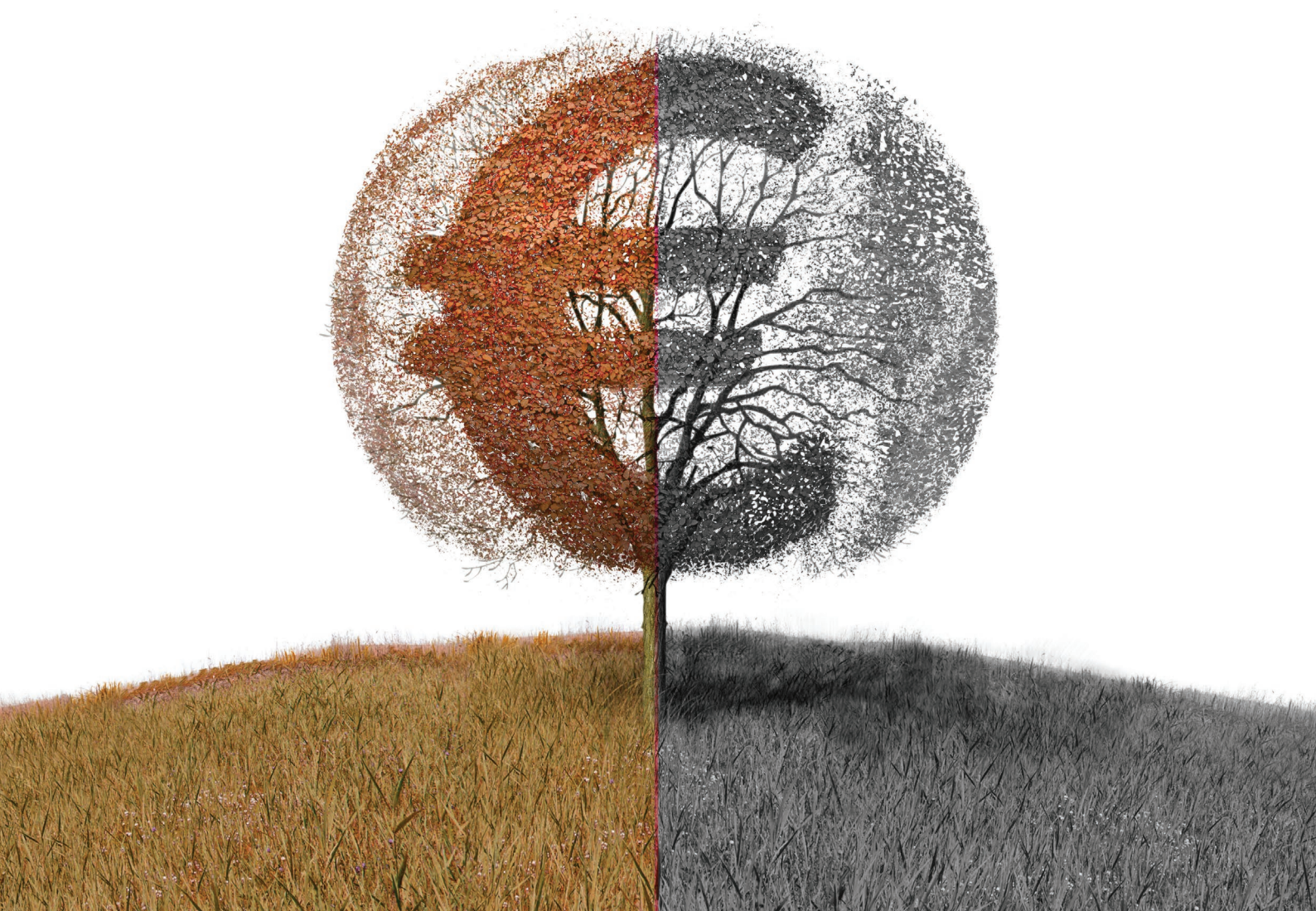


PUBLIC FINANCE MANAGEMENT:  
**THE OTHER SIDE OF THE COIN**  
(UPDATED MONITORING REPORT)

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# CONTENTS

|   |    |
|---|----|
| Introduction .....  | 4  |
| What do the official reports say? .....   | 6  |
| Budget planning .....   | 8  |
| Capital Budget .....  | 12 |
| No significant improvements in Capital Budget transparency .....                        | 12 |
| Budget execution .....  | 14 |
| Public procurement: regression in reporting and low level of competition .....          | 14 |
| Tax and customs revenue collection .....  | 15 |
| State property management .....   | 16 |
| Stalled establishment of state property registry .....                                  | 16 |
| Weak inspection supervision: the other side of negligent treatment of state property .. | 17 |
| Managerial accountability .....   | 18 |
| Waiting for the bylaw to enable delegation of financial management powers .....         | 18 |
| Isolated cases of delegation of powers .....  | 19 |
| External audit .....  | 21 |
| What next? .....  | 23 |
| Recommendations .....   | 24 |
| References .....  | 27 |

# 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. The key Government strategic document in this area is the 2016-2020 PFM Reform Programme, 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 on 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 (SAI) and the Audit Authority.

During Programme implementation thus far, most progress has been achieved in relation to capacity building activities (mainly training) and regulatory changes, including the establishment of the institutional and regulatory frameworks for strategic planning at the level of public administration, development of the methodology for drafting strategic documents, adoption of new decisions on programme-based and Capital Budget, implementation of new software mechanism for cash and public debt management, upgrade of the model used for macroeconomic projections, training of the

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civil servants tasked with public procurement and internal financial controls, and adoption of some strategic documents of relevance for the work of the State Audit Institution.

The longest delays occurred in relation to the following: establishment of the e-registry of state property and delivery of relevant training; development of a detailed programme budgeting implementation and revision plan; improvements to the overview of projects included in the Capital Budget, and establishment of the e-procurement system. Most of these delays were caused by the timeline for contracting and implementation of IPA-funded projects.

This Report aims to provide an independent review of the achievement of the key objectives and bring to attention the activities that, although originally not foreseen, impacted the implementation of the reform, but also to cross-refer the official reports on the progress of the reform. As in the previous report, 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.

# WHAT DO THE OFFICIAL REPORTS SAY?

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The Government did not prepare the semi-annual report on the implementation of the PFM Programme in 2019. That is a hindrance to the monitoring to be conducted by the key actors in charge of implementing the Programme and other external actors who may be interested in this area. Four reports on the implementation of this reform were prepared by September 2019 (two semi-annual ones for 2018 and 2017 and two annual ones, for 2017 and 2016).<sup>1</sup>

Development of PIFC system retained the best implementation rate, with 100 per cent of set objectives accomplished. Still, as noted earlier, it should be kept in mind that most of the activities implemented to strengthen PIFC concerned delivery of training and certification of accountants. In principle, one fifth (9 out of 41) passport indicators for monitoring the implementation of the Programme referred to training and numbers of staff trained, without addressing the quality of such training or its impact on improvements in the given area. On the other hand, according to the official reports, transparent statistical reporting was the least successful area, with the implementation rate of 33 per cent.

The 2018 report included a welcome novelty, as it was accompanied by a review of HR capacities and a review of the state of PFM-related information systems. The purpose of the review of HR capacities was identification of the actual needs of the civil servants working at the Ministry of Finance, Tax Administration, Customs Administration, State Audit Institution, Audit Authority and Public Procurement Administration. The review found that the total number of employees working in these authorities was 1,393, but that there were 363 positions that remained vacant although envisaged in the Rulebooks on internal organisation and job classification. However, apart from the overview of the training events attended by the employees and of the re-organisation undergone by these authorities, the review did not provide unequivocal answers as to whether the existing staff numbers were adequate for the implementation of PFM reform. The review did not cover the Budget Inspectorate situated within the Ministry of Finance, as a core organisational unit for accountable PFM. All the positions within the Inspectorate were vacant, but the review that accompanied the report did not provide any recommendations on how to overcome that situation that affected the overall transparency and accountability of public finance.

In addition, no explanation was provided for the dissolution of the Public Procurement Administration (PPA) under the new Law on State Administration and Decree on the organisation and method of work of state administration. These regulations transferred the competences and staff that formerly belonged to the PPA to the Ministry of Finance. The Ministry of Public Administration

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<sup>1</sup> The PFM Reform Programme and the reports on its implementation are available at the Ministry of Finance official webpage: [https://www.mif.gov.me/biblioteka/strateska\\_dokumenta](https://www.mif.gov.me/biblioteka/strateska_dokumenta)



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(MPA) stated, by way of the rationale for the decision to dissolve some authorities (including the PPA), that it was guided by “the needs of the rationalization process and consideration of statutory criteria, due to the nature of activities or reduced workload”. No detailed explanation was provided for integrating this formerly autonomous administrative authority with the Ministry of Finance at the time when most other formerly subordinate authorities became autonomous. The budget planned for the newly established Directorate for Public Procurement Policy, however, was not smaller than the former PPA’s budget, nor was any downsizing envisaged. During the reporting period, Montenegro became the only country in the region that did not have an autonomous administrative authority; at the same time, access to proactively published information on public procurement diminished, as stated in the report.

The overview of the PFM-related information systems provided several useful pieces of information which constitute an important prerequisite for more efficient budget planning and for efficient monitoring of public spending and accounting. It is commendable that it recognised the needs for better information systems for centralised payroll, budget planning of execution of budgetary funds (cash-based), debt management and monitoring of the processes under IPA I and IPA II programmes. Upgrades or new software solutions in all of these areas are yet to follow, though, and that causes delays in implementation of some of the key reform objectives, such as medium-term budget planning and programme-based budgeting.

# BUDGET PLANNING

*This section focuses on the application of the general procedures for the preparation and contents of the requests for budget allocations, submitted to the Ministry of Finance 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. Most of the reviewed requests for allocation of budget funds did not contain sufficient information.*

*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.*

The trend of late adoption of the Macroeconomic and Fiscal Policy Guidelines continued during this reporting period. The Guidelines set the mandatory spending limits for the forthcoming budget year and thus provide the basis for the drafting of the individual spending units' budgets. Although the Law stipulates that the deadline for the adoption of the Guidelines is end of April of the current year for the upcoming three-year term, the Guidelines were adopted as late as in August 2019<sup>2</sup>. That continued the negative trend from the previous years, as these documents were adopted in July in 2018 and in 2017. This directly affects the timeliness and quality of the requests for budget allocations that individual spending units are supposed to deliver to the Ministry of Finance by the end of July of the current year.

We wish to remind here that enhanced scope of information presented in these requests serves as one of the indicators of improved budget planning within the Programme. Still, the lack of precision of this indicator, which does not explain what is meant by comprehensive scope, coupled with general delays in the adoption of strategic documents that guide the budget development process, affects the performance related to this indicator.

**THE REVIEW OF 197 REQUESTS FOR BUDGET ALLOCATIONS FOR 2019 SUGGESTS A LOW LEVEL OF INFORMATION NECESSARY FOR EFFICIENT BUDGET PLANNING. ALTHOUGH THEY OFTEN ASK FOR MORE FUNDS, MOST UNITS (150) DO NOT REPORT ANY FUNDING PROBLEMS..**

<sup>2</sup> <https://gsv.gov.me/vijesti/208297/Saopstenje-sa-132-sjednice-Vlade-Crne-Gore.html?alphabet=cyr>



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As shown by the earlier review of some requests for budget allocations, the spending units often do not include essential explanatory notes for the amounts requested.<sup>3</sup> During this round of monitoring, we conducted a thorough analysis of 197 requests for budget allocations that the spending units delivered to the Ministry of Finance.

The information contained in the requests was far from comprehensive in scope. Although they often asked for increased amounts of funds, most of the spending units – 150 of them – did not report any funding problems. Although most of the spending units – as many as 147 – did not mention any expenditures for new activities, it is commendable that institutions tended to elaborate the expenditures for current activities in writing. Still, 34 spending units did not elaborate even on the current activities. It should also be noted that the Ministry of Finance, in its report on the implementation of the Programme in 2018, stated that “the budget allocation requests delivered in the format prescribed by the Ministry of Finance’s Budget Circular do not properly reflect comprehensiveness and may often vary in quality.” It was highlighted that explanatory notes were often provided in separate documents, and that budget negotiations, in line with actual practice, took place in the form of meetings with representatives of spending units.

The 2018 Law on State Administration retained the constraints related to the organisation of public consultations and consultative sessions on the proposed national budget, thus depriving citizens of the possibility to influence the budget during the key stage of planning. In 2017 and 2018, the Ministry of Finance published monthly and quarterly reports on budget execution only in Excel sheets, which were not practical for citizens and the general public. The reports were accompanied by the statements that did not clearly outline the contents of the sheets, which affected their accessibility. However, in 2019, not even this inaccessible format of the report on budget execution was published. This additionally weakened the analytical basis for adequate budget scrutiny by external stakeholders, citizens and MPs, in particular given the absence of any obligation to publish semi-annual reports on budget execution or obligation to deliver budget execution reports to the Parliament for consideration.

One of the key transformations in the budget planning system in Montenegro should reflect the shift from the line-item budget to programme budget. The purpose of this type of budgeting is organisation of budget items according to the spending objectives in the given area, such as better service delivery, application of laws etc. Clearly formulated spending objectives should be accompanied by performance indicators. In addition to possibly serving as the framework for assessing the effectiveness of public spending by area, those indicators clearly reflect budget allocation priorities. Establishment of the initial set of indicators for a certain number of programmes was planned for 2019, as a pilot activity for programme budgeting in Montenegro. However, the 2019 Budget Law retained the “programme classification”, which involved only a classification of different programme titles, without statement of objectives or spending indicators per programme.<sup>4</sup>

<sup>3</sup> Milena Muk, Report on the PFM Reform in 2017 and 2018: The other side of the coin, Institute Alternative. Podgorica, February 2019, available at : <http://media.institut-alternativa.org/2019/10/druga-strane-medalje-ciiip.pdf>

<sup>4</sup> The 2019 Budget Law <https://mif.gov.me/pretraga/196362/ZAKON-O-BUDzETU-CRNE-GORE-ZA-2019-GODINU.html>

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The delay in the implementation of the project “Improvement of Budgeting System, Multi-annual Budget Planning and Public Internal Financial Control” was reported as the key reason for the delay in meeting this indicator. Implementation of the mentioned project began in December 2018, and the Ministry of Finance stated in its annual report for 2018 “intensified activities to develop other elements of programme budgeting, with targets expected to be met in the forthcoming period.”

As suggested earlier, the beginning of the strategic planning reform provides an impetus for improved budget planning in Montenegro. It is not possible to develop programme budgets, i.e. identify the performance indicators to be supported by individual programme spending, without clearly defined strategic objectives in specific areas. The three important aspects of this reform are: development of the Medium-term Government Work Programme; medium-term performance-based planning of the work of individual ministries, and better costing of strategic activities. Steps forward were made with the adoption of the first Medium-term Government Work Programme for 2018-2020, increased number of strategies that included sources of funding and costing of each activity, and adoption of the methodology for medium-term programming of the work of ministries. Still, these initial steps in the strategic planning reform need to translate into medium-term budget planning and programme budgeting. The spending units that state projections of required funds for the three-year term in their requests are rare; despite the clearly stated priorities and indicators in the Government Medium-term Work Programme, the annual programmes for 2018 and 2019 contained only the standard overview of regulatory and strategic activities with outlined responsibilities and timelines, but without clear performance indicators or links to the priorities from the national budget.<sup>5</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, decision-makers will be required to include the projections for the next two years in the annual budget laws, rather than include them only in the Macroeconomic and Fiscal Policy Guidelines, only as of 2020. Though they set the binding spending ceilings for the three-year term, the Guidelines have not been sufficiently complied with. 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 could not support planning for a three-year term, and also referred to the timeline for drafting the 2019 Budget Law.<sup>6</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. The Methodology identifies, inter alia, the principle of harmonisation between the medium-term work

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<sup>5</sup> Government Work Programme for 2019, [https://gsv.gov.me/spi/Program\\_rada\\_Vlade](https://gsv.gov.me/spi/Program_rada_Vlade)

<sup>6</sup> Milena Muk, Report on the PFM Reform in 2017 and 2018: The other side of the coin, Institute Alternative. Podgorica, February 2019, available at: <http://media.institut-alternativa.org/2019/10/druga-strane-medalje-ciiip.pdf>

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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 and the basis for the binding Macroeconomic and Fiscal Policy Guidelines. The document specifies the contents of the ministry work programmes for the first year, including details on the performance indicators. It suggests specifying the link between the programmes and the medium-term programme budget, in terms of stating information on the costs of the activities required for achievement of concrete objectives.

The Institute Alternative, however, did not manage to access the medium-term programmes of the Ministry of Agriculture and Rural Development, Ministry of Sustainable Development and Tourism and Ministry of Economy, which had been selected as the three “pilot ministries” for implementation of the methodology of medium-term work programming; the informal explanation provided was that the documents had been executed in a special information system that could not be accessed by external stakeholders.

# CAPITAL BUDGET

*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. The most recent report of the Public Works Directorate was proactively published, which represents positive development. Nonetheless, there is a room for improvement of reports of both institutions.*

*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..*

## ▪ NO SIGNIFICANT IMPROVEMENTS IN CAPITAL BUDGET TRANSPARENCY

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 and 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. No details were included on the expenditures for the individual projects, except in the Rationale. 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.

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. We obtained the Report of the Transport Directorate/Administration for 2018 following a request for free access to information; however, we noted progress with regard to the availability of the Public Works Administration Report, which was posted on the Administration's website.<sup>7</sup> The improvement in the Public Works Administration's reporting refers to the publication of the number of tenders launched in 2018 and their total value, in addition to the overview of the total number and value of concluded contracts, which was also available in the past.

The contents of the Transport Administration's report remained similar to the contents from the previous years, as it provided an overview of the information concerning the amounts of funds allocated to capital projects for the given year, and sources of funding. The reports also included information on the programmes, amounts of funds allocated from the budget for each programme, amounts of funds planned to be spent by the end of the year, and percentages of total spending per programme. The overview of percentages of spending per project against the planned amounts was missing. The report included notes on project completion or planned time of completion, but no detailed information about what exactly a specific project envisaged or the planned timeline for implementation. An additional deficiency of this Directorate/Administration's report was lack of information on the implementation of the highway construction project.

We analysed availability of data on the largest capital project of construction of Bar–Boljare highway, which accounted for the biggest share of the Capital Budget. The already reported insufficient availability of information on the implementation of this project in 2017 applies to its implementation in 2018 as well. The proposal for the Law on the Final Budget Account of Montenegro for 2018<sup>8</sup> included only one page of general information on the implementation of this project, while a somewhat more extensive overview was provided in the performance report of the Ministry of Transport and Maritime Affairs.<sup>9</sup> Monte Put, a state-owned company, is tasked with managing the highway construction process, but the quality of available reports on this company's operation is not satisfactory either. The key information on the money flows during the highway construction remains outside the reach of the public. That includes information on the spending of the proceeds of the loan taken out for the purpose of highway construction, compliance with set deadlines and construction supervision. The Government denied NGO MANS access to those documents, mainly on the grounds that they constituted business secret, as they impacted the plans related to the construction of highway sections.

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7 Public Works Administration, 2018 Performance Report, <https://ujr.gov.me/biblioteka/izvjestaji>

8 Ministry of Finance, Proposal for the Law on the Final Budget Account of Montenegro for 2018, [https://www.paragraf.me/nacrti\\_i\\_predlozi/predlog-zakona-o-zavrshnom-racunu-budzeta-crne-gore-za-2018-godinu.pdf](https://www.paragraf.me/nacrti_i_predlozi/predlog-zakona-o-zavrshnom-racunu-budzeta-crne-gore-za-2018-godinu.pdf)

9 Performance report and report on the status of administrative areas of the Ministry of Transport and Maritime Affairs and its subordinate authorities for 2018, available at: <https://msp.gov.me/biblioteka/izvjestaji>

# 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 the amendments to the Law on Public Procurement which brought about a regression in the transparency of public procurement procedures. The amendments also impacted the fulfilment of indicators in this area, so the targeted public procurement procedure competition rate for 2018 was not met.*

*The trend of higher-than-planned tax and customs revenues continued in 2018.*

- **PUBLIC PROCUREMENT: REGRESSION IN REPORTING AND LOW LEVEL OF COMPETITION**

The indicator of having at least 3.48 bidders per tender was not met in 2018; instead, the actual rate was 3.14.<sup>10</sup> In the previous report we highlighted the lack of elaboration and insufficient participation in the procedure to amend the Law on Public Procurement in 2017; the amendments brought about a serious backslide in the public procurement area, in particular with regard to regulating the security and defence procurement.<sup>11</sup> They also introduced small-value procurement, which considerably eroded the already fragile transparency and competition in the public procurement procedures in Montenegro. The 2017 amendments defined small-value procurement as procurement of goods and services of estimated value of up to EUR15,000 and procurement of works of estimated value of up to EUR30,000. All contracting authorities were allowed to arrange this type of procurement at their discretion, by means of internal regulations, with the sole obligation of having those regulations posted on their webpages. A general note was provided, stating that, in drafting those regulations, contracting authorities should be guided by the public procurement principles. Interestingly, the Ministry of Finance also stated that the amendments threatened the competition in public procurement and found that the lower level of competition was the consequence of “the 2017 amendment to the PPL introducing small-value procurement”. The Ministry of Finance stated its expectation that adoption of the new Public Procurement Law, harmonised with the relevant Directives, would help achieve the set target.<sup>12</sup>

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10 Ministry of Finance – Directorate for Public Procurement Policy, Report on Public Procurement in Montenegro in 2018, May 2019, available at: <http://www.ujn.gov.me/wp-content/uploads/2019/07/Izvjestaj-2018-za-vladu-31.-maj-2019.-godine-last.pdf>

11 Milena Muk, Report on the PFM Reform in 2017 and 2018: The other side of the coin, Institute Alternative, Podgorica, February 2019, available at: <http://media.institut-alternativa.org/2019/10/druga-strane-medalje-ciiip.pdf>

12 PFM Programme – 2018 Annual Report, available at: [https://www.mif.gov.me/biblioteka/strateska\\_dokumenta](https://www.mif.gov.me/biblioteka/strateska_dokumenta)



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Re-organisation of former Public Procurement Administration, i.e. its integration with the Ministry of Finance in the form of the Directorate for Public Procurement Policy, affected the availability of information on public procurement. In addition, the share of less transparent forms of procurement in the total spending in this area increased during the reporting period. The length of the Report on Public Procurement for 2018 (it included 48 pages with annexes), compared with the 167-page long report of the Public Procurement Administration for 2017 illustrates the reduced scope of available information, both in quantitative and in qualitative terms. Important information that was missing from the report included the following: information on procurement in health and education; list of bidders awarded the biggest contracts during the year; lists of contracting authorities that had not shared their public procurement reports or had missed the deadline for sharing them; lists of contracting authorities with the biggest discrepancies between planned and contracted procurement values.<sup>13</sup>

The earlier reports included also overviews of annexes to contracts, detailed analysis of procurement in the areas particularly susceptible to corruption, list of contracting authorities with highest values of procurement implemented through direct agreements, total number and list of all contracting authorities that failed to share their reports on public procurement within the statutory deadline etc. However, the 2018 report meant a major regression in the reporting on the execution of the share of the budget allocated for public procurement. In contrast to the previous two reports, it lacked the analyses of public procurement in health and education as the areas particularly susceptible to corruption, as well as the specific analysis of procurement in the field of public works.

The Ministry of Finance Directorate for Public Procurement Policy stated in the report that “most procedures involved open procedure, as the most transparent one, which also allows for greatest competition”, and that 79 per cent of procurements involved open procedure.<sup>14</sup> It did not state, however, that that was the smallest share of open procedure in the past six years, lower by 6 per cent than in 2017. The total number of 96,840 contracts worth close to 85 million euros were concluded in 2018 through non-transparent and non-competitive procedures of small-value and urgent procurement.

## ▪ INCREASE IN THE TAX AND CUSTOMS REVENUES

One of the reform objectives referred to better collection of tax and customs revenues. According to the official reports, this area recorded evident progress. Tax revenues exceeded the plan by 73 million euros in 2018. Likewise, the Customs Administration recorded a revenue collection increase of 11 per cent in 2018 compared to 2017. The Ministry of Finance claimed that the increase in revenues was a result of timely and appropriate collection of the assessed customs duties, taxes, excise and other duties, and as a result of application of the Government’s robust fiscal policy.

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13 Marija Mirjačić, Dajte spisak onih koji dobijaju najveće državne poslove, Vijesti Independent Daily, 13 July 2019, available at: <https://www.vijesti.me/vijesti/ekonomija/393379/dajte-spisak-onih-koji-dobijaju-najvece-drzavne-poslove>

14 Ministry of Finance, Directorate for Public Procurement Policy, Report on Public Procurement in Montenegro in 2018, May 2019, available at: <http://www.ujn.gov.me/wp-content/uploads/2019/07/lzvjestaj-2018-za-vladu-31.-maj-2019.-godine-last.pdf>

# STATE PROPERTY MANAGEMENT

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*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. Ten years later, the registry is still not in place.*

*Although the contract for establishment of the e-registry of state property was signed as early as 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 re-organisation 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 and the number of routine inspections was particularly insufficient..*

## ▪ STALLED ESTABLISHMENT OF THE STATE PROPERTY REGISTRY

According to the PFM Programme, the data on property should have been entered in a special e-registry in 2017, but this indicator was not met even in 2019.

The State Property Administration spent the record amount of 4.7 million euros on rental costs in 2018.<sup>15</sup> Total revenues from sale or lease of state property or from easements on state land amounted to less than 380 thousand euros in 2018.<sup>16</sup> This discrepancy between the costs of renting premises for state authorities and the revenues from state property serves as one of the indicators of poor management of state property, best reflected precisely in the lack of not just e-registry, but any records on state property, although such records were stipulated by the Law on State Property as far back as in 2009.<sup>17</sup>

“Tables with data on the assets of 32 out of the total number of 45 authorities that delivered such tables have been processed, migrated or prepared for migration onto the test version of the software for registration of movable and immovable property (ARS – Asset Registry System). The

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<sup>15</sup> Ana Komatina, Crna Gora bez registra imovine: Ne znaju šta imaju a kiriju plaćaju, Vijesti Independent Daily, 17 May 2019, available at:

<https://www.vijesti.me/vijesti/drustvo/379414/crna-gora-bez-registra-drzavne-imovine-ne-znaju-sta-imaju-a-kiriju-placaju>

<sup>16</sup> Ministry of Finance, Performance report and report on the status of administrative affairs for 2018, available at: <https://mif.gov.me/rubrike/spi/izvjestaji/211065/Izvjestaj-o-radu-i-stanju-u-upravnim-oblastima-Ministarstva-finansija-za-2018-godinu.html?alphabet=lat>

<sup>17</sup> Law on State Property (Official Gazette of Montenegro 021/09 of 20 March 2009; 040/11 of 8 August 2011)

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remaining tables need to be amended by the authorities. Some problems with the application have been identified during the testing and migration to the test version of the ARS, which registers fixed assets in the fixed-asset module of the SAP system (FI-AA). Software assistance is ongoing and the problem is expected to be resolved soon", says the report on the implementation of the Programme for 2018,<sup>18</sup> although the previous reports included an almost identical formulation. In the previous report, we pointed out the questionable validity of the entered data, as they referred to the authorities that no longer existed, such as the Youth and Sport Directorate or the Ministry of Information Society and Telecommunications.<sup>19</sup> Seeking to check for any changes in the data entered in 2019, we asked the State Property Administration to allow us access to the data in the test version of the e-registry. The response to that request confirmed that available data lacked validity:

"The assets included in the mentioned tables have not been updated: spent assets have not been written-off; newly purchased assets have not been registered, and no depreciation has been set. This renders the present values inaccurate. In line with the foregoing, the present data are inaccurate and unreliable and as such could not be shared."

#### ▪ WEAK INSPECTION SUPERVISION: THE OTHER SIDE OF NEGLIGENT TREATMENT OF STATE PROPERTY

In the previous report, we highlighted the fact that the rare inspections of state property suggested an alarming state of the facilities and land plots owned by the state. The State Property Inspectorate, situated within the Ministry of Finance, is competent for inspecting disposal, use and management of state property, but also for identifying any deficiencies and unlawful actions of authorities and suggesting the ways to remedy those. The Institute Alternative consulted 46 minutes on the inspections conducted by this Inspectorate in 2017, 2018 and the first half of 2019. Most of those inspections concerned the timeliness of the actions of Real Estate Administration branch office. Although the low frequency and coverage of inspections do not enable general conclusions, it is concerning that almost one fifth of the cases involved citizens unlawfully using state property, that property disputes over ownership of some pieces of real estate remained unresolved, and that some of the facilities were in such a dilapidated state that, as in one case in Berane, they posed a threat to the passers-by. The issue of effectiveness of the work of the Inspectorate is also raised, given the low number of conducted inspections (19 per year) and especially the low number of inspections conducted ex officio rather than upon reports filed by citizens or legal persons (only two ex officio inspections were conducted in 2017, and only one in 2018).<sup>20</sup>

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18 2016-2020 PFM Reform Programme, 2018 Annual Report, available at: [https://www.mif.gov.me/biblioteka/strateska\\_dokumenta](https://www.mif.gov.me/biblioteka/strateska_dokumenta)

19 Milena Muk, Report on the PFM Reform in 2017 and 2018: The other side of the coin, Institute Alternative, Podgorica, February 2019, available at: <http://media.institut-alternativa.org/2019/10/druga-strane-medalje-ciiip.pdf>

20 Ministry of Finance, Performance report and report on the status of administrative areas for 2018, available at: <https://mif.gov.me/rubrike/spi/izvjestaji/211065/Izvjestaj-o-rad-u-i-stanju-u-upravnim-oblastima-Ministarstva-finansija-za-2018-godinu.html?alphabet=lat>

# 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 five ministries issued decisions on delegation of powers in 2019. However, even within in those ministries, those were isolated cases rather than a routine practice.*

*Although the legislative framework was improved in the previous period to specify the management and PIFC responsibilities, the by-law that would regulate to detail delegation of powers in the area of financial management has not been adopted to date.*

- **WAITING FOR THE BY-LAW TO ENABLE DELEGATION OF FINANCIAL MANAGEMENT RESPONSIBILITIES**

Managerial accountability obliges 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>21</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 performance in that regard. Its requirements thus extend considerably beyond the current situation in Montenegro.

The biggest challenge to the establishment of managerial accountability is the reluctance of heads of authorities to delegate responsibilities and decision-making powers to the heads of lower-ranked organisational units. This argument is supported by the responses provided by ministries, where they state that no delegation of powers took place in 2019, perpetuating the earlier practices. The Ministry of Finance, in its Report on the implementation of the Programme, stated that delegation of powers in 2018 included only the cases where the minister delegated powers to heads of subordinate authorities, and no cases of delegation to heads of any organisational units within the Ministry itself. With the re-organisation of state administration and discontinuation of subordinate authorities, even this single established delegation practice became irrelevant.

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<sup>21</sup> European Policy Centre, Infographic on managerial accountability

Our previous monitoring report highlighted the partial progress in the area of managerial accountability in 2018 due to the adoption of the new Law on Management and Internal Financial Control<sup>22</sup>, which had replaced the former Law on the Public Internal Financial Control System. The new Law specified the accountability of heads of authorities, in particular with regard to setting up the internal organisation of the given authority. It introduced obligatory reporting on performance and spending of financial allocations in line with the delegated powers and responsibilities and regulated the position of FMC officers to detail. The Law still allowed heads of authorities to delegate powers to managers of organisational units and other employees, but envisaged that the Government of Montenegro would issue a specific regulation to define the activities and tasks of financial management and internal control that it would be possible to delegate by means of a decision. That regulation, however, has not been adopted, and detailed guidelines on delegation of powers in the field of financial management are lacking.

Further progress in this area depends also on the implementation of the activities planned within the ongoing IPA project "Improvement of Budgeting System, Multi-year Budget Planning and PIFC".

#### ▪ ISOLATED CASES OF DELEGATION OF POWERS

The Ministry of Finance uses the percentage of ministries that delegate powers as one of the indicators for the implementation of the Programme. The figure for this indicator was only 11.11 per cent in 2017; according to the official reports, it rose slightly to 18 per cent in 2018.<sup>23</sup> Aiming to review the specific decisions delegating powers to senior civil servants and heads of authorities, we applied to all ministries to be granted access to information in April 2019. We received responses from all 17 ministries, but only five of them delivered specific decisions: Ministry of Transport and Maritime Affairs, Ministry of Public Administration, Ministry of Health, Ministry of Finance, and Ministry of Interior. Contrary to 2018 and 2017, powers were mainly delegated to heads of lower-ranked organisational units; still, in four out of five ministries, powers were delegated to not more than one head of unit. Only the Minister of Health delegated powers to seven managers. Only one instance concerned delegation of financial management powers, when General Director of the Directorate for e-government and IT Security at the Ministry of Public Administration was delegated to sign public procurements documents from the scope of competences of the Directorate in 2019. The document in question included: conflict of interest declarations; decisions to launch public procurement procedures; decisions appointing bid evaluation committees; decisions on suspension of public procurement procedures; decisions on the selection of the most favourable bids, and public procurement contracts.

The examples of delegation described above point to the lack of indicators for monitoring this aspect of managerial accountability: in addition to the percentage of ministries where such

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<sup>22</sup> Official Gazette of Montenegro 075/18 of 23 November 2018

<sup>23</sup> 2016-2020 PFM Reform Programme, 2018 Annual Report, available at: [https://www.mif.gov.me/biblioteka/strateska\\_dokumenta](https://www.mif.gov.me/biblioteka/strateska_dokumenta)

delegation took place, it is equally important to assess the presence of this practice in each ministry. The examples described above show that, even in the ministries that practice it, delegation takes place in isolated cases. In their responses, the ministries still demonstrate a lack of understanding of the concept of delegation of powers, as they still associate it with delegation of powers to the representatives of former subordinate authorities.



# EXTERNAL AUDIT

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*Twenty-four audit reports were published in the first nine months of 2019. Political parties were once again most frequent auditees, as two-thirds of the total number of published audit reports during this period referred to them. There number of special audits, performance audits and audits of information systems increased, which was possibly indicative of a positive trend of diversification of SAI's work.*

*Although originally planned, sector risk analyses were not adopted during the reporting period; thus, the audit plans adopted during this reporting period were not based on an elaborated methodology that would enable coverage of high-risk areas.*

With regard to capacity development and greater efficiency of the SAI's work, the Ministry of Finance 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, as stated earlier, 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, and there was no proactive reporting on the implementation of the mentioned Plan.

SAI continued to regularly publish audit reports. Although holding regular press conferences had been set as one of the strategic objectives of this institution, there were no conferences to present specific audit reports or challenges and priorities in the work of SAI; instead, they served to present only the regular aggregate reports on the audit of political entities' annual financial reports.

Twenty-four audit reports were published in the first nine months of 2019, which corresponded with SAI's standard pace. Political parties predominate as auditees, with eight reports that concerned them. Three reports covered ministries (Ministry of Sport and Youth, Ministry of Labour and Social Welfare and Ministry of Finance); three covered other central-level authorities (Labour Fund, Metrology Office, Agency for Protection of Personal Data and Free Access to Information); two covered public institutions (Police College, Centres for Social Work in Pljevlja and Niksic), and one local public enterprise (Capital City Utility Company). In addition to the mandatory aggregate report on the audit of political entities' annual financial reports for 2017, five reports on special and other audits were also published (Report on the follow-up audit of the Pension Fund Information System, Performance Audit Report "Performance in establishment, administration and control of state property records by state authorities", Performance Audit Report "Efficiency of inspection in the field of organising games of chance", Audit Report on the recording, calculation and collection of social insurance contributions). This could suggest a positive trend of diversification of SAI's work and greater public sector coverage by different types of audits.<sup>24</sup>

<sup>24</sup> SAI reports, available at:

[http://www.dri.co.me/1/index.php?option=com\\_content&view=article&id=239&Itemid=235&lang=sr](http://www.dri.co.me/1/index.php?option=com_content&view=article&id=239&Itemid=235&lang=sr)

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We wish to remind that, according to the law, SAI decides on the auditees, subject-matter, scope and type of audit, and on the time and method of conducting audits, and is obliged to conduct annual audits of the final budget account of Montenegro. Sector risk analyses for the public sector were planned to take place in the first half of 2019, with the aim to improve the work planning methodology and increase the coverage of high-risk areas; these analyses were supposed to inform medium-term and annual audit plans. However, no such analyses were conducted during the reporting period.

# WHAT NEXT?

Budget transparency, in particular the transparency of capital projects, improved public procurement procedures, state property management and budget planning – these remain the key challenges in the public finance reform.

Delays in the essential steps within the “budget calendar”, coupled with the delays in putting in place the technical preconditions for more efficient budget planning, affect the application of the already deficient procedures in this field.

In its 2018 report, the Ministry of Finance basically confirmed our earlier claims concerning the insufficient quality of the requests for budget allocations. We had already pointed to the need to revise the contents of these requests to ensure a closer link with the budget planning reform, in particular with regard to the need for the institutions to state, in their requests, the expected effects of spending.

There has been no progress with regard to budget transparency or programme budgeting, as implementation of projects under the European Commission’s Instrument for Pre-Accession Assistance (IPA) is still pending. Although the need for external funding of some strategic projects in public finance area is understandable, the standstill in reforms due to the awaited launch of IPA projects suggests the need for greater use of existing public administration capacities and better preparedness for implementation of such projects. In other words, although programme budgeting and more efficient budget planning may depend on some technical preconditions and information systems, nothing is preventing the Ministry of Finance and other spending units from modifying their internal approaches to planning the spending on the basis of the targets and priorities set for their respective areas.

The backslide in the legislative framework on public procurement has affected availability of information and competition in this area, as indirectly confirmed also by the Ministry of Finance, which also stated its expectation that the adoption of the new Law would bring about the originally planned progress.

The upward trend in tax and customs revenue collection continues, while the concerning situation regarding state property management remains unchanged. The uptake of the practices of delegation of powers has been slow. With regard to SAI, the practice of increasing the share of performance audits and other special audits should continue, with the aim to maximize the coverage of various institutions and areas of public sector activities.

# 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 programme 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 semi-annual 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 take part in budget planning;
- The Ministry of Finance should make use of the option of public consultations 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 budget allocations the information on the expected impact of spending per each budget programme, and descriptions of the mission, 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 Ministry of Finance should improve its reporting on public procurement by ensuring at least the level of availability of information that used to be provided by the former Public Procurement Administration;
- The Government should conduct a functional review of the institutions in charge of managing public procurement, in order to establish whether the dissolution of the Public Procurement Administration was justified in terms of effectiveness or a different re-organisation is required.

## 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;
- Following the model of the Public Works Administration, the Transport Administration should proactively post its performance reports on its official webpages, in line with the Law on State Administration, at the latest by April of the current year for the previous year;
- The reporting done by the Transport Administration and Public Works Administration should be harmonised, in order to ensure that the reports are drawn up based on 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 and customs exemptions per contractor.

## CONCERNING BETTER STATE PROPERTY MANAGEMENT:

# 4

- The data initially entered into the e-registry of state property should 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 should 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.

## **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.

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

**6**

- When planning and conducting audits, the State Audit Institution should ensure proportionate coverage of auditees, in order to ensure - in addition to the mandatory audits of political parties and of the Financial Budget Account – appropriate coverage of the state administration, local self-governments, agencies and funds, public services and other organisations exercising public authorities, in line with prior risk assessments;
- SAI should revise the goals and performance indicators identified in its Strategic Development Plan to ensure 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 civil society may familiarise themselves fully and timely with the key documents and internal procedures related to conducting audits.



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**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. The areas of our work and influence are structured around the following five main programmes: public administration; accountable public finance; parliamentary programme; security and defence, and social policy.

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.

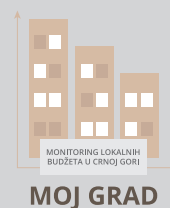
President of the Managing Board is Stevo Muk, and our organization currently has ten members.

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