



Podgorica, 13 April 2016

Ministry of Justice

Subject: Comments of the Centre for Civic Education (CCE) on Draft Operative Document for Prevention of Corruption in the Areas of Specific Risk

GENERAL COMMENTS

- **On composition of the working group that drafted this document**
 - Introductory notes provide concerning information in terms of complying with legal obligations of inclusion of the NGO sector, as well as with the principles of cooperation between the Government and NGOs. It is unclear why the working group for drafting of this document did not include representatives of civil society, as well as why no member from amongst relevant NGOs from WG for Chapter 23 was included, given the fact that this Operative document is an Annex to AP for Chapter 23.
 - It is positive that, even at a late stage, a process of consultation with civil society was entered into, noting that the document itself could be of more quality if that space was opened earlier by the Ministry of Justice.
- **On quality of the document itself**
 - CCE believes that thus created Operative document is a list of general commitments that should contribute to creation of a minimum framework for improving the fight against systemic corruption. However, a whole series of measures is missing, which elaborate in detail the implementation of laws and capacity building of competent state bodies with precisely defined responsibilities.
 - Furthermore, it seems that thus created document represents merely fulfilling obligations under the AP for Chapter 23, without bringing any qualitative progress, starting from the methodology of document drafting to proposed content and character of measures. Namely, it contains a list of regular activities, which have long before been prescribed by some previous action plans that, and of course, have not been implemented.
 - In accordance with above mentioned, CCE recommends that it should be carefully assessed how to fundamentally improve this document and that the speed of its final adoption shall not be placed before the quality of the document.
 - CCE also recommends that the report of the European Commission for 2015 and European Parliament Resolution of 2016 are to be taken into account, considering that these also treat identified areas of specific risk.



COMMENTS IN DETAIL

CCE, within its comments, opted for interventions in the area of *public procurement, urban planning, education and local self-governments*, whereby some of them are elaborated in detail (education), and others more generally.

PUBLIC PROCUREMENT

- **Measure 5** – add a new measure with a following content: *Conduct regular inspection of regularity of all public procurement in all institutions dealing with education of students and pupils, especially public procurement of food and food products in students' and pupils' canteens*; jurisdiction: the Public Procurement Administration and the State Commission for Control of Public Procurement Processes; indicators: number of regular controls conducted; number of complaints and objections submitted after publication of the accepted tender offer on public procurement; number of accepted complaints and objections; number of rejected complaints and objections.

URBAN PLANNING

- **Measure 14** – within this measure add measure 14a with a following content: *Make a record of all illegal construction objects, with an assessment of possible integration into the planning documents in all municipalities*; jurisdiction: the Ministry of Sustainable Development and Tourism; indicator: number of illegal construction objects inventoried.
- **Measure 15** – A practice should be established that preparation of bylaws is done in parallel with preparation of the legal text and thus measures 14 and 15 should be aligned
- **Measure 15, par.2.** – Event now there are no obstacles to produce records and categorization of informal (illegal) construction objects nor obstructions for adoption of a bylaw. Why precise record of informal structures has not been made?
- **Measure 16** – This measure is underived, incomplete and without detailed elaboration does not mean much. It must be precisely defined what does mean audit of planning documents, as it may in practice be an anti-corruption measure, as well as the basis of high-level corruption.
- **Measure 18** – Merely increasing the number of inspectors does not guarantee also an effective improvement of capacity of institutions. An analysis of so far work must be done, and assessed in which parts of the organization, methodology and practice improvement could occur, and only then the number of systematised positions could be increased.



EDUCATION

CCE deals with the problem of corruption in education since 2009, and estimates that it is an extremely important that this issue has finally found itself adequately positioned in the Operative document, so that a basis could be created for prevention, reduction and suppression of corruption in this area to the extent possible.

- **Measure 25** - There is no reason that this measure does not include private universities since they have a public authority for implementation of educational process, therefore it is necessary to add them also to the relevant bodies who have that obligation.
- **Measure 27** – add in the part of indicators the *"number and results of software authentication checks of scientific papers during selection to the academic post, as well as all agreements concluded between the employee and the institution (complementary, honorary, and every other form of engagement beside full time work)"*
- **After the measure 27, add a following measure:** *Adopt amendments to the Law on Higher Education and define complementary work in this law as a special law in accordance with the Labor Law and Article 58 in order to avoid duplication of engagements without consent of the employer;* jurisdiction: the Ministry of Education; deadline: III quarter of 2016; indicator: adopted law.
- **Also add the following measure:** *Precisely define academic honesty and plagiarism through amendments to the Law on Higher Education;* jurisdiction: the Ministry of Education; deadline: III quarter of 2016; indicator: the adopted amendments to the Law.
- **Measure 28 – proposals for new measures or amendments to existing ones with:**
 - *Conduct quarterly food quality control in students' and pupils' canteens unannounced and by random samples;* jurisdiction: the Inspection Affairs Directorate; indicator: number of controls; number of complaints and appeals to the competent inspection for food quality control; reports of inspection on the state of food quality
 - *Conduct controls of regularity of distribution of student loans, all kinds of students' and pupils' scholarships as well as scholarships for excellence that are funded from the Budget of Montenegro;* jurisdiction: the Ministry of Education and Ministry of Science; indicators: number of allocated scholarships and loans; number of complaints and objections submitted after the tender allocation of student loans, students' and pupils' scholarships *as well as scholarships for excellence* funded from the Budget of Montenegro; number of accepted objections and complaints, number of rejected objections and complaints.
 - *Conduct control of tender allocation of resources per projects for co-financing of scientific and technological cooperation;* jurisdiction: the Ministry of Science; indicator: number of realized tenders, number of objections and complaints due to



irregularities in the allocation, number of adopted objections and complaints, number of rejected objections and complaints.

- *Conduct annual internal audits of operation of the faculty units of University of Montenegro (UoM) and management of the UoM; jurisdiction: UoM; indicators: number of conducted audits, reports on audits conducted, number of criminal charges filed, number of dismissed criminal charges, number of judicial proceedings initiated upon criminal charges.*
- **Mjera 29** – Ova mjera treba da podjednako obaveže sve univerzitete u Crnoj Gori, i shodno tome se umjesto riječi “UCG” dodaje ...na svim visokoškolskim ustanovama u Crnoj Gori; nadležnost: dodati “Svi univerziteti, i Ministarstvo prosvjete”, a u rok staviti “IV kvartal 2016”; indikatori: broj softverskih provjera autentičnosti naučnih radova, rezultati softverskih provjera naučnih radova.
- **Add a measure** – *Make easily available, in electronic form, all masters and doctoral works of academic structure employed in higher education institutions in Montenegro, as well as holders of public powers; jurisdiction: UoM and private universities for academic staff, the Ministry of Education for holders of public powers; deadline: IV quarter of 2016; indicator: number of employed academic staff at universities, number of published masters and doctoral works, number of holders of public powers who have masters and doctoral works, number of published masters and doctoral works of holders of public powers, number of initiatives launched for establishment of authenticity of works (by institutions, NGOs, citizens, academic community, etc.), number of processed initiatives for establishment of authenticity of works, number of imposed sanctions and criminal charges on the basis of established plagiarisms.*
- **Add a measure** - *Adopt Rulebook on criteria, conditions and clear guidelines for writing scientific papers in accordance with Article 78 of the Law on Higher Education; indicator: adopted rulebook.*
- **Measure 30** - *add a new measure: Provide possibility that more than 1 professors per subject examines students; jurisdiction: add all higher education institutions because they have become holders of public powers through accreditation and must be obligated in the same manner as the UoM to fight against corruption in education; indicators: add "Provided possibility of more than 1 professor per subject" (alternative in the choice of professors with whom students will have lecturers and take exams leaves little space for corruption because it is precisely creation of monopoly that opens the space for abuse), number of submitted complaints and objections on teachers on higher education institutions, number of complaints being decided upon, number of commissions convened for passing exams when the student asked for it...*
- **Measure 31** - *Add "campaigns" in the measure itself, and in deadlines add also IV quarter of 2016, because there is no reason that this is not put in motion much earlier than it is now planned by document. Also, add in indicators "number of implemented*



campaigns."

- **Measure 32** - It is not clear what kind of research it is about: whether it is a public opinion survey or analysis that has a different methodology, hence this must be precisely specified. CCE recommendation is to do both, ie. an annual survey of public opinion which includes perception but also experience of citizens with corruption in education, and at least two-year analysis.
- **Measure 33** - this measure has even so far proven to be ineffective, and it would be significantly beneficial if the Ministry of Education obliges itself to proactively prosecute cases of corruption in education according to the Prosecutor's Office, and accordingly indicator would be number of criminal charges filed to Prosecutor's Office.

LOCAL SELF-GOVERNMENTS

- **Measure 44 and 46** – add also local self-governments in jurisdiction
- **Add a measure concerning implementation of local integrity plans and related indicators**
- **Add a measure related to adoption and implementation of local action plans for fight against corruption**, their functionality and effectiveness, since it is now at a disturbingly low level
- **Measure 49** - It is necessary to elaborate the character of public debate itself and citizen participation through measures of approaching the content of acts to real-life needs of the local population. Eg. predict the visualization of planning documents so that citizens would see in a simple manner the possible consequences in environment.

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