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Evaluation of Montenegro's
progress in fulfilling political
criteria with the EU:

Public Administration Reform: Do We Have the Political Drive to Make Real Change?

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Public Administration Reform: Do We Have the Political Drive to Make Real Change?

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It has been a decade since Montenegro formalized its efforts to make its public administration functional, efficient and professional. The ten-year anniversary of the first strategic document finds us facing the devastating fact that reform activities have, for the most part, been simulated and feigned in the two previous cycles.¹

The shift of government did not bring about a new approach to public administration. Instead of the anticipated optimization and depoliticization, the new ruling majority is actively creating new ways of hiring its supporters into the already cumbersome public administration.

The government as a whole is demonstrating inability to refrain from misusing public resources and having them cater for interests of political parties, while the Ministry of Public Administration, Digital Society and Media is trying to implement reform activities despite the resistance of other ministries and local governments.

According to the European Commission, the reorganization of public administration following the change of government has led to substantial staff changes, especially with staff experienced in accession-related matters, which jeopardizes Montenegro's capacity in EU accession process.²

After a year of counting, we finally have precise data on the number of public administration employees, but the process of harmonizing personnel records maintained by different authorities has only just begun. It is also problematic that we still do not know what the optimal number of public administration employees should be, as some public bodies never conducted functional analyses, which is why we still lack information about which of these authorities have a workforce surplus and which have an actual need to hire additional staff. This analysis is to be conducted in phases, with the first one planned to start no earlier than late next year.³ Given the numerous shortcomings in staff planning and the obvious surge of politicization, we believe that there can be no justification for any delays in its implementation.

Although the government promised greater transparency in the work of government bodies at the beginning of its mandate, this change did not take place. The government proceeded with some of the bad practices of the previous government, and steps backwards were noted with transparency of the decision-making process and availability of performance-related information.

1 Although there had been previous activities in the area of public administration reform, the first strategic document since the restoration of Montenegro's independence, the Public Administration Reform Strategy 2011-2016 – "Aurum" – was adopted in March 2011, to be succeeded by the Public Administration Reform Strategy in Montenegro 2016-2020.

2 European Commission 2021 Montenegro Report, European Commission, October 2021.

3 Draft Action Plan 2022-2024 for the implementation of the Public Administration Reform Strategy 2022-2026, Ministry of Public Administration of Digital Society and Media, November 2021.

Experts who participated in our research rated this area with an average score of 2.38 on a 1-5 scale.

New plan – same flaws

After two unsuccessful reform cycles, Montenegro is soon to get a new Public Administration Reform Strategy 2022-2026, with almost identical challenges and unfulfilled goals. Future results will be conditioned by how serious and inclusive the process of drafting a new strategic document turns out to be, especially since issues of optimization and openness have been identified as priorities that are already being addressed.⁴ However, the initial optimism subsides the further we go down the public administration hierarchy, where we encounter sluggish administration and considerable resistance among civil servants to actively work on improvement. The new Public Administration Reform Council was appointed in July 2021, and the fact that it is chaired by the prime minister is giving it a stronger political thrust.

Recruitment based on party affiliation is easily agreed on

Unfortunately, the idealistic depiction of the situation as shown in the planning documents is not reflected in practice. The new parliamentary majority easily reached a consensus for degrading the legislative framework, as the amendments to the Law on Civil Servants and State Employees introduced lower requirements for public administration jobs. Thus, we have further departed from the ideal, where criteria such as expertise, impartiality and merit come up as decisive factors in staff selection process.⁵ The managerial positions in the administration have been precisely distributed per party quotas, which refutes the initial announcements of plans to prevent discrimination in recruitment, and reveals the intention of the new ruling majority to merely replicate the practice where public administration is captured by political parties, a practice that has been criticized for years.⁶ Parties have shown particular interest in the so-called “all-round division of jobs” in the majority of state-owned enterprises, due to the tempting salaries

4 In anticipation of the new PAR Strategy, the following documents have been prepared: Dynamic Action Plan in Public Administration Reform October - December 2021, October 2021, Ministry of Public Administration, and Measures for Optimization and Efficiency of Public Administration, October 2021, Ministry of Public Administration, Ministry of Economic Development, Ministry of Finance and Social Welfare, with members of the Council directly participating in their implementation.

5 Vijesti, Amendments to the Law on civil servants and state employees are essential for removing the DPS tentacles throughout the public sector, 29.12.2020. Available at: <https://www.vijesti.me/vijesti/politika/498941/radunovic-izmjena-zakona-o-drzavnim-sluzbenicima-i-namjestenicima-esencijalna-za-smjenu-dps-hobotnice-po-dubini>

6 RTCG: The ruling parties agreed on the division of job posts, 13.01.2021. Available at: <http://www.rtcg.me/vijesti/politika/306356/partije-vlasti-dogovorile-raspodjelu-funkcija.html>

and benefits that by far exceed public administration income levels.⁷ Instead of finally taking a systematic approach to solving a series of problems that affect these companies, the government has decided to completely exclude them from controls carried out as part of public administration reform process. Optimization process does not apply to state-owned enterprises, be it at the central or local levels, and there is no progress in establishing control over income earned in these legal entities.⁸ The newly established company Montenegro Works has been put in charge of improving corporate governance and staffing issues in these companies.⁹ In order to make this solution practically viable, it would be necessary to introduce a series of amendments to the legislative framework, which cannot get the proper backing in the current political context, neither by the government as a whole¹⁰, nor by the parliamentary majority.¹¹

HR planning still going overboard

The personnel planning process has been negatively affected by the political crisis, obstructions to the adoption of the 2021 Budget, as well as by the lag of new ministries in fulfilling legal obligations.¹² At the end of 2021, the government prepared the HR Plan, which envisages new recruitments without a prior needs analysis. However, the only positive step is in that, for the first time, this plan was prepared as based on the Human Resource Management Information System, an important software that is now finally serving its true purpose. In order to fully centralize the records of public administration employees, the existing HRMIS needs to be linked with the payroll information system.

We still do not have an answer about the optimal number of employees needed to reach the desired goal of creating a professional and functional administration. The complex process of carrying out functional analysis for all administrative bodies, as a basis for optimization and adoption of adequate

7 Vijesti: CDT- New government, old practice, Instead of professionalization, partitocracy still prevails, 31.10.2021

8 Vijesti: Recommendations for salaries in state-owned companies get swept under a rug, 25.11. 2021. Available at: <https://www.vijesti.me/vijesti/ekonomija/577349/gurnuli-pod-tepih-preporu-ke-za-plate-u-drzavnim-firmama>

9 Pobjeda: Government established the "Montenegro Works" Company, 04.08.2021. Available at: <https://www.pobjeda.me/clanak/vlada-osnovala-preduzece-montenegro-works>

10 Investitor.me: Bojanić stands opposed to the new state-owned company, 05.08.2021. Available at: <https://investitor.me/2021/08/05/bojanic-protiv-nove-drzavne-kompanije-trudimo-se-da-stedimo-a-za-montenegro-works-se-daje-skoro-pola-miliona-eura/>

11 RTCG: Spajić forming a government within the government by establishing Montenegro Works, 09.08.2021. Available at: <http://www.rtcg.me/vijesti/ekonomija/330853/uz-montenegro-works-spajic-pravi-vladu-u-vladi.html>

12 A partial staffing plan for 2021 was drafted, as not all state administration bodies harmonized their respective acts on internal organization and systematization with the Law on Civil Servants and State Employees and the Decree on the Organization and Manner of Work of State Administration; also, the 2021 Budget adoption has been delayed.

measures, is planned to be rolled out in phases until the end of 2024, with special emphasis on the specifics of education, health, army and police departments.

The Ministry of Finance and Social Welfare has finally made available the exact number of employees in all state bodies, administrative bodies, public institutions, funds, institutes and other spending units either fully or predominantly financed from state budget.¹³ This finally unveiled the mystery surrounding the exact number of employees and the size of public administration, which is a starting point for implementation and monitoring of further activities.

However, at the same time, the government continued the bad practice of hiring temporary contract employees. Aside from the fact that these fixed-term contracts are being awarded without a clear plan, there were evident abuses in the way the ministries have been concluding them in the course of this year – these contracts are continuously used for systematized jobs and for periods longer than statutory, with salaries that exceed the prescribed income level for a particular job post.¹⁴

Obstacles to information of public importance

An evident regression has been observed in the area of access to information, instead of the expected improvements in the legislative framework and its implementation. While the proposed legal amendments are a step forward from the current provisions, access to information held by institutions has become drastically more difficult. The proactivity and transparency of the authorities is recording a downward trend¹⁵ despite the government's announcements of a transparent and credible approach to reforms necessary for further progress in European integration.¹⁶

Administrative silence comes up as an increasingly cited grounds for complaints before second instance bodies, and statistics show that the number of complaints has increased from 418 as recorded in 2018 to as many as 1,002

13 According to the data of the Ministry of Finance and Social Welfare contained in the Instruction for keeping records on the number of employees aimed at monitoring the implementation of public administration reform for the period 2022-2026, and the accompanying table, public administration has 45,021 employees at the central level.

14 In order to analyze this phenomenon, the CDT filed a request for free access to information, asking all the ministries and the General Secretariat of the Government to submit copies of employment contracts and consulting contracts concluded in 2021.

15 The results of the 2021 Regional Openness Index for Executive Branch are available at: <https://otvoreneinstitucije.cdtmn.org/>

16 Vijesti: Krivokapić, We will be determined, credible and transparent in implementing reforms, 16.12.2020. Available at: <https://www.vijesti.me/vijesti/politika/495395/krivokapic-bicemo-odlu-cni-kredibilni-i-transparentni-u-sprovodjenju-reformi>

lodged in 2020.¹⁷ Although data for the current year are still not available, we are observing a setback in this respect on a daily basis, as some institutions of the executive branch intend to place themselves above the law and make these data unavailable.¹⁸ The civil sector had high hopes for implementation of radical reforms and availability of the information that has been marked as classified for years. These expectations have not been met.¹⁹ The government is still expected to eliminate problematic restrictions on access to information with amendments to the Law on Free Access to Information, especially those pertaining to business and tax secrets, and to collection of data from international organizations, foreign countries and the security sector.²⁰

Government planning its work for the short term only

For the first time, the preparation of the 2021 Government Work Program envisaged a public consultation process as a way to identify priorities. Also, the new advantage of this work program is that, unlike the previous ones, it contains indicators for monitoring government performance in the implementation of policies and planned activities.²¹

However, the actual implementation rate of the government work program reveals some planning gaps. It is worthwhile to note that part of the responsibility for such results lies with the parliament, because parliamentary parties' support for adoption of laws in the Parliament of Montenegro is presented as being contingent on their respective political priorities. As a result, the government failed to implement a major part of legislative activities envisaged in the annual work program.

After the 2018-2020 Medium-Term Government Work Plan expired, medium-term policy planning did not go beyond new ideas for strengthening the medium-term planning system and developing an integrated strategic planning system which, at present, exists only on paper.²²

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17 Ministry of Public Administration, Digital Society and Media, Final Report on the Implementation of the Public Administration Reform Strategy 2016-2020, with a review of the 2020 activities, page 19, March 2021.

18 The General Secretariat of the Government is the most prominent example in this respect, not having responded to any of the requests for free access to information that we submitted in 2021.

19 CDT: Instead of radical changes, the government continues to keep information secret, 28.09.2021. Available at: <https://www.cdtmn.org/2021/09/28/umjesto-korjenitih-promjena-vlast-i-dalje-cuva-tajne/>

20 IA, MANS: Remove problematic restrictions on access to information 01.11.2021. Available at: <https://institut-alternativa.org/ia-i-mans-ukloniti-problematicna-ogranicenja-pristupa-informacijama/>

21 Government of Montenegro: Work Program of the Government of Montenegro for 2021, April 2021

22 Draft Public Administration Reform Strategy 2022-2026 envisages to link processes of medium-term budget planning, planning of medium-term and annual work programs of the government and ministries, planning of sectoral policies and the European integration process.

The mandate of the government thus far has been marked by instances of unilateral drafting of laws and evasion of public discussions during the drafting process.

Counters swamped with paperwork

Assessments citing poor quality of public services are coming from the EU,²³ as well as from end-users, who perceive them as inefficient and insufficiently user-friendly. Electronic data interchange is not fully applied in practice, even with e-registers labelled as interoperable in the official reports.²⁴

The line ministry recognized the need for digital transformation of the society and translated it into the Digital Transformation Strategy. Urgent action is needed in this area, as shown by the devastating data, namely, one-third of citizens have never heard of e-services, whereas only 3% of citizens are fully acquainted with them, even though the eGovernment portal has been in place for 10 years now.²⁵ The general impression is that this portal does not cater for the needs of the community and requires numerous improvements in order to make public administration more efficient and citizen-oriented.

Sustainability of local self-governments is a long way off

Sustainability of local governments in Montenegro remains an elusive challenge. Local-level public finances were notably improved prior to the pandemic. These stable fiscal positions took a blow last year.²⁶ This year, more than two-thirds of Montenegrin municipalities were forced to turn to the Equalization Fund, and so the instrument primarily designed to help rebound from a bad financial period has now become a regular and necessary source of income for unsustainable municipalities.²⁷ Representatives of municipalities have been voicing their dissatisfaction with the announced

23 2021 Montenegro Report, European Commission, October 2021.

24 According to the Final Report on the Implementation of the Public Administration Reform Strategy 2016-2020, interoperability has been achieved between key state registers: Central Population Register, Registry of Number of Children in Educational Institutions, Central Register of Taxpayers and Insured Persons, Register of Social benefits; however, according to the tax authority, these are services that have no practical value for citizens.

25 State Audit Institution: Audit of e-government services, Final Report, February 2021.

26 Final Report on the Implementation of the Public Administration Reform Strategy 2016-2020, with a review of the 2020 activities, Ministry of Public Administration, Digital Society and Media, March 2021.

27 Vijesti: Necessary for survival: As many as 15 municipalities are using funds from the Equalization Fund this year as well, 28.03.2021. Available at: <https://www.vijesti.me/tv/emisije/525015/neophodno-za-prezivljavanje-cak-15-opstina-i-ove-godine-koristi-novac-iz-egalizacionog-fonda>

changes to tax policy, as they believe such changes will further jeopardize the local government financing system, given that they lack adequate measures to compensate for reduced revenues.²⁸

Local-level administration also fails to stay away from public administration hirings in exchange for political support. The civil sector finds that excessive employment of party supporters and uncontrolled expenditures for salaries of local officials are the main causes of financial unsustainability of local governments.²⁹

For years, strategic documents have been envisaging plans to encourage inter-municipal cooperation, as one of the most important mechanisms for reducing regional disparities, but no significant results have been recorded in this area. The key problems are the lack of mechanism for identifying key areas where cooperation would promote the efficiency and quality of services provided to citizens and businesses, the limited professional and technical capacity of smaller municipalities, as well as a lack of models, guidelines and procedures to facilitate cooperation.³⁰

Methodology

The research on the progress of Montenegro in meeting the political criteria for accession to the European Union (EU) is conducted with financial support from the Balkan Trust for Democracy and the Royal Norwegian Embassy. 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. All the areas are elaborated in a topic per document model. Our analyses contain assessments on the fulfilment 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 analysing the implemented legislative and institutional reforms and their practical results. This part of the research tackles the quality of public administration reform. We have been evaluating this area as based on 39 indicators. We remain open to any suggestions, well-in-

28 Union of Municipalities: Implementation of the Europe Now program will decrease municipal revenues, 26.11.2021. Available at: <http://uom.me/2021/11/implementacija-programa-evropa-sad-umanjice-prihode-opstina/>

29 Vijesti: Municipalities overwhelmed by employments based on party affiliation, 26.11.2021. Available at: [Dostupno na: https://www.vijesti.me/vijesti/politika/577678/partijska-zaposlavanje-guse-opstine](https://www.vijesti.me/vijesti/politika/577678/partijska-zaposlavanje-guse-opstine)

30 UNDP: Analysis of possible forms of inter-municipal cooperation in Montenegro, March 2019

mentioned criticisms and discussions that may arise from our research. We are also ready to offer concrete solutions to all the issues we have labelled as problematic and thus contribute to this important reform. We would like to extend our appreciation to the Balkan Trust for Democracy and the Royal Norwegian Embassy for their trust and financial support.



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