



**Public administration
reform: As it must be
done, but not as it
should be done**

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Public administration reform: As it must be done, but not as it should be done

Four years into the implementation of the Public Administration Reform Strategy, we are still detecting only the merest hint of an efficient public administration that citizens trust.

The “results” of the reform are very often interpreted as formal accomplishments meant to appease the European Union. Regrettably, the unequivocal efforts invested and numerous commitments fulfilled did not produce the expected effects.

We’re starting the year off with unsatisfactory results in the implementation of key segments of the reform. The major underperformance was observed in the areas of optimization of public administration and regulating the right to free access to information, whereas the new policy coordination system received a passing grade.

The experts who participated in our research gave this area an average score of **2.41** on a 1-5 point scale. This result is still a substandard one - it points to an extremely slow progress in what is dubbed the critical stage of public administration reform, and shows that we are not even halfway through. The average score in the 2017 survey was **2.19** as compared to **2.27** in 2018.

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The Council sidestepping the reform that falls within their remit?

The Public Administration Reform Council has not contributed greatly to the process. The Council often fails to perform its main functions and justify its purpose, which results in oversights.¹

Although a politically powerful body, the Council has, regrettably, failed to put this power to use and exert the influence that is necessary for streamlining the process. The Council was also lacking the initiative which, in our view, would have provided the political support that was necessary to preempt or correct mistakes in the implementation of the reform process.²

Many public authorities have shown a lack of proper dedication in providing the information requested. On the other hand, the Ministry did not develop mechanisms to coordinate this process.

Despite all the issues listed further below, the Council convened only twice in 2019.

¹ Milena Gvozdenović, *Key Observations on the Implementation of Public Administration Reform by April 2019*, CDT, Podgorica, 2019. Available at: <https://www.cdtmn.org/2019/04/23/kasne-sa-izvjestaji-ma-o-reformi-javne-uprave/>

² Ibid.

Less freedom in access to information

³ Dina Bajramspahić, “Ombudsman Agrees with NGOs’ Opinion on Government’s Draft Law on Free Access to Information”, *Institut Alternativa*, 14.01.2020. Available at: <https://institut-alternativa.org/ombudsman-dijeli-misljenje-nvo-o-vladinom-nacrtu-zakona-o-spi/>

The right to free access to information was first curtailed with the 2017 amendments to the law, only to be further narrowed down in the new Draft Law on Free Access to Information. Instead of tackling a number of deficiencies identified in the implementation of this piece of legislation, the law maker decided to narrow down the constitutionally guaranteed right and limit the scope for scrutiny of corruption-prone areas. the Protector of Human Rights and Freedoms sided with the public in their response to the said provisions.³

This was not an isolated example of limiting the transparency of public administration in the previous period.⁴

Optimization which does not optimize



It is not a professional and efficient civil servant that acts as a pillar of the optimization process, as public administration largely remains to serve as a haven for party affiliates. Workforce planning at both central and local level is a matter of particular concern, and there are still no reliable data on the total number of employees.⁵

□ *Opinion polls show that political affiliation and family and friendships are believed to be the most important preconditions for finding a job in Montenegro. Job vacancies are advertised in one day’s publication only or during weekends, which raises question about the functioning of our system in practice and confirms suspicions of corruption in recruitment. According to the Anti-Corruption Agency, it is local public enterprises that use this job advertising method the most.⁶*

⁴ Amendments to the Law on Public Administration and Law on Public Procurement were also subjected to public criticism.

⁵ The goals of optimization and those envisaged in other personnel planning documents are not always in tune.

No explanation was offered as to why the optimization process does not pertain to state level public enterprises, and no sectoral analyses of labor demand were provided. Experience has shown that a linear approach to optimization is not helpful in achieving a desired goal. Reports on the implementation of the Public Administration Optimization Plan show that the goal of reducing the number of employees is not being met.

⁶ In 2018, 17 public institutions published a total of 38 advertisements appearing in one day's publication only for a total of 68 job vacancies. As many as 75% of these controversial ads were posted by the state-owned public companies. In 2017, 98 public institutions placed 417 advertisements for 714 job vacancies, 373 of which appeared in one day's publication only and 44 were published over the weekend. Source: Anti-Corruption Agency, Analysis of ex officio proceedings in recruitment procedures. Available at: http://antikorupcija.me/media/documents/Analiza_postupaka_pokrenutih_po_sluC5%BEbenoj_duC5%BEnosti_u_postupcima_zapoC5%A1javanja_tiCGKLx.pdf

New recruitments undermine the effects of the optimization process. Such recruitments were taking place even without the approval of the Inner Cabinet. It is highly unlikely that this process will rationalize government spending, given the ever-growing budget allocations for government staff employed at the central level. Another problem is that the Ministry of Finance cites insufficient funds available to make redundancy payments, claiming they are unable to cover over 80% of those that applied.⁸

□ *Although the Law on Civil Servants and State Employees contains improved provisions on the testing procedures for managerial staff and the conditions for the appointment of acting officials, the chief disadvantage lies in the discretionary ability of a manager, i.e. a minister or a director of an authority to nominate a candidate of their choosing. The effects of the practical implementation of this Law are not yet visible.*

Positive shifts in policy coordination

⁷ Marija Mirjačić, "Gross wages growth in almost all the ministries", *Vijesti online*, 22.11.2019. Available at: <https://www.vijesti.me/vijesti/ekonomija/bruto-plate-rastu-u-skoro-svim-ministarstvima>

⁸ Tijana Pravilović, 1,430 interested in severance pay, funds available for 230 servants only", *Vijesti online*, 22.12.2019. Available at: <https://www.vijesti.me/tv/emisije/za-otpremnine-zainteresovano-1-430-pa-ra-za-samo-230-sluzbenika>

⁹ Dragan Koprivica, Milena Gvozdenović, *Quality Assessment of Government Policy Planning: Planning system without sustainable evaluation for now*, CDT, 2019.

There were positive shifts in policy coordination and planning. A medium-term planning framework was developed through the adoption of medium-term work programs of the government and three pilot ministries. This process is especially valuable in that it "raises awareness" of public administration managers and employees about the future, i.e. it is starting the process of overcoming resistance to high-standard planning and also to the measuring the success of such planning. The critical point of the system is in the evaluation of results. The reports on the implementation of the Government's Medium-Term Work Program indicate that it was not aimed at providing data on the quality of the work done and analyzing segments that have not been functioning properly.

The strategic framework is comprised of a large number of documents that are not harmonized, performance-oriented or financially sound. There is also no high-quality monitoring and evaluation of these documents. Strategic documents are to be drafted in line with the newly-introduced rules that are not subject to evaluation themselves; however, the effects of their practical implementation are yet to be evaluated.

Services with no users

¹⁰ If the success of a public hearing is measured by the number of accepted public comments, the figures of the Ministry of Public Administration do not appear to be encouraging. In 2018, as many as 1,523 comments were submitted at public consultations tabling the drafting of 99 laws and strategies, and just over half of them got accepted. Source: The Ministry of Public Administration, Report on the implementation of the Decree on the election of NGO representatives into working bodies of the state administration and conducting public consultations in drafting laws and strategies. Available at: <http://www.mju.gov.me/biblioteka/izvjestaji>

In the previous period, a number of mechanisms have been developed in order to boost citizen participation, but they did not catch on.

Even though citizens are fairly uninterested, the problem is in that the authorities are not sufficiently open to public initiatives.

Despite the significant public criticism, there is no indication that lawmakers will amend provisions that enable a wide interpretation of statutory exceptions from the obligation to hold public consultations. In practice, public consultations are often not performed at a satisfactory level.¹⁰ The civil sector is often dissatisfied with the quality of public consultations, as most of their proposals get rejected without satisfactory explanation. Very few topics and occasions can provoke citizens into taking part in public consultations, and any increased attendance cannot usually be attributed to organizers of the event.¹¹

□ *The reports on the quality of implementation of the Regulatory Impact Assessment for 2018 and 2019 are still not publicly available, which indicates a lack of political support to strengthening the RIA system. It seems as if no due diligence is performed prior to the formal completion of the RIA template, as checks performed are purely formal.¹²*

Not all the electronic services available are user-friendly. E-services are predominantly informative, and very few of them are fully completed online. Also, e-platforms launched by the Ministry of Public Administration in order to increase citizen participation are not contributing to strengthening democracy in practice.¹³

¹¹ Biljana Papović, *Assessment of Montenegro's Progress in Meeting Political Criteria in Negotiations with the EU. Part Five - Public Administration: A citizen service or a toy in the hands of politics?*, CDT, 2019.

¹² Dragan Koprivica, Milena Gvozdenović, *Implementation of the Regulatory Impact Assessment (RIA): Form Without Substance*, CDT, Podgorica, 2019.

¹³ The Ministry of Public Administration had set the target of at least 100 comments to be submitted by the interested public via the e-Participation service. However, only one comment was submitted in 2019. Thirty six petitions were submitted via the e-Petition service, of which as many as 25 were rejected, whereas four petitions were accepted and put to a vote. The remaining seven petitions are still pending decision. Source: The Ministry of Public Administration, Status of Implementation of NAP (01.01.2019-29.11.2019).

Unstable municipal finances

Specific issues such as openness, accountability and efficiency of local governments have taken a back seat in the process of public administration reform.

Political criteria have been a decisive factor in forming new municipalities.¹⁴

The issues of self-financing and large debts accumulated by municipalities have been coming up for years.¹⁵ The use of funds from the Equalization Fund is steadily increasing,¹⁶ which indicates that municipalities are still largely financially dependent on the state.

Local parliaments and the State Audit Institution do not play a sufficiently strong role in the system of control of local government finance. Due to poor financial management by some municipalities, the Tax Administration was forced to block municipal accounts and propose opening of bankruptcy proceedings in local public companies.¹⁷ According to Tax Administration, in addition to salaries, local governments were also paying contributions to their employees in the first quarter of 2019, for the first time in ten years.¹⁸

Public enterprises and local self-governments do not fall within the scope of the Public Finance Management Reform Program for the period 2016-2020.

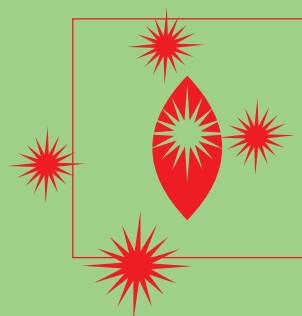
¹⁴ “Tuzi splits from Podgorica, the DPS and diaspora to return the favor”, *Dan*, 02.09.2018.

¹⁵ Biljana Papović, *Assessment of Montenegro's Progress in Meeting Political Criteria in Negotiations with the EU. Part Five - Public Administration: A citizen service or a toy in the hands of politics?*, CDT, 2019.

¹⁶ The definitive allocation from the Equalization Fund has increased from EUR 24,517,544 in 2014 to EUR 35,116,388 in 2018.

¹⁷ “Poreska uprave će blokirati račune opštinama i prelagati stečaj”, *CDM*, 04.02.2019. Dostupno na: <https://www.cdm.me/ekonomija/poreska-uprava-ce-blokirati-opstinama-racune-za-preduzeca-ce-predlagati-stecaj/> “Javnim preduzećima sada prijete stečaji” *Dan*, 27.09.2019. Dostupno na: <https://www.dan.co.me/?nivo=3&rubrika=Regioni&clanak=714387&datum=2019-09-27>

¹⁸ “All municipalities duly paid their taxes and contributions”, *Portal Analitika*, 29.04.2019. Available at: <https://portalanalitika.me/clanak/332933/sve-opstine-uredno-uplatile-poreze-i-doprinos>



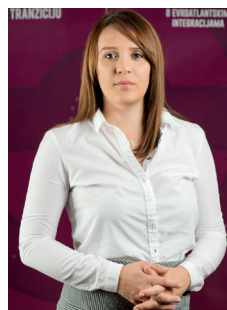
The research on the progress of countries of the region in meeting the political criteria for accession to the European Union (EU) is conducted with financial support from the **Balkan Democracy Fund** and the **Embassy of the Kingdom of Norway**, in collaboration with colleagues from the non-governmental organizations **CRTA** (Serbia), **Metamorphosis** (Macedonia) and **Zašto ne?** (Bosnia and Herzegovina).

A set of indicators is used to examine the quality of the strategic and legal framework, institutional and financial capacity, as well as the results achieved in six areas: elections, judiciary, fight against corruption and organized crime, media and public administration reform. The six areas are laid out in a topic per document model. Our analyses contain assessments of the fulfillment of the criteria that we have come up with by summarizing and articulating the views and evaluations of experts monitoring the quality of implementation of EU standards, as well as by analyzing the implemented normative and institutional reforms and their practical results.

The first part of the research tackles the quality of public administration reform. We have been evaluating this area as based on **39 indicators**, alongside consultations held with five experts in the field.

We remain open to all suggestions, well-intentioned criticisms and discussions that may arise from our research. We are also ready to offer concrete solutions to all the issues we have labeled as problematic and thus contribute to this important reform.

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ROYAL NORWEGIAN EMBASSY

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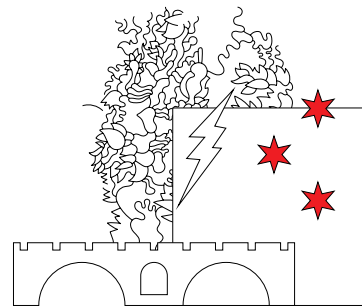
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