



Network for Affirmation of NGO Sector
Monitoring and Analytic Programme

Analysis of Public Procurement Policies in the
Context of Development of the Strategy for Development of Public Procurement System of
Montenegro 2016-2020

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PREVENTION OF CORRUPTION IN PUBLIC PROCUREMENT SYSTEM

Corruption and organised crime are one of the biggest threats to the rule of law and the development of a modern democratic society. Public procurement in Montenegrin system, as well as in all other countries, is recognized as an area of a particular risk to corruption, which had been noted in a number of documents developed by the Government of Montenegro (Strategy for Fight against Corruption and Organised Crime¹ and Corruption Risk Assessment in Special Risk Areas²). Bearing in mind that through this system Montenegro spends between a fifth and a quarter of the annual budget, it is necessary to further strengthen and improve the existing legal and institutional framework, as well as the practice, in order to reduce corruption in public procurement to a minimum.

Corruption in public procurement could be seen through two supplementing economic models.³ The *principal-agent* model implies that public officials have discretionary powers delegated from citizens for disposing of taxpayers' money, so the entire public procurement system adjusts to corruptive activities and intentions of public officials. Combat against this model is reflected in setting new rules and further strengthening of the existing ones, which clearly define rights and responsibilities of a contracting authority, reduce abuses in public spending and the scope of administrative discretionary powers in the contract awarding process.⁴

The second model – *the individual motivation* – refers to individuals directly participating in public procurement procedures, who have particular personal interests in extraction of private benefit for themselves or related persons. Best counteracting measures for this corruption model are effective, concrete actions against those who give or take bribes, or otherwise gain illegal economic, financial or other benefits in public procurement procedures.⁵

Corruption in public procurement system becomes more intensive due to insufficient knowledge of the legal framework by certain contracting authorities that are not able to fully implement the Law, which some bidders with greater legal, administrative and technical capacities can leverage to their own advantage. Additionally, the fact that there is no link between the control of a contract implementation and planning of a new public procurement is a special issue, causing institutions to often lack factual

¹ Ministry of Interior of the Government of Montenegro, *Strategy for Fight against Corruption and Organised Crime*, Podgorica, 29 July 2010.

² Ministry of Finance of the Government of Montenegro, *Corruption Risk Assessment in Special Risk Areas*, Podgorica, July 2011.

³ Pashev, Dylulgerov i Kashchiev for the Center for the Study of Democracy, *Corruption in Public Procurement – Risks and Reform Policies*, Sofia, 2006.

⁴ Ibid.

⁵ Ibid.

information about the purchase and consumption of goods, works and services in the previous period, in order to adequately plan purchases for the next period.

Space for these abuses needs to be reduced through a constant capacity building of contracting authorities for law enforcement, through better networking of various functions of procurement, planning and control within institutions, as well as through a constant preparation and publishing of understandable materials which would clarify implementation of certain legal norms, based on opinions and decisions of the Public Procurement Administration, the Commission for the Control of Public Procurement Procedures, the State Audit Institution and the Department for Inspection of Public Procurement.

Years of implementation of the legal framework that defines public procurement shows that corruption challenges remain inadequately treated, even though the laws have been relatively often changed in order to achieve compliance with the EU acquis.

Inadequate public procurement planning⁶, lack of transparency⁷, bid rigging⁸, significant change of public procurement contracts, after their signing, with addendums and protocols and inadequate control of contract implementation⁹, as well as understaffing, administrative and technical capacities of institutions responsible for control and supervision of public procurement¹⁰, are only a few corruption problems that cast shadow over the public procurement system in Montenegro, despite the fact that Montenegrin Law on Public Procurement is based on principles of cost-effectiveness and efficiency of use of public funds¹¹, ensuring competition¹², transparency of public procurement procedure¹³ and equality of bidders¹⁴.

While private companies perceive existing procurement system as significant business barriers, due to complicated and expensive procedures, the lack of transparency and existence of privileges for particular bidders,¹⁵ every other citizen believes that the public procurement process is conducted in accordance with party interests and expresses dissatisfaction with the control in the public procurement sector.¹⁶

The problem of corruption becomes particularly evident when we have in mind that Montenegro spends between the fifth and the quarter of its annual budget on public procurement each year¹⁷.

Year	Public Procurement in total (in EUR)	GDP (in EUR)	% of participation of PP in GDP	Budget (in EUR)	% of participation of PP in Budget
	A	B	A/B*100	B2	A/B2*100
2011.	377.260.094,38	3.234.000.000,00	11,67%	1.400.606.987,97	26,94
2012.	323.155.258,90	3.149.000.000,00	10,26%	1.408.299.482,92	22,95
2013	277.001.460,50	3.335.900.000,00	8,30%	1.375.793.668,99	20,13
2014	327.161.639,73	3.400.000.000,00*	9,62%	1.337.605.069,81	24,45

*Montenegrin GDP according to preliminary data for 2014¹⁸

Table 1: Public expenditures on public procurement in relation to the annual budget and gross domestic product¹⁹

⁶ Institute Alternative, *Corruption and Public Procurement in Montenegro*, Podgorica, June 2012.

⁷ Network for Affirmation of NGO Sector, *Public Works & Secret Deals*, Podgorica, 2012.

⁸ Network for Affirmation of NGO Sector, *Secret Deals for Public Procurements*, Podgorica, 2013.

⁹ Ibid.

¹⁰ Network for Affirmation of NGO Sector, *Public Procurement System in Montenegro—Baseline Study*, Podgorica, November 2014.

¹¹ Parliament of Montenegro, *Law on Public Procurement* („Official Gazette of Montenegro“ no. 42/11 from 15 August 2011, 57/14 from 26 December 2014 and 28/15 from 3 June 2015), article 5.

¹² Ibid, article 6.

¹³ Ibid, article 7.

¹⁴ Ibid, article 8.

¹⁵ Montenegrin Employers Federation, *5 Business Killers*, Podgorica, October 2013.

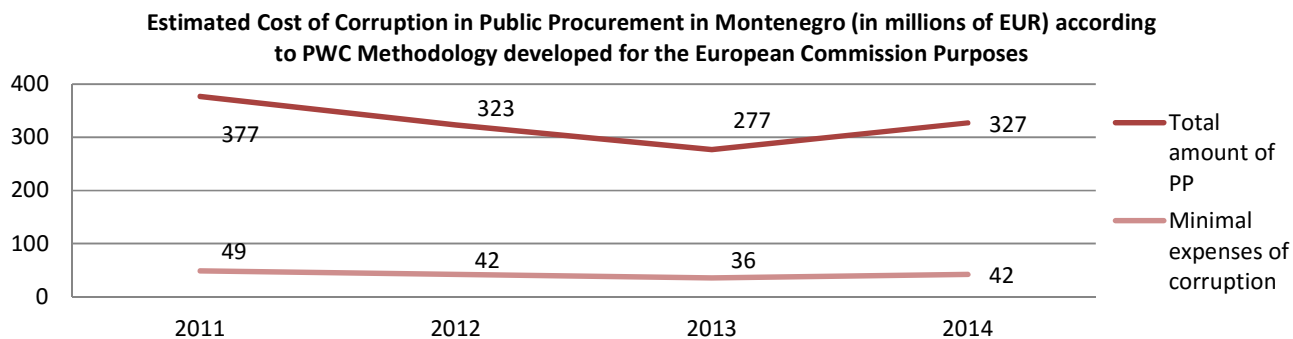
¹⁶ Institute Alternative, *Public Opinion Survey within the Project „Civil Society and Citizens against Corruption in Public Procurement“*, Podgorica, September 2015.

¹⁷ Network for Affirmation of NGO Sector, *Public Procurement System in Montenegro—Baseline Study*, Podgorica, November 2014.

¹⁸ Public Procurement Administration, *Report on Public Procurement in Montenegro for 2014*, Podgorica, May 2015.

On the other hand, relevant analyses show that, at the European Union level, a minimum of 13% of funds spent on public procurement is directly wasted on corruption.²⁰

If considered that the public procurement system of Montenegro is vulnerable to corruption at the same level as the European Union, the direct cost of corruption in public procurement of Montenegro paid by citizens is at least between 35 and 50 million per year. Certainly, the fact that neither the legal framework nor the institutions of Montenegro are at the same level of development as those in the EU, there is a reasonable suspicion that the cost of corruption could be even higher.



Graph 1: Estimated Cost of Corruption in Public Procurement in Montenegro (in millions of EUR) according to the methodology developed by the PricewaterhouseCoopers for the European Commission Purposes

For this reason, Montenegrin response to corruption in public procurement should be multi-disciplinary, based on the introduction of strict rules in order to increase transparency of the entire process, prevent corruption, improve supervision and control including efficient conduct of misdemeanour proceedings for law violations, and finally conduct effective criminal proceedings in cases where there is a suspicion of corruption.

In the Montenegro Progress Report for 2014, the European Commission²¹ ascertained that a limited progress had been made with regard to public procurement, and that the efficiency and effectiveness of the public procurement system had improved, but progress in this direction needs to continue. Furthermore, the European Commission indicates that administrative and enforcement capacity at all levels needs to increase, while monitoring and control should focus on economic impact, effectiveness and efficiency, as well as formal requirements.

Overall, in the next four years Montenegro should conduct a series of legislative, institutional and practical reforms in order to reduce illicit behaviour of contracting authorities and bidders, but also the impact of corruption on public procurement system.

¹⁹ Public Procurement Administration, *Report on Public Procurement in Montenegro for 2014*, Podgorica, May 2015.

Public Procurement Administration, *Report on Public Procurement in Montenegro for 2013*, Podgorica, May 2014.

Public Procurement Administration, *Report on Public Procurement in Montenegro for 2012*, Podgorica, May 2013.

Public Procurement Administration, *Report on Public Procurement in Montenegro for 2011*, Podgorica, May 2012.

²⁰ PricewaterhouseCoopers for the European Commission and the European Anti-Fraud Office (OLAF), *Public Procurement: Costs We Pay for Corruption*, Brussels, 2013.

²¹ European Commission, *Montenegro Progress Report 2014*, Brussels, October 2014. More information: <http://goo.gl/zWJgzf>.

A. General Recommendations

A.1. Fully comply Montenegrin legislative framework in public procurement area with the EU acquis;

A.2. Establish and make functional an electronic public procurement system.

B. Planning

B.1. Strengthen the planning system by prescribing an obligation for detailed explanation of each item in the public procurement plan in terms of the need and purposefulness of the tenderer, as well as a detailed financial structure of public procurement, which includes all the actual costs - the costs of regulating property and legal relations, obtaining the necessary permits and the mandatory provision of financial resources for public works;

B.2. Prescribe an obligation to obtain a positive opinion of the Ministry of Finance on the annual procurement plan and on any subsequent amendments to the public procurement plan for all the parties obliged by Law on Public Procurement using public funds in terms of needs and purposefulness of the contracting authority;

B.3. Prescribe an obligation to obtain a positive opinion of the authority responsible for financial affairs in the local government on the annual procurement plan and on any subsequent amendments to the public procurement plan for parties obliged by the Law on Public Procurement using public funds of local government in terms of needs and purposefulness of the contracting authority.

C. Access to Information and Reporting

C.1. Improve Public Procurement Portal and provide a detailed statistical evidence, advanced search functions and analysis tools, including an overview of awarded public procurement contracts per bidder, an overview of terminated contracts and cancelled public procurement procedures, all the addendums and protocols to the contract, all guarantees of selected bidders, an overview of activated guarantees and many other statistical and analytical indicators;

C.2. Ensure full implementation of the Law on Free Access to Information in order to access all data from individual public procurement cases;

C.3. Prescribe an obligation to parties obliged by the Law on Public Procurement using public funds to publish detailed monthly reports on concluded direct agreements, including financial information on the level of expenditures for direct agreements envisaged by the annual procurement plan, on their websites;

C.4. Prescribe an obligation for the Department for Inspection of Public Procurement to publish detailed quarterly reports of all conducted inspections with a detailed information about irregularities and number of submitted misdemeanour and criminal charges, on its website;

C.5. Prescribe an obligation to all parties obliged by the Law on Public Procurement to publish detailed quarterly reports on conducted control of all implemented public procurement contracts on their websites.

D. Integrity and Anti-corruption

D.1. Prescribe that a public procurement contract cannot be concluded unless there are detailed anti-corruption and conflict of interest clauses concerning contracting authorities and that all contracts concluded without these clauses are considered legally void;

D.2. Prescribe the obligation to a head or the responsible person of the contracting authority and any person who, on behalf of the contracting authority, performs some of the work related to public procurement, to publish a list of all companies with which they are associated in any way as defined by Law;

D.3. Improve independence of the Commission for the Control of Public Procurement Procedures through a provision that members of the Commission for the Control of Public Procurement Procedures are appointed by the Parliament of Montenegro and through improvement of criteria for appointment of members of this body;

D.4. Prescribe clear requirements for the preparation of technical specifications in the preparatory phase of public procurement procedures, as well as an obligation that a person who prepares technical specifications for the public procurement contract cannot simultaneously be a member of the tender commission for the same public procurement, in order to prevent potential conflict of interest and adjustment of tender documents to favoured bidders;

D.5. Prescribe clear rules for parties obliged by the Law on Public Procurement that framework agreements may be concluded only in exceptional situations, in case of emergency and/or purposefulness.

E. Strengthening Capacities for Implementation of the Law

E.1. Establish a unique advisory body responsible for providing bidders and contracting authorities with opinions on implementation and enforcement of the Law on Public Procurement and bylaws, in order to facilitate a lawful enforcement of regulations in the public procurement area;

E.2. Significantly increase a number of public procurement inspectors and strengthen administrative, technical and material capacities of the Department for Inspection of Public Procurement, thus enabling this body to adequately conduct control of public procurement procedures;

E.3. Improve capacities of the Commission for the Control of Public Procurement Procedures by prescribing a larger number of Commission members and enabling the opportunities for the State Commission to make decisions in councils comprising of three members of that body;

E.4. Fill up all membership vacancies in the State Commission;

E.5. Continuously organise trainings for contracting authorities, bidders and law enforcement authorities, perform control and monitoring of the legal framework which regulates the public procurement system.

F. Control and Supervision

F.1. Improve the system of verification of bidders' qualifications and the grounds for exclusion of a bidder, in order to prevent participation of bidders who have violated provisions of the Law on Public Procurement in a public procurement procedure;

F.2. Prescribe an obligation for the Department for Inspection of Public Procurement to control each phase of procurement exceeding 500.000 Euro, as well as all public procurements in water, energy, transport and postal service, security and defence sector;

F.3. Thoroughly prescribe obligation for a contracting authority to monitor enforcement of a public procurement contract and to comply with contractual obligations, including penalty charge and termination of contract in case a bidder is violating contractual obligations, as well as an obligation for the Department for Inspection of Public Procurement to control the work of the contracting authority in this area;

G. Investigations and Sanctions

G.1. Improve detection and prosecution of law violations, which entails criminal liability of a contracting authority, bidder, responsible and other persons for violation of the Law on Public Procurement and introduce a new set of misdemeanour measures for inadequate monitoring of the enforcement of public procurement contracts;

G.2. Improve detection, prosecution and adjudication of criminal offenses of a contracting authority, bidder, responsible and other persons for abuses in public procurement;

H. Other

H.1. Ensure that representatives of civil society and business associations have full membership in the governmental body which monitors the implementation of the Strategy.

PROPOSED MEASURES FOR THE ACTION PLAN FOR IMPLEMENTATION OF THE STRATEGY FOR DEVELOPMENT OF PUBLIC PROCUREMENT SYSTEM OF MONTENEGRO 2016 – 2020

Measure	Activity	S/M/L ²²	Timeframe ²³	Responsible Institution	Indicators for Successful Implementation
1. Compliance of public procurement system with the EU Acquis	1.1. Ensure full transparency and participation during the enactment of new Law on Public Procurement	S	III Q 2016	MF, GoM, PoM	<ul style="list-style-type: none"> - prepared the Draft Law on Public Procurement by the interdepartmental work group comprised of representatives of three branches of power, business and civil society; - conducted public debate; - number of received compared to a number of adopted comments and proposals in a public debate; - prepared report from a public debate containing an overview of received, adopted and rejected comments with written explanation for rejection of comments and proposals; - acquired and published opinion of the European Union on compliance of the draft law with the European Acquis; - adopted Draft Law on Public Procurement;
	1.2. Establish the electronic public procurement system	S	III Q 2016	MF, GoM, PoM	<ul style="list-style-type: none"> - Law containing a provision about the electronic public procurement system; - established public procurement system;
	1.3. Make electronic public procurement system efficient	M/L	IV Q 2016	PPA, AIA, SK, MF	<ul style="list-style-type: none"> - number of biannual reports on implementation of the electronic public procurement system; - number of public procurement conducted through the electronic system compared to a total number of public procurements;
2. Improve the system of public procurement planning	2.1. Prescribe an obligation for detailed planning of public procurement in terms of necessity, purposefulness and detailed financial structure of public procurement	S	III Q 2016	MF, GoM, PoM	<ul style="list-style-type: none"> - Law containing a requirement for detailed explanation of each item in the public procurement plan in terms of the need and purposefulness of the contracting authority, as well as a detailed financial structure of public procurement, which includes all the actual costs - the costs of regulating property and legal relations, obtaining the necessary permits and the mandatory provision of financial resources for public works;
3. Improve purposefulness of public procurement at central and local level	3.1. Prescribe an obligation for a control of purposefulness of public procurement from central and local bodies responsible for finance	S	III Q 2016	MF, GoM, PoM	<ul style="list-style-type: none"> - Law containing an obligation to obtain a positive opinion of the Ministry of Finance on the annual procurement plan and on any subsequent amendments to the public procurement plan for all the parties obliged by the Law on Public Procurement using public funds in terms of the needs and purposefulness of the contracting authority; - Law containing an obligation to obtain a positive opinion of the authority responsible for financial affairs in the local government on the annual procurement plan and on any subsequent amendments to the public procurement plan for all the parties obliged by the Law on Public Procurement using public funds of local government in terms of needs and purposefulness of the contracting authority;

²² S/M/L= Short term, Medium term and Long term, Short term = 1 year, Medium term = 2-4 years, Long term = After 4 years

²³ Timeframe is flexible.

	3.2. Efficient control of purposefulness of public procurement from central and local bodies responsible for finance	M/L	IV Q 2016 – IV Q 2020	MF, LGBF	<ul style="list-style-type: none"> - total number of public procurement plans at the central level; - number of public procurement plans at the central level returned for revision; - total number of positive opinions on public procurement plans at the central level; - total amount of funds preserved through improvement of purposefulness at the central level; - number of developed and published biannual reports on control of purposefulness of public procurement at the central level; - total number of public procurement plans at the local level, per local government; - number of public procurement plans at the local level returned for revision, per local government; - total number of positive opinions on public procurement plans at the local level, per local government; - total amount of funds preserved through the improvement of purposefulness at the local level, per local government; - number of developed and published semi-annual reports on control of purposefulness of public procurement at the local level, per local government;
4. Increase transparency of public procurement	4.1. Improve public procurement Portal	S/M/L	II Q 2016 – IV Q 2020	PPA	<ul style="list-style-type: none"> - provide detailed statistical evidence of public procurement in real time; - provide advanced search functions of public procurement in real time; - provide tools for the analysis of public procurement in real time; - provide an overview of the awarded public procurement contracts in real time, per bidder; - provide an overview of terminated contracts in real time; - provide an overview of discontinuation of public procurement procedures in real time; - publish all addendums and protocols for each public procurement; - number of addendums and protocols to contracts compared to a number of addendums and protocols published; - publish all guarantees of selected bidders in real time; - provide an overview of activated guarantees in real time;
	4.2. Improve enforcement of the Law on Free Access to Information with regard to public procurement	S/M/L	I Q 2016 – IV Q 2020	APPDFAI, AI, AC	<ul style="list-style-type: none"> - number and structure of submitted free access to information requests concerning public procurement; - number and type of obtained responses; - number of complaints filed to the Agency; - number of positively and negatively resolved complaints by the Agency; - number of administrative litigations filed to the Administrative Court; - number of positively and negatively resolved litigations by the Agency - number of responsible persons sanctioned for violation of law and type of sanctions imposed;
5. Improve public procurement reporting	5.1. Law containing an obligation of monthly reporting on enforcement of direct agreements	S	III Q 2016	MF, GoM, PoM	<ul style="list-style-type: none"> - Law containing an obligation to all parties obliged by the Law on Public Procurement using public funds to publish detailed monthly reports on the concluded direct agreements, including financial information on the level of expenditures for direct agreements envisaged by the annual procurement plan, on their websites;

	5.2. Improve reporting on direct agreements	M/L	IV Q 2016 – IV Q 2020	PPA	<ul style="list-style-type: none"> - number of parties obliged by the Law on Public Procurement using public funds; - number of parties obliged by the Law publishing reports on direct agreements regularly, on a monthly level; - number of reports on direct agreements, which are not published, per parties obliged Law;
	5.3. Law containing an obligation for reporting on inspection supervision in public procurement	S	III Q 2016	MF, GoM, PoM	- Law containing an obligation for the Department for Inspection of Public Procurement to publish detailed quarterly reports on all conducted inspections with a detailed information on irregularities and number of submitted misdemeanour and criminal charges, on its website;
	5.4. Improve reporting on performed inspection control in public procurement	M/L	IV Q 2016 – IV Q 2020	AIA	<ul style="list-style-type: none"> - number of prepared and published reports; - number of performed inspection controls; - number and type of identified irregularities; - number of misdemeanour charges filed; - number of criminal charges filed;
	5.5. Law containing an obligation for reporting on control of implementation of public procurement contract by the contracting authority	S	III Q 2016	MF, GoM, PoM	- Law containing an obligation to all covered parties of the Law on Public Procurement to publish detailed quarterly reports on implemented public procurement, on their websites;
	5.6. Improve control of implementation of public procurement by the contracting authority	M/L	IV Q 2016 – IV Q 2020	PPA	<ul style="list-style-type: none"> - number of covered parties of the Law on Public Procurement using public funds; - number of covered parties of the Law publishing reports on control of implementation of public procurement quarterly; - number of reports on control of implementation of public procurement that are not published, per covered party;
6. Reduce opportunities for corruption and conflict of interests in public procurement	6.1. Improve institutes of anticorruption and conflict of interests clauses	S	III Q 2016	MF, GoM, PoM	<ul style="list-style-type: none"> - Legally defined provision saying that a public procurement contract cannot be concluded unless there is a detailed anti-corruption and conflict of interests clauses concerning the contracting authorities and that all contracts concluded without this clauses is considered legally void; - Legally defined provision saying that a head or the responsible person of the contracting authority and any person who, on behalf of the contracting authority, performs some of the work related to public procurement, is to publish a list of all the companies with which they are associated in any way, as defined by the Law; - Legally defined conditions for the preparation of technical specifications in the preparatory phase of public procurement procedures, as well as an obligation that the persons who prepare technical specifications for the public procurement contract cannot simultaneously be members of the tender commission for the same public procurement, in order to prevent potential conflict of interest and adjustment of tender documents to favoured bidders; - Legally defined rules for the parties obliged by the Law on Public Procurement stating that the framework agreements may be concluded only in exceptional situations, in case of emergency and/or purposefulness;

	6.2. Efficient enforcement of anti-corruption and conflict of interest clauses	M/L	IV Q 2016 – IV Q 2020	PPA, AIA, SK, PPLIM, SC	<ul style="list-style-type: none"> - total number of public procurement contracts; - number of public procurement contracts without detailed anti-corruption and conflict of interests clauses; - number of contracts declared to be legally void;
	6.3. Efficient enforcement of measures for prevention of conflict of interests	M/L	IV Q 2016 – IV Q 2020	PPA, AIA, APC;	<ul style="list-style-type: none"> - total number of liable persons and persons who, authorised by a contracting authority, conduct some of public procurement activities; - number of persons that failed to publish the list of all the parties related to them in any way; - number and type of initiated proceedings for violation of provisions on conflict of interest prevention; - number and type of sanctions;
7. Improve capacities of authorities performing supervision and control of public procurement	7.1. Strengthen independence of the Commission for the Control of Public Procurement Procedures	S	III Q 2016	MF, GoM, PoM	<ul style="list-style-type: none"> - Law containing an obligation that members of the State Commission are appointed by the Parliament of Montenegro through public announcement of vacancies; - improved criteria for appointment of members of the State Commission through the Law; - Law containing a provision on larger number of members of the State Commission and possibility for the Commission to decide in councils comprised of three Commission members;
	7.2. Complete appointment procedure in the State Commission	S	IV Q 2016	PoM	<ul style="list-style-type: none"> - announce vacancies for appointment of State Commission members; - candidates with the best references appointed to the State Commission;
	7.3. Create conditions for establishment of a unique advisory body for public procurement within the Public Procurement Administration	S	III Q 2016	MF, GoM, PoM	<ul style="list-style-type: none"> - Law containing a provision on unique supervisory body responsible for giving an opinion to contracting authority and bidder on implementation and enforcement of the Law on Public Procurement and bylaws, in order to facilitate lawful enforcement of public procurement regulations;
	7.4. Establish a unique advisory body and ensure its efficient work of	M/L	IV Q 2016 – IV Q 2020	PPA	<ul style="list-style-type: none"> - filled all the vacancies; - total number of opinions given; - number of opinions given to contracting authorities; - number of opinions given to bidders; - number of opinions contrary to opinions of the State Commission and court;
	7.5. Strengthen capacities of the Department for Inspection of Public Procurement	S	I Q 2016 – IV Q 2016	AIA	<ul style="list-style-type: none"> - significantly increase number of public procurement inspectors and improve administrative, technical and material capacities of the Department for Inspection of Public Procurement, thus enabling this body to adequately conduct control of public procurement procedures; - prepare and publish a report on strengthening capacities of the Department for Inspection of Public Procurement;
	7.6. Strengthen capacities of a tenderer and a bidder for enforcement of the Law	K/S/D	I Q 2016 – IV Q 2020	PPA, HRMA, AIA, SC	<ul style="list-style-type: none"> - continuously organise trainings for tenderers, bidders and law enforcement authorities, control and monitoring of the legal framework, which defines the public procurement system - number and type of organised trainings; - number of tenderers and bidders attending trainings, per local government;

8. Improve control of public procurement system	8.1. Prevent unqualified bidders or bidders violating the Law from entering a public procurement procedure	S	III Q 2016	MF, GoM, PoM	- improve the system of verification of bidder's qualifications and the grounds for exclusion of a bidder, in order to prevent participation of bidders who have violated provisions of the Law on Public Procurement in public procurement procedure through the Law;
	8.2. Improve a legal framework for public procurement control	S	III Q 2016	MF, GoM, PoM	- Law containing an obligation for the Department for Inspection of Public Procurement to control each phase of procurement exceeding 500.000 Euro, as well as all public procurement in water, energy, transport and postal service, security and defence sector; - Law containing a detailed provision obliging a tenderer to monitor enforcement of a public procurement contract and to comply with contractual obligations, including penalty charges and termination of contract in case bidder is violating contractual obligations and an obligation for the Department for Inspection of Public Procurement to control the work of the contracting authority in this area;
9. Improve investigation of minor and criminal offences in public procurement	9.1. Improve detection and prosecution of violations of the Law that entails misdemeanour responsibility of a tenderer, bidder, responsible and other persons for violations of the Law on Public Procurement and legalize a special set of misdemeanour measures for inadequate monitoring of implementation of public procurement contracts	S/M/L	I Q 2016 – IV Q 2020	AIA, SC, SC	- number of detected irregularities compared to a number of conducted inspection supervisions; - number of misdemeanours initiated; - number and type of sanctions imposed;
	9.2. Improve detection, prosecution and adjudication of criminal offenses of a contracting authority, bidder, responsible and other persons for abuses in public procurement	K/S/D	I Q 2016 – IV Q 2020	AIA, SC, PA	- number of detected irregularities compared to a number of conducted inspection supervisions; - number of criminal charges filed, per person; - number of indictments, per person; - number and type of sanctions imposed;

10. Improve public participation in monitoring of implementation of the Strategy	10.1. Establish a body for monitoring of implementation of the Strategy comprised of representatives of all relevant state authorities, civil society organisations and business associations	S	I Q 2016	GoM	- established body for monitoring of implementation of the Strategy comprised of representatives of all competent state authorities, civil society organisations and business associations; - the number of members of body for monitoring of implementation of the Strategy from civil society organisations and business associations compared to a total number of members.
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Abbreviations: MF – Ministry of Finance; GoM – Government of Montenegro; PoM – Parliament of Montenegro; PPA – Public Procurement Administration; SK – State Commission for the Control of Public Procurement Procedures; AIA – Administration for Inspection Affairs; LGBF – Local government body responsible for finance; APPDFAI – Agency for Protection of Personal Data and Free Access to Information; AI – Administrative Inspection; AC – Administrative Court; PPLIM – Protector of Property and Legal Interests of Montenegro; SC – Supreme Court; APC – Agency for Prevention of Corruption; HRMA – Human Resources Management Authority; PA – Police Administration; SSP – Supreme State Prosecution

Literature

- Ministry of Interior of the Government of Montenegro, *Strategy for Fight against Corruption and Organised Crime*, Podgorica, 29 July 2010.
- Ministry of Finance of the Government of Montenegro, *Corruption Risk Assessment in Special Risk Areas*, Podgorica, July 2011.
- Pashev, Dyulgerov i Kashchiev for the Center for the Study of Democracy, *Corruption in Public Procurement – Risks and Reform Policies*, Sofia, 2006.
- Institute Alternative, *Corruption and Public Procurement in Montenegro*, Podgorica, June 2012.
- Network for Affirmation of NGO Sector, *Public Works & Secret Deals*, Podgorica, 2012.
- Network for Affirmation of NGO Sector, *Secret Deals for Public Procurements*, Podgorica, 2013.
- Network for Affirmation of NGO Sector, *Public Procurement System in Montenegro – Baseline Study*, Podgorica, November 2014.
- Parliament of Montenegro, *Law on Public Procurement („Official Gazette of Montenegro“ no. 42/11 from 15 August 2011, 57/14 from 26 December 2014 and 28/15 from 3 June 2015)*.
- Montenegrin Employers Federation, *5 Business Killers*, Podgorica, October 2013.
- Institute Alternative, *Public Opinion Survey within the Project „Civil Society and Citizens against Corruption in Public Procurement“*, Podgorica, September 2015.
- Public Procurement Administration, *Report on Public Procurement in Montenegro for 2014*, Podgorica, May 2015.
- Public Procurement Administration, *Report on Public Procurement in Montenegro for 2013*, Podgorica, May 2014.
- Public Procurement Administration, *Report on Public Procurement in Montenegro for 2012*, Podgorica, May 2013.
- Public Procurement Administration, *Report on Public Procurement in Montenegro for 2011*, Podgorica, May 2012.
- PricewaterhouseCoopers for the European Commission and the European Anti-Fraud Office (OLAF), *Public Procurement: Costs We Pay for Corruption*, Brussels, 2013.
- European Commission, *Montenegro Progress Report 2014*, Brussels, October 2014.



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