



TACKLING CORRUPTION FOR EU INTEGRATION (IV)

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INTRODUCTION

This review aims to present the outcomes of the reforms in the field of fight against corruption and organised crime, attained through the implementation of the Revised Action Plan accompanying the Anti Corruption and Organised Crime Strategy, but also to demonstrate the performance of the National Commission for the Strategy implementation in suppressing such occurrences.

The Government of Montenegro adopted the Action Plan on 29 July 2010, initially envisaging 266 measures. A mere year later, on 21 July 2011, the Government adopted the Revised Action Plan, with additional 106 measures, which came into force on 01 July 2011.

The first part of the review aspires to show the degree to which measures from the Revised Action Plan have been implemented by the state authorities tasked with their implementation for the period between 01 July and 31 December 2011.

The second part gives an overview of all the initiatives MANS launched with the National Commission in 2010 and 2011, the actions taken as per the initiatives, and specific changes brought about by such initiatives.

The third and the last part refers to the implementation of the Resolution on Fight against Corruption and Organised Crime, adopted by the Parliament on 27 December 2007, as regards setting up the National Branch of Parliamentarians against Corruption, indicating that the legislative power has still not assumed its full role in anticorruption efforts.

EXECUTIVE SUMMARY

The present review features information on the implementation of the Revised Action Plan accompanying the Anticorruption and Organised Crime Strategy between 01 July 2011 and 31 December 2011.

The Revised Action Plan (RAP) contains goals, measures, implementing agencies, indicators and deadlines for actions of all relevant state authorities aiming to step up efforts to suppress corruption and organised crime over the period between 2010 and 2012. The RAP was adopted by the Government on 21 July 2011, and has been in full force since July 2011. Its implementation is monitored by the National Commission, with one representative of MANS serving as a member.

This is the 17th issue of MANS reports featuring data on the implementation of the intended anticorruption reforms, and the 2nd report concerning the Revised Action Plan.

The report is based on the data provided to MANS until 09 February 2012 by the implementing agencies envisaged by the RAP, obtained by invoking the Free Access to Information Law provisions. This document also features the information from reports given to the National Commission by most of the competent authorities.

Between July and December 2011, out of the total of 372 measures envisaged by RAP, 97 were fully implemented, while 122 only partially. No actions were taken as per as many as 153 measures.

The bulk of measures followed through over the reporting period were of administrative nature, and as such could not have possibly given any major contribution to actual reduction of corruption and organised crime in Montenegro. By far the largest share of implemented measures involved training for civil servants; a large number of authorities purchased the missing equipment, or made available the office space needed. Some state authorities conducted awareness raising campaigns regarding corruption or provided public information of their actions by issuing press releases. Some authorities also concluded agreements with domestic and international institutions and foreign states, and a number of pieces of secondary legislation were adopted.

Over the reporting period, the Law on Prevention of Conflict of Interest was amended, after being for many years recognised as highly problematic by all relevant international organisations. On the other hand, the key activities to contribute to more tangible results of anti corruption and organised crime efforts have not even started yet. The domestic legislation has not been harmonised with the pertinent organised crime conventions. Legislative amendments improved protection of persons reporting corruption, but there has been no assessment of the actual implementation of the relevant provisions. The independence of the State Audit Institution failed to be further reinforced through relevant legal amendments, and the same holds true for the establishment of an independent Audit Authority for EU funds.

Over the period observed there have been no reports of the use, administration and management of assets belonging to Montenegro; thus, the stock of assets held by Montenegro and how it is managed is still not known.

As regards further actions of prosecution and adjudication bodies, no assets which are proceeds of corruption and organised crime were permanently confiscated pursuant to enforceable court judgments, while 47.3 million euro worth of assets were restrained by court orders. The Special Investigation Team launched one financial investigation over the period observed.

The Police Directorate failed to draw a crime map of Montenegro. In addition, the national Europol office has not been established yet, nor were the Crime Intelligence Units established in all regional offices.

The revision of the then Action Plan started as per the initiative of MANS on 02 March 2011 aiming for the revised document to be harmonised with all the EC objections stated in the opinion on Montenegro's application for EU membership.

The revision process took three months¹, with the core material used in the process being the 220 recommendations compiled by MANS, accepted more or less in their totality. The Revised Action Plan features 372 measures, or 106 more than the original plan. The revised version provides a much sounder set of essential anticorruption reforms as compared to the previous one.

The document was prepared against the database containing information on indicators for each of the Action Plan measures accessible at:

<http://www.mans.co.me/wp-content/uploads/ap/podaci-iz-baze.pdf>

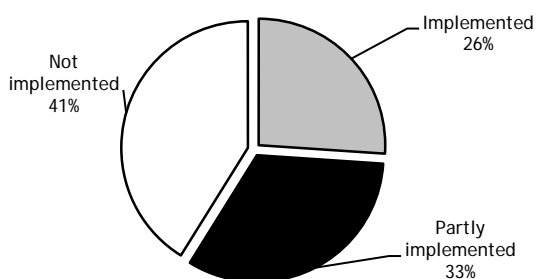
¹ The members of the Working Group involved in revising the Action Plan included the following: the National Commission's Secretariat, the Office of the Deputy Prime Minister for Political System, Internal and Foreign Policy, the Ministry of Justice, the Ministry of Interior, and two NGOS - CEMI and MANS.

GENERAL INFORMATION ON THE RAP IMPLEMENTATION

The Revised Action Plan accompanying the Anti Corruption and Organised Crime Strategy 2010-2012 (RAP) was adopted on 21 July 2011 by the Government of Montenegro, with its implementation commencing the same month.

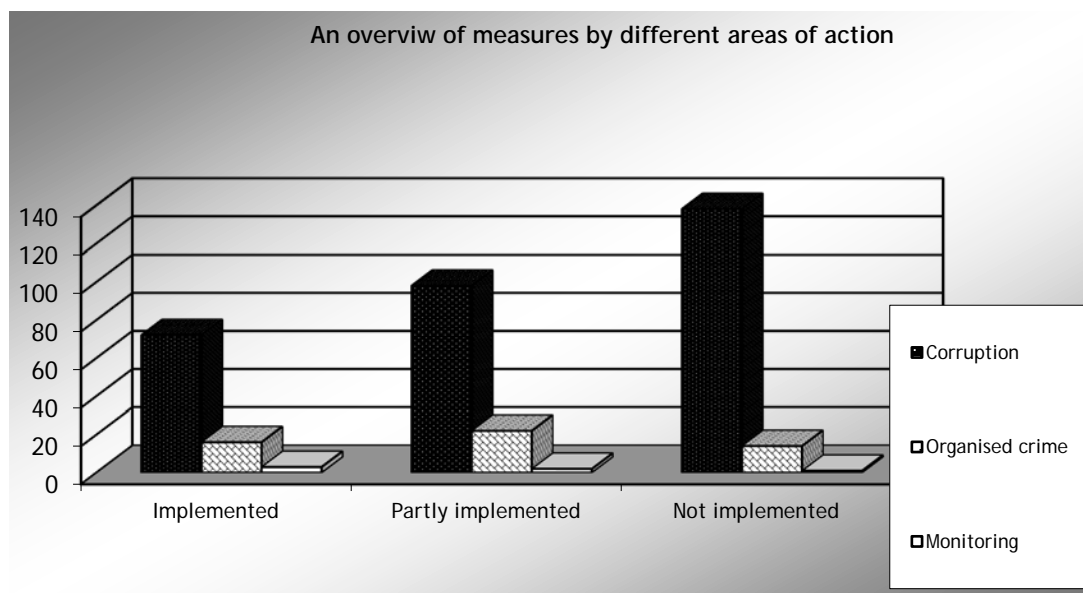
The RAP links 372 specific actions with the Strategy objectives, stipulates the relevant authorities for their implementation and specific deadlines for each, as well as performance indicators.

Out of the 372 RAP measures, 97 have been fully implemented to date, 122 partly implemented, while the implementation of the remaining 153 measures have not even started yet.



Graph 1: Degree of implementation of RAP measures

As regards anticorruption efforts, the total of 78 measures have been implemented, 98 partly implemented, while 138 remain unimplemented. In combating organised crime, the total of 16 measures has been implemented, 22 partly implemented, and 14 not implemented. As regards monitoring, with six measures in total, three have been implemented, two partly, and one measure has not been implemented at all.



Graph 2: An overview of measures by different areas of action

1. CORRUPTION

All measures related to anticorruption efforts are subdivided into three groups: priorities of anticorruption efforts in the political and international arena, areas of particular risk, and the prevention of corruption in law enforcement bodies.

1.1. Priorities of anticorruption efforts in the political and international arena

The anticorruption priorities in the political and international arena include the total of 130 measures, subdivided into 10 different sections. The Public Finance section has the best track record. On the other hand, three sections have only one implemented measure each, as shown in the chart below.

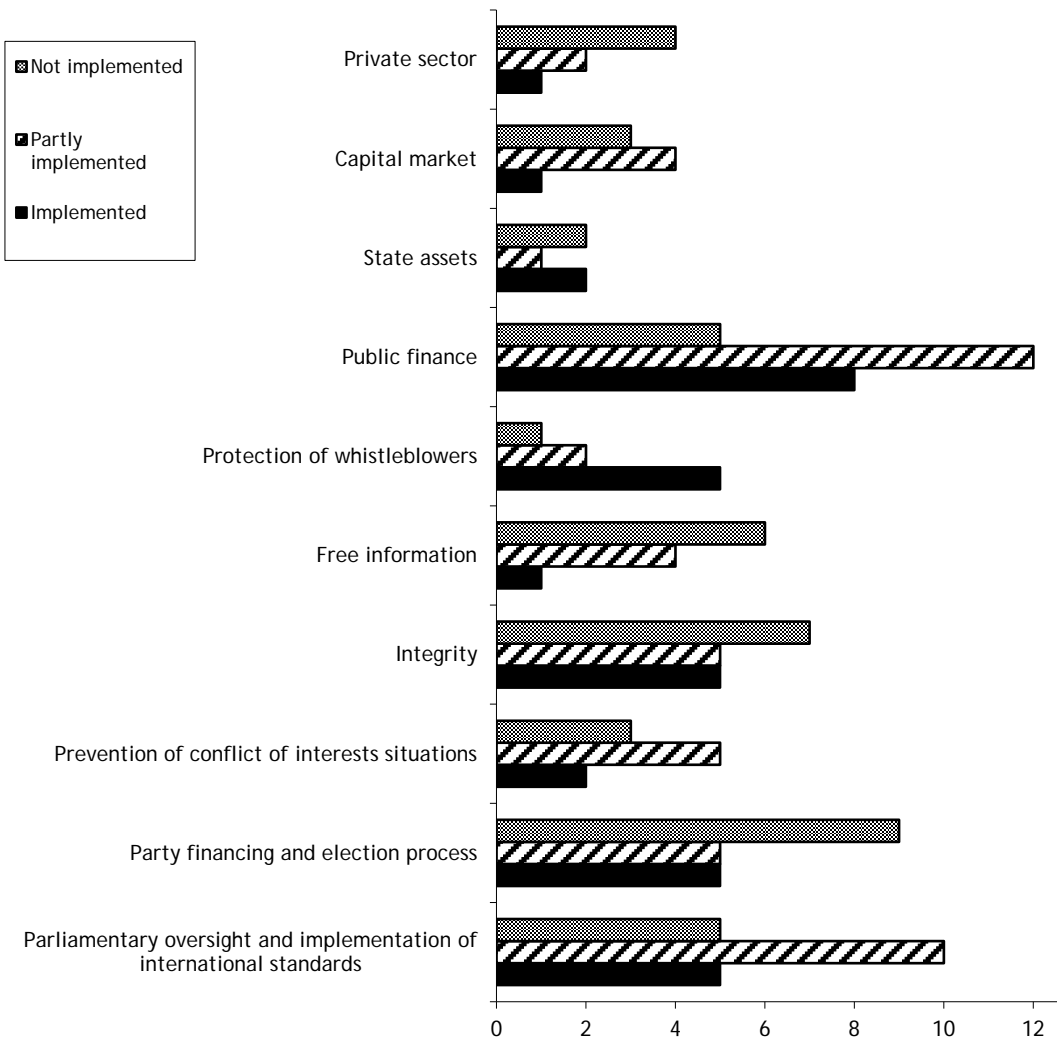


Chart 3: An overview of progress made as per measures in the area of anticorruption in the political and international arena

Parliamentary oversight and the implementation of international instruments and standards

Out of the 20 measures within this section, 5 were fully implemented, 10 only partly, and 5 not at all.

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Over the period observed, the Parliament of Montenegro failed to compile a report on the oversight role of the Parliament and the implementation of international instruments and standards², and has it not established cooperation with the National Commission for Combating Corruption and Organised Crime envisaged by the RAP, with the exception of mere participation of parliamentary representatives in the work of this body. Over the reporting period, the Parliament failed to set up a working group for drafting the Decision on Establishment and Competences of the National Branch of Parliamentarians against Corruption, in line with GOPAC, but the decision was drafted by the parliamentary staff and was adopted at the session of the Speaker's Collegium held on 20 September³, with members of this body being appointed on the same occasion⁴. The National Branch of Parliamentarians against Corruption failed to have a constitutive meeting during the reporting period where they would consider acts, petitions, use oversight tools and accordingly adopt conclusions and recommendations. The first session of the National Branch was held in early November 2011 and was closed for the public.

Over the reporting period, the Parliament failed to conduct trainings aimed at better implementation of oversight tools, and had no recommendations and proposals for launching interpellations and parliamentary inquiries⁵. Over the period monitored, there were five motions for control hearings⁶. Over the period monitored, the Parliament of Montenegro also submitted seven dismissal proposals for officials nominated or appointed by the Parliament⁷, and held one consultative hearing⁸.

Aiming to reinforce the parliamentary staff services for assessing compliance of draft legislation with the EU acquis, the Parliament adopted the 2011 Training Plan and held one training event attended by 35 candidates. Also, over the six months, the Parliament verified compliance of 40 pieces of legislation with the EU acquis⁹. Also, the Parliament

² A special report was made on the implementation of the Resolution, adopted in July 2011.

³ The Collegium approved the Decision, but it was not prepared by the working group. The proposed text is not in line with GOPAC standards, so what the Parliament did needs further revision. This activity is in early stages of implementation.

⁴ The National Branch of Parliamentarians against Corruption consists of 25 MPs as follows: Džavid Šabović, Velizar Kaluderović, Ervin Spahić, Snežana Jonica, Radivoje Nikčević, Mehmet Bardhi, Husnija Šabović, Koča Pavlović, Nada Drobnyak, Nebojša Medojević, Miodrag Vukotić, Vasilije Lalošević, Kemal Purišić, Božidar Vuksanović, Slaven Radunović, Branka Tanasijević, Neven Gošović, Mevludin Nuhođić, Goran Danilović, Zarija Franović, Aleksandar Damjanović, Drago Čantrić, Veselinka Peković, Zoran Jelić and Svetozar Golubović.

⁵ Parliamentary inquiry into corruption in privatisation of Telecom Montenegro was launched only in 2012 and will be covered by the report for the upcoming quarter - January to March 2012.

⁶ The public officials heard were: Vujica Lazović, Vladimir Kavarić, Milorad Katnić, Ferhat Dinoša and Vladan Joković.

⁷ At the 5th sitting of the second regular session of the Parliament of Montenegro held on 16 November, seven members of the Executive Board to the Minority Fund were dismissed.

⁸ The total of 31 persons were heard during the consultative hearing, ending in eight conclusions and three opinions being given.

⁹ The total of ten pieces of legislation were verified in July, in three cases deciding that amendments were in order, five in September, two of which required fundamental modifications, and the service of the Committee

conducted four training events to inform the MPs of the competences of the Parliament in the EU integration process. The National Council for EU Integration developed its annual work plan, but the half-yearly activity reports were not submitted to the Parliament, as envisaged by the RAP.

Over the reporting period the National Council for EU Integration held two joint sessions with the parliamentary Committee for International Relations and EU Integration¹⁰. The work of NCEI was technically supported by four members of parliamentary staff, and depending on the expressed NCEI needs, a greater number of staff with specific knowledge may be put at its disposal.

Over the reporting period the Ministry of Justice (MoJ) reviewed the compliance of criminal legislation with international standards pertinent to combating corruption and organised crime.

Party financing and election process

Five measures from this field have been implemented, an equal number has been partly implemented, while nine measures still remain unaddressed.

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Over the reporting period the activities regarding the legal framework in the area of political party financing were completed. The Law on Political Party Financing was adopted in July¹¹, and the Law on the Election of Local Councillors and MPs in September 2011¹². The Draft Law on State Electoral Commission (SEC) was not drafted, hence not adopted¹³. The Ministry of Finance (MoF) failed to adopt the Decree that would specify in more details the term 'misuse of state assets', but did draft the proposal to transfer the oversight competences over party and campaign financing from the MoF to an independent institution. The Manual on the use of state assets at the time of election campaigns was not drafted.

The State Audit Institution (SAI) did not develop the training programme for conducting financial audits of political parties, independent lists and candidates.

The SEC did not stipulate the forms for financial reporting of political parties. The SEC website features 26 financial statements of political parties for 2011¹⁴. The plan for updating the current Electoral Roll, also falling within the scope of SEC competences, was not made over the reporting period.

for International Relations and EU Integration verified compliance with the EU acquis of 25 pieces of legislation between October and December.

¹⁰ At its session held on 22 July 2011, the 4th Monthly Report on the implementation of commitments from the AP for monitoring the recommendations from the EC Opinion was considered, while at the session held on 9 September the 5th and 6th such reports were deliberated.

¹¹ The Law was adopted on 29 July 2011.

¹² The Law was adopted on 8 September 2011.

¹³ The Government of Montenegro appointed a working group that drafted the SEC Law. Nevertheless, the Government meanwhile quit drafting and tasked the working group with drafting amendments to the Law on Party Financing, which was eventually done. The Law amending the Party Financing Law was adopted the Parliament in late December.

¹⁴ The 2011 was a non-election year, thus there were no financial statements of independent lists and candidates published. Over the same year, the total of 13 reports on party assets were published, and six audit reports of party financial statements and seven financial statements of political parties.

Over the reporting period, the MoF did not carry out any checks of party financial statements, but they lodged eight misdemeanour reports for failure to submit 2010 financial statements and assets reports and issued one warning. The Supreme Court and the Supreme State Prosecution failed to provide any information on the number of new criminal reports on this account, launched proceedings as per reports, raised and rejected indictments, and any enforceable judgments referring to election process.

The 2008-2010 report on filings, investigations, indictments and enforceable judgments was compiled¹⁵, but the half yearly reports on the activities of the police, the prosecution and courts in combating election-related offences were not compiled regularly¹⁶.

Over the reporting period the SEC budget was not increased to be better equipped for the implementation of the Party Financing Law, the SEC Rulebook on Internal Organisation and Job Systematisation was not adopted, or any new staff recruited.

SEC has no data on the number of reports by citizens during the election process, or the data on the number of misdemeanour and criminal reports and the number of convictions referring to the abuse and pressures on voters during the election process.

The SEC website was not improved between July and December 2011 although it features reports of raised and spent funds from public and private sources and the financial audit report¹⁷. SEC drafted the annual analysis on the implementation of the Code of Ethics.

Prevention of conflict of interest situations

Out of the 10 measures envisaged in this section, two were implemented, five only partly, while three measures not at all.

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The amendments to the Law on Prevention of Conflict of Interests were adopted aiming to align it with pertinent international instruments, but it is still not fully harmonised¹⁸.

The Commission for Prevention of Conflict of Interests (CPCI) failed to compile the annual report on the implementation of the Law on Prevention of Conflict of Interest, but it did submit the data on the number of officials, the number of declarations of assets and income filed, the number of misdemeanour reports, sanctions and dismissal requests for

¹⁵ Between 2008 and 2010 there were 15 criminal reports against 40 persons on the count of crimes against election rights. Out of these, the Police Directorate filed two criminal reports against 10 persons, citizens filed one report against one person, the political party New Democratic Force "Forca" one report against 5 persons, the Socialist People's Party 9 reports involving 10 persons, the Democratic Party of Socialists, the Social Democratic Party and the Liberal Party jointly one report against 10 persons and the State Prosecution, acting ex officio, one report against 5 persons. The judgment against 10 persons is enforceable, while one appeal proceeding against one person is pending. In 2011 there were no criminal reports on the count of offences against election rights.

¹⁶ More precisely, the responsible authorities, the Supreme State Prosecution, the Supreme Court and the Police Directorate do not hold information related to the said reports.

¹⁷ The total of 145 reports

¹⁸ The Law amending the Law on Prevention of Conflict of Interests was adopted on 29 July 2011. It is only partly harmonised with international instruments, and only after it was revoked from the parliamentary procedure at the EC proposal. After several days of modifying the Law, it was adopted in the Parliament.

officials¹⁹. The CPCI did not make available the information on the number of officials whose asset declarations were verified as regards their plausibility, because, in their words, the CPCI is not empowered to verify the origin of assets. Over the observed period, nine members of staff were recruited to the CPCI²⁰. With a view of CPCI capacity development, their website features the Training Programme for CPCI members, and over the period observed CPCI held in total six training sessions attended by 276 candidates.

In second half of 2011, the CPCI signed an MoU with the Human Resources Management Administration (HRMA)²¹ and with nine foreign institutions²². There is no information on the implementation of the said agreements, nor any reports on their application.

The CPCI failed to adopt the mechanisms for citizens to report conflict of interest situations. Moreover, CPCI did not have public campaigns to encourage citizens to report officials in conflict of interests, and thus there were no decisions by which CPCI would state the existence of conflict of interest situations for officials as reported by citizens.

The Ministry of Interior (MoI) failed to compile the Analysis on the need for heads of the Police Directorate, the National Security Agency, the Customs Administration, the Tax Administration and the body in charge of inspection services to declare their assets.

Integrity

In this section, the total of five measures were implemented, five only partly, while seven measures remained unaddressed.

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As regards the legal framework pertaining to integrity, over the reporting period the Law on Civil Servants and State Employees²³, the Law amending the Law on Salaries of Civil Servants and State Employees²⁴ and the Law on Lobbying²⁵ were adopted.

Over the reporting period the total of five intuitions adopted their respective integrity plans²⁶, and the Directorate for Anti Corruption Initiative (DACI) did not make the annual plan for adoption of integrity plans. Neither DACI nor the MoF increased the number of their respective staff, and failed to provide adequate technical equipment to monitor integrity plans over the reporting period²⁷. There was no reporting on the implementation of integrity plans over the period observed in case of authorities that did adopt such plans.

¹⁹ According to the CPCI data, there are 3,075 registered officials. Officials submitted the total of 2,950 income and assets declarations, the total of 258 misdemeanour reports were lodged, 301 cases were adjudicated, and the sanctions pronounced sum up to 4,930 euro. The total of 4387 income and assets declarations of officials are posted on the CPCI website (excerpts from the declarations from the electronic database), and 44 requests for dismissal of officials.

²⁰ CPCI reported that six civil servants and state employees, and three interns were employed over the period stated.

²¹ The Agreement was signed on 21 September 2011.

²² The CPCI signed MoUs with nine countries – foreign institutions dealing with conflict of interest: BIH, Serbia, Croatia, Macedonia, Albania, Romania, Bulgaria, Hungary and Slovenia, with the ones with Italy, Ukraine, Turkey and the Czech Republic in preparation.

²³ The Law was adopted on 22 July 2011.

²⁴ The Law was adopted on 22 July 2011.

²⁵ The Law was adopted on 02 November 2011.

²⁶ DACI, MoF, Tax Administration, Customs Administration, and Real Estate Agency.

²⁷ That is, the above authorities, recognised as competent for this measure, do not hold such information.

The MoI and the HRMA failed to adopt the Decree setting the criteria for amending the Rulebooks on Internal Organisation and Job Systematisation of state authorities. HRMA did not take any specific actions to define objective criteria for staff promotion and remuneration.

HRMA did not provide data on the total number of public administration staff over the period observed²⁸.

Over the same period, the MoI did not adopt the Code of Ethics for civil servants and state employees, and the HRMA did not prepare the Training Programme for civil servants and state employees at the central and local levels regarding the Code of Ethics. Thus, there was no pertinent training either at the central or at the local level, or any reports of the Code implementation, and there were no proceedings launched on the account of the Code violations.

The Tax Administration failed to provide its internal control report, but started with this in 2012, and provided relevant data to the NC²⁹.

The MoF failed to prepare the Functional Review with recommendations as regards internal control in relevant state administration authorities, because, as MoF states, the Tax Administration and the Customs Administration are obliged to set up internal control mechanisms themselves.

²⁸ HRMA reported having selected seven candidates for definite time contracts, up to two years, but failed to give any details of how many staff was actually hired between July and December 2011.

²⁹ The Customs Administration, as the authority responsible for this measure, submitted the data stating that in 2011 the total of 21 investigations were carried out, 12 of which led to proposals for instigating disciplinary proceedings against 24 customs officers, and four investigations led to the proposal for the state prosecutor to take over the cases. Between July and December 2011 disciplinary proceedings were instigated against 12 officers. Three officers were acquitted, while two were suspended from work. Reports of corruption were filed against 11 officers, and in 2011 the total of 17 officers were suspended from work, and only two were actually fired.

Free Access to Information

The Free Access to Information section has the total of 11 measures envisaged, with one fully implemented, four only partly, and six not at all.



The Free Access to Information Law (FAI LAW) was not amended over the period observed.

According to the internal records of MANS, the implementation of the FAI Law by state authorities is still not satisfactory. Over the period observed we filed over 5,500 applications for information, with access being allowed in 43% of cases only.

Silence of administration is still very present, while authorities renounce competence or claim not to hold the requested information in over one third of cases.

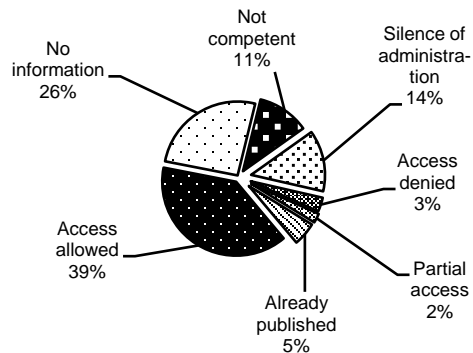


Chart 4: Access to information held by state authorities between 01 July and 31 December 2011 by MANS

Over the reporting period, the HRMA held one training event for officers in charge of handling requests for access to information.³⁰

According to the Directorate for Protection of Classified Data, the classified data register was compiled but not posted on the Mol's website. Hence, the volume of domestic classified or declassified data is not known³¹.

The body in charge of the FAI Law implementation is recognised as the competent authority to implement six measures in this section, but it was not set up as yet given that the law amendments were not adopted. Nevertheless, one out of these six is assessed as implemented, namely, updating of web presentations of relevant authorities and bodies and the introduction of the electronic service system for individuals and businesses; relevant authorities owned their responsibilities in this respect and reported of regular updating of their web pages.

³⁰ There was one training event on free access to information delivered on 01 July 2011, attended by 11 officers from the Customs Administration, the Police Directorate, the Court of Appeals, the Ministry for Information Society and Telecommunications, and the Ministry of Sustainable Development and Tourism.

³¹ The Directorate for Protection of Classified Data established the Central Register for NATO and EU classified data in December 2008. As stated in the response provided by this Directorate, the records registers bear the same classification as the data contained therein, thus they cannot be posted on the Mol's website. As for the publication of declassified information, the Directorate states that this does not fall within its competences, since the classification of NATO and EU data may be changed and abolished by these organisations only, as the data holders and the one to classify them.

Protection of persons reporting corruption

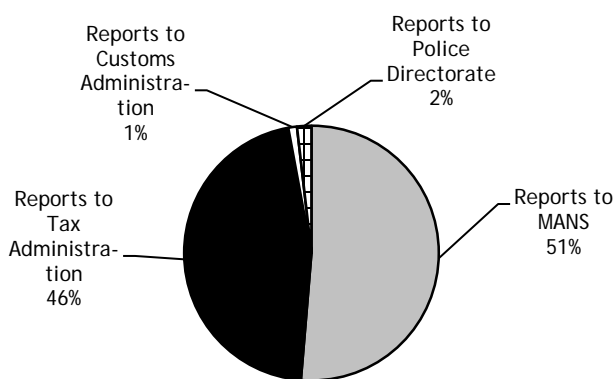
Out of the eight measures envisaged in the section on protection of people reporting corruption, five were implemented, two partly, and one not at all.



The Law amending the Labour Law was drafted and adopted³², as well as the laws on civil servants and state employees and their salaries³³.

The Judicial Training Centre (JTC) held two training events aimed to develop staff capacities for protection of people reporting corruption (whistleblowers)³⁴, while the HRMA and the Police Academy did not deliver any such training. The six-month analysis of the implementation of legislation pertaining to whistleblower protection was not done.

Between July and December 2011 there were 873 corruption reports given by citizens to authorities³⁵, while there were no instances of members of staff reporting corruption. Aiming to promote avenues for reporting corruption and the protection mechanisms, DACI carried out three public information campaigns³⁶.



Aiming to raise public awareness and encourage citizens to report corruption, three information campaigns were carried out over the period observed, and there was an increase in the number of corruption reports. Out of the 873 corruption reports, MANS received 424, the Tax Administration 378, the Police Directorate 13, DACI 51 and the Customs Administration 7 reports.

Chart 5: Number of corruption reports

³² The Labour Law was adopted at the parliamentary session held on 24 November 2011.

³³ The adoption of the law on civil servants and state employees and the one on their salaries was envisaged by a number of AP measures, an issue overlooked by the AP drafters.

³⁴ On 28 and 29 September, JTC held the training event attended by 17 trainees (judges and prosecutors) in Kolašin, on the topic of "Personal and Institutional Integrity and Corruption Offences", while between 12 and 14 December 2011, in cooperation with the UNDP and OSCE country offices, it organised a seminar on the topic of "Investigation of corruption offences and related issues focusing on financial investigations and confiscation of assets - UK experiences" for 14 participants (members of the prosecution, judges, advisers at the High court in Bijelo Polje and police officers).

³⁵ Customs Administration received seven corruption reports, DACI 51, Tax Administration 378, and the Police Directorate 13.

³⁶ DACI indicated three campaigns carried out over the reporting period: "Report corruption - There is always a way", "Report corruption = a good choice" and the campaign in students' dormitories during the admissions.

Public finance

The section of public finance has the total of 25 measures envisaged; no actions were taken as per five of them, 12 were partly implemented, and 8 fully.

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The Law amending the SAI Law was drafted, but not adopted yet³⁷. No public discussion was organised for this draft law.

The legislation to govern the operation of the Audit Authority for IPA funds, in terms with the Stabilisation and Association Agreement (SAA), as a fully independent body separated from SAI, was drafted within the observed period³⁸, but not adopted yet. SAI performed six regularity audits and one regularity and performance audit over the period observed³⁹. Audits covered six entities - a municipality, a public company, an institute, an administration and a ministry. With a view of training auditors for IPA funds auditing, SAI held seven training events⁴⁰, with three auditors becoming certified in this field. Within the period covered, SAI held one press conference after performed audits⁴¹.

The MoF, for its part, held two training events referring to internal audit within the period observed⁴².

The recruitment plan for the Audit Authority for IPA funds was not made, but the decision to set up the Audit Authority responsible for performance and regularity audits of IPA funds management was published in the Official Gazette of Montenegro⁴³. The Audit Authority currently employs three auditors⁴⁴. The training and certification programme, to enable the existing staff to be certified as public internal auditors, was not prepared. The MoF reported that the Rulebook on the Programme for and Method of Examination for Public Certified Internal Auditors was published in the Official Gazette of Montenegro and would be in application as of 2012⁴⁵.

One company fully owned by the government⁴⁶ was audited resulting in 13 recommendations being given.

³⁷ The draft law is now in the Parliament. It was sponsored by MPs Aleksandar Damjanović and Zarija Franović, and the Committee for Economy, Finance and Budget adopted the draft.

³⁸ The Draft Law on Auditing EU Funds was considered by the Government and approved at the session held on 15 December 2011. This draft law is currently in the parliamentary procedure.

³⁹ SAI reported the completion of six individual audits within the reporting period: the Audit of the 2010 financial statements of the Agency for Electronic Media, the Audit of the 2010 financial statements and performance audit in recording state assets of the State Assets Administration, the Audit of 2010 financial statements of the Ministry of Spatial Development and Environmental Protection, the 2010 financial statements for RTCG, the 2010 final budget account of the Municipality of Tivat, and the 2010 financial statements of the Bureau for Education.

⁴⁰ In the period observed, SAI organised three workshops, two conferences and two working visits.

⁴¹ SAI reported of having held the press conference on 14 November 2011 on the occasion of making public the Annual Report of Performed Audits and the activities over the period October 2010 - October 2011.

⁴² The data received from the MoF indicate two workshops held within the reporting period - "Training on FMC", on 05 July 2011 with 21 participants, organised by EUROPEAID ("Strengthening the management and control systems for EU financial assistance in Montenegro") and the training workshop for 24 designated public internal auditors, held between 31 October and 04 November 2011, within IPA 2009 project "Strengthening the management and control of the EU financial assistance to Montenegro."

⁴³ The Official Gazette of Montenegro 09/10.

⁴⁴ The Audit Authority currently has three auditors, and the two junior auditors, who were employed with the AA went to SAI and were assigned to other posts.

⁴⁵ The Official Gazette of Montenegro 63/11 of 28 December 2011.

⁴⁶ The Audit of 2010 Financial Statements of RTCG.

In its half-yearly report on the implementation of measures from the RAP, the MoF noted the designation of 27 internal auditors at the central level, and only 4 at the local level. The total of 78 internal auditors are needed, and the share of occupied posts is 40%. MoF's internal audit unit carried out two audits with budget users and identified 6 irregularities and gave recommendations.

As for regularity check in the procedures of spending units opening accounts with commercial banks, and the regularity of their operation, all information is contained in the Audit Report for the 2010 Final Budget Account, as well as the reports of individual audits, and are not compiled as a single volume document.

The total of 63 authorities at the central level and 5 municipalities⁴⁷ designated persons in charge of financial management and control (FMC officers). The Action Plans for setting up FMC in five pilot authorities were developed, and the MoF prepared the Guidelines for drafting internal rules and procedures for FMC establishment, implementation and development, aimed at assisting all managers, finance officers and all members of staff in better understanding of the financial management and control at the central and the local level.

The risk management training plan for managers and civil servants in all spending units was not prepared by SAI and HRMA, hence no training was delivered in this respect.

The Tax Administration reported that the total of 1,226 taxpayers performed general registration between July and December 2011⁴⁸.

State assets

In this section, two measures were fully implemented, the same number were not implemented, while one pertinent measure was partly implemented.

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The report on the use, management and disposal of items and their assets belonging to the state of Montenegro, as well as the tasks referring to protection of state assets, was not prepared.

When it comes to implementing legislation for the Law on State Assets, eight decrees were adopted over the period observed⁴⁹.

The Assets Administration increased the number of staff with three new recruits, and the Protector of Property Law Rights of Montenegro with two new recruits, in terms with the

⁴⁷ Plav, Plužine, Bijelo Polje, Mojkovac and Podgorica.

⁴⁸ Between 10 January and 31 December 2011, the total of 1,226 taxpayers were registered, out of which 765 legal and 461 natural persons.

⁴⁹ The implementing legislation adopted includes: the Decree on the Terms and Mode of Use of Official Buildings and Business Premises Owned by Montenegro, the Decree on the Terms and Mode of Use for Representational Needs of Buildings Owned by the State of Montenegro, the Decree on Terms and Mode of Use of Official Flats Owned by the State of Montenegro, the Decree on Terms and Mode of Use of Vehicles Owned by the State of Montenegro, the Decree on the Terms and Mode of Use of Works of Art and Items of Cultural Value Owned by the state of Montenegro, the Decree on the Sale and Lease of State-Owned Assets, the Decree on the Mode and Terms for Giving Gifts from State Assets at the Disposal of Montenegro, and the Decree governing Record Keeping for Movable and Immovable Property Owned by the State.

Rulebook on Internal Organisation and Job Systematisation. Between July and December 2011 the said authorities procured equipment according to the needs identified with a view of strengthening their technical capacities⁵⁰.

The public register to contain detailed information of state assets and assets held by local governments was not compiled, published or updated.

Capital market

Out of the total of eight measures under the Capital Market heading, only one was fully implemented, three remained unimplemented, and four were only partly implemented.

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The Securities Law and the Law on Voluntary Pension Funds are yet to be aligned with relevant EU directives. The Law on Acquisition of Share Holding Companies and the Law on Investment Funds, on the other hand, were adopted and aligned with the acquis, and the Agency for Insurance Supervision worked on the harmonisation of the Insurance Law.

As reported by the Securities Commission, the new Law on Investment Funds envisages the depositary institution⁵¹.

Clear procedures for property transfer based on non-market transaction⁵², as well as per contract termination, were laid down by the Securities Commission within the reporting period⁵³.

The existing register of share capital holders was not improved to include the data on the changes of titles over shares through time (track record) and enable easy search. However, the Securities Commission noted that, as a part of the IT system improvement, the Document Operation System (DOS) is being introduced⁵⁴.

The Securities Commission failed to report on the implementation of the MoU with IOSCO⁵⁵ because, as they state, the disclosure of such information is not allowed. Over the reporting period this institution signed one MoU with national authorities⁵⁶, but did not sign a special memorandum with the Central Bank of Montenegro (CBM) and the Agency for Supervision of Insurance, which was its duty. The Securities Commission did

⁵⁰ The Assets Administration reported the purchase of equipment and premises where the records of state assets will be kept, while the Protector of Property Law Interests of Montenegro passed the decision to purchase equipment as follows: three cupboards, tall filing cabinets and a till.

⁵¹ Previously this was a custody institution.

⁵² Gift agreements and enforcement decisions.

⁵³ On 17 December 2010, the Securities Commission passed the Guidance on the application of the provisions of the Law on Contracts and Obligations related to terms and method of registering property rights over securities pursuant to out-of-court settlement agreement and the method of compiling data on non-market transactions.

⁵⁴ The improvement of the IT system within the Securities Commission was secured by the World Bank tender of 24 September 2010. The project for improving IT system of the Central Depository Agency a.d. Podgorica is underway and is guided by recommendations and guidelines stipulated in the document "IT System of CDA - an overview of current situation and a vision for the future".

⁵⁵ The International Organization of Securities Commissions.

⁵⁶ In December 2011 the Securities Commission signed a Memorandum of Cooperation and Exchange of Data with a view of combating money laundering and terrorism financing, concluded among the MoF, the AMLTF Administration, the CBM, the Securities Commission and the Insurance Supervision Agency.

not sign an MoU with the Police Directorate, its Unit for Combating Economic Crime. Thus, there was no reporting on the implementation of MoUs signed.

As for regular reporting of the Securities Commission aimed at better information provided to the market players, this institution, within the improvement of financial reporting in the capital market, passed the rules for the contents, the deadlines and the method of publishing financial statements of securities issuers⁵⁷. These rules establish the contents, the form, the manner and the deadline for submission and publication of the financial statements and business performance reports. The Securities Commission reported that, in line with the Rules, the Public Information Book was posted on their website, updated daily, and that a large number of financial statements was published.

Private sector

In this section two measures were partly implemented, one fully, and four not at all.

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The Action Plan for the Reform Conducive to Ease of Doing Business was adopted last in early 2010, and has not been changed since. This institution did not provide information on the implementation of the Law for Improving the Business Environment, nor the Report on the Implementation of the AP accompanying the Regulatory Reform Strategy, which is now envisaged for the upcoming period.

Between July and December 2011, the Council for Regulatory Reform and Improvement of Business Environment held one session proposing and accepting four recommendations.

The MoI failed to launch the procedure for amending the Decision on criteria for establishing the scientific, business, economic, cultural and sport interest for acquiring nationality by admittance, and do not hold the information whether such a procedure was launched by any other responsible authority.

According to the MoI's report, over the period observed 17 persons applied for Montenegrin nationality, and over the same period six were granted Montenegrin nationality on the basis of their special contribution.

The Supreme State Prosecution and the Central Register of the Economic Court failed to make available the data on the number of indictments used for regular updating of the "black list" of companies charged with and convicted for corruption offences.

⁵⁷ The Rules were adopted on 14 October 2011.

1.2. Areas of special risk

There are 120 measures envisaged under the heading of the Areas of Special Risk, and are grouped in seven sub-sections.

The area of public procurement is the one where the greatest number of measures was implemented. On the other hand, the greatest number of unaddressed measures is found in areas related to privatisation and education, as seen in the chart below.

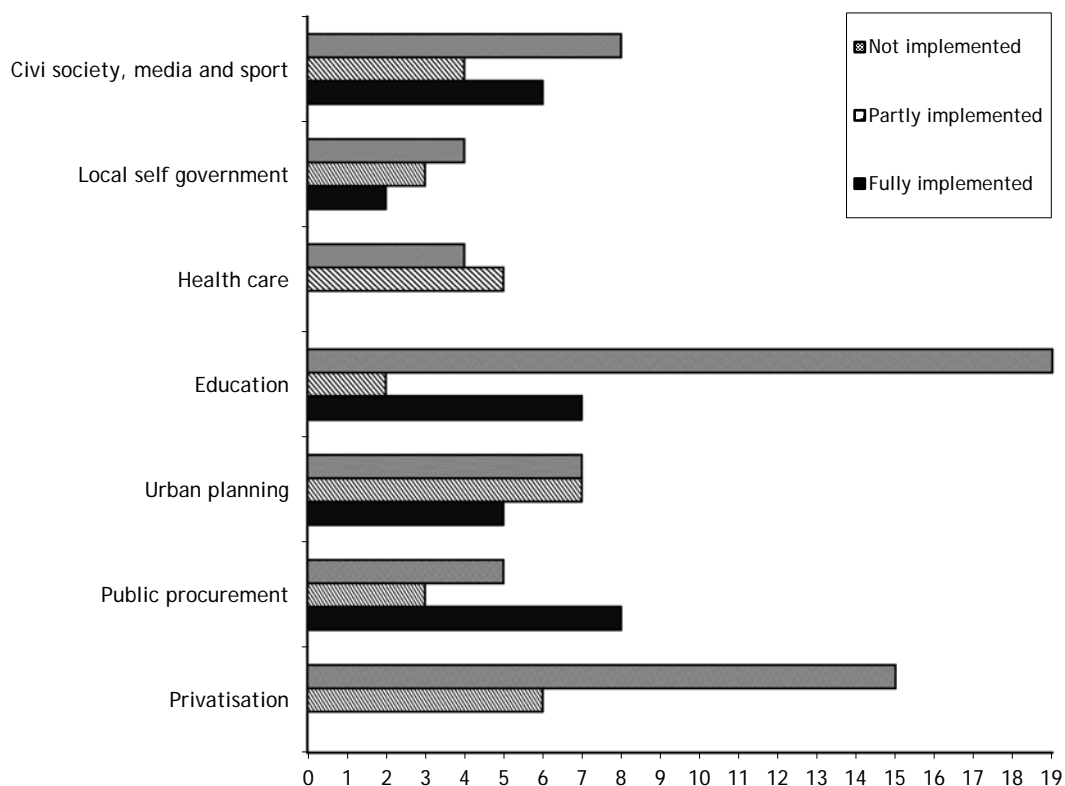


Chart 6: Overview of measures in areas of special risk

Privatisation

Out of the 21 measures in this section, not a single one was fully implemented, six only partly, while 15 are still unaddressed.

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The system for control of investments into privatised companies and enforcement of contractual commitments annually or as envisaged by the contract covenants, was not established by the Council for Privatisation and Capital Projects. Over the reporting period, no privatisation agreement was signed and no database of privatised companies was set up.

Over the reporting period, there was no review of the current or the adoption of the new Privatisation Law.

The Council for Privatisation and Capital Projects failed to open its sessions for the public, but only envisaged the possibility for third persons to be invited to sessions when discussing items of business pertaining to such them.

Over the reporting period there were no sessions held to consider the compliance with privatisation agreements between representative trade unions and the Council for Privatisation and Capital Projects; hence there were no conclusions adopted regarding compliance.

The Commission for Control of State Aid failed to provide the information on the number of reviews expressed as a share of subsidies granted to privatised companies.

The system for citizens reporting corruption to the Council for Privatisation and Capital Projects was not set up over the reporting period, and there are no information as regards the number of visibility campaigns or the public information materials disseminated to encourage citizens to report corruption to the said Council. Over the period observed, the Council held two sessions for which pertinent agendas were published, but not the background material⁵⁸.

According to the Council's report for the observed period, the total of 10 public calls, 10 amended public calls, six annexes to agreements and 11 communications were posted on its website. As for the decisions of subsidies allowed, the decision on the selection of successful tenderers, the information on arbitration and on investments into privatised companies, these were not posted on the Council's website.

The parliamentary Commission for Monitoring of and Control over the Privatisation Process held two sessions, and authorities in charge of privatisation were sent nine requests. There were no responses to requests, consultative or control hearings, or any recommendations and conclusions issued. One of the Commission sessions held within the reporting period was attended by the members of the trade union, civil society, employers and the media.

The Commission failed to adopt its Rules of Procedure, and thus it abides by the provisions of the Parliament's RoP.

Over the period covered, only one feasibility study was done for a company yet to be privatised⁵⁹. Between July and December 2011, the Council did not organise any public discussions on privatisation plans and strategies on privatisation of companies of strategic importance, or the discussion of reviews done for privatised companies of strategic importance.

The bodies for controlling the operation of privatised monopolies were not set up within the reporting period, and the lists of Council members as per their titles were not made, to contribute to the establishment of criteria for selection of Council members.

⁵⁸ The Council posted on its website draft agendas for the sessions held on 22 July and 02 November 2011, and the press releases after those sessions.

⁵⁹ According to the Ministry of Transport and Maritime Affairs, the restructuring programme was made for the forthcoming privatisation of Montenegro Airlines, and the economic due diligence prepared by the Raiffeisen bank consultants.

The Council for Privatisation and Capital Projects did not set up any guidelines for election of tender commission members⁶⁰. Hence, there are no data as to the number of technical experts onboard tender commissions, but only the information that task forces may be set up to include technical experts.

The Council's website features the Audit Report for its financial statements, aligned with the comments given by the external audit.

Public procurement

The Public Procurement section has 16 measures envisaged, eight of which are implemented, three only partly, and five not at all.

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The new Public Procurement Law was adopted within the reporting period⁶¹.

Over the reporting period, five pieces of secondary legislation were adopted, aimed at additional harmonisation with the European standards, as well as efficiency, competitiveness and transparency of public procurement procedures, but there is no information available whether the alignment process was fully implemented⁶². In addition, the 2011-2015 Strategy for the Development of the Public Procurement System was adopted by the conclusion of the Government⁶³. The Government approved the Rulebook on Internal Organisation and Job Systematisation of the Public Procurement Administration⁶⁴, increasing the envisaged number of posts from 15 to 18, and the new Act on Internal Organisation and Job Systematisation of the Expert Service of the State Commission will be approved after the election and appointment of the chair and the members of the State Commission. The list of procurement officers within contracting authorities was published⁶⁵, and the work reports of the Help Desk were also developed⁶⁶.

Over the period observed, the Public Procurement Directorate, renamed to Public Procurement Administration (PPA), had no awareness campaigns to promote corruption reporting procedures⁶⁷, and there were no corruption reports received by this authority.

There is no system for the control of the negotiation procedure as particularly prone to corruption, but the PPA stated they controlled negotiation procedures through authorised officers, acting both as per reports by NGOs and third parties, and ex officio⁶⁸. There

⁶⁰ The Council reported of guidelines adopted on 04 February 2011, but these are in need of updating.

⁶¹ The Law was adopted on 29 July 2011.

⁶² The following pieces of secondary legislation were adopted: the Rulebook on methodology for translating sub-criteria into scores, bid evaluation and comparison, which entered into force on 01 January 2012, the Rulebook on forms in the public procurement procedure, also came into force on 01 January 2012, and the website also features the Rulebook on method of keeping and contents of records on violations of anticorruption rules, the Rulebook on the form, contents and method of issuance of documents securing due payment of public procurement liabilities; and the Rulebook on Public Procurement Procedure Records.

⁶³ At the session held on 22 December 2011.

⁶⁴ At the session held on 17 November 2011.

⁶⁵ The list contains data on 342 officers for 417 contracting authorities.

⁶⁶ Within the reporting period, 75 consultations within the premises of the Directorate were held, and as for offering advice and consultancy over the phone, they are offered on daily basis by all PPA staff. On average there are 25-30 such consultations a day.

⁶⁷ With a view of promoting corruption reporting, the PPA prepared a flier whose distribution is expected.

⁶⁸ According to the PPA, over the said period the total of 105 applications for approving negotiation procedures were received, with 57 being approved, 25 rejected, and 23 returned for completion.

were no disciplinary proceedings or measures against members of tender commissions found to be in conflict of interest situations.

The PPA website does not feature any data on noncompliance reports expressed as a share of public procurement contracts awarded, and there is no information on the number of delinquent contractors, and the proceedings launched against them.

Within the reporting period, the total of 320 public calls, 456 cancellations and 2,370 decisions were posted on the PPA website. There were no contracts, addenda to contracts and approvals issued by the PPA. Their new website was launched in January 2012⁶⁹.

The Training Plan in the field of public procurement was not compiled, but two workshops on this topic were held⁷⁰. A sustainable system of professional development and training in the area of public procurement was not set up, but the PPA reported that the Training Plan and Programme for public procurement and professional examination, as well as manner of keeping exam records, is being developed. After the Plan and the Programme have been put in place, the Public Procurement Exam Panel will be set up.

Urban planning

In this section, out of the total of 19 measures, five were fully implemented, seven only partly, and the same number not at all.

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The Parliament adopted the Law amending the Law on Spatial Development and Building of Structures⁷¹.

The Ministry of Sustainable Development and Tourism (MSDT) failed to adopt the Decree amending the Decree on Transfer of Titles over Buildable Land, and there were no activities undertaken over the reporting period aimed at improving cooperation among inspection services⁷². The MSDT failed to publish announcements for recruiting new inspectors between July and September 2011, or to stipulate discretionary authorities of construction inspectors in pronouncing administrative measures to supervised entities, or to introduce punitive provisions for inspectors, apart from sanctions pronounced by the administrative inspection.

Over the period observed some training for inspectors was delivered⁷³ and the operational and technical capacities of inspection services were partly improved⁷⁴.

⁶⁹ Within an IPA 2007 project, the PPA is developing a new software solution currently in preparation to be up and running as of early 2012. The PPA also drafted and proposed to the Government the E-Procurement Decree, whose adoption is expected.

⁷⁰ The PPA, in cooperation with SIGMA, organised workshops held on 03 November 2011 and 8 December 2011, on topics "Framework Agreement and Centralised Public Procurement" and the "Implementation of Communal Sector Directive - legal and practical aspects", where the PPA director was one of the speakers.

⁷¹ The Law was adopted on 5 July 2011.

⁷² The cooperation was established, not through quarterly reports as stipulated in the AP, but on daily basis through official correspondence.

⁷³ The MSDT reported of a number of training events organised in cooperation with the HRMA, the Ministry of Human and Minority Rights, and the Ministry of Justice: Montenegro on the Path to NATO; Montenegro and International Security; National Security System; Women in the Security System; Negotiation and Negotiation Skills; and Conflict Resolution.

⁷⁴ With a view of improving the premises and means for work, the office space was provided for relevant services in the southern region in Bar and Herceg Novi, and in the north in Bijelo Polje and Pljevlja.

The database from within the scope of work of state inspection services was not set up and, by extension, not posted on the MSDT website⁷⁵. Citizens made 416 reports of illegal construction, but there are no data as to handling of these reports. The procedures for actions as per complaints of citizens against the work of inspection services were established, and the total of 22 such complaints were lodged within the time observed.

The Supreme State Prosecution failed to make available any data on the number of criminal reports on the count of construction without a building permit issued, but according to information featured in their half-yearly report, charges were brought against 347 persons, 100 of them being indicted within the reporting period.

The MSDT reported that their Rulebook on Internal Organisation and Job Systematisation does not envisage the Internal Control Unit over the work of inspectors⁷⁶.

The database of building permits and certificates of occupancy was established and is regularly updated, posted on the MSDT website.

Within the reporting period, the Police Directorate and the JTC held six training events in detection and prosecution of corruption and money laundering cases in property trade attended by 44 trainees⁷⁷.

On the count of suspicions of money laundering, the AMLTF (Anti Money Laundering and Terrorism Financing) Administration forwarded five cases to the Supreme State Prosecution over the reporting period. There were no joint meetings held around this issue, nor any joint database set up, but one joint agreement was signed.

The lists of investors and developers violating pertinent legislation in the area of spatial development were not developed, and the MSDT failed to provide information on the number of such investors and developers identified. The competent authorities, the MOF and the AMLTF Administration developed additional indicators for monitoring money flows with a view of successful detection and handling of money laundering cases in the area of construction industry and trade in property⁷⁸.

With a view of stepping up cooperation with other countries in exchange of data of financial transactions in property trade and investments in construction of buildings, the AMLTF exchanged data with 121 countries in total.

Within the period covered by the report, the Government of Montenegro did not adopt the report on the implementation of the Anti Corruption Action Plan in the Field of Spatial Development and Construction of Structures.

⁷⁵ The deadline for this measure is QIV 2011.

⁷⁶ Over the previous reporting period, in response to our requests, the MSDT replied that their Rulebook on Internal Organisation and Job Systematisation envisaged setting up of an Internal Audit division, but it is still not operational and its remit does not include the control over the work of inspectors.

⁷⁷ The Centre held 13 training events for 13 candidates, and the Police Directorate two for 31 candidates.

⁷⁸ Once the amended Rulebook on Indicators for Detecting Suspicious Clients and Transactions is adopted, there will be in total 16 indicators.

Education

Out of 28 measures envisaged by the RAP in the section headed Education, only seven were fully implemented, two partly, while as many as 19 not at all.

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Within the period covered by the report, the Quarterly Report on the number of public announcements for recruitment into education establishments was made and submitted to the Education Inspectorate. The Ministry of Education and Sport did not set up a database within education establishments, nor was the annual report of all education establishments made regarding new recruitments.

As regards the agreements that the University of Montenegro (UoM) should sign with the universities in this region, the report says the activities are underway, with the relevant Working Group already established⁷⁹. The said agreements should contain the mechanism for verification of delivery standards for the teaching staff working at the UoM and the universities in the region, as well as the mechanism for preventing concurrent full time employment at two or more universities.

No analysis of the possibilities for increasing salaries for teaching staff in education establishments was done by the MES within the period observed.

The revised Code of Academic Ethics for UoM, to be amended with the provisions of nepotism, was not drafted. No new Codes of Ethics were adopted, nor the old ones in the area of education amended. The MES hosted three seminars for school principals on the drafting of and adherence to the Code of Ethics, attended by 116 candidates⁸⁰.

The MoS website features the Rulebook on the criteria, the manner, the terms and the amount of fees for exercising the right to food and lodging in student dormitories, student loans and subsidised travel of 12 October 2011⁸¹. The rankings for scholarships, loans and granting placement in dormitories were posted on the MES website after the processing of data, and the relevant information was posted in the professional magazine Prosvjetni rad and the daily Pobjeda.

According to the information made available by the MES, Montenegro disposes of the total of 2,230 beds in dormitories⁸², but no separate report was made to include also the data on the number of beds allocated as per admissions ranking lists. The MES does not hold information on the number of university units equipped with electronic devices for disabling the use of technical aids and detecting plagiarism.

Out of the total of 31 establishments subjected to the inspection supervision by the MES over the period observed, irregularities were noted in five of them, in four they were rectified while the fifth establishment is still within the period envisaged for taking corrective actions. In 12 establishments irregularities were resolved in the course of

⁷⁹The Working Group for aligning the education AP with the RAP was set up tasked with harmonising the two documents by 30 October of the current year. Apart from this one, the WG for RAP Implementation and Monitoring was also set up, with a representative of the UoM also serving on this WG.

⁸⁰ The seminars were held in Podgorica, Bar and Nikšić.

⁸¹ The amended Rulebook was published in the Official Gazette of Montenegro 25/11 of 20 May 2011.

⁸²Student dormitory in Podgorica with the capacity of 1142 beds, in Nikšić 294, in Kotor 270, in Cetinje 105, in Bar 220, the Educational Centre Plužine 89, and dormitory in Berane 110 beds.

supervision, and the initiatives to perform inspections checks were found to be unfounded in case of 13 establishments⁸³.

Within the period covered by this Report, the UoM failed to introduce the Student Ombudsperson, and thus there were no complaints to this institute, although, as they say in the UoM, the setting up process is underway. No rule was passed making mandatory the coding of student identity in written exams.

Within the period stipulated, the MES received only one, incomplete report of corruption in education, where the Education Inspection was prevented from taking any action due to lack of relevant information.

The assessment of the need to amend the existing General Education Law was not done, that would contain recommendations for improving the current system of examinations for part-time students and assess whether the need for setting up a specialised, centralised institution to handle such examinations.

There were no surveys into the manifestations, forms, causes and mechanisms of corruption in education. According to the MES, the Working Group for monitoring the AP implementation includes one representative each of the relevant NGOs and one parent. The MES did not pass regulations to identify the cases for exclusion of Quality Assurance Team in the accreditation process - the conflict of interest clause.

Between July and December there was no inspection supervision as regards licensed educational establishments, nor was the Integrity Plan adopted by the MES and the UoM for all educational establishments. The Supervisory Council, to be composed of members of the teaching staff - teachers and assistants - and administrative staff, to monitor the implementation of the Integrity Plan, was not established.

During the period observed, the UoM did not post reports on its website that, in addition to standard sections, would also contain information on revenues of profit-making activities of the UoM and its units. The annual external audit of the UoM and its units in line with the SAI recommendations was not made⁸⁴. Over the period covered, the UoM published the results of two tenders⁸⁵, with a view of increasing the transparency of financial performance in the area of education.

The new Guide for Access to Information was not made, that would be aligned with the Law on Free Access to Information and posted on the UoM's web pages.

The sector-specific AP was aligned with the RAP within the period covered by the Report and one report on the implementation of this AP was published by the MES.

⁸³ The MES reported for the period covered that no disciplinary proceedings were launched on the account of irregularities in examination of files.

⁸⁴ SAI reported on the Financial Audit of 2010 Accounts of the UoM in October 2010 which is the last audit done.

⁸⁵ Within the time stipulated the UoM invited tenders for the purchase of one single room flat no 02/11 at the PPA website and tender 01/11 for procurement of computer equipment.

Health care

Out of nine measures envisaged in the Health care section, five were only partly implemented, and four remained unaddressed.

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No training was delivered as regards the implementation of medical Code of Ethics⁸⁶, and there were no disciplinary proceedings instigated against workers in violation of the Code of Ethics⁸⁷.

The IT support was introduced in 27 health care establishments, thus enabling efficient monitoring of health care performance⁸⁸. The MoH reported of the waiting lists for cardiac surgery and urgent cardiology, as well as the ones for hip implants, being established, and the MoH's website also features a waiting list for oncology and radiotherapy⁸⁹. Due to lack of IT resources, waiting lists are not updated daily, but are posted on the website of the Clinical Centre for Montenegro.

Out of the secondary legislation envisaged for the reporting period, two rulebooks were adopted⁹⁰ as implementing legislation for the Health Care Law and the Law Safeguarding Patients' Right. The MoH failed to submit detailed information on the number of media showings referring to health-related issues, various types of disease and provision of health care services. The brochure intended for patients featuring information on patients' rights was prepared and is publicly available⁹¹.

The survey with national coverage under the heading Montenegro Health Care System Integrity Assessment was publicly presented in March 2011 and posted on the MoH's website. The survey findings and recommendations were presented on the occasion, but the MoH failed to provide detailed information on the number of recommendations.

The annual report on public procurement in health care, conducive to greater transparency of related procurement and ensuring proper control, was not made. The MoH did not publish any reports on the implementation of the sector-specific AP because all public health care establishments submitted the 2010 reports only, and are obliged to submit the reports on public procurements made in 2011 by the end of February 2012.

⁸⁶ The Medical Chamber of Montenegro did not deliver training on the application of the Code of Ethics, because the course in Medical Ethics and Deontology is offered at the Medical Faculty as a general course.

⁸⁷ As stipulated by the Medical Chamber, these disciplinary proceedings are primarily conducted in health care establishments with which the given practitioner is employed.

⁸⁸ IT support was introduced in 18 primary health care centres, in seven general hospitals, in the Health Insurance Fund and the public pharmaceutical company "Montefarm". The IT is envisaged to be introduced in three specialised hospitals, the Clinical Centre of Montenegro and the Public Health Institute by the end of 2012 within the World Bank supported project. Over the previous reporting period, 108 dental offices were provided with the IT equipment.

⁸⁹ The Clinical Centre's website features also the waiting lists for the Clinic for Eye Disease and the Neurology Clinic.

⁹⁰ The MoH reported that in October and November 2011 it adopted the amended Rulebook on Specialisations, published in the Official Gazette of Montenegro 58/11 of 06 December 2011, and the amended Rulebook on the terms, criteria and procedure for Approving Specialisations, published in the Official Gazette of Montenegro 54/11 of 17 November 2011.

⁹¹ The MoH drafted a brochure on patients' rights printed in 20,000 copies and disseminated at all public health care establishments in Montenegro.

Local self governments

As regards the measures envisaged under this heading, two were fully implemented, three partly, and four not at all.

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The Mol reported that all self government units started aligning local action plans with the RAP.

The HRMA, in cooperation with the Union of Municipalities, developed the Training Plan for Q4 2011. In this regard, the total of 14 training events were held for the needs of local self governments over the period observed.

As for financial audits of local governments, SAI carried out two such audits within the reporting period⁹².

The Commission for monitoring the implementation of APs failed to inform the public of the work of the Council for Development and Protection of Local Self-Government. However, the Commission reported that 18 municipalities in total appointed Ethical Commissions for elected officials and Ethical Commissions for local civil servants and public employees⁹³. There were no public discussions or round tables on regulations propounded by local governments, nor any information campaigns to promote the participatory principle in local parliaments⁹⁴. The "empty seat" institute was embraced by 14 municipalities⁹⁵.

There were no meetings held with a view of improving interaction between citizens and local government in anticorruption efforts, and by extension there could not have been any acceptance or proposals of motions to step up such interactions⁹⁶.

⁹² Within the reporting period SAI audited the 2010 Final Budget Account of the Municipal of Tivat, with the relevant report posted on the SAI's website, and the 2010 Final Budget Account of the Municipality of Kotor, with the report also posted on SAI's website - www.dri.co.me.

⁹³ The following municipalities set up Ethical Commissions: Podgorica, Tivat, Cetinje, Kotor, Bijelo Polje, Berane, Bar, Pljevlja, Plav, Plužine, Žabljak, Nikšić, Danilovgrad, Budva, Šavnik, Kolašin, Mojkovac and Rožaje.

⁹⁴ The Mol reported that local governments held public discussions and round tables regarding draft regulations to be approved by local parliaments, but failed to provide precise data on the actual number of such public participation events held over the period observed.

⁹⁵ The 'empty chair' institute was embraced by the municipalities of Podgorica, Nikšić, Bijelo Polje, Berane, Kotoru, Budva, Bar, Danilovgrad, Herceg Novi, Tivat, Pljevlja, Rožaje, Plav and Kolašin.

⁹⁶ The Mol reported of local governments holding joint meetings aimed at stepping up public participation in anticorruption efforts, depending on citizen initiatives. There is no information on the number of approved motions within the time stipulated.

Civil society, media and sport

Out of 18 measures envisaged under this heading, six were fully implemented, four only partly, while eight were not implemented at all.

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Within the reporting period DACI had two joint activities with the civil society organisations aiming to encourage greater and more effective civil participation in anticorruption efforts⁹⁷.

The Commercial Court does not hold any records on the number of financial statements of NGOs posted on the Court's website⁹⁸, and the Agency for Electronic Media still did not post on its website the financial statements of media companies containing the data of revenues acquired.

The certified Financial Audit Report for RTCG for the previous year was not compiled within the reporting period, and thus nothing was posted on the RTCG website.

Over the reporting period, the Tax Administration failed to pass regulations governing taxation of regional media revenues from advertising aired in Montenegro, or the number of those in default of such tax payment.

Within the reporting period, the Agency for Electronic Media (AEM) was not provided with permanent premises, as envisaged by the 2007 Decision of the Government, nor were its technical capacities for media monitoring developed, and its legal department was not set up. Over the period observed, AEM did not have new recruitments.

The MES website features a report on the operation of Montenegrin Olympic Committee, but no financial statements of sport clubs and associations for the previous year⁹⁹.

The NGO Law was adopted within the reporting period¹⁰⁰.

According to the information made available by the MoI, the period of incorporation has not expired for any NGO, although the e-register with the data on active/inactive NGOs and the number of those whose period of incorporation expired, where such data would be readily visible, was not set up during the reporting period¹⁰¹.

The Decree on criteria for determining beneficiaries and manner of allocation a share of revenues from games of chance is not aligned with the new NGO Law, but rather the older version, and since it ceased to be valid on 01 January 2012, the harmonisation with the new provisions will be done in the forthcoming period.

⁹⁷ DACI reported of the public campaign "Report corruption - there is always a way" and the round table discussion on cooperation among NGOs, state authorities and local governments in combating corruption, organised in cooperation with the NGO Euromost.

⁹⁸ The Commercial Court reported that current Central Register held with the Court is to be transferred to the Tax Administration, thus subsequent projects will be implemented through this administration.

⁹⁹ The MES explains this by saying that the RAP envisaging this measure did not enter into force yet.

¹⁰⁰ The Law was adopted on 22 July 2011.

¹⁰¹ The NGO register was introduced after the reporting period, in January 2012, available at <http://www.dokumenta.me/nvo/>.

The Decision appointing the Commission for Allocation of a Share of Games of Chance Revenues was published in the Official Gazette of Montenegro 12/11¹⁰². This Commission does not hold information on the number of NGOs non-compliant with their contract terms, nor the information on the amount of funds recovered from NGOs on the account of contract breaches¹⁰³.

The Media Institute did not hold seminars and training events on investigating journalism in the area of corruption and organised crime within the period covered.

There was no reporting of the observance of Journalist's Code of Ethics by the self-regulatory body. The Supreme Court reported of 20 cases against the media¹⁰⁴ instigated within the reporting period, while there were no proceedings against NGOs.

All ministries are recognised as holding competence for organising public and round table discussions; thus, 19 round tables, 18 public discussions, one public call for proposals and one session to deliberate on positive impact of laws were held within the reporting period.

¹⁰² This Decision is of 25 February 2011, and the RAP envisages the adoption of the Decree on criteria for determining beneficiaries and method of allocation of a share of games of chance revenues, approved in the previous reporting period.

¹⁰³ The Commission Report on its activities, allocation and control of purposeful spending of money allocated to NGOs was compiled in December 2010.

¹⁰⁴ According to the Supreme Court, 20 civil law cases for compensation of damage to reputation, honour or individual rights through the media are pending, six of which are appellate proceedings.

1.3. Prevention of corruption in law enforcement bodies

The area of prevention of corruption in law enforcement bodies has the total of 64 measures envisaged, subdivided into five sections.

The highest share of implemented measures is found in the section on preventive mechanism for suppressing corruption in the police, while no measure was fully seen through as regards criminal prosecution and confiscation of proceeds of crime.

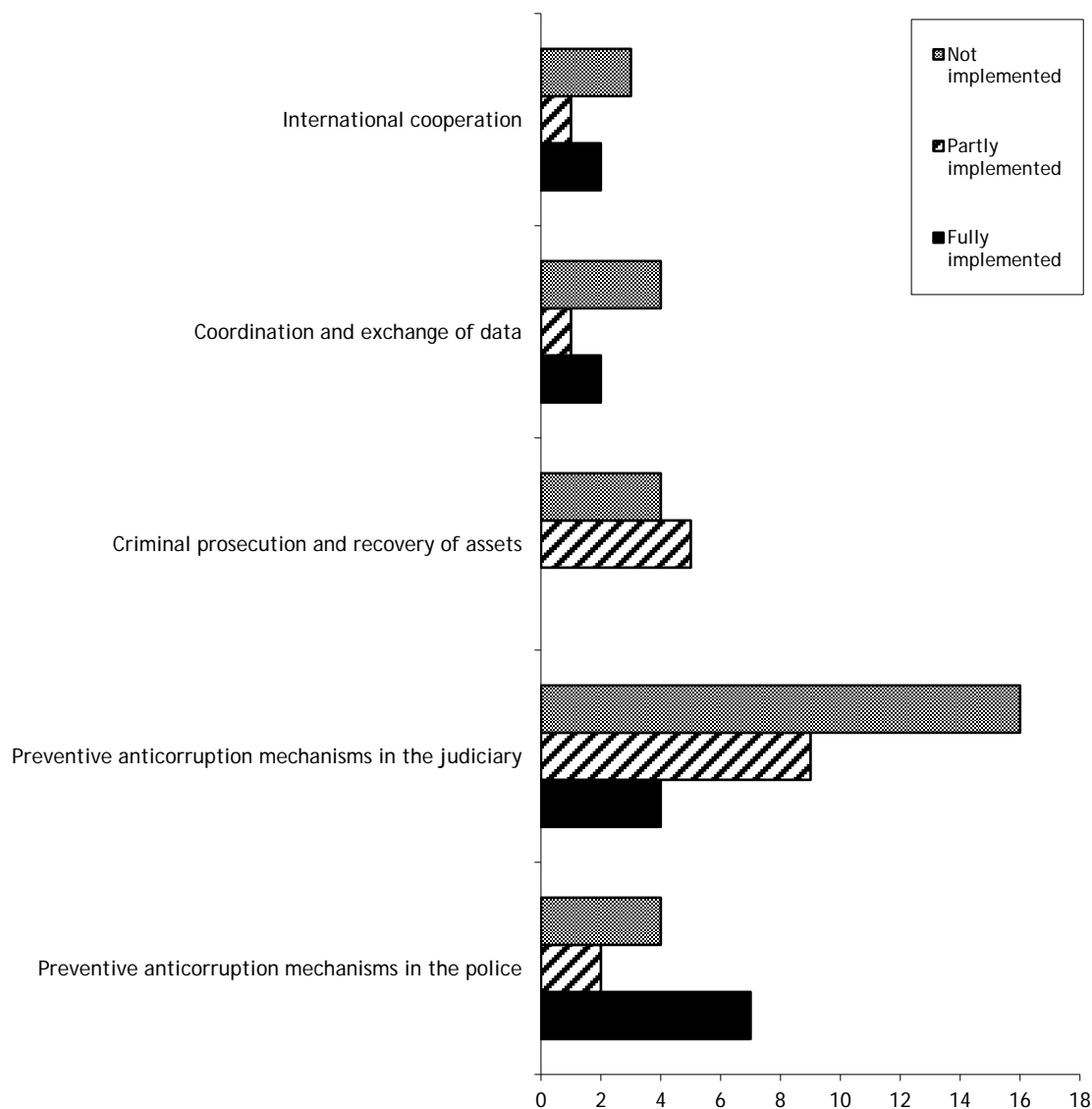


Chart 7: Overview of implementation of measures in the field of corruption prevention in law enforcement bodies

Preventive mechanisms for suppressing corruption in the police

The total of seven measures under this heading were fully implemented, two only partly, while four not at all.

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Within the period covered the Law on Internal Matters was drafted¹⁰⁵, but not yet adopted. Within the period concerned the Mol failed to amend the Rulebook on Internal Organisation and Job Systematisation.

The Government passed six pieces of implementing legislation for the Law on Border Control¹⁰⁶, and the Police Directorate increased its staff capacities with ten new officers, as envisaged by the new Rulebook.

Over the period observed, the Police Directorate procured equipment for improving the work of the Criminal Police Department¹⁰⁷, although the procurement plan was not made.

As regards monitoring cooperation between the police and civil society in investigating corruption cases, the Police Directorate reported of having received six reports from NGOs and the media, which were followed through.

The RAP envisages ongoing specialisation of anticorruption officers. In this regard, Police Directorate and the Police Academy delivered five training events for 33 candidates¹⁰⁸.

As regards training in money laundering investigations, the AMLTF Administration, the Police Directorate and the Supreme State Prosecution attended 11 training sessions on conducting effective financial investigations, attended by 23 candidates.

The Ethical Committee of the Police Directorate, within the time stipulated, out of the total of 29 cases considered, forwarded 18 cases to the Disciplinary Prosecutor of the Police Directorate on the count of Code of Ethics violation.

According to PD and the Supreme State Prosecution, as regards corruption-related cases within the police, there were 47 such cases, launched upon reports or ex officio against police officers, citizens filed 45 reports referring to alleged corruption of police officers, 8 disciplinary cases were instigated based on internal control reports, while there were no final disciplinary measures pronounced within the period observed. Based on internal control reports, investigation was launched against three persons within the same time.

¹⁰⁵ The Draft Law on Internal Matters was approved by the Government at its session on 22 December 2011, and sent to the Parliament for consideration on 09 January 2012.

¹⁰⁶ The Rulebooks were passed on 28 June 2011 and were published in the Official Gazette of Montenegro

¹⁰⁷ Computer equipment (hardware and software) worth 28,500 euro and the 10,000 euro worth of data encoding equipment was procured for the needs of the International Law Enforcement Cooperation Unit (ILECU). The budget resources went into the procurement of the new 80,000 euro worth of investigation and covert surveillance equipment. Some equipment was also purchased within the IPA 2010 project - used vehicles and some special purpose equipment.

¹⁰⁸ Police Directorate reported four anticorruption training events held within the period covered by this report, attended by 21 police officers, while on 12 December 2011, a seminar was held at the Police Academy, in cooperation with the Police Directorate, on Receiving and Handling Corruption Reports, attended by 12 police officers.

Aiming to step up cooperation with state authorities in anticorruption efforts, RAP envisages preparing of the relevant brief with recommendations for improvement. However, the Police Directorate as the responsible authority failed to implement this measure.

Ongoing campaigns promoting avenues of corruption reporting and protection offered to reporting persons were not carried out, and within the period stipulated there were 15 corruption reports received by the Police Directorate.

Preventive mechanisms for combating corruption in the judicial bodies

This section has the total of 29 measures envisaged, four of which were fully implemented, nine partly, while as many as 16 were not implemented at all.

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Within the reporting period, the Judicial Council and the Prosecutorial Council designated their spokespersons and PR officers¹⁰⁹, but there were no half-yearly press conferences of the two respective chairs, nor the “open door” days organised in courts, although their implementation was envisaged with a view of fostering cooperation between judicial authorities and the press.

Between July and December 2011, one Supreme Court’s newsletter was published, and the Judicial Council failed to keep records of the number of published court decisions on the web pages of respective courts as a share of all judgments of all courts, nor did it compile and publish statistics on the actions of courts in all cases.

The Supreme Court did not carry out public opinion polls or publish their findings to monitor the degree of trust placed by citizens with the work of courts, but it referred to a civil society research into the degree of public trust in the judiciary¹¹⁰.

The Prosecutorial Council failed, during the time observed, to set up an office for receiving reports of alleged corruption within the prosecution, and there were no media appearances or press conferences to promote reporting corruption within the prosecutorial profession. Thus, there were no quarterly reports made on the work of such office for receiving reports of corruption in courts and among prosecutors.

The MoJ failed to prepare an Assessment of Anticorruption Reforms in the Judiciary with recommendations for improvement, and as regards monitoring the work of judges and prosecutors by a commission of an immediately superior court, or prosecution office, the Supreme State Prosecution took no action, while the Supreme Court reported the work of each judge being monitored and records kept thereof.

¹⁰⁹ More precisely, within the period covered by the report, Judicial Council’s spokesperson was appointed in three courts, with the procedures underway in other courts. On the other hand, the Prosecutorial Council entrusted the chair and the deputy chair for contacts with the press. PR officers were not nominated in lower level prosecution offices, because Article 105 of the Law on State Prosecution envisages that information on the work of the prosecution are to be given only by the Supreme State Prosecutor or the person authorised by her/him.

¹¹⁰ The CEDEM (Centre for Democracy and Human Rights) features the findings of a poll from December 2011 on Political Public Opinion in Montenegro, citing the level of trust into the judiciary to be at 47.1%.

The review of provisions on disciplinary liability of judges and prosecutors was not done, hence no amendments of legislation were launched.

As regards monitoring efforts to curb corruption and prevent the conflict of interest situations for holders of judicial office, the Judicial Council and the Prosecutorial Council, as sole responsible authorities in this respect, do not hold information on the number of judges and prosecutors investigated for alleged corruption and conflict of interests, nor any information on the number, type and amount of sanctions.

Between July and December 2011, the review of the Code of Ethics application was done for the prosecution, but not for courts. The Commission to monitor the application of the Prosecution Code of Ethics was set up, and had one meeting altogether, while the corresponding body for judges held two meetings over the same period.

The anticipated constitutional amendments¹¹¹ to reinforce the independence and autonomy of the judiciary were not introduced. Neither did the MoJ amend the organisational legislation to foster independence of courts and prosecutors.

The transparency of procedures for drafting training programmes and selection of trainers for judges and prosecutors is made possible by the provisions of the Law on Education in Judicial Authorities. Hence, the Judicial Training Centre (JTC) held 45 training events attended by 456 members of the judiciary¹¹².

The premises and equipment used by courts were neither improved through budgetary increase as compared to the previous year nor through providing additional funds for capital investments, infrastructural development or equipment procurement. Only three courts work in proper premises.

The central database on the election, appraisal, disciplinary sanctions and promotion of holders of judicial office was set up by the Prosecutorial Council, but not by the Judicial one¹¹³.

The website of the Supreme Court features 21 selected judgments of the European Court for Human Rights (ECHR), but no review was done of cases against Montenegro before this Court. The training plan to contribute to better invoking of the ECHR case law in Montenegro makes part of the JTC's 2011 Training Programme, and within the period observed the total of 37 events promoting the application of the ECHR case law were organised and had 456 attendees.

The MoJ failed to compile the Review of Court Workload; hence, there were no changes in court network to reflect the review findings. There was no review on the actions taken by courts with a view of the Law Protecting the Right to Trial Within Reasonable Time either, thus not resulting in any conclusions to foster the implementation of this Law. The Judicial Council failed to prepare a Review of Court Judgment Enforcement for the past two years, nor did it pass the Decision to set the criteria for addressing housing issues of members of courts and prosecutors, where this Council, together with the MoJ and the Prosecutorial Council was recognised as the responsible authority.

¹¹¹ Only one public discussion on proposed amendments was held, outside of the reporting period.

¹¹² These 45 events reported by the JTC include seminars, modules, workshops, round table discussions and training courses.

¹¹³ The Prosecutorial Council did so already within the previous reporting period.

The Prosecutorial Council reported that there were no housing loans granted over the period observed, nor any flats given to prosecutors, and the Judicial Council replied they did not hold the same kind of information for judges.

The Government of Montenegro, i.e. its Housing Commission, failed to report on flats and housing loans awarded to members of the judiciary by the central and local level governments¹¹⁴.

The use of the Judicial IT System (PRIS) in the daily work of judges and court staff, and within the state prosecution, is reflected in the number of court and prosecution documents entered into the database, but neither the Judicial Council nor the Supreme State Prosecution hold any information as regards such figures for the time covered by the report¹¹⁵.

According to the Judicial Council, all 22 courts in Montenegro are linked to PRIS which is fully functional.

Criminal prosecution and confiscation of proceeds of crime

Out of the nine measures in this section, five were partly implemented, while four remained unaddressed

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With a view of implementing the Criminal Procedure Code, the JTC organised training sessions attended by 160 holders of judicial office¹¹⁶.

No training curricula were developed for authorities engaging in financial investigations, detection, freezing, confiscation and management of proceeds of crime, but the 2011 Initial Education Programme, the 2011 Annual Training Programme of JTC, and the Anticorruption Training Programme for Holders of Judicial Office were developed. Over the period observed, the total of 8 training sessions were held for 140 attendees.

Over the period observed, the Supreme State Prosecution launched one investigation against one person, while 12 investigations were launched against 89 persons as per reports by the police.

Monitoring of the confiscation of proceeds of crime is envisaged by the RAP, and thus the Supreme Court and the Supreme State Prosecution in their half-yearly report sent to DACI, noted that 47.3 million worth of assets were seized in three cases, but that there was no permanent confiscation of assets, or any review done of financial investigations pointing to problematic issues and giving recommendations for their addressing.

¹¹⁴ It was noted that over the period observed there were no decisions made to award housing loans or rent flats, either to individuals or state authorities.

¹¹⁵ Over the previous reporting period, over 764,000 documents of courts and prosecution offices were processed and entered into the joint database. For this reporting period, the Supreme State Prosecution reported the data were entered into the system on daily basis, while the Judicial Council reported that the data were being prepared.

¹¹⁶ The JTC's reports states that six seminars for 131 holders of judicial office and one round table attended by 29 participants were held within the reporting period.

SAI did not make a report on the number of criminal reports and launched misdemeanour proceedings stemming from findings in audit reports.

While over the previous reporting period four financial investigations were made by authorities in charge of detection and prosecution of offenders with a view of extended confiscation of illegal proceeds, another four were launched during this reporting period, one still underway¹¹⁷.

The Assets Administration does not hold any data on the value of permanently seized assets in the procedure of extended confiscation¹¹⁸, and failed to provide annual reports on administration and management of confiscated assets.

The MoJ failed to analyse the need to criminalize illicit enrichment, thus there were no amendments to the Criminal Code in this respect.

Coordination and exchange of data

Out of the total of seven measures envisaged under this heading, two were fully implemented, one partly, and four not at all.

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Within the reporting period, the MoI and the MoF failed to set up the Working Group composed of members of anticorruption bodies to draft a report with recommendations to step up inter-agency cooperation. Hence, the recognised responsible authorities¹¹⁹, could not have followed through the recommendations over the period observed.

The DACI receives data on corruption reports from competent authorities in certain intervals using the new software of its own creation. Using this channel, the authorities with open corruption reporting lines may report on such calls and further actions taken as per reports¹²⁰. The total of 11 authorities provided DACI with such statistics, used by DACI in its half-yearly analytical report.

Between July and December 2011, the Police Academy offered training for police officers receiving corruption reports, attended by 12 participants¹²¹.

On the other hand, HRMA had no training delivered for other authorities having receiving of corruption reports also within their remits.

¹¹⁷ As reported by the Police Directorate, they initiated launching of four financial investigations. One financial investigation with a view of extended confiscation is carried out with the special state prosecutor. In acting as per the case, a set of measures and actions was taken to detect proceeds of crime held by the Kalic family.

¹¹⁸ The Assets Administration informed us that in 2011 a cargo vehicle FAP VBDT/3 X2 with a trailer was seized. The value of the vehicle is currently being determined.

¹¹⁹ The following were recognised as responsible authorities: Supreme State Prosecution, Police Directorate, Customs Administration, Tax Administration, DACI, AMLTF Administration, and Commission for Prevention of Conflict of Interests.

¹²⁰ Between April and June 2011, DACI received 60 reports from 12 authorities, 30 by surface mail, 15 by telephone, 9 directly and 6 by e-mails (all falling within previous reporting period, with no information given on the number of reports within this reporting period).

¹²¹ The Police Academy reported that, in cooperation with the Police Directorate, a seminar was held on 12 December 2011 on Receiving and Handling Corruption Reports, attended by 12 police officers.

International cooperation

There are six measures under this heading, two fully implemented, one partly, and three not at all.

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Over the period observed, the Police Directorate did not sign an operational cooperation agreement with Europol.

Still, within this period, the Police Directorate did adopt the amended Rulebook on Internal Organisation and Job Systematisation introducing ILECU (International Law Enforcement Cooperation Unit), centralising operational international cooperation¹²².

Safe data exchange links among different authorities were set up by the Police Directorate accompanied by the Guidance - operational procedures on data exchange between the ILECU and contact points at participating authorities. Within the reporting period, ILECU was set up and is partly functional¹²³.

There was no reporting as per results of international cooperation in fight against corruption within the reporting period¹²⁴, neither was the Working Group to review the impacts of international treaties and agreements set up¹²⁵.

¹²² According to the Police Directorate, the ILECU, single point of operational international law enforcement cooperation, includes cooperation within Interpol and Europol, SELEC Centre, liaison officers network, and in future also the cooperation via the SIRENE Bureau.

¹²³ The office space for the work of ILECY was only partly provided, the safe ICT equipment in line with the standards stipulated in the Law on Classified Data was provided, organisational units are linked into a single criminal intelligence system of the Police Directorate, access to all national-level databases is provided and can be used in daily work, but the Case Management Software was not introduced, the AFIS unit linked with the Forensic Centre was not set up, nor were additional missing staff recruited to enable 24/7 operation.

¹²⁴ Over the previous reporting period, the Police Directorate compiled six reports on results of international cooperation while the MoI compiled one.

¹²⁵ Over the previous reporting period (01 January 2010 to 30 June 2011), the Supreme State Prosecution and the AMLTF Administration drafted the Review of the impact of international treaties and agreements implementation, and the Supreme State Prosecution prepared the international cooperation programme for the period concerned.

2. ORGANISED CRIME

The activities in the organised crime part are subdivided into five categories including 52 measures. The area of organised crime includes: situation analysis, most frequent manifestations, prevention, inter-agency cooperation, and regional and international cooperation.

The largest number of measures was implemented in the section headed the most frequent manifestations, while situation analysis and inter-agency cooperation are sections where no measure was implemented.

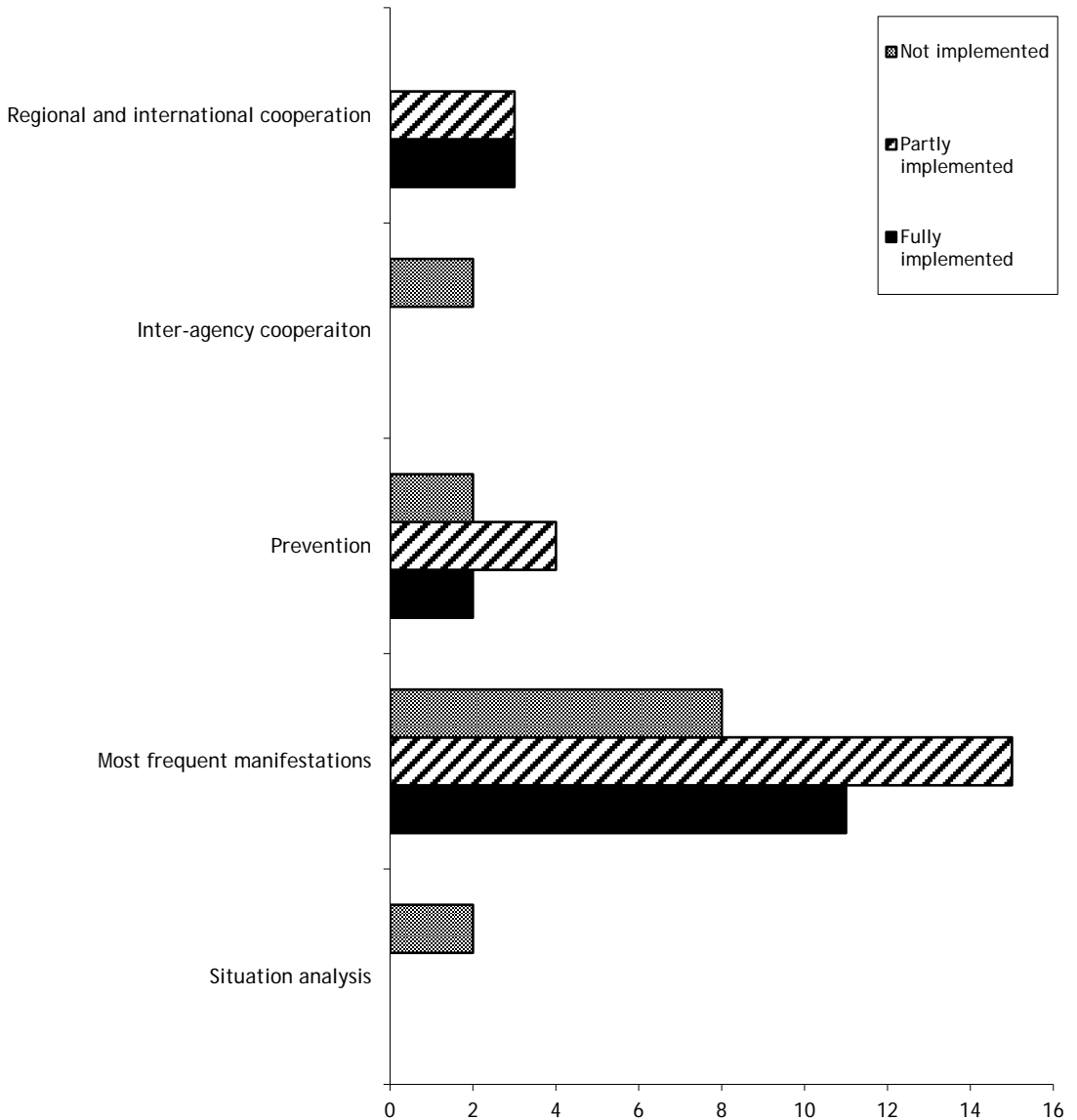


Chart 8: Overview of implementation of measures to combat organised crime

Situation analysis

The two measures envisaged under this heading remained unaddressed.

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The Police Directorate and the National Security Agency (NSA) failed to do crime mapping for Montenegro over the reporting period; by extension, they failed to identify vulnerable areas or set clear priorities in fight against organised crime.

The analysis of the impact of organised and serious crime in the region to the situation within Montenegro, following the EU-OCTA standards, was not made, nor was the possible linkages between public officials at the state and local level and organised crime groups investigated¹²⁶.

Most frequent manifestations

There are in total 34 measures envisaged under this heading, 11 of them fully implemented, 15 partly, while eight not at all.

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While in the period covered by the report the Police Directorate and the AMLTF Administration increased the number of staff for conducting financial investigations in line with the needs, the Supreme State Prosecution and the Police Academy did not recruit any new staff. In order to enhance capacities to conduct financial investigations, these four responsible institutions held 15 specialised training sessions for 123 attendees.

Between July and December 2011, with a view of stepping up interagency cooperation through the Special Investigation Team, one financial investigation was ordered¹²⁷, but there are no data on the number of reports related to financial investigations.

The Police Directorate did not report whether the officers in charge of criminal investigation and criminal intelligence matters were designated in regional units as envisaged¹²⁸. A well-functioning office space was provided in four out of the eight regional police units¹²⁹.

The RAP envisaged technical capacity building for border controls and Border Police system linkages, and thus the Police Directorate provided an overview of activities including reconstruction of border crossing points, software installation, establishment of the CCTV in ports, and purchase of vehicles¹³⁰.

¹²⁶ In July 2011 the Police Directorate published the public version of the document Organised Crime Threat Assessment in Montenegro (MNE OCTA). This document does not correspond to the RAP requirements and was made public only partially.

¹²⁷ As per this order, one financial investigation in one case against three persons is underway.

¹²⁸ The Police Directorate made a working draft of the Rulebook for assigning organised crime officers to regional units, but it was during the previous reporting period. In response to the request sent in this reporting period, the Police Directorate reported that there were no OOP activities, as well as that the relevant unit here is the Department for human resources, legal matters, telecommunications and IT.

¹²⁹ A well-functioning office space was secured in Bar, Herceg Novi, Podgorica and Bijelo Polje.

¹³⁰ According to the Police Directorate, the reconstruction of BCPs Dobrakovo and Dračenovac was completed; by installing software on 05 August 2011 the III stage of electronic supervision of the blue border was completed; the IP video system was established in BCPs at the seaports of Bar and Kotor; German police donated two special ATV vehicles, while the US Embassy donated 19 thermal vision cameras, now being delivered.

As for intelligence system linking EGP-IGP-SGP (Border Police systems), according to the Border Police, electronic exchange of operational information was established with five¹³¹ out of the total of eight units.

The Police Directorate reported that all BCPs are linked to the unified system enabling the search of persons, documents and vehicles in the Interpol database, and as regards the transfer from MIND, currently used by the Police Directorate to MIND/FIND checks, is reported to be underway¹³².

Over the previous reporting period, the Police Directorate drafted the proposals for the new organisational setup of the existing Special Checks Division and disseminated 4,000 copies of the manual on criminal intelligence to all officers, but neither over the previous period, nor within the current reporting period did it manage to set up desks at the level of regional units.

With a view of intensifying police training towards effective implementation of the Criminal Procedure Code and conducting investigations using covert surveillance measures, the Police Academy held two training sessions for 30 attendees¹³³.

Within the reporting period the new equipment for conducting investigations and covert surveillance measures was procured¹³⁴ by the Police Directorate, and one progress report for the "Intelligence-Led Policing" project was made. The increase in the number of organised crime operational analysts was envisaged, and thus 34 police officers were trained with this in mind¹³⁵.

Two reviews were carried out aiming to improve the operation and work methods of the Police Directorate¹³⁶, to strengthen its capacities in fight against drug trafficking, and two recommendations stemming from the reviews were followed through.

Over the period observed six international cases were launched, aiming to step up efforts in combating drug trafficking, and one international and one national case were closed. One controlled delivery took place, and people were prosecuted and 79 criminal charges brought for drug possession¹³⁷.

According to the Police Directorate and the Customs Directorate, over the period observed the total of 6.917 litres of gasoline and diesel oil worth 8,970 euro, 397,642 boxes of cigarettes, and other goods were seized¹³⁸.

¹³¹ The electronic exchange of operational information was established with Border Police offices in Podgorica, Bar, Herceg Novi, Berane and sea border police offices, while the remaining three are expected to come on line in the upcoming period.

¹³² The Police Directorate reported that switching from MIND to MIND/FIND is underway, as organised by the Interpol General Secretariat, a project worth 10,000 euro.

¹³³ The Police Academy reported holding of a seminar on Money Laundering and Confiscation of Proceeds of Crime held between May and September 2011, attended by 20 participants, and another seminar "Golden watch and the significance of financial investigations, asset recovery facilities" for ten officers from the Criminal Police Department was delivered on 27 October 2011.

¹³⁴ The procured equipment was worth 80,000 euro, and within the IPA 2010 project vehicles 60,000 euro in worth and special purpose equipment amounting to 16,982.35 euro were used.

¹³⁵ Over the period observed 34 police officers were trained in specialised analysis ANAKAPA, analytical database, spatial criminal analysis and the use of i2 Notebook software.

¹³⁶ According to the Police Directorate, within the IPA 2011 funded project "Strengthening Police Capacities to Combat Drugs", two analyses were developed: the risk analysis of drug trafficking and the training needs analysis for drug officers.

¹³⁷ These 79 criminal reports for drug possession covered 165 persons and led to seizure of 445kg of narcotics.

¹³⁸ As reported by the Police Directorate and the Customs Administration, apart from oil, also 388,233 boxes of cigarettes were seized, 397,642 boxes of cigarettes destroyed, as well as 85 kg of tobacco and 95 packages of

With a view of increasing the efficiency of seizures of narcotic drug and other contraband traded by organised crime groups, within the reporting period the Police Academy held three courses, one seminar and one training session for officers of the Police Directorate, the Police Academy and the public company Montenegrin Airports.¹³⁹

Between July and December 2011, the Supreme State Prosecution failed to compile a report on cases involving leaders of organised crime groups and highest-level corruption. As regards launching money laundering investigations ex officio, based on allegations, indications and media reporting, the AMLTF Administration forwarded 58 such instances to the Police Directorate and instigated two cases which led to criminal charges being brought. The Supreme State Prosecution and the Police Directorate, as authorities also responsible to act as per this measure, had no similar activities.

The AMLTF Administration did not harmonise its Job Systematisation document with the law, but did provide the needed office space and partly procured the missing IT equipment. As for the control over the work of banks and other commercial entities reporting suspicious transactions, there was no separate six-monthly report made featuring the required data. Nevertheless, the AMLTF Administration reported that the Control Division carried out 59 checks, and that 18 misdemeanour reports were filed and 17 initiatives forwarded¹⁴⁰.

Within the period observed, one investigation was launched based on the AMLTF Administration report¹⁴¹, three money laundering reports in property trade and construction investments and one money laundering report in privatisation and bankruptcy proceedings. There were no enforceable convictions based on AMLTF Administration reports, and three transactions of Politically Exposed Persons (PEPs) were controlled¹⁴².

Between July and September 2011, the Ministry of Labour and Social Welfare (MLSW) launched a campaign aimed at curbing informal labour, which was very effective since it revealed a number of irregularities, and a large number of unregistered workers were duly employed. The MLSW reported that, pursuant to the provisions of the Law on Employment and Work of Foreign Nationals, 920 foreign nationals were provided definite-time employment contracts, while 628 foreign nationals were employed as per open-ended contracts¹⁴³. There is no information on consultation among the Ministry, the employer associations and trade unions on the number of recommendations drafted and followed through¹⁴⁴, with a view of curbing informal labour.

tobacco, one hunting rifle, 4,570 kg of various food produce, over 5,547 pieces of garments, 103,620 kg of coffee and over 57,500 pieces and 40 kg of assorted goods, and 58,750 kg and 1,167 l of food produce destroyed, 40 pcs of assorted textile goods and 43 pairs of shoes, while 17,747 pcs of diverse goods were destroyed. The total value of goods seized in 2011 was 437,261 euro.

¹³⁹ Attended by 71 participants.

¹⁴⁰ Out of the 17 motions for launching misdemeanour proceedings, 11 were internal initiatives, and 6 were directed to other authorities.

¹⁴¹ According to the Police Directorate, within the reporting period one criminal report was filed on the account of money laundering (Kalić case), containing illegal activities in property trade and in the privatisation process.

¹⁴² Two domestic and one foreign national were covered by such checks.

¹⁴³ According to the Employment Agency's data, in 2011 33.38% more work permits were issued as compared to 2010.

¹⁴⁴ Over the reporting period there were no specific recommendations, except that after the meeting of 28 October 2011 it was agreed to continue the activities and organise inspection supervision in pharmaceutical wholesale, water factories, hospitality establishments, schools and health care establishments.

The Supreme State Prosecution still does not hold the information on the number of indictments raised for offences against safety of computer data and unauthorised gathering of personal data as a share of enforceable convictions, but reported that it would publish such data in their annual report for 2011.

The unified database for the needs of the Supreme State Prosecution was not set up featuring information on titles over property, share capital, legal persons, movable assets and other relevant data.

The Police Directorate reported having established the undercover agent unit within the period observed, but no agreements were signed with foreign police bodies on the exchange of undercover agents and there is no information on the number of countries with which efficient cooperation was established.

Over the period observed the Supreme Court and the Supreme State Prosecution failed to prepare an analysis of key obstacles in pre-investigation, investigation and court proceedings as regards coordination and cooperation, with recommendations for improvement¹⁴⁵.

The DNA Register Law was adopted during the reporting period¹⁴⁶.

The Supreme State Prosecution, the Supreme Court and the Police Directorate did not adopt the Guidance for aligning statistical methodology, nor did the Police Directorate set up the criminal intelligence units in all its regional offices¹⁴⁷.

As regards the risk analysis in the Border Police Department, envisaged also by the old AP, the Police Directorate reported that risks were analysed 27 times during the period observed¹⁴⁸.

The Law amending the Law on Prevention of Money Laundering and Terrorism Financing was not adopted within the reporting period, but the Draft Law was approved¹⁴⁹.

Prevention

Out of the eight measures in this section, two were fully implemented, four partly, and two not at all.

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As a part of international projects aimed at providing specialisation for entities involved in curbing organised crime, 32 national and 9 international training events were held attended by 465 officers¹⁵⁰.

¹⁴⁵ The deadline for implementation of this measure is IV Q 2011.

¹⁴⁶ The Law was adopted on 22 July 2011.

¹⁴⁷ The establishment of such units was envisaged also by the old AP, but this measure has not been implemented yet.

¹⁴⁸ Risk analysis was done three times in each of the eight outposts and three times at the national level.

¹⁴⁹ The Draft Law amending the Law on AMLTF was forwarded to the Parliament on 16 December 2011.

¹⁵⁰ Within the period observed, the Police Directorate held 12 national and 8 international training events attended by 177 officers, the Police Academy held 17 national events attended by 233 officers, while the JTC held three national and one international events for 55 attendees in total.

Between July and December 2011, the Police Directorate did not adopt the Integrity Plan, but the drafting group was set up and it is currently being developed. The six-monthly analysis of the Code of Ethics application in the second half of 2011 was prepared; out of 29 cases considered for possible violation of the Code of Police Ethics, 18 cases were forwarded to the disciplinary prosecution for further actions. There was no training delivered to contribute to better application of the Code of Police Ethics.

Over the reporting period the Customs Administration linked its information systems and established links with computer networks and databases of two other authorities¹⁵¹, Tax Administration linked with seven other authorities¹⁵², while the Police Directorate did the same with four authorities¹⁵³.

Over the period observed the Mol signed three agreements fostering cooperation in witness protection for victims of organised crime¹⁵⁴, and the Police Directorate reported having attended one regional conference¹⁵⁵. A specialist course¹⁵⁶ and a training session¹⁵⁷ on this matter were held, and there were no joint cases. The Police Directorate conducted four training events for officers from the Witness Protection Unit, attended by four officers¹⁵⁸, but did not provide specialised equipment for the Witness Protection Unit.

As reported by the Police Directorate, the Witness Protection Law was reviewed leading to the initiative to amend this law with proposed amendments submitted to relevant authorities in December 2011, currently in the procedure of adoption. One recommendation for improvement was given, still pending.

Inter-agency cooperation

As regards inter-agency cooperation, there are no partly or fully implemented measures, only two pending measures.

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The National Coordination Office for Curbing Organised Crime was not set up, and the Mol and the Police Directorate, the only recognised responsible authorities in this respect, renounced their competence in the matter.

¹⁵¹ The Customs Administration is now linked with the databases held by the Police Directorate and Tax Administration.

¹⁵² The Tax Administration is now linked to the databases held by the Customs Administration, the Ministry for Information Society and Telecommunications, the Pension and Disability Fund, the Health Insurance Fund, the Employment Agency, the Central Register of the Commercial Court, and the Central Civil Register.

¹⁵³ The Police Directorate is linked with the Customs Administration, the Tax Administration, the AMLTF Administration, and the Mol.

¹⁵⁴ The agreements were signed with Serbia, Croatia and Malta.

¹⁵⁵ During the "Balkan forum", a visit to the ICTY in the Hague was organised.

¹⁵⁶ A specialist course on "Planning and Preparation of the Witness Protection Programme" was held in Skopje between 13 and 16 September 2011, attended by Serbia, Croatia, BIH, Macedonia, Albania and Montenegro.

¹⁵⁷ A seminar was held within the WINPRO project "Cooperation in Criminal Justice", on "Witness Protection in the context of Fight against Organised Crime".

¹⁵⁸ Four specialist training courses were delivered within the period observed, attended by four officers of the Witness Protection Unit (one in September, two in October and one in November 2011). All officers from this Unit completed basic courses in witness protection in the first half of 2011.

Building the capacities of the Joint Investigation Team through training, investigation and raising charges in corruption and organised crime cases is the second of the two measures envisaged by the RAP in the section on interagency cooperation. However, the only responsible authority here, the Supreme State Prosecution, reported that the pertinent data would be published in their regular 2011 Activity Report¹⁵⁹.

Regional and international cooperation

Out of the six measures under this heading, three were fully implemented, three partly, while there are no pending measures.

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Within the reporting period the Police Directorate set up the system for monitoring the implementation of international standards and best practices in curbing organised crime, but did not compile a report on the international standards adopted. As for regional and international cooperation in joint investigations, the MoI reported the signing of three agreements¹⁶⁰ which, inter alia, govern cooperation in witness protection for victims of organised crime. In this respect, the Police Directorate reported that international cooperation is ongoing in six drug trafficking cases, and nine cases involving general and economic organised crime.

Over the period observed, the Police Directorate had 80 meetings with border police of neighbouring countries, 409 joint patrols and four joint operations¹⁶¹. Members of the NCB Interpol Montenegro participated in the work of two working bodies and two working groups dealing with curbing organised crime in the region.¹⁶² Two projects in cooperation with the NCB Interpol are underway¹⁶³.

The Police Directorate reported that over the reporting period the 10,000 euro worth of data encoding equipment was procured through IOM and based on the project for linking the Police Directorate's database with other authorities.

No report was made on cooperation in investigation of organised crime, but the six-month report of the Police Directorate features data of 24 consultative meetings held and two joint investigations conducted by the PD and the Supreme State Prosecution¹⁶⁴.

¹⁵⁹ The Supreme State Prosecution reported that it did not hold such information, but that these would be featured in the 2011 Activity Report.

¹⁶⁰ The MoI signed agreements with Serbia, Croatia and Malta.

¹⁶¹ The Police Directorate held 80 meetings with border police of the neighbouring countries and had 409 joint patrols, resulting in a detection of a motor vehicle, the apprehension of 20 foreign nationals and the detection and seizure of 426 boxes of cigarettes.

¹⁶² Interpol working groups are held each year - Interpol European Contact Officers meetings (as regards international searches), then conferences - General Assembly and European Regional Conference, and meetings of chiefs of NCB Interpol - General Secretariat of Interpol. Each of these events is attended by the NCB Interpol Montenegro.

¹⁶³ The Police Directorate reported that two projects are underway in the General Secretariat of Interpol - "Pink Panther" and "Besa", pertaining to the Western Balkans, where Interpol participates regularly.

¹⁶⁴ As reported by the Police Directorate, cooperation was established in seven drug trafficking cases, one of which was closed. The total of 20 investigation-related meetings with foreign partners were held, as reported in weekly, monthly and annual reports. The Supreme State Prosecution took part in two joint investigations and four consultative meetings.

3. MONITORING

In the Monitoring section, there are six measures envisaged three of which were fully implemented, two partly, one not at all.

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The MoI, the MoJ and the MoF did not prepare the review of the current anticorruption institutional framework.

Over the previous reporting period, DACI developed a software solution, the methodological guidance and a reporting form for monitoring the AP implementation, and two training sessions regarding the use of the software were held for all reporting entities. DACI received 61 out of 73 reports on the implementation of the measures from the anticorruption and organised crime AP for the first half of 2011, and a Draft Report was made for the National Commission (NC). The NC website is regularly updated.

The six-month report on the work of law enforcement and judicial bodies in suppressing corruption and organised crime was made by the Tripartite Commission (TC) and contains all the relevant data¹⁶⁵, with the exception of the information on the number of neutralised crime groups and their bosses, and the data on the number of cases causing substantial damage to the budget.

The TC work methodology was not improved through holding a round table with international experts and adopting recommendations.

Covert surveillance measures were ordered in 18 cases against 113 persons. Out of these, in six cases involving 77 persons such measures were ordered before launching investigation.

¹⁶⁵ According to the Tripartite Commission, between 01 January and 31 December 2011, the Supreme State Prosecution received in total 25 corruption reports against 45 persons. Out of these, the Police Directorate filed ten reports against 20 persons, business entities three reports against nine persons, individual citizens six reports against seven persons, prosecution as of their own initiative two reports against three persons, a lawyer one report against two persons, and other entities three reports against four persons. Over the same period, the Supreme State Prosecution received six organised crime reports and one amendment to the criminal report against 74 persons. These criminal reports were filed by the Police Directorate.

Reconciliation of assessments with the official report

MANS and the NC Secretariat continued with the good practice of reconciliation of assessments as regards the implementation of the AP measures, before the publication of the official report, in order to have a more realistic view of the implementation of anticorruption reforms and to reduce the number of amendments to final reports traditionally considered at the NC sessions.

Out of 152 reconciled measures, in 44 cases MANS accepted the Secretariat's assessment, for 96 measures the Secretariat accepted the MANS assessment, and in case of 12 measures the assessment was jointly revised¹⁶⁶.

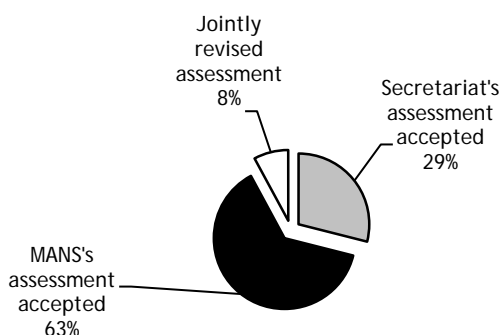


Chart 9: Reconciliation of assessments of the implementation of measures envisaged by the AP with the NC Secretariat

The Annex to this Report gives an overview of measures MANS reconciled with the NC Secretariat.

¹⁶⁶ The reconciliation meetings were held on 09 and 10 February 2012.

4. MANS INVOLVEMENT IN THE NATIONAL COMMISSION

4.1. Amendments to the Rules of Procedure of the National Commission monitoring the Anti Corruption and Organised Crime Strategy

The Government of Montenegro adopted the Action Plan implementing the Anti Corruption and Organised Crime Strategy on 29 July 2010. The AP contained originally 266 implementation measures, and all had their objectives, deadlines and performance indicators. MANS carried out independent monitoring of the Strategy implementation and prepared parallel report on the course of reforms to inform as objectively as possible both the domestic and the international public of the achievements of public authorities in combating corruption and organised crime.

After the new Government assumed office in late 2010, at its session of 13 January 2011 the Government adopted the Decision to set up the new National Commission monitoring the implementation of the Anti Corruption and Organised Crime Strategy¹⁶⁷. Immediately after the appointment of the NC members, MANS started working and lodging initiatives. One of the first initiatives lodged with the NC concerned the amendments to its Rules of Procedure. Already at the time when the NC was chaired by Gordana Đurović, former Minister of EU Integration, MANS advocated the NC sessions to be open for the public and enable the public scrutiny over the work of this body, but did not enjoy the majority in the then composition of the NC to support this proposal. In addition, MANS requested for the provisions of the Rules of Procedure governing the right to petitions to be amended to allow such petitioning to all citizens, which was also rejected by the NC. Given this, on 28 March 2011 MANS again propounded to the new NC the amendments to the Rules of Procedure.

The initiative was accepted and the NC sessions were opened for the public, and it was accepted for the NC to consider petitions, either coming from the NC members or any other legal or natural person. In addition, the NC members were given the opportunity to request the presence of representatives of state authorities and other institutions with a view of gathering information.

The new NC supported the MANS proposals for the sessions to be open to the public and to consider specific cases, although the largest number of the new NC members served also in the previous composition, which at the time rejected such proposals coming from MANS.

¹⁶⁷ The Decision appointed the following persons as the NC members: Duško Marković, Deputy Prime Minister and Minister of Justice, appointed as the NC Chair, Ivan Brajović, Minister of Interior and NC Deputy Chair, Aleksandar Damjanović, Chair of the parliamentary Committee on Economy, Finance and Budget, Ervin Spahić, Chair of the parliamentary Committee for Political System, Judiciary and Administration, Vesna Medenica, President of the Supreme Court of Montenegro, Ranka Čarapić, Supreme State Prosecutor, Veselin Veljović, the then Police Director, Srđan Spaić, Prime Minister's Adviser for regulatory reform and legal matters, Predrag Mitrović, Director of the AMLTF Administration, Vesna Ratković, DACI Director, Damir Rašketić, Secretary to the MoF, Zlatko Vujović, a representative of the NGO coalition "Through Cooperation to the Joint Goal", Vanja Čalović, MANS Executive Director, and Grozdana Laković, Independent Adviser at DACI, as the NC Secretary.

4.2. MANS Initiatives

Since the adoption of the Action Plan on 29 July 2010, MANS lodged a number of initiatives with the National Commission to consider various problems in combating corruption and organised crime, and in addition, MANS also initiated the AP amendments.

Since the adoption of the 2010 AP, MANS had eight initiatives with the NC, opening discussion around 12 topics. Many of the initiatives were actually considered. The overview of MANS initiatives and the actions as per the initiatives are presented below.

Prior performance of state authorities

After the new NC assumed office, MANS launched discussions of several topics, with the first initiative requesting discussion on: (1) public trust in the work of the police when it comes to corruption reporting; (2) performance of prosecution offices and the Special Investigation Team in financial investigations; (3) transparency of courts in publishing judgments in cases involving corruption, organised crime, defamation and pertinent compensation for damages, and (4) the role of the Parliament in combating organised crime through setting up the National Branch of Parliamentarians Against Corruption.

MANS requested the NC Chair to see to it that the representatives of the state authorities concerned prepare written reports on the current state of play in their relevant fields making them available to the NC members, and attend in person the sessions which discuss relevant topics to possibly provide additional information to the NC members.

Although MANS lodged this initiative on 28 March 2011, at the 4th session which followed the initiative, on 04 April 2011, the NC failed to take any stand as regards the initiative, and to this day it has not been considered.

Initiatives regarding the “Šarić” and the “Balkan Warrior” cases

In June 2011, invoking the new Rules of Procedure giving such a possibility, MANS lodged an initiative with the NC to consider the activities of the Police Directorate, the Supreme State Prosecution, the AMLTF Administration and the National Security Agency in the Šarić case and the Balkan Warrior operation. Back in February 2011, the parliamentary Defence and Security Committee adopted the conclusions noting the lack of proper coordination of state authorities in the Šarić case¹⁶⁸. In its conclusions, the Committee insisted on greater involvement of responsible authorities and mutual coordination, and this prompted MANS to table this issue before the National Commission and inform the members of the actual steps taken to step up coordination among the said authorities.

¹⁶⁸ At its 16th session held on 23 February 2010, the Committee had a control hearing of the then NSA Director, Duško Marković, and the AMLTF Director, Predrag Mitrović, on the activities of these authorities in the Šarić case and the Balkan Warrior operation.



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VLADA CRNE GORE
NACIONALNA KOMISIJA ZA SPROVOĐENJE STRATEGIJE ZA BORBUN PROTIV KORUPCIJE I
ORGANIZOVANOG KRIMINALA
N/R DUŠKA MARKOVIĆU, PREDSJEDNIKU

Podgorica, 03. jun 2011. godine

Poštovani,

U skladu sa članom 6a Poslovnika Nacionalne komisije za sprovođenje Strategije za borbu protiv korupcije i organizovanog kriminala podnosim

INICIJATIVU

Za razmatranje aktivnosti institucija koje su zadužene za borbu protiv korupcije i organizovanog kriminala u slučaju „Šarić“ i akciji „Balkanski ratnik“ na sjednici Nacionalne komisije, i to:

1. Uprave policije;
2. Vrhovnog državnog tužioca;
3. Uprave za sprječavanje pranja novca i finansiranja terorizma i
4. Agencije za nacionalnu bezbjednost.

U saznanju sam da je Odbor za bezbjednost Skupštine Crne Gore 23.02.2010. godine donio zaključke kojima je konstatovao da nije postojala dovoljno kvalitetna koordinacija nadležnih državnih organa u slučaju „Šarić“. Odbor je u zaključcima insistirao na većoj angažovanosti nadležnih državnih organa i međusobnoj koordinaciji. Takođe, Odbor je pozvao Vladu Crne Gore i nadležne državne organe da razmotre dosadašnje aktivnosti i preduzmu odgovarajuće mjere u cilju otklanjanja propusta i pripremanja dokaza za procesuiranje slučajeva.

Imajući u vidu ove obavezujuće zaključke Odbora za bezbjednost i odbranu, te veliki broj mjera Akcionog plana koje se bave saradnjom državnih organa, krivičnim gonjenjem i borbom protiv organizovanog kriminala

PREDLAŽEM

1. Da, u skladu sa članom 6a stav 2 Poslovnika Nacionalne komisije, od Uprave policije, Vrhovnog državnog tužioca, Uprave za sprječavanje pranja novca i finansiranja terorizma i Agencije za nacionalnu bezbjednost zatražite informacije:

- šta je konkretno učinjeno kako bi se sproveli zaključci Odbora za bezbjednost i odbranu i unaprijedila saradnja između tih državnih organa;
- koja su lica i rukovodioci u okviru ovih institucija snosili posljedice zbog činjenice da saradnja između državnih organa u slučaju „Šarić“ i akciji „Balkanski ratnik“ nije bila na zadovoljavajućem nivou, uključujući i informacije o vrsti i visini izrečenih kazni;
- koje konkretne aktivnosti ove institucije planiraju da preduzmu u budućnosti kako bi se saradnja između organa dodatno unaprijedila;

2. Da, u skladu sa članom 6a stav 3 Poslovnika Nacionalne komisije, na sledećoj sjednici zauzmete stav da li su državni organi uradili dovoljno kako bi se ispravili nedostaci saradnje u slučaju „Šarić“ i akciji „Balkanski ratnik“, te da ovim institucijama date konkretne preporuke kako bi se njihova saradnja u budućnosti unaprijedila.

Molim Vas da me o razmatranju ove inicijative informišete pisanim putem.

S poštovanjem,

Vuk Mares, direktor Monitoring programa

MANS initiative to the NC regarding the Balkan Warrior op

MANS proposed requesting information from the Police Directorate, the Supreme State Prosecution, the AMLTF Administration and the NSA on actions taken to foster their mutual cooperation, which officers and heads within these authorities were held accountable for lack of proper coordination among these authorities in the Šarić case and the Balkan Warrior operation, including the information on the type and amount of sanctions, and which specific steps are envisaged for future to further advance coordination.

On the occasion, MANS requested from the NC to take a stand whether the state authorities did enough to rectify irregularities which caused improper coordination in the Šarić case and the Balkan Warrior op, and give specific recommendations to prevent any such future occurrence.

The NC considered this initiative and took the stand that the state authorities mentioned in it submitted reports showed satisfactory level of cooperation in the Balkan Warrior and Šarić cases¹⁶⁹. In addition, the parliamentary Defence and Security Committee noted at its next session that the cooperation and coordination among the responsible authorities improved in the meantime. In its position, the NC noted that this satisfactory level of coordination resulted in raising the indictment and criminal proceedings before the competent court.

Initiative regarding putting on fire the vehicle of the daily Vijesti

In July and August 2012 four vehicles of the independent daily Vijesti were put on fire by as yet unknown perpetrators, and contractors. At the same time, state authorities kept providing contradictory information on the above cases. The police was of the opinion these were to be viewed as isolated cases, while the prosecution qualified the said acts of arson of official vehicles as “crimes posing general threat”.



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VLADA CRNE GORE
NACIONALNA KOMISIJA ZA SPROVOĐENJE STRATEGIJE ZA BORBU PROTIV KORUPCIJE I ORGANIZOVANOG KRIMINALA
N/R DUŠKA MARKOVIĆU, PREDSEDNIKU
N/R GROZDANI LAKOVIĆ, SEKRETERU

Podgorica, 30. septembar 2011.

Poštovani gospodine Markoviću,

U skladu sa članom 6 i 6a Poslovnika Nacionalne komisije za sprovođenje Strategije za borbu protiv korupcije i organizovanog kriminala podnosim Vam

INICIJATIVU

- za pripremu izvještaja od strane Vrhovnog državnog tužilaštva i Uprave policije o aktivnostima preduzetim povodom rasvjetljavanja slučajeva paljenja automobila dnevnog lista „Vijesti“.

Naime, u julu i avgustu tekuće godine zapaljena su četiri vozila nezavisnog dnevnika „Vijesti“ od strane još uvijek nepoznatog počinioca ili više njih. Sa druge strane, državni organi su u kontinuitetu iznosili kontradiktorne informacije o pomenutim slučajevima. Policija je ocijenila da ove događaje treba posmatrati kao izolovane slučajeve¹, dok je tužilaštvo kvalifikovalo paljenja službenih vozila „Vijesti“ kao „krivična djela izazivanja opšte opasnosti“.²

Kako je Akcionim planom za borbu protiv korupcije i organizovanog kriminala predviđena realizacija određenog broja mjera koje se odnose na unaprijeđenje koordinacije i razmjene podataka državnih organa, smatram da su ove mjere u direktnoj vezi sa pomenutim događajima i da je stoga neophodno dobiti informacije od Uprave policije i tužilaštva, koje se odnose na to šta je konkretno urađeno kako bi se rasvijetlili pomenuti slučajevi.

Imajući u vidu navedeno,

PREDLAŽEM

- da Nacionalna komisija zaduži Upravu policije i Vrhovno državno tužilaštvo da, u roku od 30 dana, sačine izvještaj o tome šta je konkretno urađeno kako bi se

rasvijetlio slučaj paljenja vozila dnevnog lista „Vijesti“ te otkrili njegovi učinioci i eventualni natogodajci;

- da Nacionalna komisija na prvoj sledećoj sjednici, u skladu sa članom 11 Poslovnika, razmotri izvještaj koji će pripremiti Uprava policije i Vrhovno državno tužilaštvo, te da u skladu sa izvještajem donese odgovarajuće preporuke.

S poštovanjem,

Varja Čalović, izvršni direktor MANS-a i član Nacionalne komisije



¹ „To je čin i sest počinilaca koji treba posmatrati kao izolovani događaji lica koje je to učinilo.“, rekao je Veselin Verjović, direktor Uprave policije Crne Gore, prema navodima televizije Vijesti od 23. jula 2011; padov: *Automobili Vijesti ponovo na mjeri nepoznatih* (Vijesti u pola 11).

² *Hodoljni dnevnik „Vijesti“*; 2. septembar 2011. godine; članak: *Saopštenje policije netacno i neutručno*.

MANS initiative for the NC regarding the putting on fire of cars owned by the daily Vijesti

Given that state authorities made no breakthrough in shedding light on these cases, MANS lodged a petition requesting the Police Directorate and the Supreme State Prosecution to compile a report on the actual steps taken in the case.

This initiative was considered, and the NC position was that the responsible state authorities provided satisfactory reports of the actions taken in the given case. The NC noted that the assault targeted an independent media in Montenegro, and as such the successful closure of this case was deemed particularly important with a view of furthering the freedom of the media. The NC undertook to continue monitoring the actions taken by

¹⁶⁹ At its 7th session held on 26 October 2011.

responsible state authorities in the case and invited state authorities to continue with full commitment to deal with the case.

Nevertheless, given that no concrete results were attained in this case, in November 2011 MANS repeated the initiative regarding car arson, but the NC failed to take any action as per the repeated initiative. The case remains unsolved, with the perpetrators and contractors still unknown.

Initiative regarding the controversial Branislav Mićunović

On the same day when the initiative regarding car arson was lodged, MANS lodged an initiative requesting collecting of information on the type of activities engaged in by the controversial Montenegrin national Branislav Brano Mićunović, who was mentioned in connection with organised crime in indictments raised in Italy and Switzerland. The prosecution and the police were requested to gather information whether and to what extent this person was currently linked with organised crime activities within and beyond Montenegro.

Given that Branislav Mićunović is frequently portrayed by the media and the domestic politicians as a person allegedly involved in criminal activities, and that he was charged for suspicions of tobacco smuggling before Italian and Swiss courts, MANS requested the NC to consider the initiative and order the state bodies to compile information on what this person is truly engaging in. Shedding light on this matter was directly linked with two RAP measures, the one referring to crime mapping in Montenegro, and the other referring to assessment of threat to Montenegro posed by serious crime in the region, following the EU - OCTA standards.

In the initiative, MANS proposed the NC to request the Police Directorate and the NSA to compile a joint report on Branislav Brano Mićunović which would contain detailed information on his possible involvement in organised crime activities, and that the NC should consider the report on the very next session and make relevant recommendations.

The NC considered the initiative and decided to request information from the prosecution on whether any information was gathered or any procedures taken that might involve Mićunović.

Nevertheless, following the pattern of the Vijesti case, no relevant information was ever submitted, and thus in November 2011 MANS repeated the initiative to the NC. At the first coming session, held in April 2012, after almost five month elapsed, the prosecution informed the NC of not holding any information on Mićunović's involvement in criminal activities, and thus did not gather any information on him.

Initiative regarding anticorruption and organised crime statistics

On 16 November 2011, MANS lodged an initiative with the NC referring to the methodology applied by the Tripartite Commission (TC)¹⁷⁰ in drafting the report on corruption and organised crime cases between 01 January and 30 June 2011.

¹⁷⁰ TC is a commission consisting of one member each of the judiciary, prosecution and police aimed at compiling the statistics of the three authorities referring to anticorruption and organised crime efforts.

The TC reported that it analysed data in the area of corruption and organised crime according to the uniform methodology of statistical analysis established at the meeting of the TC and the NC Chairs. According to the methodology, the reporting refers to organised crime and corruption cases falling within the jurisdiction of high courts. The reporting does not involve corruption cases dealt with by basic courts, because the TC was of the opinion such offences posed lesser threat to the society than the ones falling under the jurisdiction of high courts and which are more in the limelight, both of the domestic and the international public.

The TC reported that the request for its reports to include all information that the prosecution handles should not be accepted, given that it is not meaningful and feasible. They added that in their opinion the data processing should continue to use the methodology agreed and the report already submitted.

After almost five months into the initiative and after the receiving the most recent TC report covering the whole of 2011, there are obviously no improvements in the methodology. The TC reports remain purely statistical, without any detailed analysis and no mention of any possible problems encountered by courts, prosecution and police in handling corruption and organised crime cases.

Initiative regarding crime mapping

On 01 November 2011 MANS lodged an initiative with the NC for the members of NC to be presented the crime mapping compiled by the Montenegrin police.

The Police Directorate had a public presentation of Crime Mapping on 21 September, and only a few days later, invoking the provisions of the FAI Law MANS requested from the Police Directorate a copy of the document. The Police Directorate denied access to the requested document, referring to it as being classified. At the same time, the Police Directorate informed us that the version of the document intended for public distribution, which would not contain the key data regarding the crime scene in Montenegro, would be published soon.

Given that the Action Plan envisages the obligation for this document to be made available to the NC members, and its importance for the work of the NC members in order to be able to realistically assess reforms in the area of combating organised crime, we requested that the crime mapping should be presented in its integrity at the following NC session.

At the last NC session, held in April 2012, the members were presented only the publicly available version of the document, the same one made available to the general public in Montenegro seven months before. The NC members still do not have the information on the key figures in organised crime in Montenegro, who they are linked with, which specific activities they engage in, nor are they able to assess the future performance of the criminal prosecution and adjudication bodies as compared to what is stated in the document.

Initiative regarding the privatization of Telecom

In late 2011 the domestic media featured the information that US authorities discovered that the privatisation of Telecom in Montenegro was accompanied by corruption, and that some high-ranking officials and members of their families engaged in corrupt practices on that occasion. For that reason, on 13 January 2012 MANS lodged an initiative with the NC to consider this case and requested from the NC Chair to submit to all NC members the documents pertaining to Telecom privatisation.

The initiative referring to the Telecom privatisation was not considered at the session held in April 2012.



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NACIONALNA KOMISIJA ZA SPROVOĐENJE STRATEGIJE ZA BORBU PROTIV KORUPCIJE I ORGANIZOVANOG KRIMINALA
N/R DUŠKO MARKOVIĆU, PREDSEDNIKU
N/R GROZDANI LAKOVIĆU, SEKRETARU

Podgorica, 13. januar 2012. godine

Poštovani gospodine Markoviću,

U skladu sa članom 11 stav 2 Poslovnika Nacionalne komisije za sprovođenje Strategije za borbu protiv korupcije i organizovanog kriminala, podnosim predlog za dopunu dnevnog reda prve sledeće sjednice Nacionalne komisije sa dvije dodatne tačke:

1. Informisanje članova Nacionalne komisije o postupanju državnih organa, prvenstveno tužilaštva i policije, u slučaju afere „Telekom“;

2. Obesjedinjavanje transparentnosti cjelokupnog procesa privatizacije „Telekoma“ - dostavljanje članovima Nacionalne komisije svih dokumenata koja se odnose na privatizaciju Telekoma i objavljivanje istih na internet prezentaciji Savjeta za privatizaciju i kapitalne projekte:

- Ugovora o privatizaciji „Telekoma“ Crne Gore na crnogorskom jeziku.
- Priloge i amekse ugovora o privatizaciji „Telekoma“ Crne Gore.
- Svih protokola i sporazuma o saradnji i sličnih akata potpisanih sa novim vlasnikom „Telekoma“ Crne Gore.
- Svih aneksa ugovora potpisanih sa novim vlasnikom „Telekoma“ Crne Gore nakon privatizacije ove kompanije 2005. godine do januara 2012. godine.
- Cjelokupne korespondencije između Matav grupe (Dopje telekoma) i predstavnika Vlade i tenderske komisije koji su bili zaduženi za privatizaciju „Telekoma“ Crne Gore od početka privatizacije do januara 2012. godine.
- Svih bankarskih i korporativnih garancija kojima kupac garantuje izvršenje obaveza definisanih ugovorom o privatizaciji „Telekoma“ Crne Gore.
- Akta koja sadrže imena članova tenderske komisije i informacije o procedurama na osnovu kojih su izabrali članovi tenderske komisije koja je donijela odluku o privatizaciji „Telekoma“ Crne Gore.
- Akata koja sadrže informacije o novčanin sredstvima uplaćenim svim članovima tenderske komisije pojedinačno a po osnovu angazovanja u privatizaciji „Telekoma“ Crne Gore.
- Svih ugovora o angazovanju konsultanata i konsultantskih firmi i uplaćenih novčanin sredstava za njihovo angazovanje prilikom privatizacije „Telekoma“ Crne Gore.
- Svih akata koja sadrže informacije o novčanin sredstvima uplaćenim konsultantima i konsultantskim firmama za njihovo angazovanje prilikom privatizacije „Telekoma“ Crne Gore.
- Akta koja sadrže informacije o ocjeni svih pristiglih ponuda za privatizaciju „Telekoma“ Crne Gore.
- Svih pristiglih ponuda za privatizaciju „Telekoma“ Crne Gore.
- Svih zapisnika i izvještaja tenderske komisije sačinjenih u postupku privatizacije „Telekoma“ Crne Gore.
- Akta koja sadrže informacije o svim malnadnim provjerama prilikom izbora kupca „Telekoma“ Crne Gore, uključujući provjeru da li je protiv kupca vođen krivični ili bilo koji drugi postupak zbog kršenja zakona.
- Akta koja sadrže informacije o svim podnijetim prigovorima i žalbama i rješenjima po istim a koje se odnose na privatizaciju „Telekoma“ Crne Gore.
- Revizorskih ili drugih izvještaja o realizaciji obaveza definisanih ugovorom o privatizaciji „Telekoma“ Crne Gore.
- Akta koja sadrže informacije o državnoj pomoći datoj „Telekomu“ Crne Gore, od 2005. do

januara 2012. godine, koje između ostalog uključuju cijelu dušu, restrukturiranje duže, pariske otkisice.

- Akta koja sadrže informacije o namjeni, ulaganju i korišćenju sredstava dobijenih od privatizacija „Telekoma“ Crne Gore.
- Svih akata koja sadrže informacije o obolovanju „Telekoma“ Crne Gore od obaveza uplata koje se odnose na dugoveza i poreza na dobit od 2005. godine do januara 2012. godine.

- Akta koja sadrže informacije o svim izrečena kaznana novčanin vlasniku „Telekoma“ Crne Gore zbog neispunjenja obaveza definisanih ugovorom o privatizaciji.

OBRAZLOŽENJE

Kako pišu domaći i mediji u regionu američke finansijske vlasti su utvrdile da je „Madar Telekom“ prilikom kupovine Telekoma Crne Gore podmitio više crnogorskih zvaničnika za ukupno 7,35 miliona eura“ zahvaljujući sporno zaključenom ugovoru o privatizaciji. S obzirom da je u nadležnosti tužilaštva i policije Crne Gore rasvjetljavanje ovog slučaja, te da se tužilaštvo putem medija obavezalo da će nastaviti sa radom na rasvjetljavanju istog odmah nakon praznika, smatramo da je potrebno obavijestiti članove Nacionalne komisije dokle se stiglo po ovom pitanju i koji su bili ključni koraci nadležnih institucija. Posebno imajući u vidu da je samo Tužilaštvo istaklo da „je od ranije u toku prekrivični postupak u kome Tužilaštvo provjerava navode iz finansijskog izvještaja revizora oko privatizacije Telekoma i zaključivanje spornih ugovora“ i „već godinu dana se vodi istraga o tome kome je „Madar Telekom“ davao mito“, vjerujemo da su se stekli neophodni uslovi da članovi Nacionalne komisije dobiju sve relevantne informacije o procesuiranju slučaja „Telekom“ od strane krivičnog gonjenja.

Takode, s obzirom da je Telekom Crne Gore jedna od vodećih crnogorskih kompanija čija privatizacija ima veliki uticaj na cjelokupno crnogorsko društvo i privredu, od posebne važnosti je obezbjeđivanje pristupa cjelokupnoj javnosti dokumentaciji koja se odnosi na ova privatizaciju.



5. postovanjem
Vanja Laković, član Nacionalne komisije i izvršni direktor MANS-a

MANS initiative for the NC regarding Telekom

5. MONTENEGRIN BRANCH OF PARLIAMENTARIANS AGAINST CORRUPTION

This case study is dedicated to the establishment and the work of the National Branch of Parliamentarians against Corruption, as a branch of the Global Organisation of Parliamentarians against Corruption (GOPAC). The study focuses primarily on the procedure of setting up the National Branch, rather time-consuming, given that the Parliament of Montenegro took no action in this respect for over three years after the adoption of the Resolution on Fight against Corruption and Organised Crime, the document with which the Parliament undertook to do so.

5.1. Resolution on Fight against Corruption and Organised Crime

The Parliament of Montenegro adopted the Resolution on Fight against Corruption and Organised Crime on 27 December 2007, and the parliamentary staff consulted MANS when drafting this document. Recognising problems that existed in Montenegro, or that still exist, it was noted that corruption and organised crime were the main obstacles on the path of EU integration. As regards the problems due to which the document was adopted, the Parliament expressed its readiness to use own capacities to build anticorruption legislation and establish stronger and closer regional and international cooperation in curbing such phenomena. In addition, the Parliament undertook to assume international regulations in combating corruption and organised crime, and to ratify all relevant anticorruption conventions. By the Resolution on Combating Corruption and Organised Crime, the Parliament invited the Government to continue the harmonisation of the domestic legislation with the UN Convention against Corruption, as well as to intensify drafting laws and other acts to enable a strong framework for even more effective fight against corruption and organised crime.

The Parliament expressed its readiness to develop a mechanism for continuous and efficient oversight over the government structures, and to promote cooperation with the nongovernmental sector. In addition, the Parliament accepted to foster cooperation with the media to contribute to awareness of the issues of corruption and organised crime in modern-day democracies.

Nevertheless, one of the main commitments assumed by the Parliament, the subject of this study at the same time, is to set up the National Branch of Parliamentarians against Corruption. The Parliament also undertook that members of all working bodies should be present in this body to ensure that all committees are involved in combating corruption and organised crime.

5.2. Adoption of the Decision to set up the National Branch of Parliamentarians

Given that since 2007 the Parliament did nothing to set up the National Branch, in early 2011 MANS put this issue on the agenda asking for the commitments assumed by the Resolution to be followed through.

In early 2011, MANS held a meeting attended by members of the majority of MP clubs which discussed the issue of setting up the National Branch to deal with corruption and

organised crime issues¹⁷¹. The meeting discussed the Draft Decision on establishing the National Branch of Parliamentarians against Corruption proposed by the opposition MP¹⁷². It was agreed at the meeting that the commitments stemming from the Resolution should be honoured as soon as possible, but that the initiative submitted by an opposition MP was not acceptable for the parliamentary majority. Notwithstanding the promises of parliamentarians that this issue would be addressed as soon as possible, no concrete proposals to honour the commitments from the Resolution came.

Following the meeting, MANS sent a letter to the Speaker of the Parliament, Ranko Krivokapić, reminding him of the commitment the Parliament undertook in 2007 and appealing on the Speaker to address it as soon as possible. Also, the Speaker was proposed to start consultations shortly towards setting up the National Branch to be in line with GOPAK Statute and rules or to set up a working group to see to it.



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SKUPŠTINA CRNE GORE
N/R RANKU KRIVOKAPIĆU, PREDSEDNIKU

Podgorica, 11. februar 2011. godine

Uvaženi Predsjedniče Skupštine,

Obraćam Vam se povodom obaveze Skupštine Crne Gore da osnuje Nacionalni ogranak parlamentarca protiv korupcije, koja datira još od 27. decembra 2007. godine, kada je usvojena Rezolucija o borbi protiv korupcije i organizovanog kriminala.

Naime, iako je Rezolucija usvojena prije više od tri godine, kao što Vam je poznato, Parlament za sada nije učinio bilo kakav napor da bi se radno tijelo koje je njome propisano zaista i osnovalo. Ovo je obaveza Skupštine ne samo po Rezoluciji, već kasnije i u skladu sa starijim odnosno novim Akcionim planom za sprovođenje Strategije borbe protiv korupcije i organizovanog kriminala.

Sa druge strane, poznato Vam je da su opozicione partije od sada tri puta predlagale Odluku o osnivanju takvog radnog tijela. Dva puta je to bio Predlog odluke o obrazovanju Odbora za nadgledanje borbe protiv korupcije i organizovanog kriminala i u oba slučaja je vladajuća koalicija odbijala ove predloge bez ikakvih obrazloženja. Nedavno je u skupštinsku proceduru predat i Predlog posebne Odluke o osnivanju Nacionalnog ogranka parlamentarca Crne Gore u borbi protiv korupcije, koji još uvijek nije ni razmatran na radnim tijelima Parlamenta.

Sa druge strane, jasan je zahtjev Evropske komisije prema Skupštini Crne Gore - u Analitičkom izvještaju je prepoznato da je potrebno jačati skupštinsku nadzornu funkciju, te da uloga Skupštine u nadgledanju antikorupcijskih napora ostaje ograničena.

Imajući u vidu činjenice da Nacionalni ogranak nije formiran već više od tri godine, a da Evropska komisija insistira na unapređenju uloge Parlamenta u borbi protiv korupcije, MANS je 04.02.2011. godine organizovao radni sastanak na tu temu, kojem su prisustvovali poslanici Obrad Stanišić, Damir Šehović i Branko Radulović, te Clive Rumbold zamjenik ambasadora Delegacije Evropske unije. Na sastanku je ocijenjeno da je potrebno da Skupština unaprijedi svoje aktivnosti u oblasti borbe protiv korupcije, te da će se to sigurno i desiti, ali da je potrebno naći najbolji modalitet. Na sastanku smo obećali svim učesnicima da ćemo Vam se obratiti, informisati Vas o samom sastanku, kao i da ćemo Vam uputiti molbu da se u što hitnijem roku krene sa osnivanjem Nacionalnog ogranka.

Uvaženi Predsjedniče, imajući u vidu sve gore navedeno, molim Vas da iskoristite svoj politički uticaj, te ovlaštenja koja imate kao Predsjednik Skupštine, kako bi u što hitnijem roku Parlament započeo sa političkim usaglašavanjem na ovu temu.

Letter sent by MANS to the Speaker of the Parliament regarding the implementation of the Resolution

Given that there was no response or any actions taken in this respect by the Parliament even after MANS addressed the leader of the Parliament, we tried an alternative approach to force the Parliament to honour its commitment. MANS used the opportunity of organising the Fifth National Anticorruption and Organised Crime Conference to invite the

S tim u vezi, molio bih Vas da organizujete konsultacije oko teksta Predloga posebne Odluke o osnivanju Nacionalnog ogranka parlamentarca Crne Gore u borbi protiv korupcije koji je podnijela jedna opoziciona partija, jer smo analizom tog dokumenta došli do zaključka da bi, Nacionalni ogranak formiran u skladu sa tom Odlukom, zaista bio u potpunosti uskladen sa svim onim preporukama koje propisuje GOPAK.

Svrjni smo činjenice da političarima nije uvijek lako da prihvate neki akt koji predlažu opozicione partije, ali imajući u vidu da se sa osnivanjem Nacionalnog ogranka kasni već više od tri godine, smatramo da više nema mjesta političkim igrama, već da je ovo postao posao oko kojeg cijeli Parlament mora imati konsenzus. Mišljenju smo da bi optimalno bilo organizovati konsultacije predstavnika svih poslaničkih klubova vezano za opozicioni tekst Predloga odluke kako bi se on izmijenio i/ili dopunio i samim tim upodobio i bio prihvatljiv svim političkim partijama. Ovaj pristup bi jedino mogao da dovede do usvajanja Predloga odluke konsenzusom i to u najhitnijem mogućem roku.

Druga opcija je svakako da Parlament uspostavi radnu grupu koja bi sačinila novi Predlog Odluke koji bi se kasnije stavio u skupštinsku proceduru, za šta bi svakako bilo potrebno više vremena nego za ovaj naš predlog.

Šta god da bude Vaša odluka, molim Vas samo da sa njenom realizacijom krenete što hitnije, kako ne bismo došli u situaciju da 31. jula 2011. godine kada se bude izvještavalo prema Evropskoj komisiji, Crna Gora po četvrti put informiše kako Nacionalni ogranak i dalje nije uspostavljen.

Na kraju, ovim putem želim da Vas obavijestim da je MANS spreman da Vam pruži svu potrebnu tehničku podršku, znanje i uporedna iskustva koja imamo na raspolaganju, a u skladu sa Vašom procjenom potrebe, jer želimo da se ovaj proces završi što prije, ali na kvalitetan način. Takođe, spremni smo i da učestvujemo i u eventualnim konsultacijama, odnosno radnoj grupi koju biste uspostavili, uz Vašu saglasnost, kako bismo smanjili eventualnu politizaciju ovog problema.

U izbeživanju Vašeg odgovora srdačno Vas pozdravljam.

S poštovanjem,

Vuk Markić, direktor Monitoring programa



This project is funded by the European Union, managed by the Delegation of the European Union to Montenegro and implemented by the Network for Affirmation of NGO Sector - MANS
Ovaj projekat je finansiran od strane Evropske Unije, preko Delegacije Evropske Unije u Crnoj Gori a implementiran ga mreža za afirmaciju nevladinog sektora - MANS

¹⁷¹ The meeting was held on 04 February 2011, and in addition to MANS, it was attended by MPs Obrad Stanišić (DPS), Damir Šehović (SDP) and Branko Radulović (PZP), as well as Clive Rumbold, Deputy Head of the EU Delegation to Montenegro.

¹⁷² Goran Danilović from Nova.

Chair of GOPAC, Dr Naser Al Sane¹⁷³. The GOPAC Chair noted corruption and organised crime as major problems and said it was the reason why the National Branch should be established as soon as possible to step up the oversight role of the Parliament.

During his visit to Montenegro, Al Sane met with the President of Montenegro, the Speaker of the Parliament, the Deputy Prime Minister and the NC Chair and members of MP Clubs, to influence the Parliament to set up the National Branch and thus honour the commitment undertaken by the Anti Corruption and Organised Crime Resolution.

On 20 September 2011, the Collegium of the Speaker adopted the Decision to appoint members to the National Branch of Parliamentarians. The Decision envisaged for the chairs and deputy chairs of all parliamentary working bodies to be the members of the National Branch. Thus, the National Branch has 25 MPs as members.

Na osnovu tačke 7 Rezolucije o borbi protiv korupcije i organizovanog kriminala i člana 26 stav 1 tačka 6 Poslovnika Skupštine Crne Gore, Kolegijum predsjednika Skupštine, na sastanku održanom 20. septembra 2011. godine, donio je:

ODLUKU

O OBRAZOVANJU I IMENOVANJU ČLANOVA NACIONALNOG OGRANKA PARLAMENTARACA CRNE GORE U GLOBALNOJ ORGANIZACIJI PARLAMENTARACA PROTIV KORUPCIJE (GOPAC)

I Nacionalni ogranak parlamentaraca Crne Gore u Globalnoj organizaciji parlamentaraca protiv korupcije:

- 1) afirmiše opredijeljenost parlamenta da se svim svojim kapacitetima angažuje u borbi protiv korupcije;*
- 2) saraduje sa međunarodnim organizacijama, parlamentarnim institucijama, nadležnim državnim organima, predstavnicima civilnog društva i drugim relevantnim institucijama i organizacijama u vezi sa pitanjima koja se tiču borbe protiv korupcije;*
- 3) prati i afirmiše jačanje nacionalnog antikorupcijskog zakonodavstva;*
- 4) prati međunarodnu regulativu u borbi protiv korupcije na osnovu obaveza koje proističu iz članstva Crne Gore u međunarodnim organizacijama i institucijama;*
- 5) prati rad Vlade i vladinih struktura u dijelu implementacije zakonskih propisa, kao i međunarodnih instrumenata i standarda iz oblasti borbe protiv korupcije.*

II U Nacionalni ogranak parlamentaraca Crne Gore u borbi protiv korupcije imenuju se:

- 1. Đavid Šabović*
- 2. Velizar Kaluderović*
- 3. Ervin Spahić*
- 4. Snežana Jonica*
- 5. Radivoje Lota Nikčević*
- 6. Mehmet Barđhi*
- 7. Husnija Šabović*
- 8. Koča Perović*
- 9. Nada Drobnjak*
- 10. Nebojša Medojević*
- 11. Miodrag Vuković*
- 12. Vesilije Lološević*
- 13. Kemal Purišić*
- 14. mr Božidar Vuksanović*
- 15. Slaven Radunović*
- 16. mr Branka Tanasijević*
- 17. Neven Gošović*
- 18. Mevludin Muhadžić*
- 19. Goran Danilović*
- 20. Zorija Franović*
- 21. mr Aleksandar Damjanović*
- 22. Drago Čantrić*
- 23. Veselinka Peković*
- 24. Zoran Jelić*
- 25. dr Svetozar Gotubović*

III. Predsjedavajući Nacionalnog ogranka parlamentaraca Crne Gore u borbi protiv korupcije biće izabran na prvoj sjednici ovog tijela, po Poslovniku o radu Nacionalnog ogranka parlamentaraca.

IV. Sekretara Nacionalnog ogranka određuje generalni sekretar posebnim rješenjem.

V. Ova odluka stupa na snagu danom donošenja.



Ranko Krivokapić

Decision to set up and appoint members to the National Branch in the GOPAC

Still, since the Parliament did not involve the civil society in passing this decision, and given its limited knowledge of GOPAC functioning, some key steps were missed which must be observed in order for the newly established National Branch to be in line with the GOPAC Statute.

The first, constitutional session of the National Branch noted the necessity of producing Rules of Procedure through which to ensure full alignment of the National Branch with GOPAC, and one MP each, from the government and the opposition, Zoran Jelić and Neven Gošović, were appointed as the coordinators of the process.

This time, the Parliament invited MANS to get directly involved in drafting the Rules of Procedure for the National Branch of Parliamentarians against Corruption, to enable its members to become fully fledged members of GOPAC and to follow the procedures stipulated by this international organisation.

The Draft Rules of Procedure were made in late 2011, their adoption still pending.

¹⁷³ The conference was held on 23 May 2011.

ANNEX - RAP MEASURES RECONCILED WITH THE NC SECRETARIAT

MANS agrees with Secretariat's evaluation		Secretariat agrees with MANS evaluation		Jointly revised evaluation	
Measure	Evaluation	Measure	Evaluation	Measure	Evaluation
2 Establish cooperation with the National Commission for the fight against corruption and organized crime and other bodies and organizations from this AP	Partly implemented	1 Monitor the Resolution implementation	Partly implemented	13 Monitor parliamentary oversight function – control hearings	Partly implemented
9 Analyze and ensure compliance of criminal legislation with international standards in the field of fight against corruption and organized crime	Implemented	3 Establish a mixed working group composed of MPs, parliamentary staff and NGO representatives to draft the Decision on establishing the National Branch of Parliamentarians Against Corruption and on its competences aligned with GOPAC requirements	Partly implemented	31 Report on the procedures upon the reported violations of election procedures and on the proactive activities in the election processes	Partly implemented
12 Monitor parliamentary oversight function - dismissal of the officials elected or appointed by the Parliament	Implemented	4 Adopt the Decision on establishing the National Branch of Parliamentarians against Corruption and on its competences	Partly implemented	46 Organize training for members of the Commission and staff of the Technical Service of the Commission	Partly implemented
14 Monitor parliamentary oversight function – consultative hearings	Implemented	5 Elect members to the National Branch of Parliamentarians against Corruption	Partly implemented	84 Report on results of corruption reporting mechanisms within the organizations	Partly implemented

Tackling Corruption for EU Integration IV

MANS agrees with Secretariat's evaluation		Secretariat agrees with MANS evaluation		Jointly revised evaluation	
Measure	Evaluation	Measure	Evaluation	Measure	Evaluation
18 Compose the annual working plan and detailed quarterly working plans for the NCEI and report regularly to the Parliament of Montenegro on the operation of the NCEI	Partly implemented	6 Ensure efficient operation of the National Branch of Parliamentarians Against Corruption	Not implemented	151 Compel the Privatization Council to align its activities with the external audit observations	Partly implemented
32 Improve statistical indicators that refer to the proceedings of the criminal prosecution bodies and judgments adopted in the field of prevention of election fraud	Implemented	19 Intensify meetings of the NCEI in line with the working plans, adopting clear conclusions and recommendations in each meeting	Partly implemented	162 Ensure the application of disciplinary measures for those members of tender commissions found to be in a conflict of interest situation	Partly implemented
38 Improve transparency of election campaign funding through upgrading SEC website to contain all the relevant information on each campaign funding as well as any possible misdemeanour proceedings against political parties and candidates who violated the Law on Political Party Funding	Partly implemented	22 Adopt the Decree prohibiting the use of state assets in election campaigns	Not implemented	185 Improve the cooperation with other countries to exchange information on financial transactions in property and construction investments	Partly implemented
40 Draft the Law amending the Law on Prevention of Conflict of Interests in line with international documents (UNCAC, EC and CoE recommendations, etc.)	Implemented	23 Develop a proposal for moving the control of political party and campaign funding away from the Ministry of Finance to an independent institution	Partly implemented	188 Improve online teaching staff databases in all educational institutions and make them publicly available	Not implemented

Tackling Corruption for EU Integration IV

MANS agrees with Secretariat's evaluation		Secretariat agrees with MANS evaluation		Jointly revised evaluation	
Measure	Evaluation	Measure	Evaluation	Measure	Evaluation
45 Recruit staff in accordance with the Rulebook on Job Systematisation	Partly implemented	25 Draft the Law on Political Party Funding fully compliant with the GRECO recommendations	Partly implemented	214 Publish reports on the implementation of the sector-specific AP for Curbing Corruption in Education	Not implemented
55 Adopt the Law amending the Law on Salaries of Civil Servants and State Employees	Partly implemented	33 Develop the plan of reviewing the existing electoral roll and review the electoral rolls in a transparent way	Not implemented	221 Analyse the findings of national survey on corruption in healthcare	Partly implemented
60 Adopt the Code of Ethics of civil servants and state employees and other individual codes	Partly implemented	34 Adopt the Law on State Election Commission	Not implemented	280 Amend organizational regulations aimed at further strengthening the independence and autonomy of judiciary and prosecution	Partly implemented
70 Lay down the obligation of staff responsible for handling requests for free access to information to submit quarterly reports to the second instance body (which monitors law implementation) on the implementation of the FAI Law, reasons for denying access to information and the Administrative Court rulings	Partly implemented	36 Improve SEC capacities	Not implemented	293 Achieve full implementation of the Criminal Procedure Code	Partly implemented
77 Publish the information containing the list of data that have to be published proactively according to all laws in Montenegro	Partly implemented	41 Adopt the Law amending the Law on Prevention of Conflict of Interests	Partly implemented		

Tackling Corruption for EU Integration IV

MANS agrees with Secretariat's evaluation		Secretariat agrees with MANS evaluation		Jointly revised evaluation	
Measure	Evaluation	Measure	Evaluation	Measure	Evaluation
85 Promote channels for corruption reporting and protection mechanisms, as well as good examples of reporting corruption	Implemented	42 Prepare and improve the Report on implementation of the Law	Partly implemented		
90 Regular submission of annual audit reports and individual audit reports to the Parliament of Montenegro	Implemented	43 Conduct the check of the origin of assets of public officials in an efficient manner	Not implemented		
95 Continuously control users of budget funds	Implemented	49 Organize a public campaign to encourage citizens to report public officials found in conflict of interests situations	Not implemented		
106 Continuously control and comply with recommendations from the findings of the State Audit Institution	Implemented	57 Improve job descriptions and criteria for the positions of civil servants and state employees in public administration by providing guidelines for updating the Rulebooks on Internal organization	Not implemented		
114 Strengthen technical capacities by assessing the needs and procuring the lacking equipment	Implemented	58 Adopt secondary legislation laying down objective criteria for promotion and remuneration of civil servants	Not implemented		

Tackling Corruption for EU Integration IV

MANS agrees with Secretariat's evaluation		Secretariat agrees with MANS evaluation		Jointly revised evaluation	
Measure	Evaluation	Measure	Evaluation	Measure	Evaluation
117 Establish the institution of Securities Depository (custody) in accordance with international standards	Partly implemented	63 Strengthen internal control mechanisms in the Tax Administration and Customs Administration, particularly in terms of detecting corruption and conflict of interests and submit to the NC semi-annual reports on internal control results	Partly implemented		
120 Develop the information system of the participants in the capital market through the increase of efficiency and reliability of the IT system of the Securities Commission, Central Depository Agency and all the participants in the capital market.	Partly implemented	64 Prepare a functional review to identify the need for internal control mechanisms to be established	Not implemented		
126 Implement the AP for the implementation of the Regulatory Reform Strategy	Partly implemented	67 Prepare the Law amending the Free Access to Information Law in line with international recommendations	Partly implemented		
159 Improve and promote the operation of the Help Desk for advisory and consulting services	Implemented	69 Trainings of staff – responsible for handling requests for free access to information in accordance with the case law and international standards	Partly implemented		

Tackling Corruption for EU Integration IV

MANS agrees with Secretariat's evaluation		Secretariat agrees with MANS evaluation		Jointly revised evaluation	
Measure	Evaluation	Measure	Evaluation	Measure	Evaluation
165 Adopt secondary legislation for setting up the e-procurement system	Implemented	71 Monitor the implementation of the misdemeanor procedure according to the Law on Free Access to Information	Not implemented		
189 Efficient monitoring over the rules and criteria for recruiting managerial and teaching staff of educational establishment	Not implemented	74 Promote the culture of openness of public authorities, proactively publish information and encourage citizens to exercise their right to free access to information	Not implemented		
196 Undertake periodical inspections to determine the actual number of rooms to be distributed within students' dormitories	Not implemented	75 Compose, publish and regularly update the register of classified data	Not implemented		
198 Inspect exam report archives from university units	Not implemented	76 Ensure full access to declassified documents	Not implemented		
210 Conduct annual external audits of the University of Montenegro and its units in line with the recommendations of the State Audit Institution (SAI)	Not implemented	82 Build administrative capacity through specialization of employees involved in receiving and handling corruption reports, and protection of persons reporting corruption	Partly implemented		
225 Monitor reporting on the implementation of local APs	Partly implemented	83 Analyse implementation of legislation safeguarding persons reporting corruption	Not implemented		

Tackling Corruption for EU Integration IV

MANS agrees with Secretariat's evaluation		Secretariat agrees with MANS evaluation		Jointly revised evaluation	
Measure	Evaluation	Measure	Evaluation	Measure	Evaluation
236 Publish public service auditing reports	Partly implemented	89 Adoption of the law on setting up the Audit Authority to carry out audit of IPA funds	Not implemented		
239 Publish the financial statements and audit reports of sports clubs, associations and the Montenegrin Olympic Committee, as well as the data on sport pensioners	Partly implemented	91 Presentation of SAI audit findings to the public through regular press conferences held after performance of audits	Partly implemented		
256 Make the procurement plan for the equipment necessary for better work of the Crime Police Department	Implemented	96 Ensure that all budget users are regularly subjected to audit	Partly implemented		
260 Monitor the compliance with the Code of Police Ethics	Implemented	99 Perform internal audit of budget user financial statements	Partly implemented		
261 Conduct internal control of the work of police	Implemented	103 Develop training and certification programmes to enable the staff to become certified public internal auditors	Not implemented		
263 Have ongoing campaigns on avenues for reporting corruption and safeguarding measures reporting persons	Partly implemented	104 Increase the number of internal auditors	Partly implemented		
295 Increase the number of investigations initiated proactively	Partly implemented	107 Designate the persons to be in charge of establishment and development of financial management and control (FMC) on the central and local level	Implemented		

Tackling Corruption for EU Integration IV

MANS agrees with Secretariat's evaluation		Secretariat agrees with MANS evaluation		Jointly revised evaluation	
Measure	Evaluation	Measure	Evaluation	Measure	Evaluation
298 Conduct financial investigations with the purpose of extended confiscation of proceeds of crime by state authorities entrusted with detection and prosecution of offenders	Partly implemented	109 Develop guidelines for improving the existing FMC	Implemented		
325 Reorganize the existing Special Checks Department by increasing the number of posts	Partly implemented	111 Prepare six-month report on the work of the Assets Administration and of the Protector of Property Interests of Montenegro	Not implemented		
331 Suppress drug trafficking effectively	Implemented	121 Sign bilateral MoUs with international partners	Not implemented		
335 Initiate ex officio procedures for investigating possible money laundering, based on indications, allegations and reports from the media	Partly implemented	123 Improve financial reporting of the authorized participants (companies, investment funds), establishing public information booklet	Partly implemented		
350 Enact the Law amending the Law on Prevention of Money Laundering and Terrorism Financing	Partly implemented	124 Update the AP for the reform towards a more conducive business environment	Not implemented		
356 Conduct training sessions for the Witness Protection Unit staff	Implemented	125 Compile the information on the implementation of the laws which the Law on Improvement of Business Environment refers to	Not implemented		
366 Improve direct cooperation while investigating criminal acts with the elements of organized crime	Implemented	127 Hold meetings of the Council for Regulatory Reform and Improvement of Business Environment	Partly implemented		

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Measure	Evaluation	Measure	Evaluation	Measure	Evaluation
367 Prepare the analysis of the existing anti-corruption institutional framework	Partly implemented	130 Regularly update the "black list" of companies charged with and convicted of corruption-related offences	Not implemented		
372 Monitor the implementation of secret surveillance measures	Implemented	131 Improve the system for controlling the investments in privatized companies and their compliance with the terms of the contract	Not implemented		
		135 Improve the transparency of the Council for Privatization and Capital Projects	Not implemented		
		139 Establish and promote a system for persons to report corruption to the Council for Privatization and Capital Projects	Not implemented		
		141 Provide access to information related to privatization agreements and the annexes thereto in accordance with the Free Access to Information Law	Partly implemented		
		142 Provide access to all decisions related to the privatization process	Not implemented		
		150 Establish guidelines for the selection of members of Tender Commission	Not implemented		

Tackling Corruption for EU Integration IV

MANS agrees with Secretariat's evaluation		Secretariat agrees with MANS evaluation		Jointly revised evaluation	
Measure	Evaluation	Measure	Evaluation	Measure	Evaluation
		160 Improve the procedures for reporting corruption to the Public Procurement Directorate by third parties	Not implemented		
		161 Establish an effective system for controlling negotiation procedures as particularly prone to corruption	Not implemented		
		163 Oblige the contracting authority to report on the implementation of public procurement contracts over 100,000 Euros.	Not implemented		
		164 Provide access to relevant documents by posting them on the PPA website	Partly implemented		
		166 Adopt annual training plan	Partly implemented		
		177 Effectively monitor the system for registration of illegal construction and establish clear and precise procedures for handling complaints against inspectors	Partly implemented		
		178 Report the offences of illegal construction and unauthorized connection of the building site to technical infrastructure	Partly implemented		

Tackling Corruption for EU Integration IV

MANS agrees with Secretariat's evaluation		Secretariat agrees with MANS evaluation		Jointly revised evaluation	
Measure	Evaluation	Measure	Evaluation	Measure	Evaluation
		184 Develop additional indicators for monitoring cash flows in order to successfully detect and prosecute money laundering cases in construction and property sectors	Not implemented		
		199 Establish the institution of "Student Ombudsperson"	Not implemented		
		201 Monitor corruption reports received through open lines	Partly implemented		
		203 Carry out and present surveys on the forms, causes and origin of corruption	Not implemented		
		205 Amend the regulations on the appointment of Quality Assurance Council members	Not implemented		
		207 Prepare and pass integrity plans for all educational institutions, from pre-school to university level (state-owned and private)	Not implemented		
		211 Publish tender results and rationale on the selection of bidders;	Partly implemented		
		218 Establish procedures for putting onto waiting lists for medical interventions	Partly implemented		

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MANS agrees with Secretariat's evaluation		Secretariat agrees with MANS evaluation		Jointly revised evaluation	
Measure	Evaluation	Measure	Evaluation	Measure	Evaluation
		220 Carry out the activities aimed at raising awareness of the rights of patients	Partly implemented		
		223 Publish reports on the implementation of the sector-specific AP for healthcare	Not implemented		
		231 Affirm the „empty seat“ institute in the local assemblies	Partly implemented		
		232 Improve interactions between citizens and local self-government bodies in the area of the fight against corruption	Not implemented		
		237 Tax the revenues of regional media from marketing programmes broadcast in Montenegro	Not implemented		
		242 Introduce the electronic register of NGOs.	Partly implemented		
		243 Harmonize the Decree on Criteria for Determining Beneficiaries and Manner of Distribution of a Share of Revenues from Games of Chance with the new Law on NGOs	Not implemented		
		249 Monitor the proceedings on defamation cases and compensation for non-pecuniary damage	Partly implemented		

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MANS agrees with Secretariat's evaluation		Secretariat agrees with MANS evaluation		Jointly revised evaluation	
Measure	Evaluation	Measure	Evaluation	Measure	Evaluation
		252 Enact the Law on Internal Affairs	Not implemented		
		257 Monitor the cooperation between the police and civil sector in investigative actions concerning corruption cases	Not implemented		
		259 Deliver specialised training for investigating money laundering cases	Partly implemented		
		267 Post regularly all judgments at the Judicial Council website as well as the information on the actions taken by courts in various cases	Not implemented		
		268 Monitor the degree of citizens' trust in the work of courts	Partly implemented		
		269 Establish the office for reporting corruption in prosecution	Not implemented		
		275 Monitor the suppression of corruption and the conflict of interests for the holders of judicial office	Not implemented		
		279 Strengthen further the independence and the autonomy of judiciary and prosecution	Not implemented		
		282 Improve the premises and technical capacities of the judiciary	Not implemented		

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Measure	Evaluation	Measure	Evaluation	Measure	Evaluation
		284 Improve the application of the European Court of Human Rights case law in Montenegro	Partly implemented		
		296 Confiscate proceeds of crime in criminal proceedings	Partly implemented		
		299 Ensure extended confiscation of assets whose legal origin failed to be proven	Not implemented		
		303 Improve inter-institutional cooperation in suppressing corruption	Not implemented		
		315 Prepare the analysis of the state of crime in Montenegro	Not implemented		
		319 Improve the realization of the measures of the permanent confiscation of assets	Not implemented		
		326 Intensify police training with regard to the CPC implementation and the use of secret surveillance measures, financial investigations and seizure of assets	Implemented		
		330 Strengthen the capacities for combating drug trafficking by strengthening the organizational structure of this line of work of the PD, improve conditions for work and develop work methodology	Implemented		

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Measure	Evaluation	Measure	Evaluation	Measure	Evaluation
		333 Deliver specialised training to increase the efficiency of seizures of drugs and other contraband traded by organized crime groups	Implemented		
		340 Improve the fight against high-tech organized crime	Not implemented		
		343 Improve the cooperation between prosecution and adjudication bodies in pre-investigative, investigative and judicial proceedings	Not implemented		
		347 Establish criminal-intelligence units in the Police Directorate regional units	Not implemented		
		353 Apply the Code of Police Ethics	Partly implemented		
		362 Establish regional and international cooperation in conducting joint investigations	Partly implemented		
		370 Monitor regularly the actions of crime detection bodies and of judiciary in suppressing corruption and organized crime	Partly implemented		