implemented in the previous period.

3.3. Privatization Council

3.3.80. The Privatization Council website was not established, although its development had been planned by all the previous privatization plans. The website of the Agency for Economic Restructuring and Foreign Investment does not even contain the basic information on the work of the Council, so the explanation that it is the website of this institution cannot be accepted.

3.3.81. The indicator for the implementation of this measure is the adoption of a special regulation that would precisely define the procedure, because the Provision on Sale of Shares by Means of Public Tender was published in 2003; the Action Plan subsequently defines the need to pass a special regulation. Therefore, this obligation was not fulfilled.

3.3.82. The Law on Free Access to Information is not being enforced because all privatization agreements are declared as business secrets; only a partial access to the documentation is approved, without the possibility of copying any part of the documentation; according to the ruling of the Supreme Court this constitutes the violation of law. Therefore, this obligation was not fulfilled.

3.3.83. The Action Plan provides for the definition of discretionary authorizations, and the indicators of successful implementation of this measure are the number of analyzed laws, the number of analyzed Government and Council's decisions, as well as the total number of the defined and the total number of the reduced discretionary authorizations. Since the discretionary authorizations of the Council members were not defined, this measure was not implemented.

3.3.84. In the period upon the adoption of the Action Plan, the public debates on privatization were not organized, so this obligation was not implemented.

3.3.85. The system for controlling investments in the privatized companies was not established; according to the Agency's reply, it shows that individual contracts are concluded, and exclusively with specific companies. The indicators for assessing the implementation success of this measure are: establishment of the system, number of companies covered by the system, number of identified cases of breaching privatization contracts, and number of broken contracts due to not meeting the contract terms. Based on the indicators, it is obvious that this obligation was not fulfilled.

3.3.86. Minor shareholders are not involved in monitoring the privatization process, so this obligation was not fulfilled, because none of the following indicators was met: "total number of consultations held with minor shareholders throughout companies, and the number of consultations for the already privatized companies and those whose privatization is being planned". In the previous period, there were no consultations defined by this measure.

3.3.87. The statement that there were no cases of corruption in privatization, because no one reported them, is utterly inadequate, especially because the measure 3.3.89 shows that the procedure for reporting privatization corruption was not even established; therefore, there could not be reported cases. It is necessary to state that the Council did not include in its reports the information on privatization, so this measure was not implemented.

3.3.88. According to the indicators defined by the Action Plan, this measure was not implemented. There was no distribution of the printed materials, no press conferences concerning citizen participation in the privatization process, no media announcements to inform the citizens and employees on their rights in decision making and control of the privatization process, which was provided for by this measure.

3.3.90. The obligation was only partly fulfilled because one of the indicators is the number of complaints to the privatization process; since there are no procedures for filing complaints (measure 3.3.89), the established working body cannot operate. That is why this measure was only partly implemented.

3.5. Public Procurement Commission

3.5.111. The measure was not implemented because the activities on providing funds for its implementation have only begun; the implementation is yet to begin.

3.6. Conflict of Interest Commission

3.6.116. The measure was not implemented because the new draft Law was not developed, nor was it submitted for the procedure; therefore, the measure cannot be considered as partly implemented.

3.6.118. The measure defines the establishing of an efficient system of sanctions; the Commission's reply suggests that the current measures are not efficient. Therefore, this measure was not implemented, because its implementation depends on the adoption of the new Law.

3.6.122. It cannot be stated that the measure was partly implemented when the programs have only been recently defined and submitted for candidature with the foreign donors. This obligation was not fulfilled.

3.7. Tax Administration

3.7.126. Polls and "daily researches during the working activities" do not represent implementation indicators, because this measure defines an annual research on current conditions, forms, causes and methods of corruption in the Tax Administration, as well as its publication. Such a report was not prepared, so this measure was not implemented.

3.7.129. The Tax Administration states that the rotation of the employees was not performed, so the measure was not implemented.

3.7.134. The direct access and use of the data base is not provided to the Police Administration, and the current agreement with the Police Administration does not provide it. Therefore, the measure was not implemented.

3.8. Customs Administration

3.8.136. The survey at the border crossings does not represent the investigation of forms and methods of corruption within the Customs Administration, but the perception of the public, which is obvious according to the data submitted by the Customs Administration. Therefore, this measure was not implemented.

3.8.139. The Code of Ethics for customs officers was not adopted, so this measure was not implemented.

3.9. Directorate for Anticorruption Initiative

3.8.149. The Department for Citizen Complaints was not formed, nor was the Rule Book adopted, so this measure was not implemented.

ANNEX 4: IMPLEMENTATION OF ACTION PLAN MEASURES BY COUNCIL FOR PRIVATIZATION

Foreseen by the Action Plan		Draft Report of the National Commission	Amendments of MANS	Final Report of the National Commission
Measure description	Indicators			
1. Establishment of procedures for reporting conflict of interest in privatization and their promotion	Number of reports submitted, total number of decisions, number of positive and negative, number of criminal reports	The procedure for reporting conflict of interest has not been established. Assessment: not realized.	Assessment: not realized.	The procedure for reporting conflict of interest has not been established. Assessment: not realized.
2. Setting up of a website of the Council for Privatization	Web site set up	The website of the Council for Privatization has not been set up, but the website of the Agency of Montenegro for Economic Restructuring and Foreign Investment is being used at which all the tenders and other materials regarding privatization are being published. Assessment: realized.	The website of the Council for Privatization has not been established although its development had been planned in all the previous Privatization plans. The website of the Agency for Economic Restructuring and Foreign Investment does not include even the basic information on the work of the Council and the explanation that it represents the website of that latter institution cannot be accepted. Assessment: Not realized.	The website of the Council for Privatization has not been set up, but the website of the Agency of Montenegro for Economic Restructuring and Foreign Investment is being used at which all the tenders and other materials regarding privatization from the competence and authority of the Council for privatization are being published. Assessment: partly realized.
3. Determining procedures for realization of public character and transparency when consultants – renowned consulting houses are being selected	Enactment adopted and procedure prescribed, the number of submitted versus the number of adopted objections to the privatization process in which foreign consultants are engaged	Not determined. The reason for delay is the lack of obligation to select consultants, pursuant to the Regulation on Sale of Shares and Property through a Public Tender ("Off. Gazette of RoM", no. 65/03). The selection of consultants has so far been conducted in a public and transparent manner by means of a public call by the competent tender commission. The procedure is conducted publicly and transparently so that everyone	Indicator for the realization of this measure is the adoption of a special enactment which would precisely define this procedure, for the Regulation on Sale of Shares by means of a Public Tender was published in 2003, and the Action Plan subsequently determined the need to adopt a special enactment. Assessment: not realized.	It is not obligatory to select a consultant, pursuant to the Regulation on Sale of Shares and Property by means of a Public Tender ("Off. Gazette of RoM", no. 65/03). The selection of consultants has so far been conducted in a public and transparent manner by means of a public call of the competent tender commission, along with the appropriate application of the above mentioned Regulation, except in the part of criteria, which are separately determined by the Tender Commission decision, as in the case

		has the same rights to apply and the right to a fair selection. Assessment: realized.		of selection of the buyer. The procedure is conducted publicly and transparently by a public call so that everyone has the same right to apply and the right to a fair selection. Assessment: realized.
4. Implementation of the Law on Free Access to Information and the publishing of contracts on privatization and the reports of the tender commissions on privatization of companies and of other information important for the privatization process	Number of request received, number of positive/negative responses, number of published contracts, number of published reports for the tender commissions	The Law is being entirely realized, except in the part of contracts and annexes in which there is a note "confidential", which complies with Article 9 of the Law: "restriction of access to information". Assessment: realized.	The Law on Free Access to Information is not being implemented, since all the contracts on privatization are being proclaimed business secrets or insight into documents is exclusively allowed, without the possibility to copy any part of the document, which according to the verdict of the Supreme Court represents a violation of the law. Assessment: not realized.	The Law is being realized in its entirety, except in the part of contracts and annexes in which there is a note "confidential", which complies with Article 9 of the Law: "restriction of access to information". The website of the Agency includes also a Guide for Access to Information. The Agency responds in a timely manner and in compliance with the Law to all the requests for information. Also, it regularly and timely executes all the decisions of competent courts. Assessment: realized.
5. Determining of discretion powers of the Council members, defined by the law, Government and Council decrees, defining of draft amendments of the laws and amendments of decrees	The number of analyzed laws, the Government and the Council decrees, the total number of determined and the total number of reduced discretion powers	Pursuant to the existing regulations the Council members do not have discretion powers. Assessment: realized.	The Action Plan foresees determining of discretion powers, and indicators for successful realization of that measure are the number of analyzed laws, the Government and the Council decrees, as well as the total number of determined and the total number of reduced discretion powers. Since the discretion powers of the Council members have not been determined. Assessment: not realized.	Pursuant to the existing regulations the Council members do not have discretion powers. Assessment: realized.
6. Organization of public hearings on privatization	The total number of hearings organized per company, the number of amendments to	On the occasion of each individual privatization, depending on the model, PC assesses that it is necessary and useful to organize public hearings on concrete	In the period since the adoption of the Action Plan no public hearings on privatization have been organized. Assessment: not realized.	On the occasion of each individual privatization, depending on the model, PC assesses it is necessary and useful to organize public hearings on concrete privatizations (KAP, Coal mine Pljevlja, TPP

	privatization strategy after the hearings held, the number of participants at hearings	privatizations (KAP, Coal Mine Pljevlja, TPP Pljevlja and other). Apart from the public hearings, privatization strategies are prepared for individual companies. Assessment: realized .		Pljevlja and other). Apart from the public hearings, privatization strategies for individual companies are being prepared. Assessment: partly realized .
7. Establishment of a system for control of investments into privatized companies	System established, the number of companies included in the system, the number of cases in which violation of contracts on privatization, the number of contracts terminated due to failure to comply with the contractual obligations	Control for each privatization is established through defining of contractual obligation of control. For all larger companies renowned consultants are engaged who perform control eg. for KAP – Faculty of Economics. The Privatization Council concluded on 15 May 2007 it is appropriate to call for an interantional tender for engaging an independent expert institution which will make an impartial and objective report on previous effects of all the realized privatization contracts. Assessment: realized .	No system for control of investments into privatized companies, but from the response of the Agency it is clear that individual contracts are being concluded and this only for certain companies. Indicators for the assessment of successful ralization of this measure are the establishment of the system, the number of companies included in it, the number of determined cases of contract termination due to failure to respect the obligations. Assessment: not realized .	Control for each privatization is established through defining of contractual control obligations. For larger companies, renowned consultants are engaged who perform control for example for KAP – Faculty of Economics. On May 15 2007 the Council for Privatization found it appropriate to call in the forthcoming period a tender for engagement of an independent expert institution that will make an impartial and objective report on previous effects of all the realized privatization contracts. Assessment: partly realized
8. Inclusion of minority shareholders of privatized companies into privatization process monitoring	The total number of consultations held with the minority shareholders per company, the number of consultations for already privatized companies and those whose privatization is planned	Minority shareholders, whether they are republican funds or employees and citizens are being consulted in all the companies that are being privatized. Consultations are held over the management bodies or trade union organizations. Assessment: realized .	Minority shareholders are not involved into privatization proces monitoring, thus this obligation has not been realized either, because none of the indicators has been met: „the total number of consultations held with the minority shareholders per company and the number of consultations for those already privatized and those whose privatization is planned“. In the previous period there were no consultations foreseen by this measure. Assessment: Not realized .	Minority sharehoders , whether they are republican funds or employees and citizens, are consulted in all the companies that are being privatized. Consultations are held over the management bodies (primarily Shareholders Assembly) or trade union organizations (drawing up of „social packages“). Assessment: partly realized .

<p>9. Drawing up of quartal report on corruption in privatization</p>	<p>Quarterly reports, the number of processed in relation to the number of reported cases of corruption</p>	<p>The report on privatization is submitted to the Government of the Republic of Montenegro, but so far it did not include cases of corruption, for there were none. The obligation could not be realized because no cases of corruption in privatization were reported. Assessment: continuously realized.</p>	<p>The statement that there were no cases of corruption in privatization, since no one reported them is utterly inappropriate, especially when it is clear from measure 3.3.89. that the procedure for reporting corruption has not even been established, so that officially there could be no reported cases. It must be stated that the Council did not include information on corruption in privatization in its reports. Assessment: not realized.</p>	<p>The report on privatization is submitted to the Government of Montenegro, but it did not include corruption cases so far, for there were none. The obligation could not be realized in this report period, for no cases of corruption in privatization were reported to the Council for Privatization: continuously realized.</p>
<p>10. Acquainting citizens and employees with their rights to participate in decision making and control of the privatization process</p>	<p>The number of distributed promotion materials, the number of press conferences on the topic of citizens participation in the privatization process, the number of articles and communications published in the media</p>	<p>Over a specialized marketing agency "PRA" from Belgrade the Council for Privatization regularly informs the citizens and the employees. Assessment: partly realized.</p>	<p>According to the indicators defined by the Action Plan, this measure has not been realized. There were no distribution of the printed materials, press conferences on the topic of citizens participation in the privatization process, nor statements in the media by which citizens and employees would become acquainted with their rights to participate in the decision making and the control of privatization process, as this measure foresees. Assessment: Not realized.</p>	<p>The Council for Privatization over a specialized marketing agency "PRA" from Belgrade regularly informs and acquaints the citizens and employees. The obligation is partly realized. Assessment: continuously realized.</p>
<p>11. Establishment of procedures for reporting irregularities and corruption in privatization Establishment of a telephone to report corruption</p>	<p>The total number of reports and the number of anonymous reports, the number of decisions, the number of rejected reports, the number of criminal reports</p>	<p>No special procedure has been established. Telephones of the Council and Agency service are public and open for reporting during the working hours. So far there have been no reports from the area of corruption. Assessment: not realized.</p>	<p>Assessment: Not realized.</p>	<p>It is not necessary to establish a special procedure. Telephones of the Council and Agency service are public and open for reporting during the working hours. So far there have been no reports from the area of corruption. Assesment: not realized.</p>

<p>12. Establish a mixed work body to deal with cases, suggestions and complaints of citizens to privatization process</p>	<p>Work body established Number of objections to the privatization process</p>	<p>The Agency- Council submitted to the Government of the Republic of Montenegro a proposal for establishing a work body. The Government of Montenegro established the mentioned work body in the report period. Assessment: realized.</p>	<p>The obligation is only partly realized, for one of the indicators is the number of objections to the privatization process, and since there are no reporting procedures the established work body cannot function. Assessment: partly realized.</p>	<p>The Agency – Council submitted to the Government of the Republic of Montenegro a proposal for establishment of a work body. The Government of the Republic of Montenegro established the mentioned work body for citizens complaints to the privatization process in the report period. Assessment: realized.</p>
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