

Are municipalities in
Montenegro fighting against

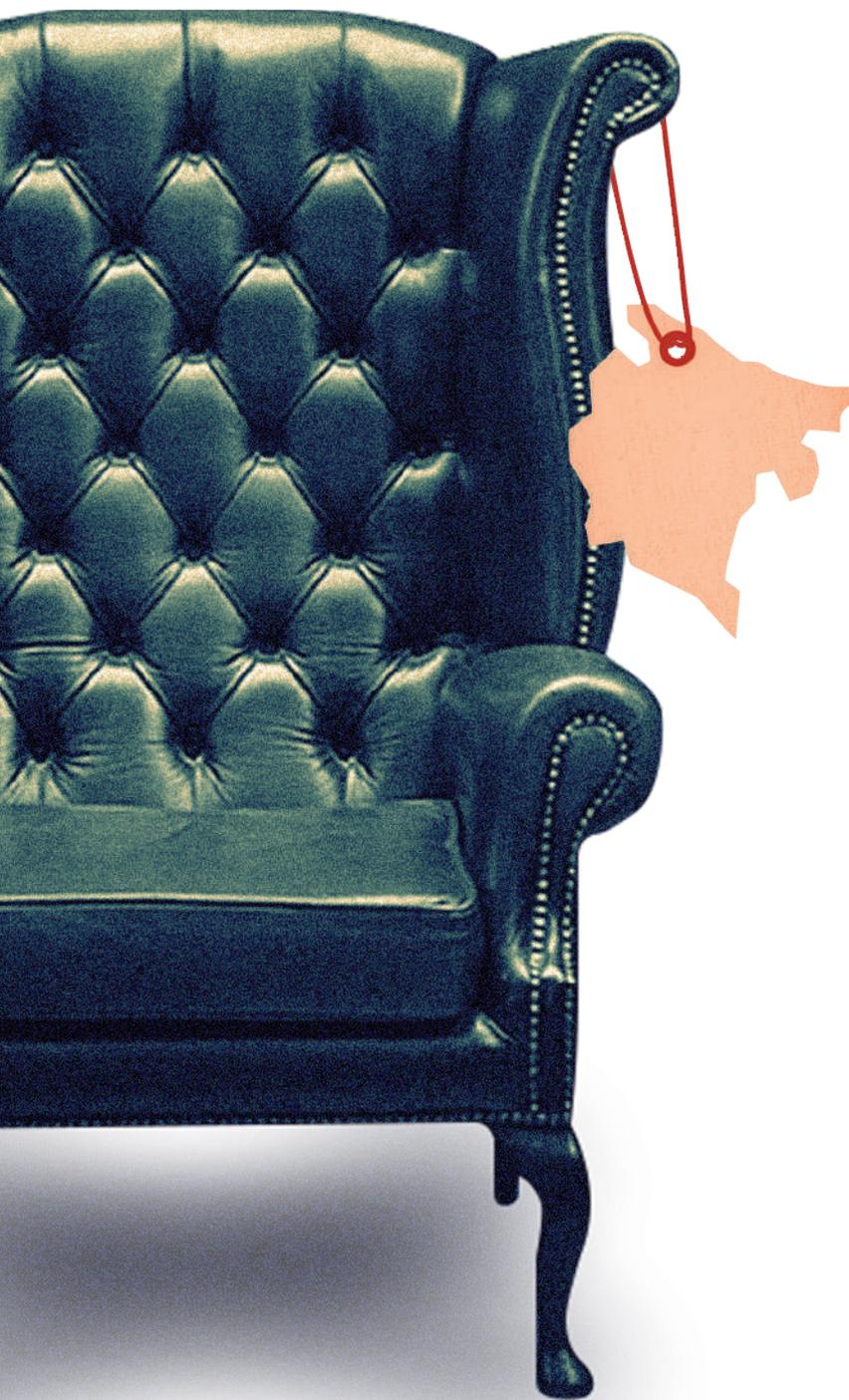
CORRUPTION

and how?



Results of local self-governments in application
of mechanisms for prevention and fight against
corruption at the local level in Montenegro

- annual report -



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ARE MUNICIPALITIES IN MONTENEGRO FIGHTING AGAINST CORRUPTION AND HOW?

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SUMMARY

Report **ARE MUNICIPALITIES IN MONTENEGRO FIGHTING AGAINST CORRUPTION AND HOW?** gives an overview of results of local self-governments in the application of mechanisms of prevention and fight against corruption at the local level in Montenegro during 2017 and the first half of 2018. In this regard, the report contains new information in relation to application of defined measures and activities through several strategic documents, to which results of application we have given a first review in the previous report *THINK LOCALLY – ACT LOCALLY* which has covered the period until 2016¹.

The observed reporting period has been marked by inertness of municipal administrations in relation to undertaken obligations defined by national documents, as well as the lack of initiative for their own designed activities. Activities of the central level of government in establishing of institutionally-normative anti-corruption framework did not influence encouragingly the local level of government in the part of implementation of adequate anti-corruption policies and mechanisms at the local level.

Data that local self-governments in Montenegro, in the last two years (2016 and 2017) do not have reported corruption cases is not surprising, considering that the majority has still not passed local action plans for fight against corruption for 2017-2018, that they have not prepared and passed internal instructions for keeping records of reports of corruption inside the institution and conduct upon reports, to which they were obliged according to adopted integrity plans. Also, according to direct experiences of researchers from the field, local self-governments do not have either established systems and clear procedures for reporting corruption by citizens, which altogether points out to system not being functional.

Obligations undertaken within the accession negotiations with the European Union, dominantly through the Chapter 23 (Judiciary and Fundamental Rights) are not being fulfilled, and reporting about them is being done imprecisely, which is causing additional concern.

The report of the European Commission for 2018 states: 'The action plan of Montenegro for Chapter 23 outlines comprehensive reforms to prevent and combat corruption. It is complemented by an 'operational document' adopted in 2016 which sets out additional measures to prevent corruption in certain areas particularly vulnerable to corruption, such as public procurement, privatisation, urban planning, education, healthcare, local government and police. *The impact of these measures, however, remains limited and Montenegro should develop more effective sector-specific plans for the prevention of corruption!*

1 Available at: <http://media.cgo-cce.org/2018/04/MLDL-IPA-izvjestaj-ENG-final-23-04-2018.pdf>

Previous recommendations of the European Commission were similar, but obviously with no effect since the local action plans for fight against corruption were not adopted in the majority of Montenegrin municipalities, while integrity plans are being approached to strictly formalistically.

Underived system of jurisdiction still remains a problem and it is hard to monitor realisation of anti-corruption documents at the local level due to un-availability of reports on realisation.

Precondition of successful fight against corruption is a functional anti-corruption legislative and institutional framework, as well as continuous, consistent and content-full implementation of strategic documents. Therefore, lack of results should be sought precisely in the inefficiency of the set system, but also in the selected formalistic approach to this issue by the authorised institutions at the national and at the local level.

Results of local self-governments in the direction of prevention and fight against corruption, in the observed reporting period are almost non-existent and precisely reflect this impermissible relation.

The report covers the period from January 2017 to September 2018 and includes 23 local self-governments in Montenegro. The focus is on two key mechanisms and the effects of their implementation - the local action plan for fight against corruption at the local level and the integrity plan. An overview of the (un)realised measures for the stated period is given, through analysis of the available reports submitted by authorised institutions at the national and local level, as well as through research conducted by utilising the provisions of the Law on Free Access to Information. In addition, the system was tested using the 'mystery shopper' method, and results have confirmed the findings obtained by analysing key anti-corruption documents.

LOCAL (ANTI)CORRUPTION PLANS IN MONTENEGRO

In accordance with the Action Plan for Chapter 23 (Judiciary and Fundamental Rights), local self-governments in Montenegro are obliged to establish their mechanisms for fight against corruption, i.e. to prepare local action plans for fight against corruption (LAP) based on the Model Action Plan for fight against corruption in local self-government (2013-2014), prepared by the Union of Municipalities. Earlier local anti-corruption documents for the period 2009-2012 were based on the Model Programme for fight against corruption in local self-government and the Model Action Plan Programme for fight against corruption (MAP), and the methodology of the Council of Europe was used in its production.

Since the details are not precisely prescribed, as it was the case when this obligation for local self-governments was emerging from the National Strategy for the Fight against Corruption and Organised Crime, thus the practice at the level of local self-governments varies considerably. This refers to understanding of undertaken obligations, procedures for adopting the LAP, but also the manners of reporting on its implementation.

In March 2017, the Union of Municipalities of Montenegro prepared a new Model Action Plan for fight against corruption in local self-government for period 2017-2018 and submitted the document to all municipalities with recommendation for its adoption. However, the CCE research has shown that most municipalities did not prepare and adopt this document.

The obligation of the Union of Municipalities to prepare the LAP Model is not prescribed by valid acts and its adequacy is questionable, as well as whether municipalities are obliged to prepare documents according to instructions and guidelines of the Union of Municipalities which is not a state body but a national association of local communities for the territory of Montenegro. Comparative practice indicates that the LAP Model is being prepared by the Agency for Prevention of Corruption (APC), which is not the case in Montenegro.

The working group preparing the LAP is being formed by decision of the president of municipality, according to authorisations given by the Law on Local Self-Government and the Statute of the given municipality. The composition of this working group is not prescribed, thus practice is also uneven. In certain municipalities, a multi-sectoral working group was formed (for example, the municipality of Bijelo Polje), while in others, the working group consists only of officials of local self-government bodies (for example, Gusinje).

In addition to passing and adopting of LAP, municipalities have obligation to establish a body which will supervise implementation of measures from LAP, as well as obligation of submission of half-annual reports on implementation.

The report for Chapter 23 (Judiciary and Fundamental Rights) which the Government has adopted for period June-December 2017, states that Commission for monitoring and

reporting on realisation of measures from the AP was formed in 21 local self-governments, which periodically submits report on implementation of LAP to the president of municipality, parliament, Union of Municipalities and Agency for Prevention of Corruption. However, in the observed period and despite all efforts it was not possible to come in a possession of matter reports. They are not publicly available nor can they be found on official Internet pages of any of mentioned institutions, and it was not possible to acquire them either in the communication with these organs.

In addition, the report of the Government of Montenegro contains certain contradictions, because in one part, it states that there are reports on realisation of LAPs, and in the second part, that there is no information whether the local self-governments have passed new LAPs for the period of 2017-2018, i.e. that Union of Municipalities does not have this information, although these plans should have been passed under the new Model which was just prepared by the Union of Municipalities.

In this observed period as well, uncertainties were identified in the part of obligation of reporting as per this measure, therefore it is still not clear which body monitors application of defined measures for the area of local self-government.

In two reporting periods, a change in the action plan for Chapter 23 was formally noted, thus instead of the Union of Municipalities, the local self-government was designated as the authorised body. However, it remains unclear whom are local self-governments reporting to, who collects, processes and submits data to the Working Group for Chapter 23 (Judiciary and Fundamental Rights). Namely, in the formal sense this should be APC, in the part of monitoring the implementation of measures defined by AP for Chapter 23 and the Operational Document. However, APC continues to rely on information of the Union of Municipalities, which again has no legal basis to report because it has not been designated as an authorised body and which, as indicated by the latest report for AP 23 for the period January - June 2018, is not in possession of this information.

Therefore, the Working Group for preparation and conduct of negotiations which is preparing the report on realisation of measures from AP 23 still has no precise data, i.e. information which are being submitted are not precise and accurate, although they are being disseminated as such further to addresses of various stakeholders.

As we pointed out with concern in the previous annual report², the authorised bodies have been submitting inaccurate information to the Working Group for Chapter 23, which, consequently, has been reporting to the European Commission in the same manner.

2 Available at: <http://media.cgo-cce.org/2018/04/MLDL-IPA-izvjestaj-ENG-final-23-04-2018.pdf>

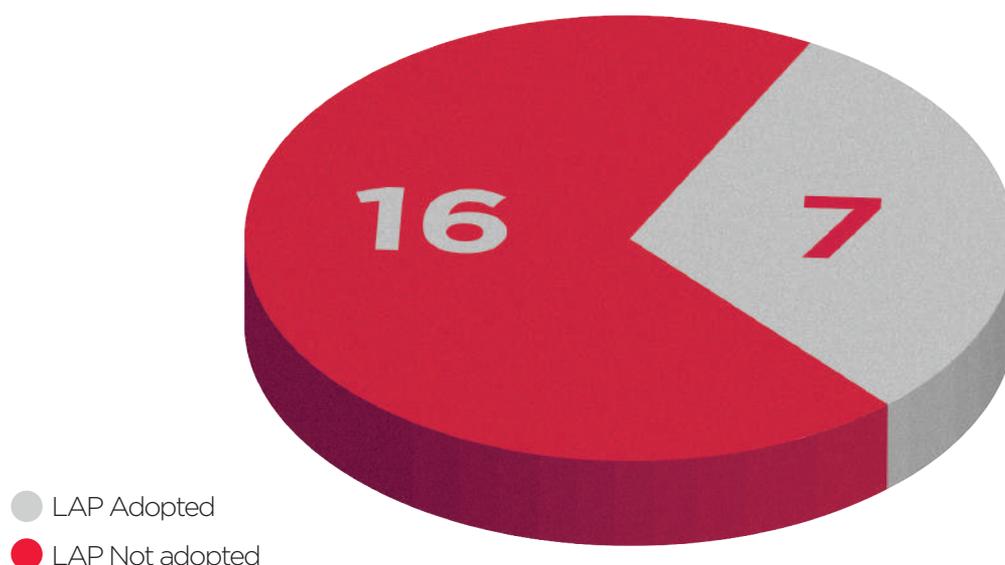
For example, in the report on implementation of the Action Plan for Chapter 23 for period July-December 2017, which was adopted by the Government of Montenegro, the measure 2.1.7.12 of AP states a measure/activity: *Prepare and adopt AP for fight against corruption for each unit of local self-government according to Model AP for fight against corruption in the local self-government (2013-2014)*. As indicator of the result, a number of adopted local action plans was stated, and it was noted that by December 2017, 21 of 23 municipalities in Montenegro have passed local action plan for fight against corruption, and 21 commissions were formed for monitoring and reporting on realisation of measures from AP, which are periodically submitting report to the president of municipality, parliament, Union of Municipalities and Agency for Prevention of Corruption.

In the new report on implementation of the Action Plan for Chapter 23 for period January-June 2018, also adopted by the Government of Montenegro, there is still the same data although data from the Centre for Civic Education (CCE), collected under the Law on Free Access to Information from local self-governments have shown that only seven local governments have adopted or decided in the local assembly to extend the validity of this document after 2014. These data are also known to members of the Working Group for this negotiating chapter, thus it is only possible to conclude that the authorised bodies consciously and deliberately submit incorrect information to the Government of Montenegro, which adopts such a report, which is further disseminated also to the European Commission, which, on the basis of these incorrect data of the Government, assesses the progress in this area.

CCE has collected data also for period 2017-2018, by utilising provisions of the Law on Free Access to Information, which have shown that only seven of 23 municipalities have prepared and adopted the local action plan for fight against corruption, as per new model, for period 2017-2018.

Municipality	Action Plan for 2017-2018	Last adopted Action Plan (period)
Andrijevica	Not adopted	2013-2014
Bar	N/A	2013-2014
Berane	Adopted	2017-2018
Bijelo Polje	Adopted	2017-2018
Budva	Not adopted	2014
Cetinje	Not adopted	2013-2014
Danilovgrad	Not adopted	2013-2014
Gusinje	Adopted	2017-2018
Herceg Novi	Not adopted	2013-2014
Kolašin	N/A	2015-2016
Kotor	Not adopted	2015-2016
Mojkovac	Adopted	2017-2018
Nikšić	Adopted	2017-2018
Petnjica	Not adopted	Nije usvojen
Plav	Not adopted	2009-2012
Plužine	Not adopted	2014-2016
Pljevlja	Adopted	2017-2018
Podgorica	N/A	2013-2014
Rožaje	Not adopted	2015-2016
Šavnik	Not adopted	2013-2014
Tivat	Adopted	2017-2018
Ulcinj	Adopted for period 2014-2015	2014-2015
Žabljak	Not adopted	2014

Local action plans 2017-2018



In March 2017, Union of Municipalities of Montenegro has prepared new model action plan for fight against corruption in local self-governments for period 2017-2018 and submitted document to all municipalities with recommendation for its adoption. Considering the findings contained in the '*Analysis of execution of measures from strategic anti-corruption plans for areas of particular risk*', by the TAIEX expert Davor Dubravica from March 2015, which points out that numerous deficiencies have been identified and stated that the existing mechanisms are not giving expected results, it was expected for Union of Municipalities to acknowledge these recommendations given in this report during preparation of the new model. However, recommendations have only partially been adopted, and key deficiencies can be noted also in the new model.

Strategic goals within which measures and activities are being determined, which are defined by the Model LAP 2013-2014 have been as follows:

1. Increased level of responsibility and professionalism of local self-government's work;
2. Improved transparency in the process of planning, passing acts and their implementation with respect to principles of participation;
3. Enhanced internal and external control of self-government's work;
4. Strengthening of integrity of local self-government's units and application of ethical standards in local self-government;
5. Creation of conditions and encouragement of civil and private sector to engage in the fight against corruption at the local level;
6. Monitoring of local action plan for fight against corruption.

In the introductory part of the new Model LAP 2017-2018 strategic goals are reduced to three goals, as follows:

1. Increased level of responsibility and professionalism of local self-government's work;

2. Improved transparency in the process of planning, passing acts and their implementation with respect to principles of participation;
3. Follow implementation of AP for fight against corruption for each local self-government's unit.

However, by insight into the contents of the document, it is noted that in the table review, almost the same strategic goals from the previous model are copied, so it remains unclear both how many strategic objectives there are in the newly defined model and what are these goals. For example, strategic goal 1 in the new model is a novelty, which in its essence is not actually even a goal, but more of a starting point, which foresees the preparation and adoption of the LAP: 'Establishment of a planning framework for fight against corruption at the local level'. On the other hand, strategic goal 5 from the old model: 'Creation of conditions and encouragement of civil and private sector to engage in the fight against corruption at the local level' has been erased and replaced with the new goal 'Increased transparency in the area of property disposal and space management'. It was not possible to determine the reasons that encouraged the Union of Municipalities to exclude the previous goal from the new model LAP, which is related to greater involvement of non-governmental organisations and private sector. Other strategic goals remained essentially unchanged.

The number of measures and activities has also been reduced by the new model, which has 25 measures and 45 activities in relation to the previous model LAP by which 40 measures and 103 activities were defined.

In a methodological sense, the new Model LAP follows the previous one, thus the activities' holders are defined, as well as deadlines for implementation and indicators of the achieved results. However, this time there is no assessment of the financial resources needed for implementation of measures in the LAP, nor the source of the necessary funds. Since in the previous period, representatives of local self-governments have frequently identified precisely the lack of financial resources as the reason for non-realisation of the defined activities; it was to expect that the precise planned sources of funding would be found in the new model in order to prevent the absence of the LAP application due to the lack of financial resources.

Indicators have not been improved either, so there still are no starting or expected values of indicators. Thus, it is practically impossible to qualitatively follow what is the extent of fulfilment of the majority of planned activities and results or efficiency of suggested measures.

Preparation of the new model was not accompanied by previously prepared analysis of the actual anti-corruption effect of the previous LAP, which is also shown by the analysis of defined measures in relation to the set goals. It is concerning the fact that the adopted LAPs do not have a strong link between targeted problems and anti-corruption measures, that there is no hierarchical matrix between priority areas of action, general and specific goals, and it is not easy to determine which activities and measures envisaged by the action plan are contributing to the achievement of which goals. It is noted, for example, that most of the measures for strategic objective 2 (defined in the table) have an increase of transparency

as a consequence, and not a degree of responsibility and professionalism of the work of local self-government, as this strategic goal has been defined.

Or, the measure 2.2 *Provision of implementation of the Law on Free Access to Information*, to which activities are linked as follows: 7. Produce guidebook for Free Access to Information; 8. Produce forms for access to information and 9. Train officials for Free Access to Information. This neglects the fact that officials of Montenegrin municipalities are trained for application of the Law on Free Access to Information longer than a decade, that production of the guidebook and form for this purpose is an activity in almost all documents and that it still cannot be determined with certainty whether these documents are passed and in which manner are they being applied, and the fact is that these activities will not contribute to the set goal to which they are linked, and that they are not positioned in a good manner in the document.

However, despite all these noticed deficiencies, the Union of Municipalities has prepared the Model in order to ease the process to local self-governments although it was not obliged to do so, while on the other hand, local self-governments are showing distinctive inertness to adapt this document to their particularities and implement it for the purpose of reduction of corruption.

Namely, the model LAP prepared by the Union of Municipalities should be perceived as a basis and a guideline for local self-governments during preparation of local plans for fight against corruption, which should be further adapted to the local social context, needs and problems in the area of fight against corruption. However, the so far practice of developing all anti-corruption plans is dominated by the passive utilisation of the submitted model, wherein even the largest part of the chapter is only transcribed. And under the unsustainable assumption that situation in this area is the same in all Montenegrin municipalities and that there is a balanced regional development, so it is possible to apply the same anti-corruption measures everywhere, this is an evidence of a lack of will of municipalities to seriously understand the problem of corruption and equally seriously approach to the fight against corruption. In addition, numerous analyses indicate that the size of local self-government is in direct relation with the degree of corruption, as the space for corruptive activities is growing with the size of the municipality, the scope of its competencies and the budget, and such documents must respect this.

A special issue is the system of control over the realisation of fulfilment of defined activities. The model defines that the president of municipality shall form a Team/ Working Group, to which composition representatives of municipal bodies, local NGOs and media shall be appointed. The task of this body is to prepare Action Plan for fight against corruption in local self-government for period 2017 – 2018 and submit it to the president of municipality for the purpose of determining proposals and adoption, but also to perform, monitor and periodically report on realisation of activities from the same LAP. Insights into adopted LAPs for the mentioned period show uneven practice. Not all working groups were composed by representatives of municipal authorities, NGOs and the media. In those municipalities that were

actually guided by this model, there is no precisely defined procedure for selection of representatives of NGOs and the media.

In terms of manner and dynamics of reporting, the Model is not harmonised with Action Plan for 23, from which the obligation to prepare and adopt the LAP is derived. Namely, the Action Plan for 23 states that Commission for monitoring and reporting on implementation of measures from the LAP periodically submits a report to the president of the municipality, the local assembly, the Union of Municipalities and the APC, while the Model prescribes the obligation to submit the report only to the president of municipality.

The research team of CCE has determined that municipalities are not submitting periodical reports to the Union of Municipalities, nor to the APC, thus it remains unclear who is exercising the supervision and control over realisation of LAP. This indicates also that it is necessary to prescribe who has an obligation to follow dynamics of implementation and performs periodical evaluation of implementation of LAP, because in the contrary it is not possible to assess the real anti-corruption effects of this document.

Considering the area of operation and jurisdiction of APC, as well as the defined obligations in relation to integrity plans of local self-governments, this obligation should be entrusted to the APC which, in addition to monitoring the dynamics, could also provide expert support to working bodies and give recommendations in order to resolve problems. This should also imply obligation of local self-governments to at least once a year send reports about implementation of action plan to the APC, on the basis of which it will compose annual reports on implementation of anti-corruption measures at the local level.

In addition, in order to establish a functional system for monitoring execution of measures from LAP within the municipality and reporting to the central body, it is necessary to answer the following questions: *who produces reports about implementation of measures from the LAP; who collects and analyses reports of the activities' holders; who decides whether a measure has been successfully implemented; who consolidates reports to all local self-governments in one overall report on implementation and results of the LAP; who decides on responsibility of bodies within municipalities which do not implement measures; who is being notified at the state level on implementation of LAP; who is held accountable for non-fulfilment of LAP at the municipal level; who at the state level consolidates reports on implementation of LAP in all municipalities, analyses them and makes conclusions about successfulness and effectiveness of local action plans.*³

Generally speaking, it is clear that the adoption of LAP for now is a mere purpose for itself, i.e. that the goal is achieved by passing the plan, but without any analysis of the actual anti-corruption effect of these measures or the effect they achieve.

³ TAIEX 'Analysis of execution of measures from strategic anti-corruption plans for areas of particular risk', Davor Dubravica, 2015.

INTEGRITY AT THE LOCAL LEVEL – PREVENTION MECHANISMS OF FIGHT AGAINST CORRUPTION AT THE LOCAL LEVEL

The integrity plan as a mechanism for prevention of emergence and development of corruptive behaviours within the local self-government bodies in Montenegro has proved to be a non-functional mechanism in the so far application. This internal anti-corruption document which contains a set of measures which are legal and practical in their nature which prevent and eliminate the possibilities for emergence and development of various forms of corruptive and unethical behaviour within the government bodies as a whole, certain organisational units and particular work positions, which arises as a result of self-assessment of exposure of government bodies to risks of emergence and development of corruption, illegal lobbying and conflict of interest, as well as exposures to ethically and professionally unacceptable procedures, was introduced as an obligation to local self-governments by the APC.

The Integrity Plan contains measures aimed at preventing the emergence and development of corruption in local administrations and self-governments, and raising the level of transparency in the work and respect of the ethical codex. Pursuant to the Law on Prevention of Corruption, the authorities in 23 municipalities in Montenegro and two city municipalities were obliged to adopt the Integrity Plan by the end of the first quarter of 2016 (31 March, 2016) and submit it to the Agency within 15 days from the date of adoption. Eight municipalities and one city municipality⁴ have adopted the Integrity Plan within the legal deadline, while 15 municipalities and one city municipality did so after the prescribed deadline, with a delay of even up to 70 days.

APC in its annual report on adoption and implementation of integrity plans in 2017 states that units of local self-government were obliged to notify on the status of a total of 1,762 residual risks and implementation of 2,162 measures for reduction or elimination of risks during production of a report on implementation of integrity plans. Also, they noted that of total number of measures, 1,232 measures (57%) were realised, 493 measures were partially realised (22.8%) and 315 measures were not realised (14.6%). For 122 measures (5.6%), no assessment of realisation was entered⁵. However, it remains unclear what is the basis upon which the APC performs this assessment, and comes to, for example, the data that a total of 863 of the mentioned risks or 49% was decreased during one year. It is problematic that APC makes its assessment exclusively on the basis of numerical representations in municipal reports, without carrying out factual analysis or assessment, i.e. relying solely on data that municipalities themselves submit.

It should be recalled that most of the integrity plans are of almost identical content, which suggests that this document was not preceded by a detailed analysis of local self-governments and that the measures are not defined in relation to particularities and needs of local self-governments. These documents have been prepared formally and technically as per submitted models, and most of the measures are of a general character without clearly set deadlines for their realisation, thus a justified question of real effects is being raised.

The intention of local self-governments to truly contribute to reducing the risk of corruption by

4 Andrijevića, Danilovgrad, CM Tuzi, Mojkovac, Nikšić, Plužine, Rozaje, Savnik, Zabljak

5 https://www.antikorupcija.me/media/documents/lzvjestaj_o_donosenju_i_sprovođenju_planova_integriteta_u_2017._godini.pdf

realisation of defined measures is best reflected by the set timeframes for implementation, most of which are marked as continuous, with no precise deadlines for implementation. This is a good indicator of the extent to which local self-governments are determined to commit themselves to the effective implementation of these plans.

Bearing in mind that APC does not report on level of realisation of measures in local self-governments, CCE researchers have directed the focus of the analysis of available documents on realisation in this course.

Regarding the integrity plans submitted by the municipalities by 31 March 2018, it can be concluded that a smaller number of municipalities had a fairly high success rate in implementing measures, while municipalities with the number of implemented measures around or below 50 percent was predominant.

Municipality	R	R %	PR	PR %	NR	NR %	NK	NK %	Ukupno
Podgorica	91	74%	19	15%	11	9%	2	2%	123
Andrijevisa	86	77%	14	13%	12	11%	0	0%	112
Bar	91	95%	2	2%	3	3%	0	0%	96
Berane	33	39%	46	54%	6	7%	0	0%	85
Bijelo Polje	68	85%	9	11%	3	4%	0	0%	80
Budva	44	41%	27	25%	36	33%	1	1%	108
Danilovgrad	89	93%	3	3%	4	4%	0	0%	96
Gusinje	7	11%	50	81%	5	8%	0	0%	62
Herceg Novi	55	71%	8	10%	14	18%	0	0%	77
Kolašin	38	50%	7	9%	29	38%	2	3%	76
Kotor	57	68%	13	15%	14	17%	0	0%	84
Nikšić	52	70%	20	27%	2	3%	0	0%	74
Plav	44	75%	3	5%	9	15%	3	5%	59
Plužine	79	75%	4	4%	23	22%	0	0%	106
Pljevlja	57	55%	27	26%	19	18%	0	0%	103
Rožaje	62	74%	9	11%	13	15%	0	0%	84
Šavnik	56	53%	2	2%	47	45%	0	0%	105
Tivat	53	58%	21	23%	17	19%	0	0%	91
Ulcinj	41	46%	32	36%	16	18%	0	0%	89
Žabljak	69	70%	23	23%	7	7%	0	0%	99
Mojkovac	95	64%	25	17%	20	13%	9	6%	149
Cetinje	48	83%	5	9%	5	9%	0	0%	58
GO Tuzi	15	44%	1	3%	18	53%	0	0%	34
GO Golubovci	26	59%	0	0%	1	2%	17	39%	44
Ukupno	1356		370		334		34		2094

Review of extent of realisation of measures – R – realised, PR – partially realised, NR – not realised

Among the measures identified in the reports as being realised, the most frequent are the measures that are **continuous in nature**, such as: education of employees, improvement of transparency and improvement of citizens' informing, updating the website, updating databases, budgeting planning and continuously monitoring the dynamics of spending of budget funds in accordance with the plan. In this section, findings of researchers are in

accordance with the findings given in the APC report.

Measures that are marked as not realized are mainly related to **key measures** that should contribute to prevention of corruption at the local level, such as: adoption and publishing of internal procedures, i.e. internal instructions for keeping records of reports of corruption within the institution and conduct upon reports, protection of the identity of a person who submitted a report, internal procedure for production of planning documents, internal procedure on manner of data protection, rulebook on manner of keeping the records of sponsorships and donations and the content of reports on received sponsorships and donations, employment of staff with appropriate qualifications and fulfilment of systematized work positions in certain organisational units, provision of conditions for physical security of property...

In the previous reporting period, it was noted that a large number of municipalities has not realised one of the key measures, namely, *the adoption of Internal instructions for keeping records of reports of corruption within the institution and conduct upon reports*. As the same situation is repeated in this reporting period as well, the analysis of reports of local self-governments shows that this measure was not realised by the following municipalities: Andrijevica, Bar, Berane, Budva, Herceg Novi, Kotor, Mojkovac, Pljevlja, Tivat and Savnik. CCE researchers tested the realisation of this measure also by obtaining additional data under the Law on Free Access to Information.

Thus, the CCE sent a request for free access to information to local self-governments on 27 April 2018, seeking information on number of reported cases of corruption for 2016, 2017 and 2018, as of 30 March 2018, as well as information on how many reports were processed by the authorised institutions in accordance with the Internal instructions for keeping records on corruption reporting and conduct upon reports.

Only 15 municipalities responded to this request, two of them - Mojkovac and Zabljak - reported that they have adopted the internal rule, **but none of the mentioned municipalities have had reported cases of corruption!**

In the case of the municipality of Mojkovac, the data does not correspond to the report submitted to APC. Namely, on 11 May 2018, the CCE received a response from the President of Municipality of Mojkovac that the instruction is located on website of the municipality of Mojkovac, which was confirmed by an insight into the submitted link. It is therefore clear that the report on realisation of measures of the Integrity Plan has been done inadequately, since the said instruction was adopted on 12 July 2017, in the period referring to the reporting period.

On the other hand, the municipality of Ulcinj stated in its report that the measure for adoption of the Internal instructions for keeping records of corruption reports within the institution was realised, while in response to the request for free access to information it was stated that the municipality of Ulcinj has not adopted the Internal Instructions, and that there were no reports in 2016, 2017 and 2018.

Regarding the municipality of Rozaje, the report on realisation of the integrity plan does not have an indicated measure regarding adoption of the Internal Instructions for keeping records of corruption reports, but the measure 'Perform regular control of the record of received sponsorships and donations' as a degree of realisation of the measure has indicated: 'Production of an internal instructions for reporting and keeping records of cases

of corruption within the institution is under preparation.' In the response to the CCE, the Municipality of Rozaje noted that it has no internal instructions nor that there were reports in 2016, 2017 and 2018.

In relation to the report on realisation of measures for 2016, very little progress is noticed, since 11 municipalities did not implement this measure then, which means that only two municipalities adopted the internal instructions for keeping records of corruption reports during past year, if we take into account also the instruction adopted by Municipality of Mojkovac.

Another measure that most municipalities did not realise was adoption of internal instructions on keeping records of received gifts, as well as keeping a register and submitting of reports on received gifts to the APC. These measures have not been realised in the following municipalities: Savnik, Cetinje, Herceg Novi, Kolasin, Budva, Podgorica, Andrijevica, Bar, Berane, Plav, Kotor, Zabljak and Rozaje. This represents a certain improvement compared to the previous year, when this measure was not implemented in 16 municipalities, which means that three municipalities have implemented this measure during 2017.

Also, in 2017, municipalities did not work on adoption of internal instructions on control over the existence of conflict of interest, thus municipalities of Savnik, Rozaje, Pluzine, Mojkovac, Zabljak and Budva have not adopted these instructions.

In addition to the aforementioned measures, which have not been realised for the most part, the measure of *Internal procedure for debt management and consolidated treasury account* in the municipalities of Plav, Kotor, Budva and Tivat is also frequently repeated, as well as the *Internal instructions for monitoring the implementation of public procurement contract or reporting on realisation of public procurement contracts*, which were not passed by the municipalities of Savnik, Pluzine and Budva.

Considering the fact that during 2016, nine municipalities did not have a procedure on establishment of the level of data confidentiality and did not have adequate mechanisms that provide protection of data and documents, some progress can be noticed during 2017 when five municipalities passed these decisions or procedures, while the municipalities of Bijelo Polje, Danilovgrad, Pluzine and Zabljak did not do so. This leads to possibility of misusing the content of these documents and may be causatively-consequently linked to conflict of interest and to the reduction of transparency.

As in the previous year, even in 2017, it was not worked on establishment of a new IT system or electronic database, mostly due to insufficient budget funds, in as much as 10 municipalities.

Analysis of reports on implementation of integrity plans has shown that over 300 measures have not been realised in 2017 in all municipalities, all of which significantly influence the increase in degree of risk of corruption, especially when it comes to areas of public procurement, finances, internal audit and managerial positions. In support of this goes the fact that in a great number of municipalities, statements on existence of conflict of interest are not being verified, and the work of Ethical Commissions, which are not even formed in certain municipalities, is not performed or not controlled. Therefore, it is necessary to exercise a more qualitative and more thorough determination of measures in the Integrity Plan and set realistic targets, since it is notable that a large number of measures are unrealised due to insufficient budget or personnel capacities

CITIZENS IN THE WHIRLPOOL OF UNCLEAR PROCEDURES FOR REPORTING OF CORRUPTION CASES

In order to provide an objective assessment of functionality of the corruption reporting system by citizens in Montenegrin municipalities, and after analysing the fulfilment of measures defined in key documents (LAP and Integrity Plan), the CCE opted for application of the 'mystery shopper' method.⁶ Within the quantitative field, this fieldwork was carried out in the territory of eight municipalities: Podgorica, Niksic, Cetinje, Pljevlja, Bijelo Polje, Berane, Ulcinj and Bar, during June and July 2018. The selection of municipalities took into account equal representation of all three regions - northern, central and southern. The previously defined parameters that visitors have been evaluating were: *is there visible and clearly posted information on manners of reporting corruption, are municipal officials familiar with procedures for conduct upon reports, as well as the expertise and kindness of authorised person, and whether and how is it possible to report corruption.*

Although this is sufficiently representative sample thus the collected data give an objective review of the situation on the field, the results do not relate to all Montenegrin municipalities and do not reflect the necessary situation and conduct of officials in all municipalities.

Municipality	Availability of information	Expertise and kindness of officials	Established procedure for reporting corruption cases
Bar	No	No	No
Berane	No	Yes	Yes
Bijelo Polje	No	No	No
Cetinje	No	Yes	No
Nikšić	Yes	Yes	Yes
Pljevlja	No	No	No
Podgorica	No	No	No
Ulcinj	No	Yes	Yes

Graphic 1: General findings as per defined criteria

Guidelines for reporting corruption, in the form of posters, flyers or other promotional materials that accurately describe the process of reporting corruption by citizens i.e. complaints about the work of local public officers or officials, are available only in the municipality of Niksic and partially in the Old Royal Capital Cetinje, while in the other observed municipalities they were not noticed by the visitors, nor were municipal officials in possession of information that such materials exist.

In the municipality of Niksic, a poster made within the first phase of the CCE project '*Corruption at the Local Level - Zero Tolerance!*' was posted in a visible place, as well as a box for anonymous reporting made through the same project and then distributed to all municipalities. Establishment of a separate form with the designation of citizen's card for reporting corruption, which the project's implementers have advocated for, is also available in printed format and it can be anonymously filled on-site. In addition

⁶ Methodology implies departure of trained interviewers to defined municipalities who, depending of requirements of research, are noting and assessing different parameters of municipalities/services while using those services. Their identity is not known to institutions that they question, they are introducing themselves as usual service users, which enables them to assess the provision of services in this municipality with credibility.

to this, there were also promotional materials of APC with precise instructions for reporting cases of corruption to this institution, in the same area.

The same poster was noticed on doors of one of offices in the Old Royal Capital of Cetinje, but it is not displayed in visible position, the box for anonymous reporting of corruption which accompanies the poster with the described procedure of reporting of corruption cases is no longer in possession of the Old Royal Capital, nor is the form of citizen's card, thus its purpose is inconsequential. The box for insertion of reports exists in several municipalities, but without instructions.



Photo 1: Poster at the entrance door of municipality of Niksic



Photo 2: Box for anonymous reporting of corruption and accompanying promotional materials of the APC

It was assessed by visitors that in many municipalities officials are not in possession of information relating to procedures for reporting of corruption cases, nor are they familiar with whether there are clearly prescribed procedures in municipality, nor did they know whom to refer them to in order to acquire additional information.

As there are certain particularities and different experiences of visitors in each of observed municipalities, their direct experiences will be shortly described further on. The visitors have noted positive experiences with municipal officials in the following municipalities: Niksic, Old Royal Capital Cetinje, Berane, Ulcinj and Bar, while they have had negative experiences in the Capital City Podgorica and municipalities Pljevlja and Bijelo Polje.

In the municipality of Niksic, within the citizen's bureau, the employees showed a high degree of cooperativity and provided the visitor with all the necessary information, directed him into the corruption reporting process and explained precisely the further conduct upon the report. The authorised official gave the visitor also the personal phone number in order to further inform about the submitted report.

Positive example is also Old Royal Capital Cetinje wherein the official, after ascertainment that there is no established system for reporting corruption in the Old

Royal Capital and that no one before has addressed them with similar inquiry, have referred the visitor to the office in which the official has self-initiatively researched the Internet for all available mechanisms for reporting of corruption cases at the national level, has written down for visitor the phone numbers and explained the procedure. She has introduced the visitor with Articles of the Law of Prevention of Corruption and encouraged to report the required case to the authorised institutions.

In the municipality of Berane, the visitor was referred by an official at the information counter to an official person for civil complaints who accurately explained the corruption reporting process and instructed him to report corruption either publicly, by submitting a request with accurate allegations, in which case, based on the request an investigation would be launched, or anonymously by inserting the letter in the corruption reporting box that exists in the hall of municipal building.

In the case of municipality of Ulcinj, the visitor has also received all necessary information and was instructed to report corruption via banner on the website of the municipality, which can be done in Albanian and Montenegrin language, as well as by anonymous insertion of the report into the box located in the municipality hall. The procedure for conduct upon report was also explained to him and the manner in which he can be further informed about results.

In the municipality of Bar, the visitor was able to get information only from doorman, who has directed him to the corruption reporting box which is placed in the municipality hall.

Unlike the visitors' experiences previously described, in the Capital City Podgorica, the visitor was exposed to jokes of employees at the main counter, whom he addressed for information and help, with a comment that there is no corruption there and that he should address the APC which is authorised for these cases for all information.

The same situation has repeated in municipality of Pljevlja, wherein the employee in the Citizen's Bureau has told the visitor that she knows of no procedures for reporting corruption, that there is some box at the entrance in the building and that he can insert the report there.

In the municipality of Bijelo Polje, the visitor was referred to the Chief Administrator who, according to the explanation of the official, is the only one able to receive such types of reports, but who was not able to receive him, thus there was no other manner to actually report the corruption case to the authorised official in this municipality. The officials were not familiar with the procedures, while the visitor, on his own initiative, noticed in the hall of the municipality the box for reporting corruption, to which he has not been previously referred by officials.

CONCLUSIONS AND RECOMMENDATIONS

- **In order to improve the strategic framework and the existing established mechanisms for prevention and fight against corruption**, it is necessary for this to be preceded by a **comprehensive analysis of the situation**, along with realistic risk assessment, in consultations with relevant entities and unification of all data into one national document, with precisely defined and realistically achievable recommendations.
- Action Plan for Chapter 23 of Montenegro enlists the basic elements of comprehensive reforms in the area of corruption prevention and fight against corruption. It is supplemented by the 'Operational Document', adopted in 2016, which provides additional measures for prevention of corruption in certain areas that are particularly vulnerable to corruption, such as public procurement, privatisation, spatial planning, education, health care, local self-government and police. **However, the impact of these measures is still limited and Montenegro needs to develop more effective plans for prevention of corruption that will be specifically related to individual sectors**, the European Commission notes.
- **It is necessary to clearly define which body at the national level coordinates and monitors the implementation of activities in the area of fight against corruption at the local level.** Bearing in mind the comparative experiences, as well as jurisdiction and prescribed obligations of the Agency for Prevention of Corruption (APC) in the area of prevention of corruption in local self-governments, through adoption and implementation of integrity plans, the APC should be entrusted with this task.
- **Prepare and adopt a new Model LAP**, with consultations and participation of the broadest stakeholders at national and local level, **guided by findings of a pre-prepared analysis of situation and make them realistically feasible over a specific period of time, with budgetary terms and sources of funding.**
- **Prescribe a new system for monitoring the realisation of LAP, reporting and evaluation at the local and national level.** The existing system is not functional and reports are not available to the public. The data submitted to the WG for Chapter 23 are not accurate, although the Government includes them in their reports. Additionally, LAP measures have significant disadvantages in relation to defined goals, there are no initial, nor expected values of indicators, thus it is not possible to monitor in quality what is the extent of fulfilment of majority of planned indicators. It is also concerning the fact that the adopted LAPs do not have a strong link between targeted problems and anti-corruption measures or the hierarchical matrix between priority areas of action, general and specific goals, thus it is not easy to determine which activities and measures envisaged by the action plan contribute to the achievement of what goals, which makes it difficult to track them.

- **Increase the responsibility of heads in local self-governments and define persons responsible for realisation of LAP.**
- **Condition the distribution of funds from Equalization Fund with the successful implementation of action plans for fight against corruption at the local level.** This decision was proposed in 2011 by the Ministry of Finance, and it remains unclear why it was ignored.⁷
- **Prepare an analysis of the effects of implementation of integrity plans at the local level.** The assessment contained in the APC's annual report on adoption and implementation of integrity plans for 2017 is based exclusively on local self-government reports, and therefore cannot be taken as credible.⁸
- Kako bi se unaprijedila efikasnost planova integriteta **fokus treba preusmjeriti na realizaciju mjera koje faktički doprinose sprječavanju korupcije na lokalnom nivou.** Trenutno se među mjerama koje su u izvještajima ocijenjene kao realizovane najčešće navode one koje su kontinuirane prirode i opšteg karaktera, kao što su: edukacija zaposlenih, unapređenje transparentnosti i unapređenje informisanosti građana, ažuriranje internet stranice, ažuriranje baza podataka, planiranje budžeta i kontinuirano praćenje dinamike trošenja budžetskih sredstava shodno planu.
- In order to improve the effectiveness of integrity plans, **the focus should be redirected to realisation of measures that actually contribute to prevention of corruption at the local level.** At the moment, among the measures assessed as being realised in the reports, the most frequently stated are those that are of a continuous nature and general character, such as: education of employees, improvement of transparency and promotion of citizens' information, updating of the website, updating of the databases, budget planning and continuous monitoring of dynamics of budgetary funds' expenditure according to the plan.

7 Ministry of Finances of Montenegro, Assessment of risk of corruption in areas of particular risk, 2011.

8 APC, Annual report on adoption and implementation of integrity plans for 2017, page 23.

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