

institut alternativa

Commentary on the Draft Public Administration Reform Strategy 2016-2020 and the Draft Action Plan 2016-2018

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General Assessments about the Strategy and the Action Plan

1. The Draft Public Administration Reform Strategy and accompanying Draft Action Plan

- are not in line with the declarative commitment of the Government and the logic that the objectives defined represent a desired solution to the problems identified;
- have failed to achieve that strategic objectives represent essential priority challenges in public administration reform;
- have failed to identify a series of activities that can certainly lead to achieving desired objectives;
- have failed to define indicators which would show the level of fulfillment of strategic objectives.

This Strategy is inconsistent with other strategic documents already adopted by the Government. Also, the Strategy's drafters opted to exclude two out of six chapters as defined by SIGMA in the "Principles of Public Administration". Firstly, the chapter "Accountability" since it includes only superficial assessments on the state of play, and secondly, the chapter "Public Financial Management" since the Government already adopted it as a separate document.

2. The overall objective of the Strategy is burdened with unnecessary repetitions while, on the other hand, it does not contain essential elements which should contribute to better public administration.

Namely, the overall objective is defined as follows:

The creation of efficient and service-oriented public administration, which will be oriented towards citizens' needs and founded on the best practice of the administrative systems of the EU countries.

The overall objective formulated in this manner represents a tautology since a service-oriented public administration is by definition oriented towards citizens' needs, while in order to be efficient, a public administration needs to be founded on best practices.

Additionally, we believe that the overall objective should include the increase of citizens' confidence in public administration, as well. The rationale behind this proposal is explained hereafter:

- public confidence in the public administration is shaken due to several affairs (such as the "Snimak" affair),
- regular measurements of citizens' confidence in public administration are not conducted,

- the overall objective should be related to long-term changes that would follow the implementation of measures envisaged by the Strategy.

A detailed explanation of the necessity of monitoring citizens' confidence is given in the chapter relating to the civil service system, while here we propose **new overall objective** as follows:

The creation of efficient, transparent and service-oriented public administration based on the merit system and characterized by increase of citizens' confidence in its work.

Furthermore, the current Draft Strategy lacks indicators to measure the level of fulfillment of the overall objective, i.e. to conduct ex post evaluation of the Strategy.

Indicators of the overall objective, as proposed by Institute Alternative, are presented hereafter:

- The duration of the administrative procedures reduced by 2022,
- Level of enforcement of decisions of the Administrative Court increased by 2022,
- Ranking of Montenegro in the Worldwide Governance Indicators (WGI) of the World Bank increased by 6% for each indicator by 2022¹,
- Citizens' confidence in the work of public administration is higher than 50% by 2022.

Please note: Within the SEE 2020 Strategy, Montenegro already committed to increasing the ranking in the Worldwide Governance Indicators (WGI) by 5% by 2020. Additionally, within the framework of monitoring the implementation of the SEE 2020 Strategy, extensive research entitled "Balkan Barometer" was conducted, offering numerous data on public administration reform, such as level of participation of citizens in public hearings, usage of electronic services, etc.² Furthermore, Institute Alternative conducted research on the quality of work of public administration, which is useful for presenting state of play and formulating baseline indicators.³

¹ More information on rankings is available here: <http://info.worldbank.org/governance/wgi/index.aspx#home>

² http://www.rcc.int/seeds/files/RCC_BalkanBarometer2015_PublicOpinion_FIN_forWeb.pdf

³ <http://institut-alternativa.org/uprkos-pomacima-gradani-i-dalje-strogi-u-ocjenama-drzavne-uprave/?lang=en>

3. The overview of strategic and legal framework for each area covered by the Strategy should be presented in the introduction of this document. The objectives of the Strategy and the activities envisaged under the Action Plan should be derived from the strategic and legal framework and state of play for each area, as well as public administration as a whole.

It is necessary to establish a clear link between the objectives planned under these documents and what has been done in the past and / or what was planned, but not implemented. Unfulfilled obligations from other documents should be identified and the causes that have led to the failure to implement them should be explained, in order to devise activities which would address the root causes of the problems.

4. The structure of specific objectives and indicators in the Strategy, as well as the structure of activities, sub-activities and indicators in the Action Plan is not well established. Strategy should comprise objectives and indicators oriented towards the *outcome*, i.e. those who respond to the question “what do we want to achieve?”. On the other hand, the Action Plan should comprise activities, sub-activities and indicators oriented towards the *output*, i.e. those who respond to the question “what are the results of certain activity?”.

5. The Strategy should contain the complete list of activities to be undertaken in the four-year period. Thus, monitoring, evaluation and reporting on the implementation of the Strategy would be facilitated.

1. Organization and Accountability in the Public Administration System

Organization of public administration

An analysis of the position of certain organizations exercising public authority, including a detailed mapping of all the central state administration organizations, is an activity that is not completed from the previous strategy, although, according to some sources, there was a draft analysis. It is reasonable to analyze the so called regulatory bodies, but it remains unclear to what this analysis should contribute - creating a single legal framework for these bodies, which would lead to establishing clear lines of accountability and their competences towards state authorities? The same comment applies to the following activity: Conduct an analysis of functional and financial effects of introducing the institute of "authority within the ministry" in the Montenegrin administrative system. What is it supposed to contribute to: reviewing the existence of "authorities within", and how this refers to the improvement of accountability?

The use of certain terms is also not harmonized: what is meant by the organization of central state administration, and **what is the central state administration?**

Free access to information

In the Public Administration Reform Strategy 2016 – 2020, the following problems in this field are stated:

"lack of awareness of the authorities obliged by the law about their legal obligations, especially about their obligations of proactive publication of information, provision of information by the authority that does not own this information, often "administrative silence" in the procedures on the requests for free access to information; insufficiently informed public about the right on free access to information".

However, pursuant to recognized problems, the Action Plan which accompanies the Strategy does not define any measure to solve these problems, although it is a problem for whose solution the Government is responsible. The Government is obliged to undertake additional measures to coerce state authorities to implement the Law, and measures/activities must apply to local governments and state - owned enterprises, since the implementation of the Law on this level is particularly poor.

In addition, not much has been done to improve the internal recording of information in possession of state authorities - which often leads to ignorance of the officers for free access to information about where some document is, in possession of which organizational unit, etc. Communication with officials for free access to information showed that they often have difficulties to obtain the requested documentation from other employees.

On the other hand, the Government's Decree on Compensation of Costs for Free Access to Information prescribes 0.10 euro per A4 page, whereas in the Republic of Croatia the costs amount to 0.03 euro per page (0.25 Croatian Kuna). The high amount of compensation per page presents an obstacle for access to information.

=> Proposal of new objective:

4.1.3. Improve the accessibility of information in possession of state administration⁴

⁴An additional explanation on issues in the field of free access to information

- Neither the Strategy or the Action Plan does not address the problem of access to secret data that are unreasonably marked with "top secret". Regarding that, the Law prescribes the right of the Agency to decide on the merits and annul the designation of confidentiality if finds it unreasonable/unlawful, with, of course, the right of the authority for further appeal.
- Since the Law does not stipulate it, it is necessary to prescribe the procedure for conducting the test of identification, otherwise this legal obligation will not be implemented in future. The procedure would involve the preparation of an act which would contain explanation, which would then be submitted to the Agency and/or the court when it calls into question the legitimacy of secrecy. The explanation would be identical as the one from the decision on placing the label "secret", so it would not increase the scope of the obligations in the implementation of the Law.
- The provisions of the Criminal Code Procedure that apply in the process, should be incorporated into the Law on Free Access to Information, in order to harmonize the implementation and avoid a confusion of authorities and officials for free access to information.
- The list of acts for a proactive approach should be expanded, and, among other things, should prescribe the obligation of publishing: direct agreements, information about the awarded subsidies, grants or donations, including a list of users and amounts, and reports on their realization; information on the working groups established by the authorities; Also, the Law should stipulate the obligation for the Agency to control the implementation of this provision.
- Resolve the problem of filing the initiative for misdemeanor liability in favor of the Agency,
- There is a particularly great problem with state-owned enterprises - the percentage of participation of the state, when the sum of the various state actors makes a de facto state property, should be specified. Although the spirit of the law is clear on this matter, it should be specified because the enterprises often refuse to provide information.
- The Law does not specify whether the deadline for submitting requested documentation implies 15 working or calendar days, and the same authority in each case interprets it in its own discretion. The deadline for delivering requested information is too long for a small administration like Montenegrin and leads to bad practice in most state authorities - officials for free access to information only waiting for the last day to respond on the request, which harms efficiency.

Outcome indicators:

- list of mandatory information for proactive publishing extended by 50 percent,
- number of cases of “administrative silence” reduced to 10 percent of total number of requests,
- percentage of information available in electronic form increased to 70 percent,
- reduced procedural costs.

The activities (measures):

- Amendments to the Law on Free Access to Information (which would include solving the problems listed in footnote 4);
- Amend the Decree on Compensation of Costs for Free Access to Information and prescribe the reduction of costs proceedings;
- Establish legal bases for the implementation of the principles of free data usage (by incorporating the Draft Law on Free Usage of Data into the Law on Free Access to Information);
- Establish a legal basis for establishing the Government's Open Data Portal (also, in accordance with the comparative practice, within the Law on Free Access to Information);
- Publish the results of work of the Commission for declassification of secret data;
- Adopt a policy on the level of the administration on compiling information in electronic form;
- Improve the internal recording of information in possession of state authorities.

- It is necessary to redefine the completion of the procedure - not when deliver decision, but when deliver data.

- It is necessary to incorporate the Draft Law on the Free Use of Data that was on the public debate into the Law on Free Access to Information, since it regulates the same matter. It is also necessary to incorporate all issues related to open data and open data portal in the Law on Free Access to Information.

- It is necessary to amend the law in order to prescribe the obligation to proactively publish the required information, and not a decision on approved access.

- Finally, it is necessary to arrange more accurate reporting of state authorities towards the Agency on the implementation of the Law - prescribe misdemeanor liability for the failure to submit the report and for submitting incorrect data.

- It is necessary to improve the declassification of documents in possession of state authorities by proactive publishing declassified documents.

- Improve the transparency of the Commission for the periodic review of the designation "secret" in all authorities, by regular publishing information about held sessions and the results of its work on the websites of the authorities.

- Amend the Decree on costs for free access to information and prescribe a reduction of procedure costs.

- At the level of each authority, adopt a policy of preparing information and documents in electronic form, to be thus able to exercise greater insight into information.

Oversight of the work of public administration

This section has entirely omitted constitutionally prescribed parliamentary control over Government and oversight of independent bodies over public administration. Also, taking into account constitutionally prescribed checks and balances system, the Government needs to improve the fulfillment of recommendations / conclusions / decisions / solutions of these institutions.

An entire chapter "Organization and accountability in the system of public administration" contains a total of four measures, two of which refer to the organization of public administration, and two to administrative inspection, which leads to the impression that the Government has no problem with accountability and the implementation of decisions of the competent authorities for the oversight Government's work, which does not correspond with the real situation.

The Strategy states:

"Also, the practice of the Administrative Court, according to which it does not, in principle, decide on the merits of the case, adversely affects the quality of exercising citizens' rights, so, after the adoption of the new Law on Administrative Disputes following the new Law on Administrative Procedure, it is necessary to analyze its implementation in terms of legal protection and to monitor the average duration of administrative disputes."

Additionally, the problem is:

- non-enforcement of court decisions, and the decisions of the Administrative Court, which are not dealing with the merits of the issue,
- lack of practice for determining accountability for lost lawsuits and annulled the decision.

Only in 2014, about 15 million euro was spent from the budget because of lost court cases. The Government should introduce systematic monitoring and determining accountability for these situations.

It is urgent to establish a system for monitoring individual accountability of the officers conducting the administrative procedures, which is especially important in the context of the new Law on Administrative Procedures. This Law envisages that resolution of administrative procedures to be delegated to the lower civil servants. Individual accountability should be the bases in the system of performance appraisal for promotion or demotion. It is also necessary to create mechanisms that do not establish a culture of fear of the risk of mistakes and sanctions.

It is necessary to examine the possibilities of introducing double internal control for the complex procedures (highly exposed to risk of corruption and cause high costs of material damage to the state budget), which must be precisely identified.

Furthermore, the Strategy states:

"As an oversight mechanism over the work of the administration, it is important to mention the work of the Protector of Human Rights and Freedoms (Ombudsman). The last amendments on the Law on the Protector have enabled the wide array of consultation of the President of Montenegro with the experts and NGO sector prior to proposing the candidate for the position of Ombudsman. The citizens can refer to the Protector of the Human Rights and Freedoms when they consider that their rights and freedoms have been violated by an act, action or failure to act by the: state authority (courts, Government, ministries, administrations, agencies); local self-government authority (municipality body); public service and other public authorities (health-care system and educational institutions, public companies or other legal entities exercising public authorities)

However, Action plan does not envisage a single measure from the Government's jurisdiction related to acting upon the recommendations issued by the Protector. Even the incomprehensibly small number of recommendations that the Protector issues are not being implemented by the competent authorities. It is the responsibility of the Government to prescribe additional measures which would compel the authorities to implement the recommendations.

When it comes to the Parliament of Montenegro, the Montenegro Progress Report for 2014 states that the conclusions adopted based on the usage of the control mechanisms by the Parliament need to be implemented more efficiently⁵, which is the obligation of the state authorities, i.e. the Government.

In relation to that, the Government did not establish its internal structure (in the state authorities) for monitoring and coordination the implementation of the recommendation/conclusions/decisions issued by the Parliament and working bodies of the Parliament/Ombudsman/Agencies-Directorates, etc.

Our research on the implementation of the Parliamentary Committees' conclusions conducted in 2013 and 2014 has shown that the subjects of the oversight are not aware of the conclusions imposed by these bodies, nor are the conclusions monitored or implemented. If some measures happen to be implemented, it has probably happened by accident, because it was planned to work in that manner, rather than following the implementation, since the system of the monitoring of the conclusions has not been set in place.

⁵ "Conclusions adopted in oversight hearings need to be followed up more effectively." (p. 7) Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-montenegro-progress-report_en.pdf

Therefore, it is necessary to appoint persons in charge for monitoring and coordination of the recommendations in order to establish regular practice and clearly defined responsibility in the state authorities. Since the bodies performing oversight still have weak capacities, this can be defined as the part of the regular duties of one official in state authority, and it should also be followed by the regular reporting on the realization of the conclusion.

=> Proposal of the new objectives in the area of improving accountability of the state administration:

2.1.4: Improve the execution of the court decisions and determination of the responsibility for lost court cases and annulled court decisions

2.1.5: Improve the implementation of the conclusions and the recommendations issued by the bodies competent for the oversight of the Government's work

Outcome indicators:

- the percentage of the executed court judgments in 2017 - 90%
- the percentage of cases in which the responsibility for the lost court case has been determined
- the percentage of cases in which the responsibility for the annulled court decision has been determined
- the number of criminal measures taken against civil servants for the negligent, untimely and careless work performance
- the percentage of the implemented conclusions issued by the Parliament/recommendations issued by the Parliamentary Committees/recommendations issued by the Protector of Human Rights and Freedoms/other bodies competent for the issuing recommendations to the state authorities

Activities:

- Establish annual award for the body within the state authority with the lowest number of the annulled cases in relation to the total number of first instance court decisions

- Initiate disciplinary and other proceedings against civil servants for negligent, untimely and careless work performance as well as the breaches of work obligations due to which there have happened serious consequences for either interested party or state authority;
- Appoint a servant per each organ of state authority who will be in charge for the coordination of the implementation of the decisions/conclusions/recommendations and the reporting on the realization of aforementioned acts.

2. Service Delivery

1. The new Public Administration Reform Strategy should have continuity with the already adopted key strategic documents. For the area “Service Delivery”, relevant documents are listed hereafter:

- a. Montenegro's Programme of Accession to the European Union 2014-2018
- b. Montenegro Development Directions 2015-2018
- c. South East Europe 2020 Strategy and Montenegro National Action Plan 2014-2015
- d. Montenegro Economic Reform Programme 2015 - 2017
- e. Action Plan prepared in the framework of the Open Government Partnership
- f. Public Administration Reform Strategy 2011-2016 (AURUM)
- g. Strategy for the Development of Information Society 2012-2016
- h. eGovernment Action Plan 2013-2016
- i. Action Plan for Improvement of Business Environment
- j. Strategy for Integration of Persons with Disabilities in Montenegro (2008-2016)

Part of the unfulfilled commitments from these documents was incorporated into the new Strategy and the new deadlines were proposed. However, the Strategy lacks analysis of the causes which led to delays in the implementation of these commitments. Furthermore, it does not contain activities which would deal with these causes and thus ensure that this time around the commitments are fulfilled under the new deadlines.

For instance, preparation of the Administrative Disputes Bill was planned for the 4th quarter of 2014 under the Public Administration Reform Strategy 2011-2016 (AURUM) and the accompanying Action Plan. However, since this deadline was not met, under the Government Work Program for 2015 a new one was proposed for the 2nd quarter of 2015. The Law on Administrative Disputes, which would be harmonized with the new Law on Administrative Procedure, is not yet adopted, and the new deadline is foreseen under the new Public Administration Reform Strategy 2016-2020.

Similarly, under the Public Administration Reform Strategy 2011-2016 (AURUM), application of the Electronic Document Management System (eDMS) was planned in all ministries and the General Secretariat of the Government. This commitment was

not fulfilled and the new deadline is proposed under the Public Administration Reform Strategy 2016-2020. Although some of the problems which caused the delay were mentioned within the second chapter of the Draft Strategy - "State of play in Montenegrin public administration and key challenges", concrete activities which would address these problems are not planned.

Therefore, some of the key challenges which need to be addressed in the 2016-2020 Strategy and activities undertaken in order to resolve them are listed below:

- a. Civil servants do not accept changes in the workflow and refuse to start using electronic system of service delivery;
- b. Public authorities are not interested in setting up services on the eGovernment portal;
- c. Implementation of the electronic document management system (eDMS) is in some instances held back at the level of managerial staff;
- d. A number of public authorities failed to provide the data necessary for establishment of the Unified information system for electronic data exchange among state authorities and public administration bodies (UISEDE), although the deadline set for completion of this task under the Law on Electronic Government expired in July 2015;
- e. Procedures for data exchange among state authorities and public administration bodies are complicated and not clearly defined;
- f. In addition to gathering data from their jurisdiction, public administration authorities collect huge amount of additional data which originally comes under jurisdiction of other authorities. Therefore, it is necessary to regulate the reuse of public sector information. However, the Law on Reuse of Public Sector Information is not adopted, although under the Montenegro's Programme of Accession to the European Union 2014-2018 the deadline for fulfilling this commitment was the 4th quarter of 2014;
- g. A significant number of registers is still kept in the manner which is not appropriate to the new technological age. Namely, the data entry is done by hand and, thus, does not support the electronic exchange and processing;
- h. Electronic services are not sufficiently accessible to citizens due to the cost of issuing digital certificates. National certification body is the Montenegrin Post Office, which is a market-oriented company and formulates its pricing policy. For that reason, another certification body should be established, or modalities of lowering prices of digital certificates for individuals should be devised, such as covering part of the costs for individuals by the government bodies;

- i. The Administration for Inspection Affairs has not yet imposed any fines to public administration bodies which failed to comply with provisions of the Law on Electronic Government;
- j. The process of alignment of special regulations with the new Law on Administrative Procedure has begun, but is not at a satisfactory level. In fact, a number of ministries did not provide necessary information on the activities undertaken in this matter to the Ministry of Interior, although the deadline expired in September 2015. Following that, two workshops on this topic were organized, while the third was planned but not conducted due to lack of interest of representatives of the ministries.

2. It is necessary to establish better coordination in the area of Service Delivery. Jurisdiction is currently divided between the Ministry of Interior which is responsible for reform of administrative procedures, the Ministry for Information Society and Telecommunications for the development of e-Government, Ministry of Finance for improvement of business environment, and the Ministry of Labor and Social Welfare for adaptation of public services for persons with disabilities. The Administration for Inspection Affairs performs inspection duties.

Lack of good coordination is visible when it comes to implementation of the Law on Electronic Government. Namely, this Law stipulates that the supervision of its implementation is done by the public administration body responsible for the information society. However, representatives of the Ministry for Information Society and Telecommunications believe responsibility of their ministry ends with the provision of adequate technical, technological and normative basis for the development of electronic government. This, however, raises a number of concerns with the representatives of public administration authorities which are obliged to abide by this Law.

3. Lack of orientation towards citizens is highlighted as one of the main drawbacks of the former PAR Strategy, since it was mainly focused on establishing a legislative framework. Therefore, “the new Strategy will be directed towards realistic, practical and concrete effects of public administration reform, especially in the relation between public administration and its citizens”. However, despite this declarative orientation towards citizens, the new Strategy and Action Plan do not provide for activities such as:

- a. informing citizens about their rights guaranteed by the new Law on Administrative Procedure (LAP),
- b. promoting eGovernment portal,
- c. measuring customer satisfaction with public services,

d. establishing a help desk, etc.

4. Although the *vacatio legis*⁶ for the beginning of implementation of the new LAP is rather long (18 months), the deadlines for the implementation of the follow-up activities are not aligned with it. The deadlines for the follow-up activities envisaged by the Action Plan are presented below:

Activity	Deadline
Beginning of implementation of the new Law on Administrative Procedure (LAP)	3 rd quarter 2016
Build administrative capacities for the implementation of the legal solutions from the new LAP	4 th quarter 2017
Align special regulations with the new LAP	2 nd quarter 2017
Establish unified information system for electronic data exchange among state authorities and public administration bodies, which is necessary for implementation of the principle of obtaining information <i>ex officio</i>	4 th quarter 2017
Conduct analysis of specific administrative procedures as a basis for the unified information system	4 th quarter 2017
Adopt the new Law on Administrative Disputes (LAD)	2 nd quarter 2016
Enhance capacities of the Administrative Court for the implementation of the new LAD	4 th quarter 2017

Deadlines for the completion of these activities should be set more ambitiously, especially when it comes to aligning special regulations with the new LAP and conducting analysis of specific administrative procedures. Ideally, all follow-up activities should have been implemented before the entry into force of the new LAP.

5. The chapter “State of play in Montenegrin public administration and key challenges” should contain all available data on the quality of public services in order to establish the baseline measurements for the services. This would allow monitoring of the trend of growth or decline in the quality of public services.

For example, on the page 11 of the Draft Strategy, instead of the sentence: “Data concerning administrative procedures and the provision of services are not followed, so it is not possible to estimate the average/expected time for making a decision or providing

⁶ The period between the promulgation of a law and the time the law takes legal effect.

a service” all available data for at least some services should be presented. When it comes to services for citizens, the data of the Ministry of Interior on issuing passports, IDs, vehicle registrations, driver's licenses, and citizenship certificates can be included. The relevant statistics of the Tax Administration, Real Estate Administration, the Ministry of Sustainable Development and Tourism, etc, can be listed as well. When it comes to services for businesses, the data from reports such as Doing Business are relevant for establishing baseline measurement.

2016 Doing Business Economy Profile for Montenegro includes 37 indicators for 10 areas of lifecycle of an enterprise. These indicators mainly refer to the number of procedures and the time and cost of obtaining a service. Some of them are presented hereafter:

Topic	Procedures (number)	Time (days)	Cost
Starting a Business	6	10	1.4 % of income per capita
Dealing with Construction Permits	9	154	11.9% of warehouse value
Getting Electricity	7	142	464.8% of income per capita
Registering Property	6	69	3.1% of property value
Enforcing Contracts	/	545	25.7% of claim

Source: 2016 Doing Business Economy Profile for Montenegro

Also, the Report on the Settlement of Administrative Matters for 2014 contains statistics on the decisions in first and second instance administrative cases, as well as decisions in inspection control procedures.

Furthermore, the Information on the Alignment of Special Regulations with the new Law on Administrative Procedure contains the exact number of laws that need to be amended. Thus, 64 laws contain major discrepancies with the new LAP, while as many as 367 laws contain at least one provision which needs to be amended.

Note: If by the end of the period of preparation of this Strategy relevant institutions find that it is not possible to establish baseline indicators, then we propose to determine baseline indicators for 100 most commonly used services for citizens (counter services) and 100 most commonly used services for businesses (counter services) by the end of 2016.

6. On the page 12 of the Draft Strategy within the paragraph about eDMS which states the following: “Although the eDMS project is being realized, which relates to establishment of a system of electronic document management in ministries and the General Secretariat of the Government, there is still a lot of communication through paper documents within the public administration. eDMS is also a part of the Law on E-Government, and for now, it operates in nine ministries at full capacity, although production has been established in all ministries”, the nine ministries in question should be specified and examples of good practice should be provided.

7. We propose adding the strategic objective "Improve e-services for citizens and businesses", where special attention would be devoted to the establishment of one-stop-shop services.

Indicators:

2015 - 1 established one-stop-shop service

2017 - 10 established one-stop-shop services (5 for citizens and 5 for businesses)

2020 - 50 established one-stop-shop service services (25 for citizens and 25 for businesses)

8. We propose adding the strategic objective "Shorten the time and cost of providing services to citizens and businesses (counter services)". Alternatively, we propose creating a list of the most used services and focusing on those services.

9. One of the main objectives of the Strategy for the Development of Information Society 2012-2016 is to “provide wide accessibility to the most used electronic services of public administration: ensure accessibility of 100 most used services of government agencies and local self-governments on the eGovernment portal by 2014, that is 200 services by 2016.” We consider it necessary to publish the list of the most used services referred to in this objective, as well as provide data based on which the list was created.

10. The description of the Objective 4.2.3. “Established E-Service for selected public administration services with high degree of user experience” (p. 36) should indicate the e-services in question.

11. Within the Objective 4.2.3. “Established E-Service for selected public administration services with high degree of user experience” (p. 36-37) and the indicator “40% of public administration authorities which measure the level of customer satisfaction by 2017”, a list of authorities providing the highest number of services to citizen and businesses should be provided.

12. Certain aspects of Service Delivery are completely omitted, like improving business environment and adaptation of public services for persons with disabilities.

13. The Action Plan is not completely in line with the Strategy. For instance, under the Strategy it is envisaged to achieve 40% rate of public administration authorities which measure the level of customer satisfaction by 2017, that is 80% rate by 2020. On the other hand, the Action Plan does not contain activity of measuring customer satisfaction with public services at all.

14. Special attention should be paid to achieving greater "readability" of the documents and comprehensibility for citizens. Footnotes should offer an explanation for concepts such as interoperability, one-stop-shop, eDMS, service level 3, service level 4, ISO, EFQM, CAF, interconnection, etc.

15. Responsibility for the implementation of activities is not precisely determined. There should be one institution responsible for the achievement of one specific activity and, ideally, one person within the institution in question.

e.g. For implementation of the activity "Align special regulations with the new LAP" within the Objective 4.2.1. in the Action Plan, all ministries are responsible. This does not represent a good solution as there should be one leading institution for all activities.

Proposal for defining one key objective within the Strategy in the area of Service Delivery

Objective 1: eGovernment portal represents a single point of access to electronic services offered by public administration bodies with a high degree of user experience and user satisfaction				
Result	Indicator	2015 starting condition (4 th quarter of 2015)	2017 target (4 th quarter of 2017)	2020 target (4 th quarter of 2020)
1.1. Raised level of digital literacy among employees in public administration authorities	Percentage of civil servants who successfully completed training on the usage of electronic document management system (eDMS)			
	Percentage of senior management staff and expert-management staff who successfully completed training on the usage of electronic document management system (eDMS)			
	Percentage of ministries in which the electronic document management system (eDMS) is used in full capacity			
	Percentage of other public administration bodies in which the electronic document management system (eDMS) is used in full capacity			
	Percentage of civil servants who possesses ECDL certificate			
	Percentage of senior management staff and expert-management staff who possesses digital certificate			
	Percentage of civil servants who possesses digital certificate			
1.2. Raised level of digital literacy among citizens	Percentage of visitors of the eGovernment portal who performed free testing of the level of skills according to the ECDL standard			
	Percentage of visitors of the eGovernment portal who acquired ECDL certificate via eSkills package			
	Percentage of the eGovernment portal users who are registered via email			
	Percentage of citizens who are registered via digital certificate on			

	the eGovernment portal			
	Percentage of legal entities which are registered via digital certificate on the eGovernment portal			
1.3. Increased level of user experience of citizens and businesses	Percentage of services delivered via eGovernment portal out of the total number of services delivered for each of the service available for citizens			
	Percentage of services delivered via eGovernment portal out of the total number of services delivered for each of the service available for legal entities			
	Percentage of petitions submitted via eParticipation section of the eGovernment portal out of total number of submitted petitions			
	Percentage of announcements on public hearings available on the eGovernment portal out of total number of public hearings			
1.4. Increased level of user satisfaction of citizens and businesses	The number of electronic surveys created by the public administration authorities on the eGovernment portal			
	Number of public administration authorities which perform regular measuring of customer satisfaction			
	Level of satisfaction of citizens with the work of eGovernment portal			
	Level of satisfaction of businesses with the work of eGovernment portal			

3. Public Services and Human Resources Management

General remarks

- Although generally they follow the recommendations of Institute Alternative, the priorities and measures within this Chapter are only partially a response to the numerous problems in the field. Without being accompanied with additional activities and measures, they will not improve the situation. On the contrary, there is danger for reforms in the field, which have been stagnating from 2004, to be further stalled by only partial incorporation of recommendations of IA and international community. These reforms are crucial for inducing greater trust in public administration and for its de-politicization.

- There is a terminological confusion: the distinction is made between human resources planning and endeavor aimed at determining the optimal number of employees in the public sector: are these processes different?

-Generally, many activities in the Draft Action plan are obsolete. One such example are activities, which refer to the drafting of professional training programmes, which are regular obligation of Human Resource Management Authority (HRMA). This activity is one of costliest (with 210.000 euro envisaged for its realization) while other more strategic activities are lacking. Another example of minor activity is the activity of familiarizing heads of authorities with the importance of Central Human Resources Register. This is a good illustration of the tactics, which aims, by introducing less relevant activities, to undermine the efforts of profound reform of public administration.

- It is not possible to increase the competitiveness of recruitment procedures in public administration by the strategy solely. This is a long-term aim, dependent on external factors and success of the Strategy itself. These extremely important issues should be “transferred” into the overall objective of the Strategy, which should be rephrased as follows:

The creation of efficient, transparent and service-oriented public administration based on the merit system and characterized by increase of citizens’ confidence in its work.

- According to the recently published public opinion poll by the NGO CEDEM, discrimination in employment is most frequent on the basis of political affiliation (81.8%). The problem description thus needs to reflect on the results of these opinion polls and demonstrate readiness to improve the situation by their acknowledgement.⁷

Key objectives in this field, according to our suggestion, should be:

Political influence on public administration employees diminished

Justification of the objective: The necessity of further de-politicization of public administration has been noted in many reports of both relevant international and domestic organizations. On the European public administration principles also says that the delimiting border between professional and political posts in public administration should be drawn. This borderline, according to the many findings presented in the study by Institute Alternative “Professionalization of Montenegro’s Senior Civil Service: Between State and Politics”, is blurred. The study suggested that over one half of senior managers in 2014 had membership in advisory or managing bodies of political parties, revealing the inconsistent application of political neutrality principle, which stipulates that civil servants should restrain themselves from public exposure of political attitudes.

Activities:

Introducing the duty of civil servant, running in the elections, to take an unpaid leave,

Participation in management and advisory bodies of political parties should be explicitly forbidden for civil servants, while ministers and state secretaries should be exempted from recruiting public servants (apart from senior managers and heads of authorities),

Prescribing more precise conditions for termination of mandate of senior managers and heads of authorities with an aim of creating more objective grounds for their dismissals,

Following the trend of public trust in Appeals Commission and Administrative Court, with regards to protection of rights of public administration employees

⁷http://www.cedem.me/images/jDownloads_new/Program%20Empirijska%20istazivanja/Ostala%20istrazivanja/Istrazivanje%20javnog%20mnjenja%20o%20diskriminaciji%20decembar%202015.pdf

Sub-activities: Amendments to the Law on Civil Servants and State Employees and Law on local self-government, Reporting of Ethic Committees and Commissions for following the implementation of codes of ethics for public servants on the respect of political neutrality principle and behavior of public servants in political campaigns

Indicators: decreased number of breaches of political neutrality principles from the side of public administration employees, decreased turn-over of senior managers and heads of authorities 6 months prior to and after the general parliamentary elections, decreased number of public servants with membership in advisory and managing bodies of political parties, increased public trust in Appeals Commission and Administrative Court.

Procedures for assessment of qualifications and skills of prospective public servants improved

Justification of the objective: Although it is closely related to the previous aim, the qualification assessment, which largely determines the outcome of the recruitment procedures, should be treated separately. The ground for this is the mere fact that undue influence over recruitment, apart from political ties, can be exerted in different manners as well (e.g. nepotism). On the other hand, there is no need for qualification assessment for senior managers to be treated as separate aim (as in the Draft Strategy), because the improvements are required at all levels. Findings of Institute Alternative demonstrate that there have not been substantial improvements in the field, and complaints we received via portal My Administration ([Mojauprava](#)) describe the non-adequate composition of commissions, tasked with qualification assessment, and breach of procedures by distribution of practical tests to the privileged candidates before the actual testing takes place.

Activities:

Changing the formula for scoring qualifications of prospective candidates, in a manner that objective criteria (length of studies and average grade, opinion on expert and working qualities, written test) are more determining than subjective criteria and oral interview;

Determining the framework of competencies for special categories of civil service positions, which are specific due to its competences and job description (e.g. heads of authorities, senior managers, police officers) with an aim of regulation of qualification assessment for these positions and their management;

Enabling random distribution of practical tests to candidates, by minimizing the human factor (it remains unclear whether the software for qualification assessment follows this ratio, if it does, it needs to be further elaborated in the Strategy),

Improving the transparency of qualification assessment by publication of reports on these procedures for all job positions (senior managers and heads included) while ensuring personal data protection (initials instead of names and surnames) in order to ensure external and independent control,

Re-composing commissions for the qualification assessment in line with the best EU practices.

Sub-activities: Amendments to the Law on civil servants and state employees and to the Government Decree regulating qualification assessment, Drafting the analysis of functioning, competencies and composition of commissions for qualification assessment in the EU member states with the position system of recruitment and HRM, trainings of commissions' members to perform qualification assessment according to the framework of competencies

Indicators: Decreased number of appeals and complaints on qualification assessment on annual basis (in relation to the total number of submitted appeals and complaints, decreased number of upheld appeals and complaints regarding qualification assessment in relation to the total number of submitted complaints and appeals),⁸ **100%** recruited certain categories of servants (e.g. managers) in line with the framework of competencies in relation to the total number of candidates for these posts who have undergone qualification assessment (in this manner, indicators regarding this activity will not be determined arbitrarily, based on the "lucky guess" on the number of managers whose mandate will expire in 2017 or in 2020, as it is currently the case; also, HRMA and state authorities will be encouraged to perform qualification assessment in line with the Law); 100% reports on qualification assessment for all job positions published on HRMA website in relation to the total number of qualification assessments performed

Merit based human resource management in public administration

Justification of the objective: Unbiased qualification assessment, subject to the external control, and de-politicization are necessary preconditions for establishing the merit-based system in public administration; in other words, these aims represents two sides of the same coin when it comes to the transparent human resource management. Merit-based system entails that the most qualified candidates are being recruited, but not only that: they are also being rewarded and promoted. Currently, this is not the case, due to the multiple reasons: broad application of discretionary rights of head of authority not to choose the top-ranked candidate, non-transparent wage policy and distribution of variable part of wages, and practical absence of promotion of servants, which will be even more acute if the proposed Law on wages of public sector employees is adopted, since it will abolish wage rates.

⁸ This indicator is inter-dependent with the indicator from the previous aim on the trust in Appeals Commission and Administrative Court

Activities:

Delimiting discretionary right of not choosing the top ranked candidates, by shortening the ranking list (from 5 to 3), but also by prescribing the reasons for using the discretionary right (e.g. in cases when candidates achieved a maximum score on practical test)

Determining the form for performance appraisal of servants of special category, and establishing the linkage between performance appraisal, professional training, rewards (including wage variables) and promotion,

Regulation of performance appraisal and professional training of special categories of civil servants according to the framework of competencies,

Improving the transparency of wage and rewards policy by minimizing special wage bonuses and determining precise criteria for distribution of wage variables by linking it with performance appraisal,

Enabling servants to be promoted within the same organization units they had previously worked in cases they received two excellent grades (excluding the obligation of internal announcement).

Sub-activities: Amendments to the Law on civil servants and state employees, adoption of the Law on public sector wages (in different form than the one being proposed which introduces many bonuses for specific posts without special justification and does not delimit non-transparent distribution of variables), changes of the Decree on performance appraisal

Indicators: Decreased number of appeals and complaints regarding recruitment of the candidates which have not been top ranked and regarding in-adequate performance appraisal on annual basis (in relation to the total number of submitted appeals and complaints), decreased number of upheld appeals and complaints regarding recruitment of the candidates which have not been top ranked and in-adequate performance appraisal in relation to the total number of submitted complaints and appeals), increased number of promotion of servants, publically available decisions on distribution of wage variables at notice boards of public authorities

Human resource planning in public administration established

Justification of the objective: The aim is directly relevant for “reconciling” two somewhat contradictory demands ahead of Montenegro’s public administration: the demand for transposition and implementation of EU *acquis* and for rationalization and reorganization of public administration. On the other hand, although the human resource plan for 2015 has been adopted on the level of state administration, separate, individual plans have not been brought. Central Human Resources Register is not updated, and there is no system for determining the completeness of data entered into this system.

Activities, sub-activities and indicators:

- Remarks:

Some activities from the current Draft, related to the 4.3.3 aim do not lead to fulfillment of such formulated aim – especially activities 1.3 and 6. It remains unclear what is the difference between determining optimal number of employees and human resource planning, because the latter should naturally lead to the former. Also, activity about the creation of software for interlinking Central Human resources Register to the system on salaries with the Ministry of Finance is of crucial importance for human resource planning which will be based on sound information. However, it is not justified for the deadline for this activity to be third quarter of 2017, especially given that this is not technically such a demanding activity. In addition, the need for interlinking two register has been recognized 18 months ago, during the first phases of drafting the new law on public sector wages. Hence, **we propose shortening this deadline, for third quarter of 2016.**

- While drafting the guidelines for human resource planning, the Programme for Montenegro’s EU accession should be taken into account.

- Headline indicator should be 100% of adopted human resource plans by 2020.

4. Development and Coordination of Public Policies

General remarks

- ✓ Draft Public Administration Reform Strategy for the period 2016-2020 doesn't include all of the key challenges regarding the development and coordination of public policies;
- ✓ Objectives are defined in a way that does not lead to substantial but only partial improvements in practice (indicators couldn't longer be defined in a way to measure compliance with procedures and whether the rules and regulations are applied at all);
- ✓ Activities for improvement are not offered even for limited listed problems in the description part. Description of the situation (within the Draft Strategy) identified 10 problems but the Action Plan has only 7 activities for two year period of implementation of the Strategy;
- ✓ Activities are broadly defined and do not lead to the fulfilment of the poorly set objectives;
- ✓ Focus is still on defining the framework and regulations, rather than to strengthen the capacity and to achieve progress in practice; these processes have to go in parallel and to be treated with separate activities;
- ✓ The role of the Parliament in the creation and oversight of the public policies implementation is not covered at all;

Note: It is necessary to update information on the number of the opened negotiating chapters.

Problems that should also be included within the description part

It is necessary to:

- ✓ Emphasize that the draft laws are not always prepared in accordance with the established deadlines. The Parliament is often in a position to adopt these laws by shortened procedure;
- ✓ Elaborate the problem of insufficient oversight function of the Parliament concerning implementation of the public policies;
- ✓ Emphasize that the regulation on the public hearing is not applied as a rule;
- ✓ Recognize the problem of ill-prepared reports on public hearings;
- ✓ Highlight the need to improve mechanisms for evaluation of the received proposals and suggestions during the public hearing;
- ✓ It is still unclear what will be the directions for improvement of the regulations regarding the public hearing and manner of cooperation between NGOs and state authorities, so this should be further explained in the text.

Suggestions for defining the objectives, activities and indicators

The results should be defined as sub-objectives or new objectives:

	ACTIVITY	INDICATOR	REMARKS
Result 1: Management of public policy is efficient.	Objective 1: TO ESTABLISH AN EFFICIENT MANAGEMENT OF PUBLIC POLICIES (CREATION, EVALUATION AND COORDINATION)		
	Specifying the role of the Secretariat General in the medium term strategic planning, checking the consistency of the strategic documents, their compliance with priorities of the Government and the medium-term budget framework	<i>The level of harmonization and consistency of strategic documents</i> <i>Target value: 100%</i>	Amendments to the Rules of Procedure adopted in 2016
	(Adopting amendments to the Rules of Procedure the Government of Montenegro)	<i>Number of established units for strategic planning in ministries</i> <i>Target value: 25% by the end of 2017</i>	Plan to strengthen the capacity of the Secretariat General adopted in 2016 Implementation of training programs to strengthen the capacity of the General Secretariat is monitored continuously

	<p>Establishing a legal basis for the adoption of rules for the management of public policies (Amendments to the Rules of the Government of Montenegro adopted)</p> <p>Adopting rules for the management of public policies (improvement of the existing rules for the defining and coordinating public policies and linking policy development with program budgeting)⁹</p> <p>Strengthening the capacity of the Secretariat General:</p> <ul style="list-style-type: none"> a) Preparing the analysis on capacity of the Secretariat General; b) Developing training programs; c) Employing specific profiles. <p>Strengthening the capacity of the Ministry of Finance and the Ministry of Foreign Affairs and European Integration, as coordinating institutions.</p>		<p>Training Quotas on an annual basis set.</p>
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⁹ Special focus is on coordinating activities with the Ministry of Finance

	Establishing strategic planning units in ministries (preparation of the plan for priority units)		
Result 2: Medium-term strategic planning is based on the priorities of the Government and the program budgeting	Preparing methodological guidelines for the preparation of strategic documents	<i>Number of adopted recommendations for improvement arising from the evaluation of previous strategic documents.</i>	Methodological guidelines prepared in 2016
	IT networking of the analytical basis		
	Strengthening the analytical capacity of the state administration a) Conducting need analysis in all state administration bodies; b) Improving human resource planning; c) Preparing employment plan annually.	<i>Number of developed strategic documents in accordance with the methodological guidelines</i> <i>Target value: 100%</i>	
	Improving the preparation of the Government's working program a) Improving guidelines	<i>Number of provided financial estimates of "costs" for the implementation of activities</i> <i>Target value: 100%</i>	
	Developing medium-term working programs of the ministries.	<i>Number of prepared medium-term working programs of the ministries</i> <i>Target value: 100%</i>	
Result 3: Reporting on the implementation of public policies is effective	Prescribing the semi-annual reporting obligation of the state administration bodies on the implementation of the regulations (laws, strategies, etc.)	<i>Number of published semi-annual reports on the implementation of regulations</i> <i>Target value: 100%</i>	
	a) Adopting amendments to the Rules of Procedures of the Government of Montenegro b) Ensuring transparency of the semi-annual reports	<i>Number of integrated findings from interested parties in the semi-annual reports</i>	

	Establishing regular consultations with interested parties towards effective use of the data, findings and information for reporting.		
OBJECTIVE 2: TO IMPROVE THE QUALITY OF PUBLIC POLICY THROUGH INTRODUCTION OF NEW AND IMPROVEMENT OF EXISTING MECHANISMS FOR EVALUATION			
Result 1: Effective systematic evaluation is established	<p>Creating a basis for carrying out a systematic - ex post - evaluation (Adopting amendment to the Rules of Procedure of the Government of Montenegro)</p> <p>Developing priority plan for the evaluation of the regulations in each ministry</p>	<p><i>Number of conducted evaluations</i> <i>Initial value: 0%</i> <i>Target value by the end of 2017:</i> <i>for the strategies: 100%</i> <i>for laws: 25%</i></p>	<p>Amendments to the Rules of Procedure of the Government of Montenegro adopted</p> <p>Priority plan developed</p>
Result 2: All RIA components introduced and better quality of RIA reports related to the financial assessment and removal of business	<p>Enhancing analytical capacity in ministries to prepare RIA</p> <p>a) Developing plan for training programs;</p> <p>b) Conducting trainings are continuously.</p> <p>Improving methodological guidelines for the development of RIA reports</p>	<p><i>Participation of the improved RIA reports in relation to the total number of prepared reports</i> <i>Target value: 100%</i></p> <p><i>Number of prepared RIA reports before the public hearing:</i> <i>Target value: 100%</i></p>	<p>Plan for training programs prepared - 1Q 2016</p> <p>Training quotas established on annual basis.</p>

<i>barriers is achieved.</i>	<p>Defining an adequate framework for the adoption of each piece of legislation in order to:</p> <p>a) Ensuring the preparation of the RIA reports before the public hearing</p> <p>b) Submitting the RIA reports to the Parliament before consideration of the legislative proposals.</p>		
<i>Result 3: All out-dated regulations on the basis of a Action Plan Guillotine are repealed.</i>	<p>Carrying out an analysis on the effects of implemented Guillotine.</p> <p>Updating on-line register with regulations that were repealed.</p>	<p><i>Number of implemented activities from the Action Plan Guillotine.</i></p> <p><i>Target value by the end of 2017: 100%</i></p> <p><i>Usage percentage of the standard cost model for the measurement of positive effects of the Guillotine.</i></p> <p><i>Current value: -</i></p> <p><i>Target value: 100%</i></p>	
<i>Result 4: Parliament's oversight role regarding implementation of public policies is improved</i>	<p>Defining internal model for consideration of RIA reports - centralized vs. decentralized</p> <p>Strengthening the capacity of parliamentary staff for consideration of RIA reports</p> <p>Establishing an online platform at the website of the Parliament for comments and suggestions provided by interested parties during the consideration of legislative</p>	<p><i>Number of proposals on improvement of the RIA</i></p> <p><i>Number of adopted amendments</i></p> <p><i>Number of consultative meetings of the relevant committees with stakeholders on the implementation of the laws</i></p> <p><i>Number of thematic discussions on</i></p>	

	proposals	<i>the public administration reform in the Committee on Political System, Judiciary and Administration</i>	
	Providing an adequate framework for preparation of legislation, in order to avoid the use of shortened procedure.	<i>Number of control and consultative hearings on the problems in implementing the laws</i>	
		<i>Number of information requested from the state authorities responsible for law enforcement</i>	
		<i>Number of prepared analyzes by the research unit in the Parliament on the law implementation</i>	
		<i>The number of laws adopted by shortened procedure: Target value (% reduction)</i>	
OBJECTIVE 3: TO IMPROVE CONDITIONS FOR PARTICIPATION OF INTERESTED PARTIES AND EVALUATION OF THEIR CONTRIBUTIONS DURING THE PUBLIC POLICY PREPARATION			
Result 1: Framework for the participation of interested parties in the public policy	Conducting an analysis on the problems in the implementation of public consultations.	<i>The level of improvement of legislation in relation to the comments and suggestions received from the interested parties.</i>	Consistent framework for public consultation is provided.
	Improving the regulation on public hearings and NGO cooperation with state authorities (creating the working group which will prepare set of amendments)	<i>Number of adopted proposals, suggestions and comments of</i>	

<p><i>preparation is improved</i></p> <p>Result 2: <i>Evaluation of the comments and suggestions received during the public consultations is improved</i></p>	<p>Establishing an effective framework for the evaluation of proposals and comments received during the public hearing (the online platform).</p> <p>Providing on-line consultation with interested parties.</p>	<p><i>interested parties.</i></p> <p><i>Number of the working teams involving NGO representatives.</i></p>	
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5. Specific Questions of Local Self-Government

General remarks

Strategy and its aims in the field of local administration reform are based on the false and obsolete information on current situation in local administrations. They do not offer any strategic development directions for local administrations in the upcoming period.

A number of areas, which are important for the local administration reform and provision of local services, accountability and transparency, has been completely neglected. The superficial approach is applied to the key burning issues, such as reform of local finances and rationalization of expenditure.

Within the entire Strategy, the local administrations are indicated as one of implementing bodies in only one out of total of 11 strategic objectives. This goes against statements that all the objectives imply and address local administrations as well, while the Chapter 2.6. (Specific Questions of the System of Local Self-Government) contains only measures specifically associated with this level of public administration. The sole objective where local administrations are listed as one of the authorities in charge of implementation is 4.2.1. Improving efficiency, effectiveness and satisfaction of public service users.

Neither in the part Specific Questions of the System of Local Self-Government are local administrations envisaged to carry out any of the activities and objectives. The Union of Municipalities should carry out only one objective (4.6.1. Improving the functioning and capacities of local administration units).

During the public debate, we had an opportunity to hear that local administration authorities, unless via Union of Municipalities, have not been directly involved in the process of the Strategy's preparation. Therefore, the intention of the policy makers to implement local administration reform without local administrations is evident.

One also needs to highlight that part of the Strategy, which addresses reform of public finances, takes over the measures from the Programme of Public Finances Management. The Programme, however, does not tackle local administrations. Hence, it is even greater responsibility for this part to incorporate local budgets.

Our key recommendation is that issues of local administration reform should be treated within the separate strategic document, which would have its own separate process of preparation, as well as separate mechanisms for monitoring, reporting and

evaluation. In the same time, this document and its process would be closely linked with PAR Strategy and integrated into the monitoring and reporting mechanisms, like it is the case with the Programme of Public Finances Management.

Recommendations for the existing draft

Objective: To enable financial sustainability and solid financial capacity by making a balance between the revenues of local administrations with their legal duties and functions.

1. We think that the existing objective should be widened to include the obligation of amendments to the Law on local administration financing, whose preparation was ongoing during 2015 but interrupted afterwards.
2. It is necessary for Strategy to envisage *connection between Tax Administration and local administrations when it comes to the calculation of concession fees on annual and overall levels, since this is one the important revenues which have been passed to local level*. Nonetheless, such connection is currently non-existing. Local administrations have no means to track the revenues they can expect based on concessions within their territories. This has a negative effect on their budget planning.
3. Given that during the preparation of the Strategy, no analysis on success of local administrations in collecting their revenues has been made, we believe that this activity should be carried out during the first year of the Action Plan implementation. Based on this analysis, which should be done by the mixed working group, further steps in changes of legal framework, current practices and building of capacities of local administrations to collect their revenues should be determined.
4. We propose a new objective: **Strengthening transparency and accountability in managing the local budgets**, which would contain measures related to:

Financial transparency - Strategy should insist on improving the quality, accuracy and uniformity of the financial reporting of the local self-governments. Certain local self-governments do not publish detailed data on the expenditures separated by the economic classification in their decision on the Final Budget Account. It is necessary to put an end to the practice of non-uniformed reporting on the capital expenditures, in a way that in certain local self-governments those expenditures should stop being categorized as the expenditures of the local agencies for construction, i.e. as the transfers made toward the companies. Not a single local self-government has data on the expenditures presented by the functional classification in their final accounts.

- **Improving quality and transparency of the commercial revision** of the local self-governments' final budget accounts (audit reports quality, putting an end to the practice that the same audit firm for years performs an audit of the same municipality, expanding the number of recipients of the audit reports to the Ministry of Finance and the State Audit Institution)

- **Reform of the work and the organization of the local parliament**

Strengthening the autonomy and the position of the councilors and, in particular, the work of the working bodies competent for budget oversight. It is necessary to enable the councilors to obtain the information on work of the internal audit in their local self-governments by delivering the annual, summary report on the work of internal audit. Councilors sitting in the local parliaments should start the practice of the adopting the conclusions regarding the annual reports on the (commercial) audit of the final budget accounts and establish the obligation of the monitoring of their implementation. The same should be done in the year when their respective local self-government was the subject of the SAI's audit regarding the published audit report. The councilors should not hold managing positions in the local public services and local companies, whose work they are supposed to supervise. Reports submitted to the Ministry of Finance on a quarterly basis by the municipalities should also be submitted to the committees for budget and finance, and become the topic of the discussion in the local parliament.

- **Strengthening transparency and the accountability of the local public companies**

Strengthen the transparency and the accountability of the work of the local public companies, the availability of the data on their business result, profit and loss, number of employees, level of wages and the harmonization of their work to the OECD Guidelines on Corporate Governance of State-owned Enterprises

5. Proposal for the new objective: **Strengthening the form of local organization of the citizens and their participation in the decision-making process**, which would contain measures related to:

Forgotten local communities - Measures envisaged in the Analysis of the local self-government organization model which are related to the local communities should be included in the Strategy:

*Additionally regulate the normative frame on the local communities, in terms of strengthening their roles and positions, especially in the largest units of local self-government, which would include the participation of **citizens in decision-making processes** on issues of particular interest to the local community, the possibility of making certain decisions of interest to a particular part of the local self-government units as well as the ability to perform certain decentralized administrative tasks (e.g. through the redefined local center in the local community or for more local communities).*

Local public discussions - As the key aspect of the local democracy development, this instrument of the cooperation with the citizens is underdeveloped and is characterized with the superficial use, without real consultations with citizens. It is necessary to envisage the amendments of the existing model, introduce obligatory form of informing the citizens as well as the new forms of the cooperation with the NGOs and citizens.

System 48 in all municipalities - This system of the direct communication with the citizens was put into the force only in the Capital City with the concrete results (the system exists in the Municipality of Tivat, but the citizens do not use it). It is necessary to implement the system in all municipalities in the same manner, simultaneously organizing the trainings for the officials who will be in charge of the system maintenance and the contact with the citizens, with additional promotional campaigns with the aim to bring this system and its use closer to the citizens, while defining models of the by-laws which will regulate the work of these systems.

Comment on the activity: Reducing the number of employees in the units of local self-governments with determining target values for reducing number of employees by 2020

In the part that refers to rationalization of the number of employees in local self-governments, the authors of the Strategy used inaccurate data and they have not conducted their own assessment and analysis for one of the key activities that they intend to implement. Namely, Strategy contains the numbers from the Plan of reorganization of the public sector and the report on its implementation, for which it is clear that neither they are correct at this moment (because the situation has changed compared to September 2014, and the authors do not use the most recent **Information on the state of local finances** from July 2015), nor they were accurate at the time when they were published. The reason for this is that municipalities have variously reported both times; some of them have included the number of employees in some public enterprises and institutions in the first report, and they have not in the second version of the report. An example is the Capital city that has almost 500 employees more between the two measurements, because the first time it failed to register employees in the "Vodovod" (local company).

Additionally, activities within the Action plan are related to the compliance with the agreements on the debt rescheduling, which should not be included in the Strategy, since it represents the obligation derived from the agreement and it does not represent new value. Other activities are related to the determination of the target values for reducing the number of employees, which is why we expect from the Strategy implementation in the next 5 years to have achieved targeted values, and not only the reduced number.

6. Strategic Management of the Public Administration Reform Process

The level of political coordination (including dialogue with stakeholders)

We support the proposal to create the Council for Public Administration Reform. However, we find it irrational for the new Council to coexist with the existing Council for improvement of business environment, regulatory and structural reforms, bearing in mind that the jurisdiction of both councils is deeply intertwined and overlaps either directly or indirectly.

Calling upon the reasons of rationalization, there is a necessity to use and build on the institutional memory and experience of the Council for improvement of business environment, regulatory and structural reforms, as well as to amend its competencies so as to cover the whole public administration reform (according to the Strategy and Action Plan), as well as the contents of the Plan of Rationalization of the Public Sector.

Structural changes would imply inclusion of heads of key authorities in charge of the implementation of the Strategy, as well as a representative of the NGO, the Union of Municipalities, and the academic community, in addition to representatives of employers' associations which are already included in the work of the Council.

Competences of the Council would include the following: deliberation on the semi-annual and annual reports on implementation of the Strategy and the Action Plan; discussions about the problems in implementation of the Strategy and the Action Plan, as well as proposing the harmonization of other strategic documents; proposing amendments to the annual work program of the Government; conducting a wider consultations with relevant stakeholders; analyzing the results of public opinion polls and satisfaction surveys of users of public administration services.

With regard to the proposed solution that the Deputy Prime Minister for political system, foreign and interior policy is in charge of the work of the Council for Public Administration Reform, we believe that it is not necessary to specify the area of competences of the Deputy Prime Minister. The rationale behind this stance is firstly based on the fact that distribution of responsibilities between vice presidents depends on the organization of future governments, and secondly, because it is most important that the position is occupied by a vice president in order to enable political coordination between two or more ministers or ministries.

The level of operational coordination

We strongly object the solution presented on the page 45 of the Draft Strategy stating the following: “With the establishment of the Council for Public Administration Reform, the need for functioning of bodies which have thus far been in charge of coordination of the public administration reform process at the administrative level will cease to exist. (It is referred to the Coordination body for monitoring the implementation of Public Administration Reform Strategy and Plan of Internal Reorganization of Public Sector, as well as to the Coordinating team for the reform of local self-government.

A forum for communication and coordination of the operational activities among the servants in charge must be provided. The latter especially bearing in mind a series of complex tasks in areas such as e-government, local government or human resources management that require the involvement of several institutions for the realization of certain activities.

Furthermore, the heads of state authorities must commit to appoint a civil servant (and his/her substitute) who will manage the implementation of commitments under the Action Plan.

The operational coordination implies that the monthly meetings will be held in order to exchange information on the implementation, progress and attempt to resolve any problems which may occur.

It is necessary to provide a comprehensive and transparent list of civil servants (and their substitutes) responsible for the direct carrying out of activities and tasks in the implementation of the Strategy and the Action Plan. The names of servants and persons responsible for the coordination of specific measures and activities may be inscribed in the Action Plan, in order for the responsibility to become even clearer.

For the needs of monitoring and success assessment, it is necessary to adopt an appropriate act (document) for monitoring, reporting and evaluation civil servants shall be obliged to comply with. In accordance with this document, the responsible civil servants would collect data and report to the relevant authorities and superiors.