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Ethics and public administration: Principles with no support

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ABSTRACT

In spite of the fact that Montenegro has established codes of ethics for local and national civil servants and state employees, the mechanisms that would ensure their efficient application are lacking.

In its work thus far, the Ethics Committee for monitoring the application of the Code of Ethics of Civil Servants and State Employees has received one complaint in relation to the behaviour of a civil servant and one initiative for receiving opinion on the implementation of the Code of Ethics. Contact-points have been appointed and tasked to inform the Committee of all complaints about Code violations submitted directly to state authorities. However, no such complaints have been reported.

The Ethics Committee has failed to meet its obligation of convening at least once a month, and it is also facing the issue of not paying its members' remunerations. The procedures for appointing Committee members are not sufficiently developed, and its primary role is an advisory one, given that it does not have the possibility of launching a disciplinary procedure in cases when it identifies violations of ethical standards.

The work of specific ethic committees at some institutions (e.g. Customs Administration, Police Administration) is better organised, which can be noted in those bodies' results. The Police Administration's Ethics Committee has reviewed 570 cases of Police Code of Ethics violations in eight years. In just the last three years, the Committee has found 59 instances of violations of the Code.

On the other hand, just 15 out of 23 Montenegrin municipalities have established Ethics Committees for monitoring the implementation of the local codes of ethics for civil servants and state employees. Similar to the national level, no complaints have been reported on by the local committees.

An ethical code that would cover appointees at senior management positions in state administration who are not civil servants or state employees is yet to be adopted. All this suggests that, broadly speaking, there are still no basic preconditions in place for a successful implementation of ethical standards in Montenegro. These preconditions would comprise certain competences and autonomy of the bodies in charge of monitoring the implementation of ethical standards, promotion of codes of ethics, guidelines for solving concrete ethical dilemmas, facilitated possibility of submitting ethical violation complaints, and transparency in follow-up on complaints.

Introduction: Preconditions for a successful implementation of ethical standards

A particularly notable goal of the Public Administration Reform Strategy for 2011-2016 is increased transparency and increased level of ethics in public administration, with the view to a more efficient public administration, more professional disposition towards the citizens (service beneficiaries), and more professionalised relations between the employees. The Strategy was soon followed by the adoption of a new Law on Civil Servants and State Employees (July 2011), its entering into force (January 2013), the adoption of the Code of Ethics of Civil Servants and State Employees (May 2012) and the establishment of the Ethics Committee for monitoring the application of the Code (January 2013). However, the Information on the implementation of the Law on Civil Servants and State Employees, adopted by the Government of Montenegro in December 2013, suggested that the Ethics Committee has encountered a series of problems in its work¹.

¹ The information has suggested that the Ethics Committee has met just once in 2013 due to the fact that re-

This paper adopts a premise that a consistent application of ethical standards is one of the hallmarks of overall public administration efficiency, which is gaining more importance as the country moves closer towards the European Union membership. All this is reflected in the ever increasing conditionality of the EU and in the fact that the public administration reform, alongside the rule of law and economic governance, has been defined as one of the three pillars of the EU Enlargement Strategy for 2014-2015.²

These ethical postulates, which cannot always be codified in legal acts, are precisely the key factor of efficient public policy implementation. The law cannot regulate everything, and it is up to those who implement it to be consistent in doing so by taking into account primarily the principles of ethical behaviour. In addition to improving public administration efficiency and consistency in public policy implementation, codes of ethics are naturally also an important anti-corruption mechanism.³

The preconditions for an efficient implementation of ethical standards in public administration, for the purpose of this analysis, are taken from the World Bank.⁴

In accordance with this approach, the existence of a code of ethics is just one in a series of elements necessary for a successful implementation of ethical standards. Namely, in addition to the codes of ethics, it is also necessary to ensure the following:

- Transparency in their application,
- Training,
- A clear communication strategy for their promotion,
- Application guidelines and solutions to ethical dilemmas,
- Efficient system for submitting complaints,
- Implementation oversight,
- Autonomy of the body for monitoring the implementation of ethical standards.

The aim of this paper is to determine to which degree Montenegro meets these criteria. This will be done by making an overview of the functioning and the status of the Ethics Committee for monitoring the application of the Code of Ethics of Civil Servants and State Employees. However, with the view to ensuring full understanding of the application of ethical standards nation-wide, a comparison will be made with local government experience in implementing their codes of ethics, as well as with the two state institutions that have adopted their own codes of ethics – the Police Administration and the Customs Administration.

The paper is divided into two major parts. The first one provides an overview of the main challenges the Ethics Committee is facing in its work, and the second part provides an overview of the application of ethical standards at the Police Administration and the Customs Administration and at the local level. The conclusion offers a review of the level of fulfilment of the main preconditions for a successful application of ethical standards in public administration. The paper also offers recommendations as to how to ensure basic preconditions for improving the ethical standards in Montenegro's public administration.

munerations were not paid to the members of the Committee (Cf: Ministry of the Interior, *Information on the implementation of the Law on Civil Servants and State Employees*, Podgorica, December 2013 – in Montenegrin).

2 European Commission, *Enlargement Strategy and Main Challenges 2014 - 15*, Brussels, 8 October 2014.

3 Cf. United Nations Office of Drugs and Crime, *The Global Programme Against Corruption: UN Anti-Corruption Toolkit*, Vienna, September 2004, available at: http://www.unodc.org/pdf/crime/corruption/toolkit/corruption_un_anti_corruption_toolkit_sep04.pdf

4 S.C. Gilman, *Ethics codes and codes of conduct as tools for promoting an ethical and professional public service: Comparative successes and lessons*, Prepared for the PREM, the World Bank Washington, DC, Winter 2005.

Code of Ethics: Additional impetus for the civil service reform?

Code of Ethics of Civil Servants and State Employees was adopted together with a set of bylaws that were aimed at the overall strengthening of the state administration system, following the Law on Civil Servants and State Employees. Montenegro also had an earlier code of conduct for state administration employees, adopted in 2005.⁵ However, the effects of that code, as well as the quality and implementation of the previous Law on Civil Servants and State Employees, were moderate and insufficient, which, coupled with the criticism of politicised and inefficient public administration,⁶ led the lawmakers to a decision to re-launch the reform of public administration and civil service in 2011.

The new Code of Ethics' adoption process was flawed, as it failed to involve the interested parties to a sufficient degree, especially the civil servants and state employees for whom it was intended. Namely, the applicability of the rules of conduct relies also on the extent to which the rules are compatible with the ethical standards of those for whom it was intended,⁷ and this is best ensured through inclusive adoption procedures. Apart from not being involved in the process of adopting the Code, the state administration employees are not even sufficiently aware of its contents. Between 1 January 2013 and 27 November 2014, only 115 persons took the training on Code's application,⁸ which is a very low number, especially if we keep in mind that the new Law on Civil Servants and State Employees covers 12.000 employees in the state administration, and the Law on the Local Self-Government stipulates how it should be applied at the local level.

Moreover, the Government has not adopted the specific guidelines for the Code of Ethics' application, which is often the case in comparative practice. Namely, given that ethical dilemmas are not always easy to solve, i.e. certain ethical principles could be in collision, it is necessary to point to the desired way of their resolution, by offering concrete examples. For instance, in modern public administration, there is often the case of "democratic dirty hands,"⁹ which implicates that the civil servant is obliged to break one ethical standard if that would lead to an attainment of a higher principle. Both the Code and guidelines for its application ought to recognise the possibility of such problems' emergence and should offer guidelines as to how to solve it.

The contents of the Code themselves point to shortcomings. One of the interim benchmarks for measuring Montenegro's progress in EU negotiations Chapter 23: Judiciary and Fundamental Rights is related to the implementation of ethical standards in the legislative and executive branches of government at all levels. The Code of Ethics should, according to this benchmark, regulate both the conflict of interest and other non-ethical or corrupt behaviour and should establish appropriate accountability measures and the preventive system of sanctions for breaking the rules of conduct.¹⁰

The Code of Ethics of Civil Servants and State Employees has not responded to any of these requests. It contains no provisions that would define the conflict of interest or make a distinction between private and personal interests of civil servants and state employees and the public interest. The greatest shortcoming of this document is that it does not prescribe any sort of sanctions in cases of breaches of the Code. Although there was an opportunity to bridge these gaps by establishing the Ethics Committee, the scope and competences of this body have thus far not made notable improvements in the application of ethical standards.

5 Code of Ethics of Civil Servants and State Employees, Official Gazette no. 81/2005.

6 Public administration reform was one of the key priorities that affected the launch of accession negotiations between Montenegro and the EU (Cf. European Commission, Commission Opinion on Montenegro's application for membership of the European Union, Brussels, 9 November 2010, available at: http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/mn_opinion_2010_en.pdf).

7 J. S. Browan and C. C. Knox, "Ethics in Government: No Matter How Long and Dark the Night," *Public Administration Review* 68 (4), Jul. - Aug. 2008, pp. 627-639

8 This information was provided by the Human Resources Management Authority.

9 D.F. Tompson, *Politička etika i javna služba*, Službeni glasnik, Belgrade, 2007.

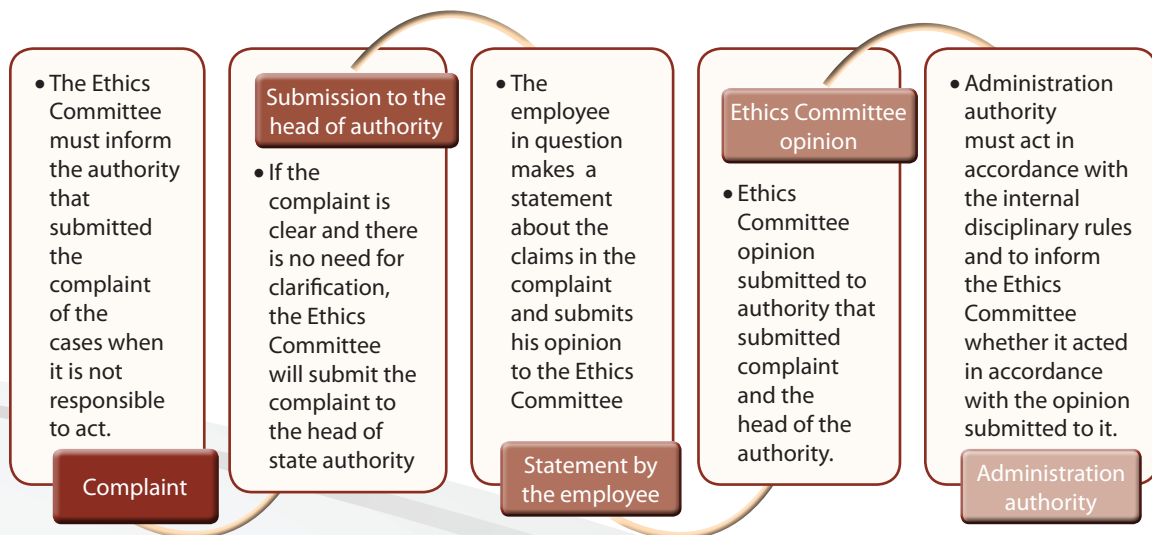
10 European Commission, "Privremena mjerila za Poglavlje 23 (Pravosuđe i temeljna prava)."

The Ethics Committee: A non-binding opinion

The Ethics Committee gives opinions on appeals against the conduct of employees in the state body; gives opinions related to implementation of this Code of Ethics; monitors implementation, initiates changes and amendments to the regulations in the area of employees' ethics; and promotes ethical standards and rules of conduct in state bodies. The Law on Civil Servants and State Employees also identifies the breaches of the Code of Ethics as minor breaches of official duty.¹¹ Accordingly, after hearing the complaint about the conduct of a civil servant or state employee, the Committee submits its opinion to the state authority, and it may recommend the launch of a disciplinary procedure against the employee who has breached the Code. However, the question remains: what legal authority does the disciplinary procedure have?

Namely, it has remained unclear to what extent the heads of state bodies are obliged to act as the Committee opinion stipulates and launch the disciplinary procedure, even though, as has already been stated, the employees that break the Code do carry disciplinary liability. Furthermore, unlike, for example, the Code of Judicial Ethics in Montenegro, which envisages the possibility for the committee in charge of its implementation to launch a disciplinary procedure, the Ethics Committee has no such prerogatives. This body is in charge solely of submitting opinions on whether a disciplinary procedure should be launched to the heads of state authorities, wherein the authority in question is not obliged to accept the opinion and launch the procedure. The only obligation that is prescribed is for the authority to inform the Ethics Committee whether it has acted in accordance with the opinion submitted to it, but there are no further sanctions for failure to put the proposals into action.

Chart 1: The procedure of submission and consideration of complaints on the breaches of the Code of Ethics of Civil Servants and State Employees



¹¹ Art. 82, Law on Civil Servants and State Employees, Official Gazette no. 39/11, 50/11, 66/12, 34/14

Lack of authority – lack of results

The Government of Montenegro adopted a Decision on the establishment of the Ethics Committee at its sitting of 31 January 2013,¹² but this body started working only in April, when the first session took place. The president and members of the Ethics Committee are appointed by the Government of Montenegro, at the proposal of the state administration authority competent for administrative tasks, for the period of four years.¹³ The Code of Ethics however does not regulate the way a representative of the state administration body is appointed, or the appointment procedure. For the time being, the appointment is a discretionary right of the head of the state authority. Another thing to note is that neither the Ethics Committee nor any other document defines precisely the competences the appointed persons need to possess in order to perform the responsible tasks within the Committee's remit. Another issue to discuss is their previous experience in similar tasks. The Committee does not have permanent sources of funding, nor permanent offices, nor the right of autonomous disposition with the funds required for carrying out its duties.

The Decision also envisages that the persons appointed to the Committee are entitled to a monthly remuneration in accordance with the Government's Decision on the criteria for determining remuneration for members of working bodies and teams and other types of work.¹⁴ This Decision is interpreted as stipulating that the remunerations for the work of the members of the Ethics Committee are within the competences of the state administration authorities that have proposed the respective member(s) of the Committee. However, it has often been the case in practice that the Government's Decision has been imprecise, as the members of the Committee have often represented more authorities, and not just one. The consequence of this has been that a Committee member representing several institutions (Pension and Disability Insurance Fund of Montenegro, Health Insurance Fund of Montenegro, Employment Office of Montenegro, Labour Fund, and Agency for Amicable Settlement of Labour Disputes) has not received remuneration for the work in the Committee, due to the lack of consensus on whether all five authorities should participate in the remuneration or just the one where the person is employed.¹⁵

Issues as regards competences and the very procedures regulating the membership and work of the Committee have had an impact on its work. Namely, the process of the members' appointment, which went without them applying voluntarily, has reflected on the ability of two members to participate actively in the sessions, for which reasons the Government decided in November 2014 to replace them.¹⁶

In 2013, the Committee has not fulfilled its obligation to convene at least once a month. Between 2 April 2013 and 24 October 2014, there have been 11 sessions in total. Four more have been scheduled, but were not held due to the lack of quorum (which requires the majority of all the members). At the sessions that did take place, the Committee discussed, in addition to a very small number of complaints and initiatives, mostly the issues of determining more closely its internal procedures. The Committee also reached a decision on publishing an online survey at the Human Resources Management Authority website on the most common breaches of the Code of Ethics. However, as of November 2014, only 21 visitors responded to the survey.

12 Official Gazette no. 11/13.

13 Dubravka Božović, representative of employees in the area of the judiciary, was appointed president of the Committee. She is aided by Committee members: Dražen Malović, representative of the Service of the Parliament, Srđan Raičević, representatives of state administration employees, Jadranka Milošević, representative of several legal persons (Pension and Disability Insurance Fund of Montenegro, Health Insurance Fund of Montenegro, Employment Office of Montenegro, Labour Fund, and Agency for Amicable Settlement of Labour Disputes).

14 Official Gazette no. 26/12, 34/12, 27/13.

15 Interview with Dubravka Božović, president of the Ethics Committee, held at the Human Resources Management Authority on 13 November 2014.

16 Draft Decision amending the Decision on the Establishment of the Ethics Committee, available at: <http://www.gov.me/biblioteka/odluke?query=eti%u010Dkog%20odbor&sortDirection=desc> (last accessed on: 26 November 2014).

The numbers are telling

In its first year the Committee has received only one complaint for the breach of the Ethics Code and one initiative for an opinion on the application of ethical standards. Both initiatives came from the civil sector – by an LGBT rights’ protection organisation “Queer Montenegro” and the Institute Alternative.

Queer Montenegro’s complaint was about the behaviour of a civil servant from the Justice Ministry – Institution for Enforcement of Criminal Sanctions, which stated that this civil servant violated the rights of LGBT persons by stating personal opinions on Facebook. The Committee took note of the complaint and ascertained that the civil servant in question has in fact breached the Code. The civil servant was subsequently sanctioned through a disciplinary procedure.¹⁷ However, it is impossible to find at the Ethics Committee website what the final outcome of the complaint is, which points to an insufficient level of coordination between the Ethics Committee and the state administration authority, but also speaks of the inability of the party that has submitted the complaint to receive information on its final outcome.

The Institute Alternative’s initiative required an opinion on whether certain civil servants have breached the ethical standards of state administration authorities by running in local elections. In addition, it asked the Ethics Committee to investigate whether the civil servants that ran as candidates in the local elections committed severe violations of the official duty and ethical standards by expressing their political views while performing duties. The Ethics Committee responded to this initiative only partially, stating an opinion that civil servants are allowed to run in elections, but it has failed to take action towards ascertaining whether certain civil servants participated in campaigns during working hours, which the Law explicitly prohibits.

Each state administration authority has appointed a contact-person to communicate with the Committee regarding complaints. However, as there had been no reporting on the complaints of Code breaches,¹⁸ it is safe to conclude that there had been no complaints at all. It is also important to note that mere appointment of contact-persons, without spelling out their concrete tasks, is not enough to ensure consistent application of ethical standards. In that sense, Croatia’s experience is very useful, since it introduced special ethics commissioners at each authority, instead of just appointing contact-persons. The 317 ethics commissioners observe the application of the code of ethics and undertake the procedure of investigating a complaint, and they must attend an education programme for ethics commissioners. There is an independent national body – the Ethics Commission – which also gives opinions and promotes ethics principles. It is particularly important to note that citizens have an opportunity to use a toll-free telephone line to report on the breaches of the Code.¹⁹ These mechanisms’ importance is evident among other things in the comparatively larger number of complaints for non-ethical behaviour. In 2013, around 10% of such complaints were deemed as having ground.²⁰

Ethics Committee has so far received one complaint for violation of Code and one initiative for providing opinion on implementation of ethical standards.

17 Cafe del Montenegro, “Milan Radović novčano kažnjen zbog homofobije,” available at: <http://www.cdm.me/drustvo/hronika/milan-radovic-novcano-kaznjen-zbog-homofobije>.

18 This information was received during the interview with Dubravka Božović, president of the Ethics Committee, held at the Human Resources Management Authority on 13 November 2014.

19 More information available at the Ministry of Public Administration website: <https://uprava.gov.hr/o-ministarstvu/ustrojstvo/uprava-za-sluzbenicke-odnose/etika/eticko-povjerenstvo/787> (last accessed on 30 November 2014).

20 The Ministry of Public Administration website offers access to reports of non-ethical behaviour for the period 2009–2013. It will suffice to highlight the data from 2013. As many as 492 complaints were submitted, of which 411 for ministries’ employees, 34 for administration employees, 27 for employees in counties, three each for *Sabor* and the Government services, and 17 for judicial bodies’ employees. Only 47 complaints were deemed grounded, of which disciplinary procedure was launched in seven cases for serious breaches and three for minor breaches of the Code.

The Code envisages that certain authorities, given the peculiarities of their work, may adopt their own codes of ethics that must be in line with the general Code. The Customs Administration adopted new code in 2012 of ethics of customs officers, and the Police Administration has had a code of police ethics since 2006. Due to the specific nature of these authorities, and due to their type of work which is more susceptible to corruption than that of other state administration authorities, one should be careful while comparing the general Code of Ethics of Civil Servants and state employees with these specific codes. However, the technical specificities of these two institutions' ethics committees may serve as a good basis for improving the work of the Ethics Committee which covers civil servants and state employees.

Applying special codes of ethics: Less is more

The monitoring of the implementation of codes in Police Administration and Customs Administration application has been delegated to ethics committees, which, alongside these authorities' representatives and trade unions, invite also a member from the non-governmental sector. Another good solution as regards the application of these particular codes of ethics is the appointment of four ethics trustees within specific customs houses, to whom the customs officers may address any requests for assistance in solving ethical dilemmas, or if they believe they need further education on the code. The Customs Administration has organised a series of round tables and a campaign on the consistent application of the Code of Ethics and resolute fight against corruption, aimed at informing the customs officers in the field with the Code's preventive role, as well as the sanctions for breaching work obligations or the Code's provisions.²¹

On the other hand, the Police Administration Ethics Committee is the longest standing body in charge of monitoring the application of ethical standards in Montenegro – it has been in operation since 2008. Since its establishment, the Committee has worked on 570 cases which required opinion on the breach of the Code of Police Ethics.²² Of those, 93 cases relating to 118 officers were investigated in 2012, 2013, and 2014. In as many as 59 cases, a breach of code was ascertained (see Table 1).

Table 1: Statistics of the Police Administration's Ethics Committee in 2012, 2013, and 2014 (Source: Police Administration's Ethics Committee)

	Number of investigated cases	Number of investigated officers	Number of breaches of the Ethics Code
2012	30	33	18
2013	19	19	15
2014	44	66	26
Total	93	118	59

High numbers of cases under investigation by this Interior Ministry's body are a consequence of the sheer size of the Police Administration, which employs 4265 individuals, more than a third of all state employees.²³ The largest number of complaints for breaches of the code comes from

21 Customs Administration website: <http://www.upravacarina.gov.me/rubrike/antikorupcijski-program/127717/Saopstenje-Primjer-dobre-prakse.html>.

22 Interior Ministry's website (Montenegrin): http://www.mup.gov.me/rubrike/eticki_odbor.

23 This is data from Q2 of 2014 (Source: Government of Montenegro, Report on implementing the Action Plan for the implementation of the Internal Re-organisation of the Public Sector Plan for I4 of 2013 and Q1 and Q2 of 2014 (Montenegrin), Podgorica, September 2014).

immediate superiors,²⁴ whose role in monitoring the implementation of ethical standards and reporting their breaches is particularly stressed in all codes of ethics in Montenegro.

Available information suggest that the participation of NGO representatives in these bodies has a positive effect on their work. The initiatives on determining whether there has been a breach of the code, as stated by the members of the Ethics Committee of Poluce Administration, are often launched by the members from NGO sector²⁵, though there is no official statistics on that. In addition, it is planned to have the results of the Police Administration's Ethics Committee presented within a special section at the police website. Following consultations with the department for confidential data at the Police Administration, a decision will be reached on the form and manner in which the opinions on the Code of Police Ethics' application will be published online.²⁶ However, the opinions of the police and customs ethics committees are also non-binding, and there is no obligation to provide feedback to these bodies on whether the disciplinary procedures were launched and what their outcomes are. There is no obligation to provide remuneration for participation in these bodies, and therefore they often lack the basic preconditions for their work, in spite of some positive solutions outlined here.

Applying ethical standards locally: A step further?

On 24 July 2009 the Assembly of the Union of Municipalities of Montenegro adopted the Code of Ethics of Local Civil Servants and Employees,²⁷ and it recommended local self-governments to adopt it. It should be noted that unlike the national level, where there are still no codes of ethics for MPs or public officials, the local self-governments took a step further by adopting in parallel the codes of ethics of elected representatives and officials in local self-governments. With the view to assisting the local self-governments to reach higher standards of professional ethics, the Union of Municipalities has drafted a guidebook for applying ethical standards, which offers practical explanations, recommendations, and guidelines that may prove useful in the process of implementing these documents.²⁸

The local codes prescribe disciplinary liability for employees that have breached ethical standards, but the rules of procedure of the ethics committees in charge of monitoring the application of the codes do not specify how disciplinary liability is ascertained. The fact that the public is not aware about the complaints and the opinions on those complaints could either mean that citizens and employees do not report the breaches of the code or that such breaches do not take place at all.

According to available data, 15 municipalities have appointed ethics committees: Andrijevica, Bijelo Polje, Danilovgrad, Mojkovac, Nikšić, Plužine, Podgorica, Šavnik, Žabljak i Cetinje, Tivat, Herceg Novi, Berane, Pljevlja i Plav. In Budva, a public call for proposing candidates was issued but no proposals came in, and this was the case in certain other municipalities, and for this reason no members of ethics committees were appointed.²⁹ Unlike the appointment of ethical committees in the national-level administration which are fully at the discretion of the head

24 Interview with Radomir Radunović, Police Administration's Ethics Committee president, and Sead Frljučkić and Zoran Vujičić, Police Administration's Ethics Committee members, held at the Police Administration offices on 12 December 2014 (Montenegrin).

25 Ibidem.

26 Ibidem.

27 Available at: <http://www.uom.co.me/?p=233> (last accessed on 30 November 2014).

28 Union of Municipalities of Montenegro, *Standards of public ethics in local administration*, April 2010, available at: <http://www.uom.co.me/wp-content/uploads/2011/05/crnogorska-verzija.pdf> (last accessed on 30 November 2014).

29 Catalog of municipal acts; Interview with Ljubinka Radulović, deputy secretary general of the Union of Municipalities, November 2014.

of the authority, a good solution at the local level is that the procedure for appointing the candidates for the ethics committee is regulated. This procedure starts with a public call, and the right of appointment belongs to the following groups: citizen; group of citizens; education, science, and professional institutions; culture, media, sports, and non-governmental organisations. Even though the minimal response to these calls was the main reason that ethics committees were not established in some municipalities,³⁰ this cannot serve as an excuse for the national and local authorities to monopolise the procedure, without allowing any involvement of the employees, concerned citizens, and the non-governmental sector in general. Quite the contrary, this requires further promotion of ethical standards as well as public involvement in their application.

The municipalities' websites contain no opinions on the application of ethical codes, and only three municipalities allow online submissions to and communication with ethics committees. The opinions are not published due to a recommendation by the Union of Municipalities. Namely, the Model Ordinance on Ethical Committees of Local Civil Servants and Employees states that "If the ethics committee decides to publish the decision, it must state the reasons for opting for this more stringent approach."³¹ Even though it is necessary to strike a balance between transparency and the protection of personal data, failure to publish the opinions of ethics committees at the local level certainly does not add to the transparency of their work.

By reviewing the local self-government websites various good practices can be noted. Three municipalities offer an opportunity to submit the complaints on the breaches of codes online. The Municipality of Nikšić website contains a report on the work of the committees, and also contains various press releases intended for the general public. It is evident that effort was put into promoting the code both to the employees and to the general public, which was invited to the presentation of the committee and the code.³² Moreover, the Municipality of Berane website offers information on the outcome of the committee sessions, as well as the activities planned for promoting the code.³³ The Municipality of Tivat is the best practice example. Not only do they provide information from the committee sessions, but the communication and information campaigns for citizens and employees are very visible. The campaign "Kindness starts with me" and the selection of the kindest employee particularly stand out, as does the "Let's Build Trust" brochure and the visits to individual institutions and committee meetings with persons in charge of communication.³⁴ This is a testimony to the attainment of higher transparency in public administration's work.

CONCLUSION AND RECOMMENDATIONS

The primarily advisory role of the bodies in charge of applying ethics codes and the lack of their pro-active role have resulted in a negligible overall number of complaints and initiatives on the application of ethical standards in public administration. A notable exception is the Police Administration's Ethics Committee, which in its eight years of existence has investigated 570 cases and ascertained a notable number of breaches of the code.

This committee, as well as the Customs Administration's Ethics Committee, invite non-governmental organisations' representatives to participate, which strengthens the openness of these bodies. However, all the bodies in charge of monitoring the application of ethical standards in

30 Ibidem.

31 Union of Municipalities, *Model Ordinance on Ethical Committees of Local Civil Servants and Employees*, translation by the author.

32 <http://niksic.me/lokalna-uprava/skupstina-opstine/eticke-komisije/>

33 <http://www.berane.me/index.php?jezik=lat>

34 <http://opstinativat.com/component/content/article/589.html>

Montenegro, virtually without exception, face the issue of a lack of working space and financial resources, which has negative effects on their efficiency and autonomy.

The scope of application of ethical standards in public administration is also problematic, given that there is no dedicated code of ethics at the national level that would cover the persons that are appointed to managing positions in state bodies (ministers, state secretaries, heads of authorities) but do not belong to the category of civil servants and state employees. The adoption of dedicated codes for this top management level in state administration is an international standard³⁵ and an important anti-corruption tool.

If we take a look at the issue raised at the beginning of this paper – which asks to which degree Montenegro meets the preconditions for applying ethical standards – we reach the conclusion that it is a very low degree. An **ethics code** that would cover all the managers in state administration is yet to be adopted. **Transparency** of applying existing ethics codes varies, but in general the information on complaints regarding the application of ethics codes, and more importantly on the outcome of these complaints, is not always available. Less than one per cent of all the state administration employees covered by the Code of Ethics of Civil Servants and State Employees have attended trainings for its application, which shows that the awareness of the need to train the employees is very low, as well as their interest in attending these trainings.

Apart from several bright spots of pro-active roles of ethics committees locally, the **promotion of ethical standards** is insufficient. In addition, even though the Union of Municipalities helped develop **guidelines** for applying local ethics codes, such guidelines do not exist at the national level. The Human Resources Management Authority website contains a **form for complaints** regarding the breaches of the Code of Ethics of Civil Servants and State Employees, but they cannot be submitted online, and there are no special boxes for their submission in state institutions, which would make the process simpler. There are no telephone lines or other ways of communication that would make it easier to report the breaches of ethical standards. As regards the **monitoring of the ethical standards' application** and the competences of the bodies in charge of this monitoring, this paper has illustrated many shortcomings which point to insufficient capacity and insufficient financial **independence**.

RECOMMENDATIONS;

CODES

- The Government of Montenegro should adopt a code of ethics that would cover managing positions in state bodies which do not belong to the category of civil servants and state employees;

TRANSPARENCY

- All received complaints, opinions on complaints, and the final outcomes, i.e. the information on whether the disciplinary procedure for determining breach of code has been launched should be regularly published at municipalities' websites, and the Human Resources Management Authority website section dedicated to the Ethics Committee;

³⁵ In 1996, the UN General Assembly adopted an International Code of Conduct for Public Officials, which covers the top level positions in state administration. The Council of Europe also adopted a resolution in 2000 and the annexed model code of conduct for public officials, which covers not only the appointed representatives of the ruling parties, but also the managers in state administration.

TRAININGS

- Number of trainings on the application of codes of ethics locally and nationally must be increased, as well as their scope. In other words, through strategic planning of these trainings it is necessary firstly to cover the contact persons in charge of monitoring the application of ethical standards within the state administration authorities.

PROMOTION

- Bodies in charge of applying ethical standards should assume a more pro-active role towards promoting ethics codes and encouraging the general public to submit complaints and initiatives of the application of ethical standards,
- The Government of Montenegro and all state and local authorities should develop and apply communication strategies aimed at raising awareness about ethical standards in public administration and the need to report breaches.

GUIDELINES

- The Government of Montenegro should invite expert assistance to help it set the guidelines for successful implementation of ethical standards in state administration, which would contain practical examples and recommendations on solving certain ethical dilemmas;

COMPLAINTS

- It is necessary to put boxes for complaints on breaches of ethical standards in visible and easily accessible places throughout the state administration authorities and municipalities and outside the seats of these institutions.

MONITORING

- All municipalities should establish ethics committees for monitoring the application of local codes of ethics;
- The Government of Montenegro should amend the Code of Ethics of Civil Servants and State Employees so as to regulate more closely the procedure of appointment of Ethics Committee members, which would include a public call to all civil servants and state employees to apply for a position at the Ethics Committee,
- Taking the example of Police and Customs ethics committees, the public call for participation in all bodies in charge of monitoring the application of ethical standards should be open for representatives of the non-governmental sector, with the aim of increasing the transparency of work and the pro-active initiative of these bodies;
- The Government of Montenegro should amend the Code of Ethics of Civil Servants and State Employees so as to authorise the Committee to launch a disciplinary procedure against the head of the state authority before the disciplinary committee of the authority in cases when the head of the state authority refuses to launch a procedure following a Committee opinion or fails to deliver information to the Committee.
- Amendments to the Code should also envisage that contact-persons should act as representatives of the Ethics Committee – ethics trustees, with the authority to decide whether the complaints are grounded and to promote ethical standards.

INDEPENDENCE

- Line institutions should provide necessary preconditions for functioning of the bodies tasked with monitoring the application of ethical standards, including the permanent premises of these bodies and remunerations for the work of its members.
- In addition to remunerations, it is necessary to consider the possibility of allocating funds in the budget specifically for the work of the bodies for monitoring the application of ethics codes, since this would increase their independence and autonomy in work.

Sources:

- Browan, J.S. and Knox C.C. (2008), "Ethics in Government: No Matter How Long and Dark the Night," *Public Administration Review* 68 (4), pp. 627-639
- Cafe del Montenegro, "Milan Radović novčano kažnjen zbog homofobije," available at: <http://www.cdm.me/drustvo/hronika/milan-radovic-novcano-kaznjen-zbog-homofobije>.
- Code of Ethics of Civil Servants and State Employees, Official Gazette no. 81/2005.
- Code of Ethics of Civil Servants and State Employees, Official Gazette no. 20/12.
- Council of Europe, Recommendation No. R (2000) 10 of Committee of Ministers to Member States on codes of conduct of public officials, Adopted by the Committee of Ministers at its 106th session on 11 May 2000, available at: [https://www.coe.int/t/dghl/monitoring/greco/documents/Rec\(2000\)10_EN.pdf](https://www.coe.int/t/dghl/monitoring/greco/documents/Rec(2000)10_EN.pdf)
- Customs Administration website (Montenegro): <http://www.upravarina.gov.me/rubrike/antikorupcijski-program/127717/Saopstenje-Primjer-dobre-prakse.html>.
- Draft Decision amending the Decision on the Establishment of the Ethics Committee, available at: <http://www.gov.me/biblioteka/odluke?query=eti%u010Dkog%20odbor&sortDirection=desc>
- European Commission, "Privremena mjerila za Poglavlje 23 (Pravosuđe i temeljna prava)."
- European Commission, 2010 Commission Opinion on Montenegro's application for membership of the European Union, Brussels, 9 November 2010, available at: http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/mn_opinion_2010_en.pdf
- European Commission, 2014 Enlargement Strategy and Main Challenges 2014 - 15, Brussels, 8 October 2014
- Gilman, S.C. (2005) *Ethics codes and codes of conduct as tools for promoting an ethical and professional public service: Comparative successes and lessons*, Prepared for the PREM, the World Bank Washington, DC, Winter 2005.
- Government of Montenegro, Decision on the criteria for determining remuneration for members of working bodies and teams and other types of work, Official Gazette no. 13/10
- Government of Montenegro, Draft Decision on the amendments to the Decision on the establishment of the Ethics Committee (Montenegro), available at: <http://www.gov.me/biblioteka/odluke?query=eti%u010Dkog%20odbor&sortDirection=desc>
- Government of Montenegro, Report on implementing the Action Plan for the implementation of the Internal Re-organisation of the Public Sector Plan for 4 of 2013 and Q1 and Q2 of 2014 (Montenegro), Podgorica, September 2014
- Interior Ministry's website (Montenegro): http://www.mup.gov.me/rubrike/eticki_odbor.
- Interview with Dubravka Božović, president of the Ethics Committee, held at the Human Resources Management Authority on 13 November 2014.
- Interview with Ljubinka Radulović, deputy secretary general of the Union of Municipalities, November 2014.
- Interview with Radomir Radunović, Police Administration's Ethics Committee president, and Sead Frljučić and Zoran Vujičić, Police Administration's Ethics Committee members, held at the Police Administration offices on 12 December 2014 (Montenegro).
- Law on Internal Affairs (Montenegro), Official Gazette no. 44/12, 36/13.
- Law on the Local Self-Government

- Ministry of Public Administration of Croatia website: <https://uprava.gov.hr/o-ministarstvu/ustrojstvo/uprava-za-sluzbenicke-odnose/etika/eticko-povjerenstvo/787>.
- Ministry of the Interior, Information on the implementation of the Law on Civil Servants and State Employees, Podgorica, December 2013 (Montenegro)
- Municipality of Budva website <http://www.berane.me/index.php?jezik=lat>
- Municipality of Nikšić website: <http://niksic.me/lokalna-uprava/skupstina-opstine/eticke-komisije/>
- Municipality of Tivat website: <http://opstinativat.com/component/content/article/589.html>
- Tompson, D.F. (2007), *Politička etika i javna služba*, Službeni glasnik, Beograd
- Union of Municipalities of Montenegro, "Standardi javne etike u lokalnoj samoupravi," April 2010, available at: <http://www.uom.co.me/wp-content/uploads/2011/05/crnogorska-verzija.pdf> (last accessed on 30 November 2014).
- Union of Municipalities website (Montenegro): <http://www.uom.co.me/?p=233>
- Union of Municipalities, Model Ordinance on Ethical Committees of Local Civil Servants and Employees.
- United Nations General Assembly, International Code of Conduct of Public Officials, A/RES/51/59, 82nd plenary meeting, 12 December 1996
- United Nations Office of Drugs and Crime (2004), The Global Programme Against Corruption: UN Anti-Corruption Toolkit, Vienna, available at: http://www.unodc.org/pdf/crime/corruption/toolkit/corruption_un_anti_corruption_toolkit_sep04.pdf

About us

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 research 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. Our research and advocacy activities are structured within five main programme strands: i) public administration, ii) accountable public finance, iii) security and defense, iv) parliamentary programme and v) social policy.

Managing of the organization is divided between the Assembly and the Managing Board. President of the Managing Board is **Stevo Muk**. Research Coordinator is **Jovana Marović**, PhD.

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