

REPORT ON THE PFM REFORM IN 2017 AND 2018:

# THE OTHER SIDE OF THE COIN

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НАЦИОНАЛНА БИБЛИОТЕКА ЦРНЕ ГОРЕ, ЦЕТИЊЕ

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# EXECUTIVE SUMMARY

According to the official Government reports on the implementation of the Public Finance Management (PFM) Reform Programme, **one-third of the planned activities** were implemented in 2017 and 2018. However, the reports do not always explain the figures provided for some of the performance indicators; this Report, therefore, cross-refers the official data and covers some of the less studied aspects of the PFM reform.

The Government of Montenegro **did not comply with the budget planning timeline**, and the quality of the spending units' requests for budget allocations, which we had analysed, is not satisfactory. Out of the 19 such requests for 2018 that we covered by our review, 10 did not include any explanatory notes concerning the requested funds. Although the Ministry of Finance (MoF) produces monthly, quarterly, bi-annual and annual reports on budget execution, in-year reporting is deprived from detailed breakdown of expenditure per institutions, key functions and programmes. The MoF did not use the statutory possibilities to organise public discussions on the budget.

The improvement of programme budget development is lagging behind. The 2019 Budget Law does not include the set of indicators for the specific number of budgetary programmes, which should have constituted the first step towards establishing programme budgeting. Project, which was supposed to bring about improved programme budgeting started implementing in late 2018. **However, initial progress was made with regard to the cost estimates of strategic documents.** Comparing to less than 20 per cent of strategies, adopted in 2017, which contained the overall estimate of financial means for their implementation, in 2018 this percentage increased to 46% of new strategies providing the overall financial estimate. Still, most of the challenges remain in providing precise cost estimates for implementation of all activities envisaged by strategic documents.

In addition to the selective and insufficient reporting on the execution of the overall budget, the Capital Budget transparency was at a particularly low level. Key information on the cash flows in the construction of the Bar-Boljare highway **were hidden from the public**. On principle, the introduction of **tax and trade secrets** as the grounds for restricting access to information set back the transparency of public finance.

The harmonisation of the public procurement procedures with the EU regulations **was undermined** by the 2017 amendments to the Public Procurement Law. The Government showcased as a major success the increase in the tax and customs revenues. However, the State Audit Institution established that the tax arrears records in early 2017 were inaccurate and underestimated the total amount by more than €15 million.

*The **e-registry of state property** has not been established to date. The results of the State Property Inspectorate were insufficient: during 2017 and in the first half of 2018, only 32 inspections were carried out, i.e. approximately 10 per inspector. The inspections, although infrequent, point to the alarming situation of some immovable property.*

*The legal framework for managerial accountability and internal financial controls was **partly improved**. The Law on management and internal financial controls in public sector was adopted and it entered into force in November 2018. This Law more clearly defines accountability of the heads of spending units and of persons exercising delegated authority. Still, **ministers are reluctant to delegate the powers to manage funds**. Only two ministries provided decisions delegating some powers to the heads of the authorities subordinate to them.*

*The **State Audit Institution** adopted its new Strategic Development Plan, Guidelines for the Final Budget Account audit and Guidelines for assessing the application of the fiscal responsibility criteria. The Strategic Development Plan, however, lacks measurable objectives and performance indicators. Our review showed a relatively low share of public administration authorities covered by the audits in 2017 and 2018.*

*The key steps forward in the implementation of the Reform Programme materialised with regard to the preparatory activities, mainly improvements to the regulatory and strategic frameworks. Public finance transparency was not improved, while the delayed introduction of program budgeting delayed also the possibility of monitoring the effectiveness of public spending. The recommendations included in this report provide a more detailed overview of the possible avenues for improvement based on the findings pertaining to specific areas.*



# INTRODUCTION

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PFM reform is one of the umbrella processes intended to transform our public administration, help effective spending which would maximise the value-for-money, but also indirectly aid in the fight against corruption, as the areas most susceptible to corruption tend to be the ones where public funding intersects with private interests. The reform, as the backbone of good governance, is one of the key pillars of Montenegro's accession to the European Union (EU). The importance assigned to it in the EU membership negotiations is illustrated by the fact that the financial agreements for implementing projects under the Instrument for Pre-accession Assistance (IPA) single out PFM reform, budget transparency and budget oversight as the prerequisites for financial assistance.<sup>1</sup>

The key Government strategic document in this area is the 2016-2020 PFM Reform Programme,<sup>2</sup> which identifies the following five key reform areas:

- **Sustainable fiscal framework, public expenditures planning and budgeting:** the key objectives and activities in this area refer to facilitation of the introduction of programme budgeting and medium-term budget planning, improved Capital Budget planning and transparency;
- **Budget execution:** the key objectives and activities include improved revenue management (in particular tax and customs revenues), state aid control, establishment of an efficient, transparent and competitive public procurement system, and better monitoring of and reporting on general government debt;
- **Development of public internal financial control:** the emphasis is on strengthening managerial accountability through delegation of powers and strengthening the internal audit capacities;
- **Financial reporting and accounting:** this area concerns harmonisation of the national accounting standards and reporting with the international practice, as well as establishment of the e-registry of state property;
- **Strengthening the capacities of external audit:** implies building the capacities of the State Audit Institution and the Audit Authority.

The Government has published three reports on the implementation of the Reform Programme to date.<sup>3</sup> This Report aims to provide an independent review of the achievement of the key objectives,

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1 Briefing on the Proposed Financial Agreement between the Government of Montenegro and the European Commission on the Annual Action Programme for Montenegro for 2017 – Part 2, Proposed Financial Agreement, available at: [http://www.gov.me/sjednice\\_Government\\_2016/57](http://www.gov.me/sjednice_Government_2016/57) (accessed on 31 Jan 2018).

2 The Reform Programme was adopted in December 2015, and updated in 2017 and 2018. Different versions of the documents are available at the MoF webpage under "Strategic Documents" - <https://bit.ly/2RUoFKd> (accessed on 7 Dec 2018).

3 Available at: <https://bit.ly/2RUoFKd> (accessed on 7 Dec 2018).

shed light on the activities that, although originally not envisaged, impacted the implementation of the reform, and cross-refer the official reports on the progress of the reform.

When selecting the key indicators and activities to focus on in monitoring the reform, we were guided by the following criteria:

- **Availability of data** for a detailed analysis of the achievement of specific objectives, in particular with regard to the indicators unaccompanied by proper explanatory notes in the reports;
- **Assessment of the impact of some activities and indicators on the overall reform result** (in other words, we did not cover the activities primarily intended to strengthen the institutions' internal capacities, such as training, although these were important as **preparation** for the achievement of some results);
- **Our own expertise in the given areas.**

The necessary data were obtained through a desk review of the Reform Programme and the official reports on its implementation, regulations, secondary legislation and performance reports, two in-depth interviews and additional 50 applications for access to information submitted in order to obtain data that were otherwise not publicly available but were of relevance for assessing the progress under this reform. Also, the draft report has been presented to all key stakeholders at the meeting on 15 February 2019. During and after the meeting, we have obtained comments from the Ministry of Finance, Secretariat General of the Government, State Audit Institution and Public Works Administration, which also served for further enhancement of the report and for data validation.

In the course of the research we faced some limitations, resulting from the imprecise official reporting on various aspects of the reform, incomplete responses to the applications for access to information<sup>4</sup> and silence of administration. The Report covers 2017 and 2018, with the data available from the official reports of the responsible institutions mainly referring to 2017, and the indicators for the specific activities and decision-making of relevance for the PFM reform referring to both years.

The Report is divided into six key sections; with some exceptions, these largely match the key PFM reform areas. **Section I** provides an overview of the official reporting on the reform and the areas

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4 The Ministry of Finance did not respond to the application asking for all of the requests for budgetary funds that it received from the first-level spending units in the course of planning the 2018 budget. The deadline for deciding on the application expired in late July 2018. The MoF did not respond to the application asking for the list of capital projects for 2018 and 2019, which was sent on 19 Nov 2018. The MoF responded to the application asking to be provided a copy of the Feasibility Study on Electronic Fiscal Invoicing under the Revenue Administration Reform Project, which supported the feasibility of the project, by stating that it did not have the information in question, and that it forwarded the application to the World Bank Office in Podgorica, which, according to the MoF was responsible for the specific administrative matter, although the Law on Free Access to Information obliges only the government authorities. The Ministry of Agriculture and Rural Development, Ministry of Labour and Social Welfare and Ministry of Sport granted access to the requests for budget funds that they had delivered to the MoF in the course of planning the 2018 budget. However, the ministries delivered incomplete files, as they delivered, instead of the completed requests for allocation budgetary funds, only the document that is attached to such requests when they are delivered to the MoF.



with the most or least formally implemented activities. **Section II** focuses on budget planning and sustainability, primarily addressing the compliance with the budget development procedures, reporting on budget execution as the foundation for improved planning, effective involvement of MPs in budget development, but also the opportunities (or lack thereof) for involving citizens in the budgetary cycles. We review the contents of the requests for allocation of budgetary funds. Given the novelty of the legal framework for harmonised strategic planning in Montenegro, which should indirectly contribute to a more sustainable medium-term planning of budget spending, we provide a more detailed overview of the initial stage of the strategic planning reform. **Section III** addresses the transparency of capital spending, including an analysis of the reports of the Transport Directorate and the Public Works Directorate, and availability of data on the biggest capital project, the Bar-Boljare highway. **Section IV** addresses selected aspects of budget execution – regulation and implementation of public procurement procedures and revenue collection, illustrated by the tax arrears data management. **Section V** addresses managerial accountability as the concept which, through clearly delineated responsibilities and delegation of powers, should facilitate more autonomous management of public funds within their organisational units. **Section VI** reviews the performance of external audit through the analysis of available audit reports. At the end of the report, we outline the further steps required for more tangible results under the PFM reform in the coming period.

# GENERAL OVERVIEW OF THE REFORM IMPLEMENTATION: **ONE-THIRD OF ACTIVITIES IMPLEMENTED?**

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*According to the official reports, the area with the most activities implemented was PIFC system development, while the one with the fewest activities implemented was that of budget execution. Still, both in 2017 and 2018, **more than 60% of the planned activities did not get implemented**. The main official explanation of the low degree of implementation was the delayed implementation of donor technical assistance projects. Given the initial plans included in the early versions of the Reform Programme, the areas with most delays were programme budgeting improvement and Capital Budget presentation, as well as the e-registry of state property.*

The implementation of the Reform Programme in 2017 and 2018 was marked by a relatively low degree of implementation, which reached one-third of the total number of planned activities. According to the official MoF reports, 39% of the total number of 51 activities was implemented in 2017 as envisaged<sup>5</sup>, while 31% of the total number of 38 considered activities was implemented over the nine months of 2018.<sup>6</sup>

The key official explanation of the delays in implementation was the standstill in the implementation of the EU projects supported through the Instrument for Pre-accession Assistance (IPA). Seven key projects related to e-procurement, tax and customs administration, state audit and Audit Authority and overall strengthening of economic governance and public finance had objectives

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5 Ministry of Finance, *Annual Report on implementation of the Action Plan for Implementation of the 2016-2020 PFM Reform Programme, for the period January - December 2017*, February 2018, available at: <https://bit.ly/2RUoFKd> (accessed on 7 May 2018).

6 Ministry of Finance, *Report on implementation of the Action Plan for Implementation of the 2016-2020 PFM Reform Programme, for the period January – September 2018*, October 2018, available at: [http://www.mif.gov.me/biblioteka/strateska\\_dokumenta](http://www.mif.gov.me/biblioteka/strateska_dokumenta) (accessed on 22 Nov 2018).

which were linked to the meeting of the Reform Programme indicators. Implementation of five projects commenced during the period covered by this Report, but the contracts for most of them were signed in late 2018.<sup>7</sup>

**The best implementation rate in 2017 and 2018 was achieved in the field of PIFC development** (86% and 67% of activities, respectively), while **the worst one was recorded in the field of budget execution** (31% and 32%, respectively). It should, however, be kept in mind that most of the activities implemented to strengthen the PIFC system referred to accountant training and certification. Generally, **one-fifth** (9 out of 41) **of the updated passport indicators** for monitoring the implementation of the Reform Programme referred to organisation of training and numbers of civil servants trained, without addressing the quality of such training and its impact on the improvements in these areas.<sup>8</sup>

The official reports provide data concerning some indicators, but often do not cite the sources of such data. The presented achievements of objectives or indicators are not always accompanied by explanatory notes; some activities and indicators are often presented as partially implemented, without allowing for verification of such statements. These are mainly the activities related to drafting of documents, action plans and manuals. Since these activities remain pending, the status of their implementation cannot be properly assessed.

If we consider the status of implementation of activities against the plans contained in the **earlier** versions of the Reform Programme from 2016 and 2017, and if we consider the timelines for implementation relevant for the period covered by this report (namely 2017 and 2018), we arrive at the conclusion that the biggest delays occurred in the following activities:

- Establishment of e-registry of state property and delivery of relevant training on its use;
- Drafting of a detailed work plan to implement programme budgeting, including the accompanying plan of activities and development of a manual on programme budgeting;
- Revision of the existing programme-based budget breakdown in order to identify the necessary changes by inserting/deleting programmes or sub-programmes;
- Defining the mission, objectives and description of budget programmes and sub-programmes;
- Improving the overview of Capital Budget projects through detailed presentation of individual projects by project and by economic classification;

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<sup>7</sup> The implementation of the following projects commenced: *Development and Strengthening of State Audit Institution and Audit Authority, Improvement and Strengthening of the Institutional and Legal Framework in the Field of State Aid and Public Procurement, Implementation of the e-procurement system, Support to PFM policies and Support to Tax Administration*. The implementation of the following ones is still expected - IPA 2014 Multi-beneficiary Project *Strengthening economic management and PFM* with the EU-funded budget of €8 million, and IPA 2014 project *Support to Customs Administration* with the overall budget of €3,300,000.

<sup>8</sup> Ministry of Finance, *Passport Indicators for the 2016-2020 PFM Reform Programme*, available at: <https://bit.ly/2RUoFKd>

- Improved overview of capital projects by means of distinguishing between the new ones and the ongoing ones;
- Establishment of the e-procurement system.

Delays in most of these activities are caused by the dynamics of contracting and implementation of projects finances through the Instrument for Pre-Accession Assistance (IPA) (Improvement of Budgeting System, multi-annual budget planning and Public Internal Financial Control, Implementation of the E-Procurement system).

The key implemented activities – though with significant delays in some cases – included the following:

- Drafting of the methodology for development of strategic documents, including setting the minimum requirements related to the contents of sector-specific strategies;
- Designing the institutional and regulatory framework for strategic planning across public administration,
- Adoption of the new/updated Decision on the method and contents of programme budget,
- Adoption of the new/updated Decision on the Capital Budget,
- Re-organisation of the Division for debt management, debt analysis, cash management and international cooperation into a front office and a back office;
- Implementation of the new software tool for public debt and cash management;
- Improved macroeconomic projections model;
- Training of public procurement officers and civil servants carrying out internal financial controls;
- Drafting of the Guidelines for the Final Budget Account audit and Guidelines for assessment of the fiscal responsibility criteria, by the State Audit Institution.

The importance of some of the activities that were formally implemented, if we were to consider the initial structure of the Reform Programme, was undermined in the meantime. In other words, the activities implemented outside the scope of this strategic document resulted in diminished importance of some of the originally planned activities. Thus, the analysis, assessing the degree of harmonisation of the 2014 amendments to the Public Procurement Law with the EU legislation, although formally drafted, was rendered meaningless by the 2017 amendments to the same Law, which had never been planned under the strategic framework. It is precisely due to the fact that the implementation of the Reform Programme is not taking place in isolation from the context, but is rather impacted by a number of factors and players, not necessarily recognised as key implementers under the reform, that we will strive to provide below an overview of the actual situation in the selected areas of public finance.

# BUDGET PLANNING

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*This section focuses on the application of the general procedures for the preparation and contents of the requests for budget allocations, submitted to the MoF by the spending units. It also addresses the interdependent issues of programme budgeting rollout and strategic planning reform.*

*There were **delays** in approving the core budget-related documents in both 2017 and 2018; that in turn affected the overall quality of the budget planning process. Most of the reviewed requests for allocation of budget funds did not contain sufficient information. Ten out of the 19 ones reviewed did not include any explanatory notes as to the requested amounts.*

*Despite the **initial steps** forward in strategic planning and guidance in drafting cost estimates of strategies, **no substantial progress** was made with regard to the programmatic structure of the budget, as the budget programmes continued to exist in name only, but were not accompanied by narrative descriptions, missions and objectives.*

## ▪ BREACHED TIMELINES; EXCLUDED CITIZENS

The events that affected the quality of the budget planning process during the reporting period cannot be considered in isolation from the strategic objectives and indicators pertaining to the process. The Macroeconomic and fiscal policy guidelines, which set the spending ceiling for the next budget year,<sup>9</sup> were adopted with **considerable delays** in both 2017<sup>10</sup> and 2018<sup>11</sup>; they were adopted as late as July, although the Law requires them to be adopted by the end of April of the current year. This delay has been caused by the delay in adoption of the 2018-2021 Fiscal Strategy, which is adopted by the Parliament at the proposal of the Government and remains valid throughout the Government's mandate. Consequently, the deadlines for preparation of the budget requests for the upcoming years, due to be submitted by spending units until the end of July, had been delayed. Apart from the Fiscal Strategy, the 2017-2020 Plan of sanation of budget deficit and public debt as well as Economic Reforms Programme have been adopted in the reporting period. They also contain the overview of strategic aims and directions for mid-term budget planning.

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<sup>9</sup> Macroeconomic and Fiscal Policy Guidelines are issued annually for a three-year period and include: economic and fiscal policy medium-term strategic objectives; basic macroeconomic and fiscal indicators and projections; spending ceilings; gross wage bill and other personal income; pension and disability insurance expenditures and other social welfare benefits. See: Article 18, Law on Budget and Fiscal Responsibility, (Official Gazette of Montenegro 020/14 of 25 April 2014, 056/14 of 24 Dec 2014, 070/17 of 27 Oct 2017, 004/18 of 26 Jan 2018, 055/18 of 01 Aug 2018).

<sup>10</sup> <https://bit.ly/2G8rqAm>

<sup>11</sup> <https://bit.ly/2B9YIM8>

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During 2018, the Government also worked on the new Law on State Administration. It introduced a drastic re-organisation, primarily by eliminating the category of subordinate authorities within ministries.<sup>12</sup> According to the MoF, the new organisation of administration caused the delay in the discussion on the Proposal of the 2019 Budget Law in the Parliament of Montenegro.<sup>13</sup> The Government was supposed to approve and deliver the Proposal of the Law to the Parliament by 15 November. Instead, it was discussed at the Government meeting held on 6 December 2018.

In November 2017, the Government had approved the Proposal of the Law Amending the Law on State Administration without prior public discussion, with the intention to practically ban any public deliberation on the annual budget law.<sup>14</sup> Following the amendment tabled in the Parliament, the provision in question was amended, eliminating the authorities' obligation to hold public consultations on the national budget but not forbidding discussions on the matter per se. The same provision was retained in the Law on State Administration which was adopted in 2018.<sup>15</sup> The budget calendar, as defined in the Law on Budget and Fiscal Responsibility, did not envisage any time for any form of public consultations on the draft annual budget law. For both years, the MoF took the advantage of that flexibility granted by the legal framework and organised no public consultations on the draft Budget Law.

The citizens were thus completely excluded from the budget planning process, given the absence of any formal preconditions for their participation. In 2017 and 2018, the MoF published monthly and quarterly budget execution reports only in the format of Excel sheets, which were not user-friendly from the perspective of citizens and the general public. The reports were published along with the statements that did not clearly indicate the contents of the sheets, affecting their accessibility.<sup>16</sup> In addition, the format of the report did not include the budget execution data broken down by individual spending units (organisational classification), programmes or key functions (programmatic and functional classification); instead, it provided **aggregate revenues and expenditures** following the economic classification. The sheets do not provide sufficient analytical basis for adequate budget scrutiny by external entities, citizens and MPs, in particular since there is no mandatory biannual reporting on budget execution, nor obligation to deliver the budget execution reports to the Parliament for consideration.

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<sup>12</sup> Law on State Administration, Official Gazette of Montenegro 078/18 of 04 Dec 2018.

<sup>13</sup> <https://bit.ly/2G7WMqO>

<sup>14</sup> Proposal for the Law amending the Law on State Administration, item 2, 50th meeting of the Government of Montenegro, available at: [http://www.gov.me/sjednica\\_Government\\_2016/50](http://www.gov.me/sjednica_Government_2016/50) (accessed on 11.12.2017)

<sup>15</sup> Law on State Administration, Official Gazette of the Republic of Montenegro 038/03 of 27 June 2003, Official Gazette of Montenegro 022/08 of 02 April 2008, 042/11 of 15 Aug 2011, 054/16 of 15 Aug 2016, 013/18 of 28 Feb 2018.

<sup>16</sup> Brief statements and budget execution sheets for 2018 and 2017 available at <https://bit.ly/2UsNhqd>, <https://bit.ly/2ScLDeW>, <https://bit.ly/2GgFgRB>, <https://bit.ly/2HG0wCw> (accessed on 17 Dec 2018)



## ▪ ANALYSIS OF THE REQUESTS FOR ALLOCATION OF BUDGET FUNDS: NO EXPLANATORY NOTES OR EXPECTED IMPACT

According to the Law on Budget and Fiscal Responsibility, during the stage of budget development, the spending units deliver to the MoF their requests for allocation of budget funds.<sup>17</sup> The requests need to include the following: 1) current – programme budget; 2) financing transactions; 3) Capital Budget; 4) state funds' budgets; 5) estimate of expenditures as per economic, functional, programmatic, project and organisational classifications; 6) sources of funding; 7) explanatory notes accompanying the estimated expenditures and funding sources.

One of the key passport indicators for the Reform Programme reads as follows: "Share of first-level spending units that provide comprehensive information with their annual budget requests". In the Report on the Reform Programme implementation in 2017, the MoF stated that 70 per cent of the first-level spending units had provided comprehensive information about the expected impacts of spending the requested funds. However, no additional explanation was provided in support of the figure provided for this indicator.

**TEN OUT OF THE TOTAL OF  
NINETEEN REQUESTS REVIEWED  
DID NOT INCLUDE ANY RATIONALE  
AS TO THE AMOUNTS OF FUNDS  
REQUESTED.**

In order to assess the actual situation, the Institute Alternative asked the first-level spending units, including all of the ministries, the judiciary, the Prosecution Service, Parliamentary staff, President's Office staff, Health Insurance Fund and Pension Insurance Fund, to share their requests for allocation of 2018 budget funds. Nineteen responses arrived, out of the total of 24 requested.<sup>18</sup> Detailed analysis of the requests shared showed that most of these spending units did not present sufficient information, as required by the Law on Budget and Fiscal Responsibility and the relevant forms.<sup>19</sup>

With the caveat that we did not address the substance of individual units' finance, nor we were able to assess the substance of additional negotiations between MoF and spending units, but only the extent to which their requests for funding were supported by explanations, **the requests submitted by the Ministry of Health and the Ministry of Science stood out in scope.** The two ministries delivered separate requests for their respective current and prospective activities, along with explanatory notes. The Ministry of Health, for instance, included a new activity related to

<sup>17</sup> Article 30, Law on Budget and Fiscal Responsibility (Official Gazette of Montenegro 020/14 of 25 April 2014, 056/14 of 24 Dec 2014, 070/17 of 27 Oct 2017, 004/18 of 26 Jan 2018, 055/18 of 01 Aug 2018).

<sup>18</sup> Ministry of Sustainable Development and Tourism, Ministry of Interior, Ministry of Foreign Affairs, President of Montenegro, Ministry of Culture, Parliament of Montenegro, Health Insurance Fund, Ministry of Science, Judicial Council, Prosecutorial Council, Pension and Disability Insurance Fund, Ministry of Public Administration, Ministry of Human and Minority Rights, Ministry of Justice, Ministry of Education, Ministry of Transport and Maritime, Ministry of Health, Ministry of Defence

<sup>19</sup> The form of the request includes the following: instructions for completion; general information on the spending unit and programme, activities and legal framework; information on the funds required for current activities; summary table with a detailed breakdown of budget lines, and two separate tables for the current and forthcoming activities; breakdown of wages; special rationale for the forthcoming and current activities, and overview of multi-year commitments.

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resolving personnel housing issues, under “Administration” programme, in line with the Government Conclusion of 20 July 2017; under “Development, economic sustainability and better quality of health care”, the same Ministry described the new expenditures arising from the amendments to the Law on Health Care and concerning the fees for the examination boards for medical professionals with university education, college-level and secondary education.

**The Ministry of Science, Ministry of Education and the Government General Secretariat (GGS)** were the only spending units from the group reviewed to have stated **problems with funding**, although most of the units asked for amounts significantly higher than the appropriations for the preceding year. Neither the instructions nor the template request for budget allocation included any information on the expected impact of funding a specific activity, suggesting a lack of formal obligation on the part of the authorities to present expected impacts in their official requests. **As many as ten spending units** (Ministry of Transport and Maritime Affairs, Ministry of Sustainable Development and Tourism, Ministry of Justice, Pension and Disability Insurance Fund, Prosecutorial Council, Ministry of Public Administration, Office of the President of Montenegro, Ministry of Interior, Parliament of Montenegro, Ministry of Defence) **provided no explanatory notes along with their requests.**

#### ▪ PROGRAMME BUDGETING: “PROGRAMMES” IN NAME, BUT WITHOUT OBJECTIVES

Programme budgeting implies budget classification based on the set objectives in the particular policy areas. Its purpose is organising the budget lines according to the spending objectives for the specific area: for instance, better service delivery, application of laws etc.<sup>20</sup> The Law on Budget and Fiscal Responsibility defines programme budgeting as:

*the part of the annual budget law that includes tasks and activities of individual spending units, which are undertaken for the purpose of efficient funds management according to proposed programmes and sub-programmes, which contribute to the accomplishment of strategic objectives in accordance with the economic policy of the State.*<sup>21</sup>

The MoF stated that, at the time when the Reform Programme implementation commenced in Montenegro, programme budgeting was at Level 1, which implies “a developed programmatic structure concerning definitions of programme titles of all spending units”, with upgrades envisaged with regard to defining the sets of indicators for the specific programmes (Level 2, by 2019), i.e. defining the set of indicators for all of the programmes in order to monitor the achievement of objectives (Level 3, by 2020).<sup>22</sup>

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20 OECD Journal on Budgeting, Volume 7 Issue 4. *Programme Budgeting in OECD countries* DOI: <https://bit.ly/2DJsfyg>

21 Article 2, item 4, Law on Budget and Fiscal Responsibility, Official Gazette of Montenegro 020/14 of 25 April 2014, 056/14 of 24 Dec 2014, 070/17 of 27 Oct 2017, 004/18 of 26 Jan 2018, 055/18 of 01 Aug 2018.

22 Ministry of Finance, *Passport Indicators for the 2016-2020 PFM Reform Programme*, available at: <https://bit.ly/2RUoFKd> (accessed on 7 Dec 2018)

Thus, the plan for 2019 included establishment of the initial set of indicators for a specific number of programmes, similar to a programme budgeting pilot in Montenegro. However, **the 2019 Budget Law retained the “programmatically classification”, which included merely a categorisation by different programme titles.**<sup>23</sup> Further development of programme budgeting depends on the dynamics of the project “Improvement of Budgeting System, multi-annual budget planning and Public Internal Financial Control”. The project’s kick-off meeting was held in December 2018. It aims, among other things, to establish programme budgeting and enhance institutional capacities for multi-annual budget planning, programme and capital budgeting.<sup>24</sup>

*THE GOVERNMENT PASSED ITS FIRST MEDIUM-TERM WORK PROGRAMME IN JANUARY 2018. COUPLED WITH THE ADOPTION OF THE METHODOLOGY FOR MEDIUM-TERM PLANNING OF THE WORK OF THE MINISTRIES AND ESTABLISHMENT OF THE LEGAL BASIS FOR HARMONISATION OF STRATEGIES, THIS IS THE BACKBONE OF THE STRATEGIC PLANNING REFORM, ALSO FACILITATING THE INTRODUCTION OF PROGRAMME BUDGETING IN MONTENEGRO.*

## ▪ INITIAL STAGE OF THE STRATEGIC PLANNING REFORM

**The other side of programme budgeting is improved administrative authorities’ strategic planning.** Budgets broken down by programme are impossible to put together without existence of clear strategic objectives in the specific areas, i.e. it is not possible to define the performance indicators that spending per each programme is supposed to help achieve. It is precisely for this reason that we provide here, in the section on improved programmatic budget classification, of the comprehensive strategic planning reform in Montenegro. The reform includes three aspects, intended to contribute directly to better budget planning: development of the Government medium-term work planning, performance-based medium-term programming of the work of the ministries, and improved financial impact assessments of the strategic activities.

In January 2018, the Government passed its 2018-2020 Medium-term Work Programme.<sup>25</sup> The Programme represents a step forward, as it defines for the first time the key priorities of the work of the Government<sup>26</sup>, specific objectives and obligations attached to them, as well as the relevant performance indicators. The obligations and indicators, however, are not always precise. For instance, adoption of a strategy is envisaged in order to meet the obligation of developing alternative dispute

<sup>23</sup> Government of Montenegro, Proposal for the 2019 Budget Law, available at: <https://bit.ly/2DGF24c> (accessed on 10 Dec 2018)

<sup>24</sup> <http://www.mrt.gov.me/pretraga/194655/Odrzan-pocetni-sastanak-za-projekat-Unapredenje-budžetskog-sistema-visegodisnjeg-budžetskog-planiranja-i-sistema-javne-finansijs.html>

<sup>25</sup> *Government of Montenegro Medium-term Work Programme for 2018-2020*, Commission for development and monitoring of the Government Medium-term Work Programme, January 2018.

<sup>26</sup> The six key priorities are as follows: Montenegro – the country of economic development and new jobs; Montenegro – the country of rule of law and good governance; Montenegro – the country encouraging the development of science, education and culture for better economic growth; Montenegro – the country of successful infrastructure project; Montenegro – the country taking care of the health and well-being of its citizens and healthy environment; Montenegro – the country with a strong international position

resolution; the extent of the strategy's implementation, however, is not envisaged. The indicators attached to some of the obligations state "putting in place the precondition", without specifying either the preconditions or what they should contribute to. Such imprecision affected the quality of the first Report on the Implementation of the Medium-term Government Work Programme.<sup>27</sup> Some of the passages of the report are descriptive, failing to support the assessments of the achievement of performance indicators. For example, with regard to the priority, which refers to the rule of law and good governance, it is stated that the level of trust in the work of the police is on the rise, as well as the number of citizens who feel safe, but no sources are cited and no specific percentages provided.

In addition, the Annual Government Work Programme for 2018 followed the typical model and served mainly as an overview of legislative activity, a list of the laws and secondary legislation expected to be approved during the year, with no accompanying indicators.<sup>28</sup> As a result, **the medium-term objectives and priorities of the Government are currently not linked to the programmes from the Budget Law**, which should also be addressed by the project "Improvement of Budgeting System, multi-annual budget planning and Public Internal Financial Control". Furthermore, as of 2020, Montenegrin decision-makers will be required to include the projections for the coming two years in the annual budget laws, rather than include them only in the Macroeconomic and Fiscal Policy Guidelines. Though they set the binding ceilings for the three-year spending, the Guidelines are not being sufficiently complied with. Namely, although the amendments to the Law on Budget and Fiscal Responsibility from 2017 envisaged inclusion of medium-term projections in the Budget Law as of 2019, the 2018 amendments postponed this for 2020. The request for postponement

claimed that the software solution used for budget planning was not capable of supporting three-year planning and also referred to the timeline for drafting the 2019 Budget Law.<sup>29</sup>

Presentation of information on the impacts of specific budget programmes in the Budget Law and the three-year programme budgeting are also envisaged as of 2020. Within the strategic planning reform and preparations for full-scale programme budgeting rollout, in October 2018 the **Government approved the Methodology for medium-term planning of the work of the ministries**.<sup>30</sup> The Methodology identifies, inter alia, the principle of harmonisation between the medium-term work programmes and the key plans and strategic documents, including the Fiscal Strategy, as the key projection of public finance trends during Government term of office

"THE MAIN PURPOSE OF INCLUDING THE BUDGET INFORMATION IN THE WORK PROGRAMMES (OF THE MINISTRIES) IS TO PROVIDE TO THE HEADS OF UNITS A CLEAR PICTURE OF THE EXPENDITURE OF THE BUDGET THEIR UNIT IS RESPONSIBLE FOR".

-METHODOLOGY FOR MEDIUM-TERM PLANNING OF THE WORK OF THE MINISTRIES

27 Government of Montenegro, *Report on implementation of the Government Medium-term Work Programme for 2018 - 2020, for the period February-July 2018*, July 2018, available at: <https://bit.ly/2MEUmRJ> (accessed on 20 Nov 2018).

28 Government of Montenegro, *Government Work Programme for 2018*, February 2018, available at: <https://bit.ly/2HC24xj> (accessed on 20 Nov 2018).

29 Government of Montenegro, *Proposal for the Law amending the Law on Budget and Fiscal Responsibility with an accompanying Rationale (adopted)*, July 2018, available at: <https://bit.ly/2RZfCaK> (accessed on 17 Dec 2018).

30 Government of Montenegro, *Methodology for medium-term planning of the work of ministries*, October 2018.

and the basis for the development of the binding Macroeconomic and Fiscal Policy Guidelines. The document specifies the contents of the ministry work programmes for the first year, including the performance indicators, which are specified to detail. It suggests specifying the link between the programmes and the medium-term programme budget, in terms of stating information on the activities required for achievement of concrete objectives, and the need to include also the costs of such activities. The Methodology reads as follows: “The main purpose of including the budget information in the work programmes is to provide to the heads of units a clear picture of the expenditure of the budget their unit is responsible for”. However, **the impacts of its implementation are still impossible to assess**, as it is to be applied for the first time to programme the work of three ministers in 2019.<sup>31</sup>

## ▪ THE FIRST COST ESTIMATES OF STRATEGIES

In July 2018, the Government adopted the Decree on the method and procedure of development, harmonisation and monitoring of strategic documents, based on the amendments to the Law on State Administration from December 2017.<sup>32</sup> Before that, Montenegro had had no legal framework regulating the method of adoption and implementation of strategies. The Decree prescribes obligatory sections of each strategy, monitoring and reporting on their implementation, and planning of financial means required for implementation of activities.

The issue is of particular importance, given that there had been no financial planning of strategies in Montenegro. There had been cases of failed implementation of activities due to the lack of funds.<sup>33</sup> The Decree especially required from the action plans to have cost estimates.<sup>34</sup>

Financial impact assessments are elaborated to more detail in a specific methodology, which was developed in support of the implementation of the Decree.<sup>35</sup> The Methodology includes a Guide for monitoring the financial impact assessment of strategies, which covers the following questions:

- Does the strategic document include the overview of the total funds to be used during the period covered by the strategic document?

31 The Methodology will be piloted during the development of the 2019 Work Programmes of the Ministry of Economy, Ministry of Sustainable Development and Tourism and Ministry of Agriculture and Rural Development. All ministries and the Government are to implement it as of 2020. See: Ministry of Finance, Report on implementation of Action Plan for Implementation of the 2016-2020 PFM Reform Programme, for the period January – September 2018, October 2018, available at: <https://bit.ly/2RUoFKd> (accessed on 22 Nov 2018).

32 The Decree on the manner and procedure of preparation, harmonization and monitoring of implementation of strategic documents, Official Gazette of Montenegro, No. 54/2018 as of 31 July 2018.

33 See: Action Plan for Implementation of the Strategy for Development of Police Directorate for 2018; Report on Implementation of the Action Plan for Implementation of the Strategy for Improved Road Safety (2010-2019) for 2014.

34 Decree on the manner and procedure of preparing, harmonizing and monitoring of implementation of the strategic documents, Official Gazette of Montenegro, No. 54/2018 as of 31 July 2018.

35 Government General Secretariat, *Methodology for policy making, development and monitoring of implementation of strategic documents*, September 2018.

- Have the funding amounts been envisaged for each objective i.e. activity included in the strategic document?
- Have the sources of funding been presented?
- Does the strategic document include information as to whether the envisaged funds have been approved or not?

The Guide for the implementation of the Decree is the basis for better financial planning in Montenegro. However, since the Decree came into force only in August 2018, the impact of its implementation on the quality of the cost estimates in the strategies cannot be assessed. According to the data submitted by the Secretariat General of the Government, which is tasked with issuing opinions regarding strategic documents, since the start of the implementation of the Decree until the end of 2018, a total of 32 opinions has been issued regarding the draft versions of strategic documents, and additional 27 regarding the proposals of strategic documents, which fall under the direct scope of competences of this institution. The full procedure entails that the Secretariat issues opinions regarding both drafts and proposals of strategic documents, which are classified as **strategies** (public policy documents outlining strategic and operational aims in one or several socio-economic areas, **programmes** (documents of a narrower scope, elaborating ways of problem solving in a particular public policy area), and **action plans** (which define activities for implementation of strategy or programme). Clear and precise financial construction has not been presented in 12 action plans regarding which Secretariat issued opinions. As explained by the competent staff, this is due to the difficulties in precise budgeting of regular activities and due to the uncertain potential access to the budgets of state or donors.<sup>36</sup> Strategies are primarily required to have an overall financial estimates for their implementation. Out of 16 draft strategies, Secretariat found that 12 of them did not present required financial means for their implementation. However, the proposals of most of these documents have been improved in the meantime, resulting in only one proposed strategy not containing the overall financial estimate.<sup>37</sup>

Nonetheless, as the Reform Programme even before the Decree included the indicator addressing the percentage of newly adopted mid-term sectoral strategies with financial estimates, the MoF reported that 80% of the new medium-term sector strategies out of the total number of strategies adopted in 2017 included cost estimates and potential donor funds.<sup>38</sup> Still, neither the strategies nor the method of calculating the percentage in question were specified. The percentage relied on the analysis of the Budget Directorate's data, but no details were stated concerning the data or the method of their collection.<sup>39</sup>

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<sup>36</sup> Comments of the representative of the Secretariat General of the Government to the draft version of this report.

<sup>37</sup> Ibid

<sup>38</sup> Ministry of Finance, *Annual Report on implementation of the Action Plan for Implementation of the 2016-2020 PFM Reform Programme, for the period January - December 2017*, February 2018, available at: <https://bit.ly/2RUoFKd> (accessed on 7 May 2018.)

<sup>39</sup> Ibid.



During 2017, the Government adopted 11 new sectoral strategies.<sup>40</sup> The review of these documents reveals that **only two strategies (less than 20%)**<sup>41</sup> contain the overall estimates of financial means required for their implementation. The data presented above do not match the official Government statement that 80% of the strategies adopted in 2017 included cost estimates; this additionally highlights the importance of explanations in presenting the achievement of some indicators. During 2018, the situation has improved: out of total number of 13 new strategies which were discussed at the Government, **six of them (46%)** had the estimate of required financial means.<sup>42</sup>

Challenges remain, however, regarding the precise cost estimates for implementation of individual activities envisaged by the strategic documents, although we note improvements regarding this aspect as well. Out of 43 action plans for implementation of strategies adopted in 2017, only two action plans had complete cost estimates at the level of individual activities (less than 1%), six action plans partially included this information, while 35 action plans had no cost estimates for their activities. Out of 57 action plans adopted during 2018, 16 of them (28%) had complete cost estimates for implementation of individual activities. Partial cost estimates were provided within six action plans, while 35 of them had no cost estimates at all.

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40 Internet presentation of Government of Montenegro: <https://bit.ly/2lr6SZx>

41 Strategy for Disaster Risk Reduction with the Dynamic Action Plan for Implementation of the Strategy for the period 2018-2023. and the Report from the Public Discussion, Strategy for the Prevention and Protection of Children from Violence 2017-2021 with the Proposal of the Action Plan

42 Revision of the Forestry and Forestry Development Strategy, Strategy for Improving the Enabling Environment for the Operation of Non-Governmental Organizations 2018-2020 with the Proposal of the Action Plan, Strategy for Development of Integrated Health Information System and e-Health for the period 2018-2023 with the Proposal of the Action Plan for the period 2018-2021, Human Resources Management Strategy at the Police Directorate for the period 2019-2024 with the Proposal of the Action Plan for the implementation of the Human Resources Management Strategy in the Police Directorate for the period 2019-2020, The Strategy for Inclusive Education in Montenegro (2019-2025) with the Proposal of the Action Plan, Strategy for the Protection and Improvement of Mental Health in Montenegro 2019-2023 with the Proposal of the Action Plan for the period 2019-2020.

# CAPITAL BUDGET

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*Given the importance of transparent presentation of the Capital Budget plan and execution, this issue is addressed separately through a review of this budget section in the annual laws and through an assessment of the availability of information on the implementation of capital projects.*

*No improvements took place, during the period covered by this Report, with regard to the presentation of the individual Capital Budget projects; instead, **only the programmes** - key areas that are allocated Capital Budget funds - were presented.*

*More information is contained in the reports of the Transport Directorate and Public Works Directorate. However, although they precede the Law on the Final Budget Account, these reports are not proactively published. The level of detail in the Transport Directorate report is particularly inadequate.*

*The least transparent section of the Capital Budget is the costliest one: the key information on the spending of the proceeds of the loan for the construction of the **highway**, compliance with deadlines and construction supervision are not available*

## ▪ PROJECTS NOT VISIBLE IN THE CAPITAL BUDGET

With regard to the activities related to the Capital Budget transparency, the Reform Programme identified “the level of detail in the public presentation of the Capital Budget” as the key indicator. The baseline included the presentation of the Capital Budget by programmes within a separate section of the Budget Law, with more information on individual projects in the Rationale accompanying the Law (Level 1). Upgrade to Level 2 was intended for 2019 – it implied presentation, in the Budget Law, of the individual projects implemented in the budget year and overview of the implementation of the selected pilot projects, by stages. Level 3 (in 2020) would include presentation of all of the individual projects, by stages of implementation.

However, both the proposed and the final version of the 2019 Budget Law kept the previous structure. They showed only the expenditures by programmes – areas of financing.<sup>43</sup> No details were included on the expenditures for the individual projects, except in the Rationale. As shown in the Figure 1 below, there were no essential changes in the presentation of the 2019 Capital Budget compared to the previous period, except the ones caused by the changes in the organisation of state administration.

Figure 1: Comparison between the Capital Budget sections for 2018 and 2019

Funkcionalna Klasifikacija	Ekonomska Klasifikacija	Opis	Iznos
<b>41001</b>		<b>Ministarstvo saobracaja i pomorstva</b>	<b>245.200.000,00</b>
<b>761</b>		<b>Rekonstrukcija regionalnih i magistralnih puteva u Crnoj Gori</b>	<b>23.000.000,00</b>
	<b>4</b>	<b>Izdaci</b>	<b>23.000.000,00</b>
	<b>41</b>	<b>Tekući izdaci</b>	<b>4.000.000,00</b>
	<b>414</b>	<b>Rashodi za usluge</b>	<b>500.000,00</b>
0451	4147	Konsultantske usluge, projekti i studije	500.000,00
	<b>419</b>	<b>Ostali izdaci</b>	<b>3.500.000,00</b>
0451	4199	Ostalo	3.500.000,00
	<b>44</b>	<b>Kapitalni izdaci</b>	<b>19.000.000,00</b>
	<b>441</b>	<b>Kapitalni izdaci</b>	<b>19.000.000,00</b>
0451	4411	Izdaci za infrastrukturu opšeg značaja	19.000.000,00
<b>41003</b>		<b>Uprava za saobraćaj</b>	<b>257.610.000,00</b>
<b>761</b>		<b>Rekonstrukcija regionalnih i magistralnih puteva u Crnoj Gori</b>	<b>27.300.000,00</b>
	<b>4</b>	<b>Izdaci</b>	<b>27.300.000,00</b>
	<b>41</b>	<b>Tekući izdaci</b>	<b>5.100.000,00</b>
	<b>414</b>	<b>Rashodi za usluge</b>	<b>500.000,00</b>
0451	4147	Konsultantske usluge, projekti i studije	500.000,00
	<b>419</b>	<b>Ostali izdaci</b>	<b>4.600.000,00</b>
0451	4199	Ostalo	4.600.000,00
	<b>44</b>	<b>Kapitalni izdaci</b>	<b>22.200.000,00</b>
	<b>441</b>	<b>Kapitalni izdaci</b>	<b>22.200.000,00</b>
0451	4411	Izdaci za infrastrukturu opšeg značaja	22.200.000,00

43 Reconstruction of regional and main roads; Bar-Boljare Highway; Road crossings; Repairs of bridges, landslides and slopes on the main and regional roads; Addressing the bottlenecks in the transport network of Montenegro; Main and regional roads maintenance-coating; Building and reconstruction of office space for the purposes of state authorities; Building and reconstruction and adaptation of cultural facilities; Building and reconstruction of sports facilities; Building local infrastructure; environmental protection projects; Building and reconstruction of health care facilities; Building and reconstruction of social welfare facilities; Building and reconstruction of education-and-science facilities; Enhancement of tourism offer; IPA-funded projects; State Commission for the technical inspection of the Bar-Boljare Highway; Development projects for the Old Royal Capital of Cetinje.

## ▪ INCOMPLETE DATA IN DIFFERENT REPORTS

In order to further review the current situation and capital project data management by the responsible authorities, we reviewed the contents of the Transport Directorate and Public Works Directorate reports (in December 2018 both Directorates were transformed into Administrations), the two being competent for the implementation of the majority of capital projects. Availability of information on the biggest capital project – the Bar-Boljare highway – was singled out as a case study.

The Institute Alternative obtained the two Directorates' reports for 2017 following the application for free access to information. However, the Transport Directorate's report did not cover the entire 12-month period; instead, it covered the period concluding with 10 November 2017.<sup>44</sup>

**The Transport Directorate's report** included information on the appropriations for the capital projects for the given year, as well as the sources of funding. In addition, the report included information on the programmes, appropriations for each programme, amounts intended to be spent by the end of the year, and percentages illustrating the expenditure by programme. However, **there were no percentages illustrating the execution against the planned amounts**. There were notes as to whether the project was completed or not and the scheduled completion date, but no detailed information on what specifically the projects covered or on the planned timelines. Another major shortcoming of the report was **lack of information on the implementation of the highway construction project**.

**The Public Works Directorate's reports** provided more detailed information on the individual capital projects and sources of funding. All the projects were listed, grouped by the sources of funding (general revenues, foreign government donations, loans, IPA programmes). The report included a table showing the expenditures by municipalities and by programmes, as well as a graph showing the expenditures by geographical regions. The report also stated the **problems** faced by the Directorate when implementing the Capital Budget. It included a graph showing Capital Budget execution over the preceding three years, which allowed review of the medium-term trends. The table included showed the Capital Budget amounts planned for each project, broken down into current and capital expenditures. The table also included the amounts spent per each project, which enabled **comparison between the funds spent and those originally planned for each project**.

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44 The following documents were delivered following the application for access to the copies of the Directorates' reports: Briefing on the Capital Budget Execution in 2017, as of 10 August 2017 (programmes from the purview of the Transport Directorate); Briefing on the Capital Budget Execution in 2017, as of 18 Sept 2017 (programmes from the purview of the Transport Directorate); Briefing on the implementation of the Government Conclusions No. 07-2631 of 31 August 2017, concerning the Capital Budget execution in 2017 (programmes from the purview of the Transport Directorate) of 28 Sept 2017; Briefing on the implementation of the Government Conclusions No. 07-2631 of 31 Aug 2017, concerning the Capital Budget execution in 2017 (the programmes from the remit of the Transport Directorate) of 22 Nov 2017; Briefing on the implementation fo the Government Conclusions no. 07-2631 of 31 Aug 2017, concerning the Capital Budget execution in 2017 (programmes from the purview of the Transport Directorate) of 04 Dec 2017.

The narrative part of the **report of the Public Works Directorate** provided more detailed information on the individual projects, including the implementation status. In addition, it showed commencement date, completed activities, the contents of individual stages, and detailed descriptions of the works carried out in the year in question. Most projects are accompanied by photos, documenting the implementation of entire projects or their stages. In the case of the projects implemented in stages, with activities running into the next year, such activities were specified. In case of the projects originally planned, but not implemented during the year in question, the reasons behind that were provided.

Despite certain shortcomings, the two Directorates' reports, contained a significant share of information; if published proactively, that information would enhance the transparency of capital expenditures and inform the public of the implementation of the development dimension of the budget. Still, **the projects covered in the reports accounted for only one-third of the total Capital Budget expenditures in 2017**. The biggest portion, namely more than 67%, was used for the construction of the Bar – Boljare highway.<sup>45</sup> the project that the public has least information available on.

#### ▪ **BAR-BOLJARE HIGHWAY: THE BUDGETARY UNKNOWN**

As mentioned above, the Transport Directorate's Report did not include information on the implementation of the highway construction project. The only source of data on the entire implementation of the project for the year is the Law on the Final Budget Account and a section of the Report of the Ministry of Transport and Maritime Affairs.

The Ministry's Report for 2017 included a summary overview of the key activities related to the highway construction<sup>46</sup>, while the Proposal of the Law on the Final Budget Account for 2017 included a two-page description of the payments for the purpose of the highway construction made from various budgetary positions. The state-owned company "Monteput" Ltd Podgorica has been put in charge of managing the project. However, the company's website contains only general information on the project and a photo gallery.<sup>47</sup> The company's reports, although not available on the website, are considered by the Government, together with the financial plan for the next year and the report on the execution of the financial plan for the previous year. The

ONE-THIRD OF THE TOTAL CAPITAL BUDGET IN 2017 WAS USED FOR THE CONSTRUCTION OF THE BAR-BOLJARE HIGHWAY. HOWEVER, THE KEY DETAILS ON THE PAYMENTS UNDER THE PROJECT, APPLICATION OF TAX RELIEFS OR FINDINGS OF PROJECT SUPERVISION ARE NOT AVAILABLE TO THE PUBLIC, JUSTIFIED MAINLY BE REFERRING TO **TRADE SECRET**.

45 According to the Proposal for the Law on the Final Budget Account for 2017, the amount of EUR184.92 mil was spent for the highway, while the total executed Capital Budget amounted to EUR 274.08 mil. See: Proposal for the Law on the Final Budget Account for 2017, available at: <https://bit.ly/2RZfCaK> (accessed on 4 Dec 2018)

46 Ministry of Transport and Maritime Affairs, *Report on the performance and on the status of the administrative areas in 2017*, March 2018: <https://bit.ly/2SIJDkN> (accessed on 4 Dec 2018)

47 <https://bit.ly/2GcdwNW>

data concerning the highway project are scarce and presented only in the explanatory notes to the project-related expenditures.<sup>48</sup>

As highlighted in the NGO MANS report, most of the essential information on the “cash flows” for the highway construction is not available to the public.<sup>49</sup> **The key information on the spending of the loan proceeds, compliance with the set deadlines and construction supervision are unavailable.** The Government declined MANS access to these documents, referring mainly to trade secret, as the information impacted the plans for the construction of different sections of the highway.<sup>50</sup>

The Law on the Bar-Boljare Highway prescribed a number of incentives for the companies and personnel involved in project implementation. Those include tax exemption from VAT on the goods and services intended for the construction, exemption from the Personal Income Tax and compulsory social insurance for the non-resident contractors’ personnel, exemption from customs duties on the construction material, equipment and machines used in the construction.<sup>51</sup> Responding to an MP’s question, the Minister of Finance stated that, between 2015 and 01 Dec 2018, the main contractor and 99 subcontractors had been exempt from paying €112 million in VAT and customs duties.<sup>52</sup> That, however, did not include the exemption from the PIT and compulsory social insurance for the non-resident personnel.

Though the contractor’s monthly reports to the Tax Administration were available and allowed for periodical calculations of the total amount of tax exemptions, the individual decisions on tax exemptions were not available. As of 2016, the Customs Administration stopped delivering the copies of the decisions on exemptions, without a clear explanation as to why such information had become secret. The information on PIT exemptions and exemptions from compulsory social insurance for non-residents were not available either.<sup>53</sup>

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48 *Proposed Work Plan and Financial Plan of "Monte put" LLC Podgorica for 2018 and Report on the implementation of the Financial Plan and Work Plan of "Monte put" LLC Podgorica, January 2018, available at : <https://bit.ly/2CWcVwv> (pristupljeno 12. 12. 2018)*

49 MANS, Tajni putevi novca: Izveštaj o izgradnji auto-puta, October 2018, available at: <https://bit.ly/2DJtNZ6> (accessed on 4 Dec 2018.)

50 The following categories of information are neither published nor accessible upon application for free access to information: administrative acts (consents, approvals, opinions, decisions, certificates, instructions, notifications, requests/orders); plans (work schedule and technical documentation revision plan); key reports (contractor’s reports on the progress of the works, engineer’s reports, monthly project manager’s reports, technical revision reports, non-final versions); disputes (decisions of the Dispute resolution committee and notifications of disputes initiated before it; criteria for measurement and estimate of any subsequent or unforeseen works); detailed information on the payments (investor and contractor claims, contractor payment schedule, temporary situations and application to grant them, applications for final situation), technical documentation etc. (technical texts and graphics, documentation on the as is situation, minutes from meetings, proposals of the contractor engineer, project manager and the Government).

51 *Articles 16 – 19 and 21-22, Law on the Bar – Boljare Highway, Official Gazette of Montenegro 52/2014*

52 *Dan Daily, Podizvođače oslobodili 112 miliona PDV-a i carine*, 13 Dec 2018

53 Interview with Ines Mrdovic, MANS Research Centre Coordinator, conducted in Podgorica, on 11 December 2018



The Institute Alternative pointed in the past that introduction of tax and trade secrets as the grounds for declining access to information, under the 2017 amendments to the Law on Free Access to Information, had a negative impact on public finance transparency.<sup>54</sup> The Law did not specify the duration of the restriction on access to information, which further hampered the transparency in an area important in terms of exercise of public interest through allocation of budgetary funds. The official reports on the implementation of the Reform Programme did not address the effects of these amendments to the Law on Free Access to Information, although greater transparency represented a key reform objective.

This legal provision generally affected the transparency of public spending and implementation of other capital projects. The transparency of the highway construction was further undermined by the lack of access to the contracts i.e. technical documents, since the design had not been completed at the time when project implementation began. The project documents are being approved in stages, but are still not available; the contracts and specifications for most of the other capital projects are available at the [Public Procurement Portal](#). In addition, the decisions on the establishment of the two State Commissions (State Commission for the technical inspection of the construction works on the Bar-Boljare highway priority section of Smokovac-Uvac-Matesevo and the State Commission for the review of technical documentation) **declared their work confidential**.<sup>55</sup>

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54 Institute Alternative, *Reform of Public Financing and Tax Secrecy: Through the lens of municipal debt*, June 2018, available at: <https://bit.ly/2DJTKYu> (accessed on: 13 Dec 2018)

55 "The work of the Commission is considered to constitute trade secret and none of its members have the authority to disclose any data related to its work outside the Commission." – Decision on the appointment of the State Commission for the technical inspection of the construction works on the Bar-Boljare highway priority section Smokovac-Uvac-Matesevo, and Decision on the appointment of the State Commission for the review of technical documentation, available at: <https://bit.ly/2GeECUF> (accessed on: 13 Dec 2018)

# BUDGET EXECUTION

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*With regard to budget execution, in addition to the general overview of the Government statistics on the collection of taxes and customs, we focused on the areas of public procurement and tax arrears management.*

*In 2017, the Government approved amendments to the **Public Procurement Law (PPL)**; the amendments had not been planned or subject to public consultations, and they affected the transparency of the public procurement procedures. The defence and security procurements were particularly not in line with the EU regulations.*

*The targeted competitiveness of the public procurement procedures was not achieved: the average number of bidders per tender in 2017 was **only 2.6**. One-quarter of the contracted amount was awarded to 1% of the bidders.*

*The revenues from taxes and customs in the first half of 2018 were higher by 13% year-on-year. The Government reported progress in the collection of rescheduled tax arrears, where the amount collected in 2017 band in the first half of 2018 exceeded €33 million. However, the State Audit Institution established that the records on the amounts of rescheduled tax arrears in early 2017 had not been accurate.*

*The non-transparent execution of the tax rescheduling contracts concluded with 16 Montenegrin municipalities was particularly alarming, as these were contractual relationship between public authorities (MoF, local self-governments). The payment schedules under the contracts were declared trade secret.*

## ▪ THE «FORGOTTEN» AMENDMENTS TO THE PUBLIC PROCUREMENT LAW FROM 2017

The Reform Programme envisages harmonisation of public procurement procedures with the relevant EU legislation, with the aim of establishing an efficient, transparent and competitive system in Montenegro. The public consultations on the draft PPL took place in February 2018. The draft included some steps towards harmonisation with the EU directives governing the area of public procurement, compared with the Law Amending the PPL from June 2017.<sup>56</sup>

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<sup>56</sup> Ministry of Finance, Call for participation in the discussion on the Draft Public Procurement Law on 27 Feb 2018, available at: <https://bit.ly/2UmlWG6> (pristupljeno 4. 12. 2018)

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The amendments to the PPL adopted by the Parliament in June 2017 **resulted in a major regression**, in particular with regard to regulating the **defence and security procurement**.<sup>57</sup> They also **introduced small-value procurement**, undermining the fragile transparency and competitiveness of the public procurement procedures in Montenegro. Small-value procurement, under the 2017 amendments, were defined as the purchase of goods and services of estimated value equal to or lower than €15,000.00, and purchase of works of estimated value equal to or lower than €30,000.00. All of the contracting authorities were allowed to regulate this type of procurement at their discretion, by means of internal regulations, provided that they posted such regulations on their webpages and included a general note that they were guided by the principles of public procurement in drafting such regulations.<sup>58</sup> This type of procurement replaced the former concept of “direct agreement”, which implied a direct agreement between the contracting authority and the bidder on the terms and conditions of the procurement, but only for the procurement below € 5,000. The former concept used to define also the maximum share of the value of direct agreements in the total annual spending on public procurement; this was left out in relation to the small-value procurement.

If, however, someone wanted to learn about the process of amending the Montenegrin legislation on public procurement and the process of harmonisation with the EU directives only from the Government reports on the implementation of the Reform Programme, they would conclude that the process of drafting the new PPL had completely ignored the important changes from 2017 and relied solely on the impact assessment of the PPL amendments from 2014 and 2015. The MoF makes no mention of the 2017 amendments in the reports on the implementation of the Reform Programme in 2018 and 2017. Without public consultations or consultations with the European Commission, those amendments had introduced highly problematic provisions,<sup>59</sup> which remained in effect.

The starting point for the drafting of the new PPL, which was not based on the review of the controversial provisions from 2017, was wrong. Consequently, the draft PPL kept the problematic applicable provisions, such as the non-transparent and non-competitive small-value procurement and poorly regulated defence and security procurement. The provision whereby the contracting authorities were allowed to regulate the small-value procurement by means of internal regulations was retained; instead of the internal regulations, it should have stipulated a bylaw, which would set out uniform rules for all the contracting authorities or, ideally, it should have regulated the matter by the PPL itself. The implementation of the Law identified the following issues:

- **The amount spent through non-transparent small-value procurement doubled:** €28 million in the second half of 2017, compared to the €13 million worth of direct agreements in the first half of 2017;

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57 Available at: <https://bit.ly/2S81ITh> (accessed on 4 Dec 2018)

58 Law Amending the Public Procurement Law, *Official Gazette of Montenegro* 042/17 of 30 June 2017

59 Institute Alternative, Tajno o javnim nabavkama: Sporne izmjene unazađuju sistem, available at: <https://bit.ly/2EdPWjx> (accessed on: 4 Dec 2018)

- The contracting authorities' internal regulations on small-value procurement **were not adopted within the statutory deadline**; the MoF was required to prepare a template for the other authorities, but it adopted its own internal regulation almost three months after the expiry of the statutory deadline;
- **Controlled competitiveness** – most of the ministries and municipalities decided to send requests for proposals to the addresses of the bidders of their own choosing. Only four of the ministries allowed for the option (not obligation) of posting the notice on their webpages and thus enabling all the interested bidders to participate. There were no guarantees that competitiveness would be ensured in this way.

The draft PPL from February 2018 had room for improvement also with regard to regulating centralised procurement, public procurement planning, criteria for the selection of the most favourable bid, regulation of defence and security procurement, and misdemeanour liability in the event of any breaches.<sup>60</sup> One of the improvements under the draft referred to introduction of the obligation to secure at least three options for the small-value procurement. The draft also stipulated the obligation of posting the requests for proposals and invoices/contracts in the e-journal, which is currently not the case.

## ▪ DEFENCE AND SECURITY PROCUREMENT NOT ALIGNED WITH THE EU REGULATIONS

The PPL amendments from June 2017 reduced the already scarce legislative framework on defence and security procurement to two legal provisions, one Government regulation and contracting authorities' internal regulations.<sup>61</sup> Furthermore, the legal framework was not completed: the Government regulation and the internal regulations of contracting authorities were still not in place almost one year after the expiry of the statutory deadline. Draft new PPL retained the same provisions concerning the security sector procurement as the current one, so there was a lack of progress towards alignment with the European legislation on defence and security procurement. The following procedures and rules stemming from the EU regulations in this area were lacking:

- Procedures applicable to defence and security procurement, method of bid collection and evaluation, and evaluation criteria;
- Obligation to draw up Procurement Plan for defence and security, with the prescribed minimum of information that the Plan should contain on each planned procurement, such as the subject-matter, estimated value and procedure to be applied;

60 Institute Alternative, *Komentari, primjedbe i sugestije na Nacrt Zakona o javnim nabavkama (Comments, objections and suggestions to Draft PPL)*, available at: <https://bit.ly/2EdPWjx> (accessed on 6 Dec 2018)

61 *Confidential Procurement in Montenegro: Far from Public's Control*, Djurnic, Ana, Institute Alternative, March 2018, available at: <https://bit.ly/2KRFu1u>

- Obligation to deliver the Procurement Plan for defence and security to the Parliamentary Committee for Defence and Security for their information and opinion, and deliver it to the Government for adoption;
- Obligation to develop the Report on the defence and security procurement, which would include information on each classified procurement, namely the subject-matter, estimated and executed value, procedure applied and number of bids submitted;
- Obligation to deliver the Annual Report on the defence and security procurements to the Parliamentary Committee for Defence and Security for their information and opinion, and to the Government, for adoption.

#### ▪ NON-COMPETITIVE PUBLIC PROCUREMENT: ONE-QUARTER OF THE MONEY AWARDED TO 1% OF BIDDERS

The average number of bidders per tender in 2017 failed to meet the 3.2 target from the Reform Programme; instead, it was 2.65.<sup>62</sup> Spending on public procurement exceeded half a billion euros in 2017, with one-quarter of that amount going to less than 1% of bidders. Although the PP Administration's registry includes 3,500 registered bidders, only 25 of them signed contracts worth €137,546,128. 56 with the state authorities.<sup>63</sup> A similar case had been recorded also in 2016,<sup>64</sup> prompting the conclusion of no progress in enhancing the competitiveness of public procurement.

#### ▪ REVENUE COLLECTION WAS ON THE RISE, BUT THE RECORDS ON TAX ARREARS WERE INACCURATE

One of the reform objectives referred to better tax and customs collection. According to the official reports, this area recorded progress. **Between January and August 2018, the Customs Administration and Tax Administration combined collected close to €1 billion**, a 13% year-on-year increase for both institutions. The Government also stated that more than €33 million had been collected under the tax arrears rescheduling scheme for legal and physical persons and public enterprises and institutions from beginning of 2017 through June 2018.<sup>65</sup>

However, before the data were published, in the Report on the Final Budget Account Audit for 2017, the State Audit Institution had pointed out that tax arrears records for the rescheduling, as

<sup>62</sup> *Annual Report on Public Procurement in Montenegro for 2017*, Public Procurement Administration, May 2018, available at: <https://bit.ly/2Sm0QXJ> (accessed on 25 Dec 2018).

<sup>63</sup> Institute Alternative, Infographic: *Za 25 firmi 150 miliona iz budžeta za javne nabavke* (150 million from the public procurement budget goes to 25 companies), Institut Alternative, available at: <https://bit.ly/2Qe6tu0> (accessed on 4 Dec 2018).

<sup>64</sup> Institut Alternative, Infographic: *Javne nabavke za građane* (Public procurement for citizens), available at: <https://bit.ly/2BQkR3a> (accessed on 4 Dec 2018)

<sup>65</sup> Ibid

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of 1 January 2017, had been inaccurate. Namely, in the course of verification of the computational accuracy of the tax accounting data, the SAI established that the baseline of tax arrears as of 01 January 2017 had not represented the actual amount of the arrears or the overpayments.<sup>66</sup> It established that the total **amount of tax arrears had been underestimated by more than €15 million**, since the liabilities and arrears for 547 taxpayers for whom decisions on rescheduling had been annulled in 2017 had not been debited again. It also established that the Tax Administration had had no breakdown of the tax arrears as of 31 Dec 2017 by taxpayer, for the ones included in the rescheduling scheme. However, the official Report on the Implementation of the Reform Programme in 2018 did not comment on these findings of the SAI; instead, it showed the total amounts for the period from the beginning of 2017 through June 2018, disregarding the findings and recommendations stating the need to undertake activities to establish the actual stock of tax arrears.

The contracts between the MoF and 16 Montenegrin municipalities that defined the rescheduling of their tax arrears were of particular interest. As outlined in a separate document, the implementation of these contracts was the weakest in relation to staff optimisation, staff number being the key driver of large public spending on the local level. One of the key objectives of the tax arrears rescheduling scheme, which had been intended to contribute to sustainable public spending, was therefore the least implemented. The MoF did not report on the execution of the non-financial obligations stipulated by the contracts. Generally speaking, supervision of contract implementation was poor, since the MoF did not possess the municipalities' biannual reports on staff reduction. It was also impossible to assess the schedule of payments under these contracts, which the MoF treated as tax secret.<sup>67</sup>

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66 The reasons for such inaccurate records include: state authorities' records not being orderly enough; arrears under the 2004 rescheduling scheme shown by tax accounts and tax groups and non-aligned with the economic classification of revenues; lack of enforcement of decisions on deferred payments and decisions on reallocation of funds; the municipalities showing deferred liabilities as due. See: State Audit Institution, Final Report on the Final Budget Account Audit for 2017, Podgorica, 15 Oct 2018, available at: <https://bit.ly/2sU8sWi> (accessed on 10 Dec 2018).

67 See: Institute Alternative, *Reform of Public Financing and Tax Secrecy: Through the lens of municipal debt*, June 2018, available at: <https://bit.ly/2DJTKYu> (accessed on 11 Dec 2018).



# STATE PROPERTY MANAGEMENT

*With regard to the area identified in the Reform Programme as “transparent financial reporting”, we focus on the establishment of the e-registry of state property, given the broad relevance of this aspect of the reform, and on the regulatory framework that introduced the obligation of establishing property registry as early as 2009.*

*Nine years later, the registry is not in place. Although the contract for establishment of the e-registry of state property was signed already in 2014, the implementation of the project halted due to a software error. Data were entered for 32 authorities, but subsequently lost their credibility due to the reorganisation of state administration.*

*Inspection supervision over state property, on the other hand, indicated poor situation in reality and relatively frequently identified usurpation or poor state of the immovable property owned by the national and local authorities. Still, the performance of the inspection was not satisfactory: during 2017 and the first half of 2018, 32 inspections were carried out i.e. only 10 per inspector for 18 months.*

## ▪ STATE PROPERTY REGISTRY STILL NOT OPERATIONAL

According to the PFM Reform Programme, all of the necessary data on state property were to be entered in a specific e-registry during 2017. That, however, did not happen, due to an alleged software error. As stated in the Report on the Implementation of the Reform Programme in 2017, problems were detected in the course of testing and migration to the test version of the IT system, when users were denied access. Although the problem was expected to be resolved promptly, the Report on the Implementation of the Reform Programme for the first nine months of 2018 stated the same problem as the reason for the registry not being operational.<sup>68</sup>

By that time, data for only 32 authorities had been entered, namely 14 administrative authorities, 3 agencies and funds, 12 independent institutions and public institutions, and only 3 ministries. The data referred also to the authorities that were disbanded during the reporting period, such as

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<sup>68</sup> Reports available at: <https://bit.ly/2RUoFKd> (accessed on 7 Dec 2018).

the Youth and Sport Administration or the Ministry of IT Society and Telecommunications.<sup>69</sup> Thus, development of the e-registry of state property (Asset Registry System), under the 2014 contract worth €200,000 and with envisaged implementation timeline of up to nine months, has not been completed to date.<sup>70</sup>

The **obligation of establishing a single property registry was prescribed as early as 2009 under the Law on State Property**. A fine ranging from five to twenty thousand euros was envisaged for the legal persons who failed to deliver to the MoF the data on their movable and immovable property i.e. their assets, by March of the current year for the previous year. These provisions were never implemented.<sup>71</sup>

### ▪ INFREQUENT INSPECTIONS INDICATED AN ALARMING SITUATION

The situation in this area is illustrated by the minutes drawn up by the State Property Inspectorate, situated within the MoF. The Inspectorate is responsible for carrying out inspection of disposal with, use and management of state property, but also for identifying the weaknesses and irregularities in the work of the authorities and suggesting ways to address them.<sup>72</sup>

During 2017 and the first half of 2018, the Inspectorate carried out in total 32 inspections; most of them – 18 inspections – referred to the promptness of the actions of the Real Estate Administration branch-offices. Although low frequency and coverage of inspections do not enable general conclusions, it is concerning that unlawful use of state property by citizens was identified in at least seven cases, that property disputes concerning ownership of some property were not resolved, and that the facilities were run-down to such an extent that one of them, situated in Berane, posed a risk for the passers-by. In such cases, the inspectors recommended the following: reviewing the need for the business premises owned by the state authority; adjusting the data entered in the real-estate registry; notifying citizens that they had usurped state property, and stating the need for follow-up inspections. They also ordered screening of the facilities or plots in question, or drawing up of expert reports on the cost-effectiveness of repair. However, besides the minutes delivered to

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69 According to the response to the application for free access to information from June 2018, the authorities that delivered property data that were subsequently entered in the test version of the registry were: Administration for the Prevention of Money Laundering; State Electoral Committee; Secretariat for Legislation; Secretariat for Development Projects; Ministry of Justice; Mediation Centre; Human Resources Management Authority; Real Estate Administration; Statistical Office; Education Bureau; Examination Centre; Youth and Sport Administration; State Archives Cetinje; Natural History Museum; Music Centre; Library for the Blind; Maritime Museum; Metrology Office; Agency for Competition Protection, Maritime Safety Administration; Port Authority; Bureau for the Care of Refugees; Ministry of IT Society and Telecommunications; Ombudsman Office; State Audit Institution; Montenegrin Academy of Arts and Science; Agency for Peaceful Resolution of Industrial Disputes; Audit Authority; Employment Agency; Labour Fund; Centre for Conservation and Archeology; Ministry of Interior.

70 Services Contract: Expansion of SAP system – implementation of SAP FI-AA module and external applications for registry of state property, Ministry of Finance and ATOS IT Solutions and Services d.o.o. Belgrade, 31 Dec 2014.

71 *Law on State Property* (Official Gazette of Montenegro 021/09 of 20 March 2009, 040/11 of 08 Aug 2011)

72 Ministry of Finance, Rulebook on internal organisation and job classification, available at: <https://bit.ly/2MfrT4w> (accessed on 13 Dec 2018)

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us following the application for free access to information, the MoF reports did not include situation assessment or overview of the performance of inspection in this area i.e. data on the degree of compliance with the orders issued by the state property inspectors. At the time of the most recent update of the MoF personnel records, in February 2018, the Inspectorate included three inspectors, with on average 10.6 inspections per inspector over the period of 18 months. The lack of regular inspections is particularly alarming. According to the MoF 2017 Performance Report, out of the total of 19 inspections carried out **only two were regular i.e. initiated by the Inspectorate itself**; this indicated that the Inspectorate had not followed a set plan of inspections in its work.<sup>73</sup>

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<sup>73</sup> Ministry of Finance, *Report on economic policy and financial system, on the performance and status of the administrative areas of the Ministry, subordinate authorities within the Ministry and the authorities supervised by the Ministry, for 2017*, 20 April 2018, available at: <https://bit.ly/2UupSoy> (accessed on 15 Dec 2018)

# MANAGERIAL ACCOUNTABILITY

*In this section we focus on the delegation of powers to the managers within the administration and a general assessment of the situation concerning managerial accountability.*

*Our findings match the official reports, which stated lack of use of the concept of delegation of powers: according to the responses to the application for free access to information, **only two ministries issued decisions on delegation of powers in 2018.***

*The legal framework was **partially enhanced**, in terms of specification of managerial accountability and internal financial control, in particular in relation to the obligation to appoint officers responsible for financial management and control (FMC) and the obligation to report on the exercise of delegated powers. Still, the powers of Directors General were not expanded to include management of funds of organisational units, and the Law on Budget and Fiscal Responsibility was not amended to enhance the accountability of the spending units and the persons responsible for budget execution.*

## ▪ **PARTIALLY IMPROVED LEGAL FRAMEWORK**

Managerial accountability binds the managers across all levels in the institutions spending public funds to perform all of their responsibilities lawfully, in compliance with the principles of economy, efficiency and effectiveness and publicity, and to be held to account for their decisions, actions and results to those who appointed them or delegated the powers to them.<sup>74</sup> This definition does not cover just lawful actions, which is traditionally equalised with accountability in public administration in Montenegro, but also effective management of the allocated public funds and feedback on the impacts of that management. Its requirements thus reach considerably beyond the current situation in Montenegro.

Draft Analysis of the Barriers to Managerial Accountability, developed by the MoF in October 2017, found that financial management in our administration was too centralised and lacked an adequate system of setting the objectives and delegating the responsibilities for them. Achievement of objectives was not being monitored by means of organisational units' reporting, and there was no assessment of the value-for-taxpayers' money, which hindered the establishment of the full scope of managerial accountability.<sup>75</sup>

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<sup>74</sup> European Policy Centre, Infographic on managerial accountability.

<sup>75</sup> Ministry of Finance, Analysis of barriers to managerial accountability (draft), October 2017.

The mentioned Draft resulted in some recommendations, which should have been incorporated in the updated legal framework, in particular the new Law on State Administration, Law on Management and Internal Financial Control in the Public Sector and amendments to the Law on Budget and Fiscal Responsibility. The recommendations addressed, inter alia, the following: better position of Directors General as the key managers of the organisational units within ministries. The suggestion was to grant to this category of senior civil servants the powers to manage the finances of the specific organisational unit. However, the new Law on State Administration identified only the following powers of Directors General: management of policy making and regulation drafting activities and other core activities of the Ministry. **Management of the finances** required for the operation of the Directorate was **not specified** as one of their powers.<sup>76</sup>

The new Law on Management and Internal Financial Control in the Public Sector was also adopted in 2018<sup>77</sup>, replacing the Law on the Public Internal Financial Control System<sup>78</sup>. The title of the new law suggests that the emphasis is on managerial accountability. The responsibilities of heads of authorities are specified with **more precision**, primarily the responsibility for internal organisation, along with clearly outlined powers and responsibilities of all the managers in charge of managing funds. The obligation of reporting is introduced - on the achievement of results and expenditure of allocated funds in line with the delegated powers and responsibilities, which heads of authorities are allowed to delegate to managers of organisational units, but also to other employees. The general obligation of the heads of authorities is provided, namely to cooperate with the authorities and organisations from the administrative area they are responsible for, including the system of reporting on achieved results and established internal controls. The obligation of the administrative authorities to report to the competent ministry on the achieved results had not been explicitly stipulated earlier. The position of the financial management and control - FMC officers is also specified. Heads of authorities are required to appoint the manager of the organisational unit responsible for the performance of general and financial affairs of that authority as the officer responsible for coordination of activities to implement and improve management and control.

The Law allows heads of authorities to delegate powers to managers of organisational units and other employees, but envisages for the Government of Montenegro to issue a **specific regulation** to define the activities and tasks of financial management and internal control that may be delegated by means of a decision to that effect.

The amendments to the Law on Budget and Fiscal Responsibility adopted in 2017 and 2018 did not refer to the recommendations from the Draft Analysis or to strengthening the accountability of the spending units. The key suggestion was to redefine the role of the MoF, which retained a large share of responsibility for the control of overall budget spending. Bearing in mind the increase in the public sector, a possible conclusion is that the MoF should delegate all of the powers/ responsibilities for the lawfulness and control of spending to the managers of organisational units (heads of

<sup>76</sup> Article 32, Law on State Administration, Official Gazette of Montenegro 078/18 of 04 Dec 2018.

<sup>77</sup> Official Gazette of Montenegro 075/18 of 23.11.2018.

<sup>78</sup> Official Gazette of Montenegro 73/08 of 02 Dec 2008, 20/11 of 15 April 2011, 30/12 of 08 June 2012, 34/14 of 08 Aug 2014.

authorities), in particular in the situations when it is not necessary to carry out comprehensive fiscal consolidation. These recommendations, though well-justified, still have not been translated into regulatory amendments.

## ▪ MINISTERS RARELY DELEGATE POWERS

As mentioned earlier, the option of delegation of powers was also available in the past. The key indicator in the Reform Programme intended to measure the progress in this area was the “percentage of ministries formally delegating their powers and responsibilities”. However, in its Reports on the Implementation of the Reform Programme, the MoF stated that, in most cases, ministers delegated powers to Ministry Secretaries. The figure for this indicator was only 11.11% for 2017.

Aiming to review the specific decisions delegating responsibilities to senior civil servants and heads of authorities, we applied for access to information in late June 2018. Eight ministries responded; out of the eight, **only the Minister of Justice and the Minister of Transport and Maritime Affairs had passed decisions delegating responsibilities to the mentioned categories in 2018.** The decisions referred exclusively to the heads of the authorities subordinate to the given ministry, and concerned management of the funds from the budgetary positions intended for the subordinate authority and first-instance administrative procedure decisions. In the cases when the Minister of Justice delegated powers to the head of the Institution for Enforcement of Criminal Sanctions, or the Minister of Transport delegated powers to the head of the Transport Directorate, the decisions concerned also some aspects of HR management. Most of these decisions were time-specific, i.e. valid until the end of 2018.

The responses provided by some of the ministries that had had no decisions delegating powers indicated **a lack of understanding of the concept.** The Ministry of Labour and Social Welfare, for instance, declined access to the requested information on the grounds of the decisions on appointment of heads of authorities and senior civil servants being publicly available. Their interpretation, thus, was along the lines that the powers had already been determined, without any room for additional delegation of responsibilities. The Ministry of Agriculture and Rural Development, on the other hand, made reference to the legal framework governing the organisation of state administration, the purview of the Ministry and the implementation of the Agri-budget - also along the lines of no flexibility in delegating responsibilities outside the already set legal provisions, and thus contrary to the concept of managerial accountability.

# EXTERNAL AUDIT

*This section focuses on the work of the State Audit Institution (SAI), addressing the “quantitative” approach to performance results, in particular with regard to its strategic development planning and Communication Strategy.*

*During the period covered by this report, the SAI adopted its **Strategic Development Plan**; the document, however, did not include specific performance indicators, so its formal implementation does not guarantee tangible results.*

*One of the components of the Plan was improved media visibility and communication of the SAI's findings. Two media conferences were organized to present audit reports, including the Final Budget Account Audit. Despite relatively frequent, the SAI's press releases did not effectively communicate its work to the citizens.*

*The number of audits in 2018 was higher by 11 than in 2017. Audits of political parties prevail, accounting for some 50% of the total number of audits conducted over these two years. Besides the Municipality of Kolasin, it was the political parties that received negative audit opinions resulting from both financial audits and regularity audits in 2017 and 2018.*

## ▪ STRATEGIC DEVELOPMENT PLAN WITHOUT DEVELOPMENT OBJECTIVES

With regard to capacity development and greater efficiency of the SAI's work, the MoF, in the Report for 2018, particularly highlighted the adoption of the 2018-2022 Strategic Development Plan, Guidelines for assessing the application of fiscal responsibility criteria and Guidelines for Final Budget Account audit.

However, the institution's medium-term strategic development plan was not elaborated to the level of specific objectives i.e. tangible changes that its work should lead to.<sup>79</sup> For instance, enhanced cooperation with other institutions – the Government, the Prosecution Service and the Parliament – is to be measured solely in terms of drafting and signing of the protocols on cooperation, rather than any results of such cooperation, e.g. number of indictments raised on the basis of information delivered by the SAI to the Prosecution Service.

The Strategic Development Plan does not include the timeline for implementation of activities or the entities responsible for their implementation. These elements required for monitoring the

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<sup>79</sup> Strategic Development Plan of the State Audit Institution of Montenegro for 2018 – 2022, Podgorica, February 2018, available at: <https://bit.ly/2DKpNnj> (accessed on 12 Dec 2018)



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achievement of the set strategic goals, sub-goals and activities are to be monitored through the Action Plan. However, the Action Plan was not published together with the Strategic Development Plan. We managed to obtain access to the Action Plan, which was adopted in April 2018, following the application for access to information. As was to be expected, it does not stretch beyond the goals identified in the Strategic Development Plan, although it elaborates the timelines and the entities responsible for implementation. The Action Plan envisaged signing of the protocols with the Parliament and Supreme State Prosecutor's Office during the period covered by this report, i.e. in 2018, along with media conferences, Guidelines for the Final Budget Account audit, internal awareness-raising on the importance of integrity, application of document management software, and development of internal communications system. All of these activities were implemented, according to the Report on the implementation of the Action Plan.<sup>80</sup> However, as mentioned already, mere implementation of activities without elaborating the specific results that they should contribute to, does not guarantee genuine development of the institution.

#### ▪ PROACTIVE PUBLIC INFORMATION ON THE WORK PERFORMED BY THE SAI: NUMBERS INSTEAD OF SUBSTANCE

Public pressure is of particular importance in strengthening the SAI's influence and the impact of its recommendations; so is effective communication of audit findings.<sup>81</sup> The Strategic Development Plan to an extent recognised the importance of greater media visibility of its work, through the activities and performance indicators related to organising media conferences following the publication of the Annual Report, periodical conferences following the publication of individual reports and the number of press releases.

During the reporting period, there were two media conferences.<sup>82</sup> No conferences were organised to present any of the individual audit reports.

Audit reports are regularly posted on the institution's webpage, which includes an up-to-date "News" section (124 texts and 23 press releases were posted under this section in 2018).<sup>83</sup> However, the language of the press releases was not citizen-friendly and they did not include complete information required to fully understand the subject matter. For instance, the press release concerning the disparate interpretations of the Law on the Financing of Political Entities and Electoral Campaigns by the Anti-Corruption Agency and the SAI stated that the Agency's interpretation misled the political entities; the substance of the differences in interpretation of the Law was, however, not

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80 SAI, *Report on Implementation of the Action Plan for Implementation of the 2018-2022 Strategic Development Plan of SAI: reporting period April 2018-January 2019*, January 2019.

81 Institute Alternative, *Visibility of the State Audit Institution's Work: Elements for a Communication Strategy*, March 2017, available at: <https://bit.ly/2WwDhOn> (accessed on 10 Nov 2018)

82 One media conference was organized in November 2018 to present the Audit Report on the Proposal for the Law on the Final Budget Account of Montenegro for 2017 and the SAI Annual Report on the audits and activities conducted between October 2017 and October 2018 (<https://bit.ly/2Uv8RuI>), while the other one was organized to present the joint report on audit of 2016 annual financial reports of political subjects in March 2018 (<https://bit.ly/2Tx6mL2>)

83 <https://bit.ly/2CUPLGQ>

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explained.<sup>84</sup> The titles of the press releases did not always communicate clearly the subject-matter in question, as illustrated by the texts titled “Release” or “Press Release”. Despite significant activity, in quantitative terms, towards communicating the SAI’s findings, the substance-related shortcomings of the press releases affected their impact and visibility.

The key strategic documents and guidelines used in the course of the SAI’s work were not regularly and consistently posted on its webpage, which was contrary to the Law on Free Access to Information. Thus, the Guidelines for assessing the application of the fiscal responsibility criteria, Guidelines for the Final Budget Account audit and Action Plan for Implementation of the Strategic Development Plan were only available following the application for free access to information. Thus, the basic information required to understand the reports, which relied on the adopted guidelines or implemented measures, which in turn arose from the key strategic development documents, were not made available to the media, civil society and general public.

- **SAI’S AUDITS FOCUS ON THE POLITICAL PARTIES, LESS SO ON PUBLIC ADMINISTRATION**

In line with the law, the SAI decides autonomously on the auditees, the subject-matter, scope, type, timing and method of audits. It is required to conduct annual audits of the Final Budget Account of Montenegro.

The SAI conducts three main types of audits, namely financial, regularity and performance ones. When it deems necessary, the SAI can also conduct other audits: during 2017 and 2018, it conducted two audits of information systems – of information system of Health Insurance Fund and of the Personnel Information System of the Human Resource Management Authority. The essence of financial audits is establishing whether the financial reports are aligned with the valid framework for financial reporting and presented in a fair and objective manner. Regularity audits address whether the auditee’s financial and other actions comply, in all of their material aspects, with the laws and other regulations and acts.<sup>85</sup> Although categorised as two distinct types, the conducted audits usually cover both aspects (financial and regularity ones),<sup>86</sup> Performance audits, intended to assess the effectiveness of implementation of specific measures or policies, are less frequent in practice.

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84 <https://bit.ly/2G8BWrq>

85 Instruction on the methodology for conducting financial audit and regularity audit (Official Gazette of Montenegro 07/15 of 17 Feb 2015)

86 During 2017, solely regularity audits without financial audits, were conducted in relation to financial and material operations of Montenegro’s diplomatic and consular representations in Serbia, Russia, and Belgium during 2016, and in relation to the work of Commission for allocation of part of the revenue from games of chances during 2016. During 2018, solely financial audit was conducted in the case of Pharmaceutical Chamber, while seven conducted regularity audits was not accompanied by the financial audits (Ministry of Education – Programme on Administration, Operations of Montenegro’s embassies in Austria, Greece, Croatia and Montenegro’s permanent mission in UN, OSCE and other international organizations in Vienna, NGO Nova Centre for feminist culture, development of radio-gonometric discipline and organization of gonometric championship in Cetinje, Project of primary school Dušan Korać in Bijelo Polje, Support service for single parents run by NGO New Horizon, use of funds of Kingdom of Norway, and activities of NGO Cultural Centre Homer.

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The SAI's Strategic Development Plan included measures to improve audit planning. However, drafting of sector risk analyses for the public sector, which would inform the medium-term and annual audit plan, was scheduled only for the first quarter of 2019.<sup>87</sup> Therefore, **the audit plans adopted during the reporting period were not underpinned by an elaborated methodology that would have enabled coverage of the high-risk areas.**

The total number of audits conducted by the SAI in 2018 was **55**, not including the regular annual reports on all the completed audits and the mandatory audit of the Final Budget Account. Our data refer to the entire calendar year, based on the report posted on the SAI's website; the SAI's report covers the period October 2017 - October 2018.<sup>88</sup> Out of the total number of conducted audits, **26 referred to political parties and voter groups**, in line with the Law on the Financing of Political Entities and Electoral Campaigns, which requires the SAI to audit the annual consolidated financial reports of the political entities with total income above €10,000. 28 other audits were conducted: 11 covered state administration authorities; 2 covered local self-governments (Kolasin and Berane); 3 covered agencies; 1 covered the Parliament, and the remaining 12 covered other entities, such as embassies, Pharmacists Association, allocations from the Equalisation Fund, assessment of fiscal responsibility criteria, collection of the revenues from utilisation of forests, NGO projects and public institutions' projects. 15 negative opinions were issued in regularity audits – 11 related to political parties and voter groups. Two entities (Municipality of Kolasin and the Democratic Unity Party) received negative opinions resulting from both financial and regularity audits. These data included also the 4 performance audits.<sup>89</sup>

Fewer audits were conducted in 2017 (**44 in total**): 24 covered political parties and civil initiatives; 3 covered state administration authorities; 2 covered local self-governments (Pljevlja and Budva) and funds (Pension and Disability Insurance Fund and Health Insurance Fund); 1 covered the Insurance Supervision Agency and another one the Parliament of Montenegro. The remaining 11 audits covered other entities or the entire public sector (Montenegrin Olympic Committee, diplomatic offices, public enterprises, institutions, committees, health care sector, public financial control management, energy efficiency). Seven negative opinions were issued in regularity audits – six referred to political parties and one to the Parliament. In three cases, all concerning political parties, negative opinions resulted both from the financial and regularity audits. These data included the three performance audits conducted.<sup>90</sup>

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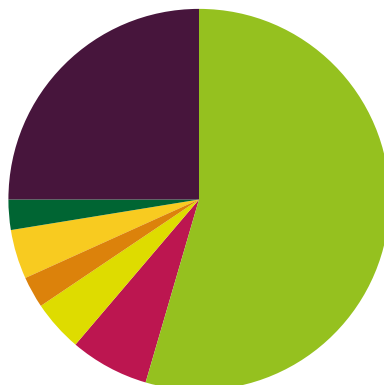
87 SAI, *Action Plan for Implementation of the 2018-2022 Strategic Development Plan*, Podgorica, April 2018

88 <https://bit.ly/2WuDv8U>

89 Performance audit report on the efficiency of calculation and collection of the revenues from utilisation of forests, Performance audit report on the management of construction and reconstruction projects of education and science facilities, Efficiency of Customs Administration in collecting customs arrears, Report on the performance audit "Efficiency of the system for collection of tax arrears of taxpayers undergoing bankruptcy or winding-up".

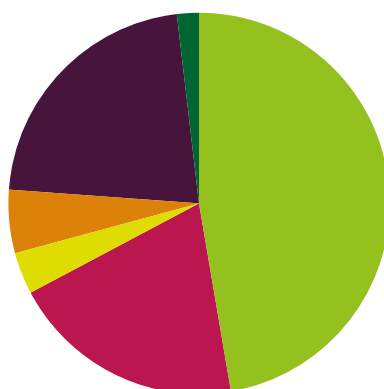
90 Final report on the performance audit of the procurement plan for medical equipment; Report on the performance audit of Energy Efficiency in public sector institutions; Report on the performance audit of Efficiency of internal audit in public sector.

## SAI performance in 2017



● Political parties ● Administration authorities ● Local self-government  
● Agencies ● Funds ● Parliament ● Other subjects

## SAI performance in 2018, by auditee category



● Political parties ● Administration authorities ● Local self-government  
● Agencies ● Parliament ● Other subjects

# WHAT NEXT?

The progress in the implementation of the Reform Programme referred largely to delivery of training and regulatory activity, such as adoption of regulations, methodologies, guidelines etc. In terms of improved practices, some steps forward were evident in the strategic planning reform and in the cost estimates of strategies. The legal framework on management and public internal financial control was partially improved, although the necessary secondary legislation remains to be adopted in 2019. Tangible results are lacking with regard to budget transparency - in particular the capital projects, improved public procurement procedures and budget execution reporting, state property management and budget planning.

The current budget planning procedures are **deficient**. With the MoF released from the obligation of having public consultations on the budget law, citizens remain excluded from the process. The budget development timeline - already imperfect, as it does not leave sufficient time for other stakeholders, primarily MPs, to take constructive part in the analysis of planned revenues and expenditures - is not being complied with. This further **narrows** the room for the discussion on budget priorities.

The quality of the requests for allocation of budget funds which the spending units submit to the MoF is not satisfactory. The Reform Programme requirement for more information to be included in these requests was not sufficiently met, nor reflected in the instructions on how to complete the requests. **There is no formal obligation on the part of the spending units to state in the requests the expected results of spending.**

The initial steps forward in the strategic planning reform, through adoption of the Decree and the accompanying Methodology for harmonisation of strategies, and the adoption of the first Medium-term Government Work Programme, **have still not been translated into improved programme budgeting**. No performance indicators were included in the budget programmes for 2019 even for the three ministries that are supposed to adopt performance-based work programmes.

Citizens and other external stakeholders receive only aggregate information on the execution of the Capital Budget during the budget year and have to wait for the Law on the Final Budget Account to obtain more details. The Law is approved at best by 15 October of the next year. The reports of the two administrations which are in charge of most of the capital projects are not proactively published. The least information is available on the implementation of the highway construction project. The total contracted amount for the project (€800 million, with estimates saying it will considerably exceed that), the public interest in spending in line with the intended purposes, and the privileges granted to the contractors, **call for more** transparent implementation and proactive publication of information concerning this project.

**Public procurement** is not fully harmonised with the EU legislation, although this is one of the core objectives of the reform. Furthermore, regardless of the international standards in this area, it should be noted that public procurement in Montenegro has been identified **as one of the areas particularly at risk of corruption**.<sup>91</sup> This instructs additional caution when regulating some concepts, such as **small-value procurement**. Although formally not contrary to the EU standards, in the Montenegrin context these concepts result in **less transparency and competitiveness**. This may additionally undermine the already low level of trust in the integrity of public procurement procedures. According to the public opinion poll from December 2017, 59% of Montenegrin citizens thought that public procurement institutions were largely or very corrupt.<sup>92</sup>

The MoF highlights the **tax and customs revenue collection** as a major success in terms of budget execution. However, the Ministry and the Government, when presenting some indicators, do not address the relevant **findings of the State Audit Institution**, from the ones concerning compliance with the fiscal responsibility criteria to the findings and recommendations concerning the need for more reliable tax arrears records.

**State property management**, in particular if observed in a broader context, **has been stagnating** since the adoption of the Law on State Property in 2009. The registry of state property has not been established either in hard copy or in electronic version, and the infrequent inspections indicate the poor situation on site. It is therefore going to be important, in parallel with the establishment of the uniform e-registry, to supervise the status of that property and check the promptness with which individual state authorities share information on state property.

Some procedures for strengthening managerial accountability and public internal financial control have been specified. Still, delegation of powers takes place very rarely; therefore, a substantial impetus in this regard does not require only improved procedures, but also improved traditional models of financial management, too centralised in the hands of the heads of authorities i.e. ministers.

In the context of the Reform Programme implementation, strengthening of the State Audit Institution's capacities is addressed largely in terms of training and adoption of strategic documents and guidelines, rather than their successful implementation. Therefore, a different approach is required in order to essentially assess the impact of this institution. Certainly, the mandatory audits of political parties take up a large share of resources of this institution which should primarily be covering the high-risk areas in the public sector. This points to the importance of initiating a wider debate on the distribution of competences for control of political parties between the SAI and the rest of the institutions.

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<sup>91</sup> Government of Montenegro, *Operational document for prevention of corruption in high-risk areas: Annex to the Action Plan for Chapter 23 – Judiciary and fundamental rights*, March 2016.

<sup>92</sup> Institute Alternative, *Stavovi građana o korupciji (Citizen Views on Corruption)*, December 2017, available at: <https://bit.ly/2HDfj0Q> (accessed on 17 Dec 2018).

# RECOMMENDATIONS

## CONCERNING BETTER BUDGET PLANNING:

1

- The Ministry of Finance should publish quarterly reports on budget execution which would follow the economic, organisational, functional and programmatic classifications, so that all the stakeholders, including the civil society and the MPs, are provided complete and timely information for the purpose of setting future budget priorities;
- The Law on Budget and Fiscal Responsibility should include a revised budget calendar, to include mandatory biannual reports on budget execution to the Parliament of Montenegro, and to envisage approval of the Proposal for the Budget Law for the following year at the latest by the end of the third quarter of the current year, in order to allow citizens and MPs sufficient time to get take part in budget planning;
- The Ministry of Finance should make use of the option of public discussions on the Draft Budget Law, granted under the Law on State Administration, to enable citizen participation in the setting of budget priorities;
- The Law on Budget and Fiscal Responsibility should require the spending units to include in their requests for allocation of budget funds the information on the expected impact of spending per each budget programme, as well as descriptions of the mission and objectives and budget programme performance indicators, in order to enable full implementation of programme budgeting.

## CONCERNING MORE INTEGRITY IN THE COURSE OF BUDGET EXECUTION:

2

- The new Public Procurement Law should envisage a bylaw which would regulate to detail small-value procurement, in a uniform manner for all the contracting authorities and allowing them no discretion to regulate that matter themselves;
- The new Public Procurement Law should regulate to detail defence and security procurement, by specifying the types of procedures that may be applied, the planning and reporting system and the review mechanisms;
- The Ministry of Finance should align its reports on implementation of the reform and on budget execution with the findings and recommendations of the State Audit Institution, in order to prevent different institutions from reporting differently on the key parameters, as illustrated by the case of the tax arrears rescheduling scheme.

## CONCERNING MORE TRANSPARENT CAPITAL SPENDING:

3

- Trade and tax secrets, among other things, should be deleted from the Law on Free Access to Information as the grounds for restricting access to information;
- Amendments to the Law on Budget and Fiscal Responsibility should specify the contents of the annual budget law section on the Capital Budget: the annual law should include an article listing all of the projects in the Capital Budget, including project title, code, description, implementation period, amount for the given budget year, expenditures presented in line with the economic classification and sources of funding;
- Transport Administration and Public Works Administration should proactively publish their annual performance reports, as prescribed by the Law on State Administration, at the latest by April of the current year for the preceding year;
- The reporting done by the Transport Administration and Public Works Administration needs to be harmonised, in order to ensure that the reports are drawn up based on the identical criteria and that they present identical information on the implementation of individual capital projects;
- The Government should periodically, at least twice a year, publish a separate report on the highway construction; it should include, inter alia, comparison between the planned and implemented stages of construction, the key findings of the supervision, information concerning resolution of relevant disputes, and total amounts of tax exemptions and customs exemptions per each contractor.

## CONCERNING BETTER STATE PROPERTY MANAGEMENT:

4

- The data initially entered into the e-registry of state property need to be revised to reflect the new organisation of state administration, ideally by organisational units and branches, rather than by institutions or authorities;
- The Law on State Property needs to identify the competence of the State Property Inspectorate for verification of up-to-datedness of the submitted data on the property in the possession of a state authority and stipulate appropriate penalty provisions;
- The Ministry of Finance should draw up a report on the barriers to and reasons for the delays in setting up the registry of state property, in line with the Law on State Property, and the e-registry, in line with the PFM Reform Programme, which would outline the implemented measures and recommendations for overcoming the current situation



## **CONCERNING GREATER MANAGERIAL ACCOUNTABILITY:**

# 5

- The principle of managerial accountability should be promoted, in addition to the Law on Management and Internal Financial Control, also in specific laws, by means of recognising and identifying the powers of the senior managers and expert-managers in handling specific administrative procedures and managing public funds;
- The Government should undertake appropriate measures to close the gaps identified with regard to the accountability of spending units for the lawfulness and control of public spending and the accountability of Directors General for managing the finances within their organisational units, by means of amending the Law on Budget and Fiscal Responsibility and the Law on State Administration and ensuring their consistent implementation.

## **CONCERNING GREATER IMPACT OF THE EXTERNAL AUDIT:**

# 6

- When planning and conducting audits, the State Audit Institution should ensure proportionate coverage of auditees, in order to ensure appropriate coverage, in addition to the mandatory audits of political parties and of the Final Budget Account, of the state administration, local self-governments, agencies and funds, public services and other organisations exercising public authorities;
- SAI should revise the goals and performance indicators identified in its Strategic Development Plan so that they reflect the effects of implementation of specific activities;
- SAI should comply with the obligation to proactively publish information, as identified in the Law on Free Access to Information, so that citizens and the civil society may familiarise themselves fully and timely with the key documents and internal procedures in conducting audits.

## ▪ REFERENCES:

- Dan Daily, *Podizvođače oslobodili 112 miliona PDV-a i carine (Subcontractors exempt from paying 112 million in VAT and customs)*, 13 December 2018;
- State Audit Institution of Montenegro, *Action Plan for Implementation of the 2018-2022 Strategic Development Plan of the State Audit Institution of Montenegro*, Podgorica, April 2018;
- State Audit Institution of Montenegro, *Report on the assessment of the application of the fiscal responsibility criteria in 2017*, Podgorica, October 2018;
- State Audit Institution of Montenegro, *Report on implementation of the Action Plan for Implementation of the 2018-2022 Strategic Development Plan of SAI: Reporting period April 2018-January 2019*, January 2019;
- State Audit Institution of Montenegro, *Final report on the audit of the Proposal for the Law on Final Budget Account for 2017*, Podgorica, 15 October 2018, available at: <https://bit.ly/2sU8sWi>;
- Government General Secretariat, *Methodology for policy making, development and monitoring of implementation of strategic documents*, September 2018;
- Briefing on the Proposed Financial Agreement between the Government of Montenegro and the European Commission on the Annual Action Programme for Montenegro for 2017 – Part 2, Proposed Financial Agreement, available at: <https://bit.ly/2TkRdsR>;
- Briefing on the Capital Budget Execution in 2017 as of 10 September 2017 (programmes from the purview of the Transport Directorate);
- Briefing on the Capital Budget Execution in 2017 as of 18 September 2017 (programmes from the purview of the Transport Directorate);
- Briefing on the implementation of Government Conclusions No. 07-2631 of 31 August 2017 related to the Capital Budget Execution in 2017, (programmes from the purview of the Transport Directorate) of 28 September 2017;
- Briefing on the implementation of Government Conclusions No. 07-2631 of 31 August 2017 related to the Capital Budget execution in 2017 (programmes from the purview of the Transport Directorate) of 22 November 2017;
- Briefing on the implementation of Government Conclusions No. 07-2631 of 31 August 2017 related to the Capital Budget execution in 2017 (programmes from the purview of the Transport Directorate) of 04 December 2017;
- Institute Alternative, *Comments, objections and suggestions to Draft Law on Public Procurement*, available at: <https://bit.ly/2EdPWjx>;

- Institute Alternative, *Reform of Public Financing and Tax Secrecy: Through the lens of municipal debt*, June 2018, available at: <https://bit.ly/2DJTKYu>;
- Institute Alternative, *Citizen Views on Corruption*, December 2017, available at: <https://bit.ly/2HDfj0Q>
- Institute Alternative, *Tajno o javnim nabavkama: Spore izmjene unazađuju sistem* (Discussing public procurement behind closed doors: controversial amendments set back the system), available at: <https://bit.ly/2EdPWjx>;
- Ministry of Finance, *Analysis of barriers to establishing managerial accountability (draft)*, October 2017;
- Ministry of Finance, *Annual Report on Implementation of Action Plan for implementation of the 2016-2020 PFM Reform Programme, for the period January – December 2017*, February 2018, available at: <https://bit.ly/2RUoFKd>;
- Ministry of Finance, *Report on Implementation of Action Plan for Implementation of the 2016-2020 PFM Reform Programme, for the period January – September 2018*, October 2018, available at: [http://www.mif.gov.me/biblioteka/strateska\\_dokumenta](http://www.mif.gov.me/biblioteka/strateska_dokumenta);
- Ministry of Finance, *Call for participation in the discussion on the Draft Public Procurement Law*, 27 Feb 2018, available at: <https://bit.ly/2UmlWG6>;
- Ministry of Public Administration, *Draft Analysis of the functional and financial effects of the introduction of "subordinate authorities within ministries" in the Montenegrin administrative system*, October 2017;
- Ministry of Finance, *Passport Indicators for the 2016-2020 PFM Reform Programme*, available at: <https://bit.ly/2RUoFKd>
- Ministry of Transport and Maritime Affairs, *Performance Report and Report on the Status of Administrative Areas in 2017*, March 2018;
- Network for the Affirmation of the NGO Sector (MANS), *Tajni putevi novca: Izvještaj o izgradnji auto-puta* (Secret cash flows: Report on the highway construction), October 2018, available at: <http://www.mans.co.me/wp-content/uploads/2018/10/IzvjestajAutoputMN1.pdf>;
- OECD Journal on Budgeting, Volume 7 Issue 4. *Programme budgeting in OECD countries* DOI: <https://bit.ly/2DJsfyg>;
- Government of Montenegro Rules of Procedure, Official Gazette of Montenegro 003/12 of 13 January 2012, 031/15 of 18 June 2015, 048/17 of 24 July 2017, 062/18 of 21 September 2018;
- Proposal for the Law amending the Law on State Administration, item 2, Government of Montenegro 50th meeting, available at: [http://www.gov.me/sjednice\\_Government\\_2016/50](http://www.gov.me/sjednice_Government_2016/50) ;

- Proposal for the Law on the Final Budget Account for 2017, available at: <http://www.skupstina.me/index.php/me/sjednice/zakoni-i-drugi-akti>
- Proposed Work Plan and Financial Plan of "Monte put" LLC Podgorica for 2018 and Report on implementation of the Financial Plan and Work Plan of "Monte put" LLC Podgorica, January 2018, available at: [http://www.gov.me/sjednice\\_Government\\_2016/58](http://www.gov.me/sjednice_Government_2016/58) ;
- *Government of Montenegro Medium-term Work Programme for 2018-2020*, Commission for development and monitoring of the Government Medium-term Work Programme, January 2018;
- Service Contract: SAP system expansion – implementation of SAP FI-AA module and external application for the state property registry, Ministry of Finance and ATOS IT Solutions and Services LLC Belgrade, 31 December 2014;
- Government of Montenegro, *Report on Implementation of the Government Medium-term Work Programme for 2018 - 2020, for the period February-July 2018*, July 2018, available at: <https://bit.ly/2MEUmRJ>
- Government of Montenegro, *Methodology for medium-term planning of the work of ministries*, October 2018;
- Government of Montenegro, Proposal for the Law amending the Law on Budget and Fiscal Responsibility accompanied by a Rationale (adopted), July 2018, available at: <https://bit.ly/2RZfCaK>;
- Government of Montenegro, *Government Work Programme for 2018*, February 2018, available at: <https://bit.ly/2UuVxWS>;
- Government of Montenegro, Proposal for the 2019 Budget Law, available at: <https://bit.ly/2DGF24c>;
- Law on the Bar – Boljare Highway, Official Gazette of Montenegro 52/2014;
- Law on Budget and Fiscal Responsibility (Official Gazette of Montenegro 020/14 of 25 April 2014, 056/14 of 24 December 2014, 070/17 of 27 October 2017, 004/18 of 26 January 2018, 055/18 of 01 August 2018);
- Law on State Property, Official Gazette of Montenegro 021/09 of 20 March 2009, 040/11 of 08 August 2011);
- Law on State Administration, Official Gazette of the Republic of Montenegro 038/03 of 27 June 2003, Official Gazette of Montenegro 022/08 of 02 April 2008, 042/11 of 15 August 2011, 054/16 of 15 August 2016, 013/18 of 28 February 2018;
- Law on State Administration, Official Gazette of Montenegro 078/18 of 04 December 2018;
- Law amending the Law on Public Procurement, Official Gazette of Montenegro 042/17 of 30 June 2017;

- Law on Public Financial Control System, Official Gazette of Montenegro 73/08 of 02 December 2008, 20/11 of 15 April 2011, 30/12 of 08 June 2012, 34/14 of 08 August 2014;
- Law on Management and Internal Control in the Public Sector, Official Gazette of Montenegro 075/18 of 23 November 2018.

#### ▪ INTERVIEWS:

- Interview with Zorka Kordic, Assistant Secretary-General of the Government – Head of Department for Coordination, Monitoring of Harmonisation and Implementation of Strategies Establishing Public Policies, conducted at the GGS premises in Podgorica, on 13 December 2018;
- Interview with Ines Mrdovic, Research Centre Coordinator at the Network for the Affirmation of the NGO Sector (MANS), conducted in Podgorica, on 11 December 2018.

**Institute Alternative (IA)** is a non-governmental organization, established in September 2007 by a group of citizens with experience in civil society, public administration and business sector.

**Our mission** is to contribute to strengthening of democracy and good governance through and policy analysis as well as monitoring of public institutions performance.

**Our objectives** are to increase the quality of work, accountability and transparency, efficiency of public institutions and public officials; to encourage open, public, constructive and well-argument discussions on important policy issues; raising public awareness about important policy issues, strengthening the capacity of all sectors in the state and society for the development of public policies.

**The values** we follow in our work are dedication to our mission, independence, constant learning, networking, cooperation and teamwork.

We function as a **think tank** or a research centre, focusing on the overarching areas of good governance, transparency and accountability.

On the basis of our five programmes, we monitor the process of accession negotiations with the EU, actively participating in working groups Public procurement (5), Judiciary and Fundamental rights (23) and Financial control (32). Our flagship project is the Public Policy School, which is organized since 2012, and in 2018 we organized the first Open Budget School.

So far we cooperated with over 40 organizations within regional networks in the Western Balkans and with over 100 organizations in Montenegro. Institute is actively engaged in regional networks: Think for Europe (TEN), Pointpulse, SELDI, WeBER, UNCAC Coalition, Global BTAP, PASOS and The Southeast Europe Coalition on Whistleblower Protection.

The results of our research are summarized in 107 studies, reports and analyses, and the decision-makers were addressed 1036 recommendations. Over four thousand times we communicated our proposals and recommendation to the media for better quality public policies.

We started three internet pages. **My town** is a pioneer endeavour of visualization of budgetary data of local self-administrations. **My Administration** followed, which serves as an address for all those citizens that have encountered a problem when interacting with public administration and its service delivery system. The newest internet portal, **My Money**, provided national budget data visualization.

Institute Alternative regularly publishes information about finances, projects and donors that support the work of the organization. For this reason, the Institute have five-stars rating third year in a row, according to a survey conducted by the international non-profit organization Transparify, which evaluates transparency for over 200 research centers.

President of the Managing Board is Stevo Muk, and our organization currently has ten members.

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