

EXPERT REPORT ON A PEER REVIEW MISSION ON FINANCING POLITICAL PARTIES, WHISTLE-BLOWING AND CONFLICT OF INTERESTS

PODGORICA, 05/06/2017 – 09/06/2017

Reference code: JHA IND/EXP 64601

As an expert, I have contributed to the Peer Review on financing political parties, whistle-blowing and conflict of interests in Montenegro, Podgorica, with an aim to assess the legislative and institutional framework in the area on prevention of corruption, the capacities of the Agency of the Prevention of Corruption (hereinafter the Agency), its working methods and its initial results. Under the Terms of References, I had to check:

1. THE AGENCY FOR PREVENTION OF CORRUPTION

1.1 Internal organization, staffing level and operational capacities

1.2 Training of staff

1.3 Budget

1.4 Strategic planning

1.5 Working methods, procedures and decision-making

1.6 Equipment and IT solutions

1.7 Analytical and policy activities in the area of prevention of corruption

1.8 Inter-institutional cooperation and information exchange (including access to databases)

- Cooperation with the Parliament, state administration bodies, regulatory bodies, and others

1.9 Legal framework

1.10 Proactive work of the Agency

2. COUNCIL OF THE AGENCY

2.1 Appointment, integrity and work of Council Members

3. PERFORMANCE IN MAIN AREAS OF AGENCY

3.1 Whistle-blower protection, legal framework, working methods, Internal and legal procedures, capacities and general performance

3.2 Lobbying, working methods, Internal and legal procedures, Capacities and general performance

In respect of all these areas, I was requested to assess the legal framework, working methods, internal and legal procedures, capacities and general performance and provide recommendations for further improvement.

The expert would like to thank the Montenegro authorities (Agency), NGO's and all others who contributed and prepared the Peer-review mission, for the meetings held as well as for the documents sent prior to and during the mission.

1. THE AGENCY FOR PREVENTION OF CORRUPTION

The Agency for the Prevention of Corruption (hereinafter: ACA) is an autonomous and independent state body. It became operational on 1 January 2016. The former Directorate for Anti-Corruption Initiative (DACI), which used to be in charge of coordinating anti-corruption policy and awareness-raising, and the former Commission for Prevention of Conflicts of Interest (hereinafter: CPCI) were merged into the new Agency. The Agency also took over responsibilities for checks on political party financing from the State Electoral Commission (SEC).

According to Article 4 of the Law on Prevention of Corruption (hereinafter: LPC) the tasks of the ACA are: prevention of conflicts of public and private interest, restrictions in the exercise of public functions, verification of the reports on income and assets by public officials, handling of whistle-blower applications, whistle-blower protection, as well as other activities in accordance with the LPC. The Agency shall carry out activities of control of lobbying and control of the financing of political entities and election campaigns, in accordance with a special law.

The ACA is responsible for the implementation of the following anti-corruption laws: Law on Prevention of Corruption, Law on Financing of Political Entities and Election Campaigns and Law on Lobbying. Some of the responsibilities have introduced the new concepts in the legal system of Montenegro (whistle-blower protection, integrity and lobbying) or redesigned previous. Those anti-corruption laws are in accordance with the Action Plan for Chapter 23, the National strategic plan for the prevention of corruption and reports of the European Commission on progress of Montenegro.

In accordance with Article 78 of the LPC, the mandate of the ACA covers all the main areas of prevention of corruption. The ACA shall:

- Establish the existence of conflict of interest in the exercise of public function and take measures for its prevention;
- Control restrictions in the exercise of public function;
- Conduct control of receiving gifts, sponsorships and donations;
- Conduct control of the data from the Report on income and assets of public officials;
- Give an opinion on the existence of threats to the public interest that indicate the existence of corruption and make recommendations for preventing threats to the public interest and the whistle-blower protection;
- Monitor the adoption and implementation of Integrity Plans, make recommendations for their improvement and assess the efficiency and effectiveness of Integrity Plans in accordance with this Law;

- Adopt acts under the jurisdiction of the Agency in accordance with the law;
- Take the initiative to amend the laws, other regulations and general acts, in order to eliminate the possible risk of corruption or to bring them in line with international standards in the field of anti-corruption;
- Give opinions on draft laws and other regulations and general acts for the purpose of their alignment with international standards in the field of anti-corruption;
- Initiate and conduct proceedings for establishing the violation of the provisions of this and other laws governing the responsibilities of the Agency;
- Cooperate with the competent authorities, higher education institutions and research organizations and other entities, in order to implement the activities in the area of prevention of corruption;
- Keep records and registers in accordance with the Law;
- Issue misdemeanour reports and initiate misdemeanour and other proceedings;
- Conduct educational, research and other preventive anti-corruption activities;
- Exercise regional and international cooperation in prevention of corruption;
- Perform other duties in accordance with the Law on Prevention of Corruption (hereinafter: LPC) and the following special laws: Law on Financing of Political Entities and Election Campaigns and Law on Lobbying.

As stated in the law, the work of the Agency shall be public.

The ACA started with 23 employees (most of them were former employees of DACI and CPCI) out of the intended 55 (60 planned job positions in 2017). Secondary legislation on the Agency's internal organisation, procedures and powers has been adopted in 2016. Council of the Agency adopted 11 by-laws, and the Director of the Agency also issued 20 internal acts within the competence of the Agency.

I assess that the ACA successfully implemented all the formal conditions and responsibilities in accordance with law. That provides a sufficient basis for the successful work of the ACA in future.

With regard to the »technical conditions«, infrastructure, internal organization, work conditions, working methods, internal procedures and decision making, IT equipment and IT system, the ACA successfully implemented all the requirements, in accordance with internal standards and best practice. That represents a good starting point for the effective and independent work of the ACA in the future. As follows in this report, some improvements on the particular areas of work are still possible, needed and recommended.

1.1 Internal organization, staffing level and operational capacities

The ACA has the following bodies: a) Director of the Agency who represent and manage the Agency, b) The Council of the Agency (hereinafter the Council), and different departments and divisions.

According to the Act on Systemization¹ of the Agency there are 60 working positions available. In the time of the assessment (start of June 2017) 50 job positions were fulfilled and 4 persons were under the recruitment.). Until the end of 2017 the fulfilling of all 60 job positions is planned. On 31.12.2016 49 job positions were filled.

According to the current Organizational Chart the Agency has the following divisions and Departments:

- Executive
 - o Director
 - o Director's Advisor
- Council of the Agency
 - o 5 members (they are not employed in the ACA)
 - o Secretary of the Council of the agency
- Division for the implementation of measures of control of financing of political entities and election campaigns
 - o Department for prevention of conflict of interest of public officials
 - o Department for verification of information from the statements of income and assets of public officials
 - o Department for implementation of control measures in financing of political entities and election campaigns
 - o Department for initiating misdemeanour proceedings and issuing misdemeanour warrants
- Division for prevention of corruption, integrity, lobbying and implementation of international standards
 - o Department for integrity and lobbying
 - o Department for prevention of corruption, monitoring of legislation and opinions on anti-corruption regulations
 - o Department for acting on reports of whistle-blowers and whistle-blower protection
 - o Department for Education, Research Campaigns and Analytics
 - o Department of international cooperation and standards
- Department of information technology
- Department of human resources and legal issues
- Department for financial affair.

Strengthening of staffing capacities of the Agency

The main changes from the new Rulebook on the Internal Organization from January 2017 are:

- Number of job positions were extended from 55 (in 2016) to the 60.

¹ Current Rulebook on the Internal Organization (Systemization) of the ACA were proposed by a director and adopted by the Council of the Agency on 27 January 2017.

- The ACA established two new departments:
 - Department for verification of income and assets of public officials and civil servants with prescribed obligation to submit reports on income and assets (no new employment planned!),
 - Department for education, research, campaigns and analytics.

Department for General Affairs were divided in two divisions:

- Department of Human Resources and Legal Issues
- Department for Financial Affairs.

Every department has its manager (the head), experts (advisors) and administrative staff where needed.

I assess that the organization of departments, divisions and job positions is in accordance with the international standards. The internal organization is proper and well planned. The number of planned job positions is almost completed and it is in accordance with the current needs. The recruitment of some more employees (advisors) in the specific areas of work (1-2 more employees in the Department for acting on reports of whistle-blowers and whistle-blower protection in particular) is highly recommended.

1.2 Training of staff

Employees of the ACA are included in many trainings and education on the international and on the domestic level. Trainings for employees in Montenegro were done in cooperation with Human Resources Administration and Public Administration Academy. On the international level, employees are included in trainings on different levels and projects.

The following two important training projects were successfully implemented in 2016:

1. A six-month resident expert support, provided by the US Embassy in Montenegro (Bećir Kečanović, expert and former Advisor of the Chief Commissioner of the ACA Slovenia);
2. Expert assistance in the area of the control of financing of political parties provided by the British Embassy (international expert Lisa Klein).

Strengthening of capacities of the ACA were/is provided through the following international projects and training programs of national institutions:

1. IPA 2014 Twinning Contract "Support to the implementation of measures of integrity" (18 months, contract made with the Italian Anti-Corruption the Agency - ANAC).
2. EU – Council of Europe Horizontal facility for Western Balkans and Turkey - Project against economic crime in Montenegro, which began in November 2016 and will last until April 2019).

3. Regional program of RAI, which aims to strengthen the institutional capacity to fight against corruption, with an emphasis on risk assessment and analysis of regulations.

Cooperation with the Human Resources Administration of Montenegro (through the software segment "Prevention of corruption"). A great number of trainings organized by the ACA for the state employees, local governments and civil society in MNE has been organized in 2017. The ACA is preparing a training »Let your voice be heard« (on the topic of whistle-blower protection) together with the Centre for Development of NGO's which could represent an example of the best practise regarding the cooperation between the ACA and NGO's.

Some employees pointed out that more possibilities of international exchange (to travel abroad to see the work of similar institutions on the international level) would be useful for them.

I assess that the basic anti-corruption knowledge and understanding of terms of the employees is on the sufficient level. Employees of the ACA have enough knowledge and therefore they don't need "basic" anticorruption training any more.

I recommend more specialized trainings on some specific topics (how to implement measures and powers on lobbying and whistle-blower protection and more efficient PR/communication strategy, for example). Too many unnecessary trainings and projects may disturb the everyday work of the staff. It is recommended that trainings in the future are planned in cooperation with the staff of the ACA (in respect to their real needs). To conclude, less "unnecessary" basic trainings and more specialized trainings on higher level are highly recommended.

1.3 Budget

The budget of the ACA in accordance with law (Article 95 of the LPC) may not be less than 0.2 % of the current budget of the state Montenegro. The sufficient amount of budget is one of the main conditions for the independent work of the ACA.

The budget of the Agency for 2016 amounted € 1,541,713.54, and of which 84.06% were spent.

The budget of the ACA for 2017 amounted to € 1,666,601.63. Budget plan for the first quarter of 2017 was € 416.650,41 of which € 240.091,08 were spent (the percentage of realisation was 56, 23%).

The management of the ACA explained that the current budget plan is sufficient.

I assess that in accordance with the recent number of staff and the work plan the current budget plan is sufficient.

1.4 Strategic planning

All the activities of the ACA are annually planned (in the work plan) on the all the levels of the departments and in accordance with two biggest groups of its jurisdictions: preventive/educational and oversight jurisdictions of the ACA.

The main strategic documents are:

- Action plan for Chapter 23;
- National strategic plan for the prevention of corruption;
- Operational document for areas of special risk (a part of Action Plan for Chapter 23).

Employees of the ACA are included in the coordination and implementation of aforementioned documents, as responsible for the implementation of anti-corruption measures. Four employees of the Agency, as members of the Working Group, participated in the drafting of the Operational document for the prevention of corruption in areas of particular risk. The Agency is responsible for implementing nine measures in various fields, and it reports to the chapter 23 Working Group for negotiations on their implementation on a six-monthly basis. As the employees explained, the Agency fulfilled all other obligations related to EU integration process within the established time frame.

Main operational goals are described in detail in the most important internal documents: Work Plan of ACA for 2016 and Work Plan for 2017.²

The Work Plan 2017 contains 13 strategic goals (two more than in 2016). The ACA quarterly publishes reports about implementation of those goals.

The main goals in 2017, inter alia, are: detailed plan for the work on preventing conflicts of interest, effective verification of income and assets of public officials, control of financing of political entities, protection of whistle-blowers ...). There are 79 performance indicators, which are assessed and controlled within four different time frames.

I assess the Agency's work as well-organized and properly planned, with realistic objectives and deadlines.

1.5 Working methods, procedures and decision-making

Working methods and decision-making procedures are defined by laws, by-laws and other internal documents. The most important by-laws and internal documents for the work of the ACA are:

- 1) Statute of the Agency which defines the seat of the Agency, the principles of internal organization, manner of work and responsibilities of the Agency's bodies, the manner of adopting general and other acts and other issues of importance to the work of the Agency, in accordance with the law.
- 2) Rules of Procedure of the Council of the Agency for Prevention of Corruption (Official Gazette of MNE, no. 66/2015 and 33/2016).

The work is centralized and well organized. The director of the Agency is familiar with all the procedures and cases since he has to make final decisions on cases. Cooperation between the

² Work plan for 2017 were adopted on the 40th session of the Council of the ACA, on 24 February 2017.

director and members of the Council works without significant disturbance – the Council has so far approved most of director's proposals in accordance with law.

Electronic system for receiving and archiving documents works well and all the data are properly secured in the electronic system.

I assess working methods and procedures as proper and the by-laws as well prepared. Regarding cooperation between different departments, there were some examples of best practices (the control of financing of elections in MNE in 2016, for example). I recommend more of that kind of cooperation on different projects between departments (on the area of whistle-blower protection in particular) for the future work.

1.6 Equipment and IT solutions

The development of the IT system and IT solutions in the ACA MNE meets one of the main strategic goals: better transparency and easier access to the data from the ACA's fields of work. The activities of the IT Department were planned as the strategic goal 13 in the Work Plan 2017 (titled as Objective 13: Establishment of the Information System of the Agency – External and Internal System).

The ACA hired external organization for establishing the IT system in 2016. All the hardware and the infrastructure system were operational on 1 February 2016. Recently, three IT experts, employees of ACA, maintain and develop the IT system by themselves (as they explained, they still have only some technical support outsourced). The ACA has its own hardware equipment with the installation of the software solutions in the server, located in the ACA. That allows collecting and analysing all the data in accordance with the law. What is more, the IT system of the ACA is independent from any other external institution.

IT system provides, inter alia: electronic sending and automatically publishing of the asset declaration of public officials, gift declarations, sponsorship and donations, electronic submitting of reports of political parties, and, the most important, internal IT management with all the data collected.

The automatic electronic system enables to submit reports on corruption, request for whistle-blower protection and filling all the electronic forms from different fields of work via web page.

What is more, the internal IT system is well-secured and the internal control of the IT system is on the high level of security. Modules for electronic submission of (and publishing) asset declarations are fully operational. Modules for electronic archive are operational as well.

The ACA has developed so far:

- Electronic Case Management System (ECMS) which can be also used as an analytical tool;
- Register of public officials which is automatically updated with asset declarations. As employees explained, the system still needs some upgrade. The automatic recognition and registration of public officials is still missing and employees need to check the Official Gazette every day to identify changes in the status of public

officials. Two possible solutions of this problem were suggested by the employees of the ACA – the first is that and the **Enterprise service bus** platform (hereinafter: ESB platform) will be connected to the Official Gazette and will automatically get data on public officials and the second is to prepare an electronic form for all institutions to send data about new public officials. As employees pointed out, for the successful implementation of the second solution, the change of LPC with the obligation for the competent authorities to send data on public officials to the ACA would be needed. I assess both plans as realistic and possible. I strongly recommend that the ACA establishes a system for automatically collecting data about the status of public officials on a daily basis as soon as possible.

- Electronic forms for declaring and reporting different issues in accordance with the law (asset declarations, financing political parties, gifts, reporting corruption, registration of lobbyist ...). All those forms are published on the website and shall be send on two ways: a) through the online application and b) in printed version.
- ESB platform which allows to read and cross-check all necessary data (asset declarations, for example) from different databases with which the ACA is connected, in real time. The ESB system automatically synchronizes all data and employees can recognize any kind discrepancies. In the work plan 2017 the upgrade of the ESB platform is planned. The system will, inter alia, cross-check declared and actual data about assets automatically – if there will be differences between declared “real” data, the red flag will be shown.

The ACA has already developed the following special IT modules:

- Assets declaration system,
- Gifts, sponsorships and donations,
- Misdemeanour and administration procedures,
- Financing political parties and election campaigns,
- Lobbying,
- Whistle-blowers (protection),
- Reporting corruption cases,
- Integrity plans.

Plans for upgrading the ESB platform (2017/2018)

- Centralized system which will gather all data of public officials (and their family members/connected persons) from the ACA’s and external databases – including data on received signals, violations, misdemeanour procedures, decision, opinions, integrity plans),
- Automatically system will show graphically changes in assets through the years/ within each year of all public officials,
- Automatization of detection of possible violations of public officials,
- Comparison of real risks (data on signals, violations, etc.) with identified risks in Integrity plans which will enable the Agency to assess whether Integrity plans include all necessary risks and if Integrity plans were done in proper and efficient way,
- Better and more efficient analytical tools for statistical reasons and identifying risks in country/institutions etc.

Further development of the advanced system of the exchange of the data according to the public officials with some of the key other institutions is planned in 2017.

Web portal

The ACA established Web portal www.antikorupcija.me, which allows online submission of forms and their publication [of an internal system?] automatically to a web portal. Agency software has features that support all work processes in the Agency.

During 2016, 1333 documents were published on the web site of the Agency and the web site had 264,798 visits.

As employees of the ACA explained, more than 90 % functionality of information system (conflict of interest, whistle-blower protection, integrity, lobbying, control of financing of political parties ...) has been developed so far.

Within the project »Eurol2« the support of the module for analytics is planned. According to the representatives of European Commission in MNE, the project shall start with implementation in 2017.

The ACA successfully developed all the important software and information tools needed – from the application software, to the mail system and the web page. Employees in the IT department are high-skilled experts with a lot of knowledge. There are still some missing points regarding the IT solutions (gathering some data on asset declarations, status of public officials and automatic connection with some other state institutions) which are planned to be solved by the end of 2017.

I assess the IT system as one of the most successful achievements of the ACA so far and plans in respect to up-dating the ESB platform in near future (2017/2018) as realistic.

I assess the Work Plan 2017 regarding the IT developments and solutions as well planned and it could be realized within foreseen time frame. I recommend the European Commission to follow development of IT system and solutions, especially in respect to further memorandums on automatic exchange of data from other (external) institutions.

1.7 Analytical and policy activities in the area of prevention of corruption

In accordance with Law, the ACA is responsible for educational, research and other preventive activities which include informing the public about the work of the ACA, inter alia. The new department for the education, research, campaigns and analysis was established in 2017 as part of the Department for prevention of corruption, integrity, lobbying and international standards. The ACA publishes all the important information and reports on its website.

Communication Strategy

The preparation of the implementation of the communication strategy, which had been prepared for the following three years with the assistance of the Council of Europe, is ongoing

and shall be finished in July 2017. Main goals of the strategy / action plan are to inform other institutions about the obligations defined by LPC, LFPPEC and LL, informing the citizens about institutes/competences of the Agency and cooperation with media.

Communication with citizens

- Distribution of flyers, media campaigns, TV spots, billboards, posters etc.,
- Education for schools (high schools),
- The ACA started with a raising-awareness public campaign “Ni centa za mitu” (Not a cent for a bribe) in 2016. The project is still ongoing.

Trainings

Employees held numerous workshops and trainings for different stakeholders (from state employees to citizens and representatives of local governments). ***I assess the implementation of workshops and trainings held by the employees of the ACA as a very positive example of best practice. Their contacts with representatives of the local governments are seen as very positive too.***

Analytics

- Public survey on the public opinion of the work of the ACA "Public attitudes on the issue of corruption and familiarity with the work of the Agency," was done in 2016. Results were published on the Agency's web site. The survey is planned to be repeated annually.
- The ACA implemented cross-checking assets declarations and analysis of integrity plans.
- The ACA is subscribed to the application Mediatoolkit.com which identifies different keywords in real time in all electronic news, newspapers, etc. (media clipping). As the employees explained, they recently check only keyword “Agencija za sprečavanje korupcije” (Agency for the Prevention of Corruption) even though they could use more keywords for the same price.

The development of analytical activities is in progress but it is not fully implemented yet. In the first quarterly report, there is statistical information that the ACA received 12 requests for access to public information and that it answered to all of them. I missed more detailed information on how many requests were solved positively and how many negatively and what were the content of those requests (in accordance to work areas of the ACA, not in details). ***Employees explained that this information was published on the web site. I recommend to MNE to include more detailed data also into the annual reports.***

Similar situation is for the statistics on requests from media – there are only pure numbers in the annual report but the content is missing (regarding the most common questions from media for the ACA, for example).

I recommend that data of media reports are represented and analysed more in details in annual reports.

1.8 Inter-institutional cooperation and information exchange (including access to databases)

- Cooperation between Director of the Agency and Agency's Council

Regarding work, no special problems between the Council and the director were identified. Members of the Council have adopted all documents proposed by the director so far. No special issues on that topic were pointed out neither from the members of Council nor from the director.

The Agency has currently under the procedure the case of a Member of Council (Vanja Čalović, NGO representative). Vanja Čalović allegedly did not meet all conditions to be appointed as a member of the Council.

That kind of procedures against particular members of the Council could be seen as a pressure on those who criticise the work of the Agency (in that particular case as a pressure on the representative of NGO's).

I strongly recommend to European Commission to follow up this issue closely in the future, due to the possible negative effect on the ACA's reputation.

- Cooperation with other bodies and institutions, police and prosecution services in particular

Regular cooperation with some other institutions does exist.

Cooperation with the police and prosecutors does exist daily as the ACA quite often receives demands for documents or data about public officials and prosecution. Employees explained that they did not identify many criminal offences and therefore they did not have so many cases to share with the prosecution or with the police. In 2016, 10 cases were sent to the prosecution and 18 to other institutions.

I assess that more could be done regarding the cooperation with other bodies and institutions.

- Cooperation with NGO's

The ACA signed three memorandums on cooperation with different NGO's on the director initiative so far. The Director explained that the ACA invited NGO's to attend the Council's sessions. Those sessions should be open to public in accordance with the law. Since the Council of the ACA changed their rules, the NGO's representatives who want to attend the sessions must send prepared questions in advance and they must explain whether they want only to attend the session or they want to contribute in the discussion and the reason for attendance as well.

On the other hand, NGO's representatives were very critical on this solution and on the work of the ACA in general. During the meeting in Podgorica NGO's representatives pointed out that in the first few months the ACA were open to the public (NGO's and media) but then it changed. On the NGO's member opinion, sessions of the Council were de facto closed to

them, after new rules regarding the work of the Council were adopted in May 2016. Members of NGO's pointed out, inter alia, that on their opinion the Director and 4 members of the Council are actively connected to politics. Members of NGO's are not satisfied with the effectiveness of the ACA – they think that the ACA could do more and act more proactively. As one of the most critical cases members of NGO's pointed to the “Ramada case” (the case on whistle-blower protection), on which the ACA was publicly criticized from media and NGO's in 2016. The critics stated the opinion that in that case the ACA acted politically (the whistle-blower in the political sensitive case did not get the protection requested).

Members of the Council explained that they had 64 sessions so far, and only 5 of them were closed to the public. On the director's opinion, the cooperation with NGO's is proper but the ACA have problems with one NGO in particular, which filled 2300 reports of possible corruption regarding the financing political of parties and electoral campaigns in 2016 (director of this NGO is a member of the Council of the ACA). The Director explained that those reports were not identified as justified from the ACA and pointed out that it blocked the regular work of the ACA for some time. Regarding the Ramada case, director and employees explained that they tried to do as much as possible in accordance with the law but they did not find the legal grounds for providing legal protection to the whistle-blower. Employees prepared a detailed report on that case which was presented to the members to the Council and to the representative of European Commission.

- Cooperation with media

During the meeting with NGO members in Podgorica they pointed out that the *Agency is not present in the media enough and that cooperation of the ACA with the media is not sufficient.*

In statistics manner that is not true – as I was told, the ACA publishes app. 95 % documents, decisions etc. on its web site. All those documents are available to the public. I asked employees how they communicated with media when the very sensitive “Ramada case” in 2016 was in question. They explained that they issued some PR statements but the ACA did not host any press conference, for example.

I assess that the ACA could establish more effective communication with media (considering the fact that they adopted a media strategy for 2016 and 2017 - 2020 and that there is a lot of information on the website and/or ordered media reports - on TV stations, for example). For more detailed assessment the analysis of the Media Strategy 2016-2017 would be needed.

I recommend that the issue of cooperation with NGO's and media is further discussed in connection with the communication strategy for the following three years which is under implementation. I strongly recommend training on “crisis communication”, meaning how the management of the ACA shall communicate when some publicly exposed (critical) cases are in question. I highly recommend to European Commission to follow up the cooperation and communication with NGO'S and media – and to provide further support on that sensitive area which can have a crucial influence on the public trust on the ACA and its reputation.

- Cooperation with international organizations and foreign countries

The Agency is a focal point for all relevant international organization and they communicate with them when needed. *Employees pointed out that they do not have competences to gathering information abroad so they could have problems with getting some information (information from bank accounts or on real estate, for example). They did not have international cases yet.*

The Agency actively participated in the activities of the Anti-Corruption Network for Eastern Europe and Central Asia (ACN), the Organization for Economic Cooperation and Development (OECD), the Regional Anti-Corruption Initiative for South Eastern Europe (RAI), the Group of Countries against Corruption (GRECO), the Regional Cooperation Council (RCC).

I assess cooperation of the ACA with international organizations as proper and sufficient.

- Cooperation with misdemeanour courts

As it is already mentioned in the European Commission's Montenegro Report 2016, sanctions imposed by misdemeanour courts are too low and penalties provided by law have not been applied effectively. Misdemeanour courts practice of imposing very lenient penalties are often below the minimum and therefore not effective. LPC prescribes sanctions from 500 EUR (minimum), but the average imposed sanction is still app. 250 EUR.

As employees of the ACA explained, communication with the Misdemeanour Court is better as it was before, and employees regularly attend hearings.

I recommend that the ACA should use its power to directly impose misdemeanour sanctions.

1.9 Legal framework

Employees of the ACA explained their views on the most problematic parts of the current Law (LPC). They consider the most problematic issues in the LPC the following:

- Article 12 defines that a public official may not be a president or member of the management body or supervisory board, executive director, member of management of public companies, public institutions or other legal persons. The problem here is that term "member of a management of ..." is not defined and in practice this represent difficulties.
- Article 12 para 2 does not include above mentioned "members of a management" (the ACA has already pointed out this problem in the "Opinion", published on its web site).
- The Law does not give powers to the Agency to receive bank details without limitations.
- In Article 44 para 3 and/or Article 58: Protection for persons who help whistle-blowers (and are related to) on the same level as for whistle-blowers is missing;

- Subsidiarity of the LPC (the ACA must seek conflict of interest/incompatibilities not only regulated by the LPC but also if other law regulates it) and therefore employees must check different laws to identify possible law which regulate conflict of interest.
- to consider changing the law regarding whistle-blower protection and to add protection for persons who help whistle-blowers,
- Law on Lobbying: clearer definition of lobbying is missing.

I assess legal framework (LPC and the Law on Lobbying) as very good, progressive and in accordance with international standards and recommendation. The definition of lobbying in the Law on Lobbying is not clear enough. I analysed the LPC (in respect to whistle-blower protection) and the Law on Lobbying) separately – please read my further comments and recommendation, attached to this report.

1.10 Proactive approach of the Agency

The ACA's proactive approach is particularly strong in organizing campaigns and trainings about mandate and obligations under the set of anti-corruption laws and in the procedures on its own initiative (ex officio) in May 2017. The ACA successfully started with the implementation of legal provisions related to three new institutes (whistle-blower protection, lobbying and integrity) in 2016.

Some of the most important proactive activities of the ACA have been so far:

- The ACA initiated 11 procedures for determining the existence of threats to the public interest that indicates the existence of corruption ex officio in May 2017.
-
- After initiating proceedings before the Agency, 75 public officials resigned from public offices;
- In 2016, the Agency gave 185 opinions, which were binding, for public officials and the authorities responsible for the selection, nomination and appointment of public officials.
- In the field of whistle-blowers the Agency filed two criminal complaints against authorities to the competent courts. The court proceedings are underway.
- Publishing documents on its website (1333 documents on its website in 2016, 119 reports of the Agency for Prevention of Corruption and 69 announcements and reports of the Council of the Agency for Prevention of Corruption were published in 2016).

According to the employees, the ACA has been particularly strong in:

- The implementation of the Law on financing of political entities and election campaigns during the campaign for the October parliamentary elections and local elections in four municipalities which were held in Tivat in 2016;

- Meetings between representatives of NGOs and members of the Working groups as regarding control on financing political parties and election campaigns. Those meetings resulted in the signing of the Memorandum of Cooperation by which was formalized cooperation between the Agency and three NGOs;
- The Agency has prepared list of obligations under the law for all the authorities for with the ACA perform regular consultations. The public and control subjects (authorities and political parties) were regularly informed of the obligations under the Law on financing of political entities and election campaigns.
- Trainings for the state employees, representatives in local communities and citizens on their obligations (on responsibilities on the ACA and obligations of public authorities in the implementation of anti-corruption laws; seminars on implementation of integrity plans and whistle-blower protection).
- PR campaigns (anticorruption spot from the campaign Not a cent for a bribe, broadcasted on five TV stations, setting up billboards and city light posters with the contact details of the ACA and with the possibility to report corruption).

I assess that the ACA is proactive in many of its responsibilities. 11 procedures on the ACA's own initiative (ex officio) in May 2017 are a sign of a very positive approach and an example of best practice. What is more, the ACA concluded 7 of those ex officio cases with the opinion in July 2017 (the existence of the risk to the public interest were confirmed in all the 7 cases). I recommend more proactivity in lobbying (different approach) and more proactivity regarding communication with NGO's and media. For further comments please see my recommendations in the relevant chapters of this report, as well as reports by Jure Škrbec and Karina Polanska.

2 COUNCIL OF THE AGENCY

The Agency has two bodies: The Council of the Agency and the director. The Council has five members elected by the Parliament (based on a public competition announced by the competent anti-corruption committee in the Parliament).

The Council has the advisory role towards the Director and adopts documents on the proposal of director.

The main document for the work of the Council is Rules of Procedure of the Council of the Agency for Prevention of Corruption (Official Gazette of MNE, no. 66/2015 and 33/2016).

It is important that despite its control role, the Council cannot decide on the contents of the director's decision – the only body which can decide is the Administrative Court.

Responsibilities of the Council are:

- 1) Announce a competition for the selection of director of the Agency, appoint and dismiss the director of the Agency;
- 2) Adopt the Statute and the Act on internal organization and jobs classification of the Agency, on the proposal of the director of the Agency;

- 3) Adopt the annual work plan of the Agency on proposal of the director of the Agency;
- 4) Adopt the proposal for the budget and statement of accounts on proposal of the director of the Agency;
- 5) Adopt rules governing the work of the Agency and the rules for the preparation and implementation of Integrity Plans on proposal of the director of the Agency;
- 6) Adopt Rules of Procedure of the Council;
- 7) Takes initiatives for improving the work of the Agency to the director of the Agency;
- 8) On the proposal of the director of the Agency, submit an Annual report on work of the Agency;
- 9) Verify data from reports on income and assets of director of the Agency;
- 10) Perform other duties prescribed by the Statute of the Agency.

Director of the Agency shall be elected by the Council, based on a public competition, for a period of five years, with the possibility to be elected twice.

The Council shall hold meetings at which it decides on matters within its jurisdiction at least twice a month.

President of the Council shall inform the public on the tasks from the jurisdiction of the Council.

The members of NGO's in Montenegro explained that they demanded to be present in the meetings of the Council. Members of the Council decide on every request one by one. In 2016, they were 36 meetings of the Council, NGO's were present in the 12 meetings. The Council got 31 requests from NGO's of which 22 got a positive response (10 for the attendance and 12 for the cooperation in the meetings) and 9 requests in 2016 were refused (2 for attendance and 7 for cooperation in the meetings on the Council. Altogether, 70 % demands got a positive response (45,4 for attendance and 54 % for cooperation) and 29 % demands were refused (22,2 for attendance and 77,7 % for cooperation).

I assess that the procedures for the work and the appointment and dismissal of the members of the Council and the Director as prescribed in the Law on Prevention of Corruption in details are clear and proper. I recommend to MNE to take into consideration that proceedings against members of the Council - Radule Žurić (the proceeding is completed), Bojan Obrenović (the proceeding is not connected with his position in the Council) and the ongoing proceeding against the representative of NGO Vanja Čalović in particular could be seen as a pressure on those who criticise the work of the Commission and could have negative effect on the ACA's reputation.

I strongly recommend to European Commission to follow up this issue closely in the future, due to the possible negative effect on the ACA's reputation.

3. PERFORMANCE IN MAIN AREAS OF AGENCY

3.1 Whistle-blower protection - legal framework, working methods, Internal and legal procedures, capacities and general performance

Introduction

Reports of the whistle-blowers (reports on threat to the public interest which indicates the existence of corruption) and requests for the protection of whistle-blowers are separate proceedings. Employees explained that the procedure for the whistle-blower protection lasts two to three months on average. Two employees and the head of the department were engaged in these matters but for the time being one of them is on the long-term sick leave.

I divided this chapter to the 3 different parts: 1) Threat to the public interest which indicates to the existence of corruption and 2) Whistle-blower Protection.

Legal framework

For the first time in MNE the law regulates the protection of whistle-blowers which is a relatively new concept in Montenegro. Whistle-blower protection is regulated with the Law on Prevention of Corruption (LPC).

By-laws regulating whistle-blower protection in the ACA more in details are:

- Rulebook on detailed action upon whistle-blowers report on threat to the public interest, indicating the existence of corruption (published in the Official Gazette of Montenegro, 77/2015, dated 30 December 2015, and entered into force on 1 January 2015),
- Rulebook on the manner of keeping records of whistle-blower reports and requests for whistle-blower protection (published in the Official Gazette of Montenegro, 75/2015, dated 25 December 2015, and entered into force on 1 January 2016).
- Working methods

Authorized officers are conducting administrative investigations that in both cases means verifying the allegations from the report and request through presentation of evidences, establishing the facts and circumstances, hearing of persons in proceedings, direct access to data and documents on the spot in the body to whom that request relates or request for protection, and the elaboration of opinions, creating and monitoring of compliance with the recommendations, as well as representing the Agency in the offence proceedings.

As employees explained, bulkiness of the submitted documentation and the duration of proceedings in this area have affected the statistics regarding the initiation of proceedings ex officio.

The software system (module) for reports and applications on threat to the public interest and whistle-blower protection were developed in 2016 and it is connected to the archive. In January 2017, a possibility of submitting applications in electronic form (via website) were established.

The module for whistle-blower protection contains:

Register of whistle-blowers,

Register of whistle-blowers reports,
Enables follow-up of all the procedures on whistle-blower,
Requests for whistle-blower protection,
All the reports regarding competent authorities, together with the legal basis.

Internal and legal procedures

Employees explained that the cooperation with the Prosecutors' Office on the area of endangering public interest and whistle-blower protection were established and works well.

Some of the cases on whistle-blower protection (Žjeleznički prevoz – 2 whistle-blowers got the protection and Ramada 1 whistle-blower didn't get the protection from the ACA) were publicly exposed and the ACA were largely criticised by NGO's and media, for not giving the protection to a whistle-blower in the political very sensitive Ramada case. During the meeting in Podgorica I discussed on those sensitive whistle-blower cases with employees, members of the Council and with members of NGO's as well. I was told that employees reported on those publicly exposed cases to the members of the Council and to the representative of European Delegation in August 2016.

1) Threats to the public interest which indicates the existence of corruption

The ACA received 56 reports of threats to the public interest, which indicates the existence of corruption, out of which 22 reports were from whistle-blowers in 2016. Out of 56 applications, 28 proceedings were conducted by the Agency with 14 proceedings completed by the Opinion, 6 according to the denouncements from its competence and 8 by official note. Out of 28 procedures conducted by the Agency, only in 1 case the threat to the public interest which indicates the existence of corruption were confirmed in 2016.

In accordance with 1 case, the ACA gave 5 recommendations based on applications on endangering of the public interested to the authorities involved. As employees explained, only 2 recommendations were fully implemented by the end of 2016, 1 were partly implemented while others are under the implementation. The ACA forwarded 18 applications (out of which 6 reports were anonymous) to other competent authorities, 10 to the State Prosecution (5 to Special, 1 to Higher and 4 to basic Prosecutor's Office), out of which 4 reports were anonymous. Out of 18 reports forwarded to the other competent authorities to the June 2017 other competent institutions in 2 cases irregularities were confirmed.

Out of 56 reports in 2016 23 anonymous reports were submitted, which did not possess complete documentation for decision-making, so employees investigated allegations from these reports ex officio.

From January to June 2017 the ACA received 15 reports on threats to the public interest out of which 4 were anonymous. Only 2 reports on threat to the public interest were from whistle-blowers. The ACA forwarded 4 applications to other competent authorities, 3 to the State Prosecution Office (2 to Special and 1 to basic Prosecutor's Office, out of which 2 applications were from 2016 and 2 from 2017) and 1 to the other competent authority (to the Judicial Council).

Out of 15 procedures from 2017 and 14 procedures from 2016 the Agency has completed 13 procedures upon applications on threat to the public interest to the end of May 2017. Out of

13 completed procedures in 2017 in 1 case the threat to the public interest were confirmed (and 1 recommendation were issued).

In May 2017, the ACA initiated 11 procedures on threat to the public interest which indicates the existence of corruption ex officio regarding the publishing of free job positions which were published for a short period of a day or during the weekend. In July 2017 7 of those were already completed with the Agency's decision on threats to the public interest. On the basis on those 7 decisions the ACA has issued 29 recommendations to different state bodies and institutions so far.

In 2016 employees made more than 500 consultations with representatives from different institutions about designation of persons receiving and acting upon the application in those institutions (LPC, Article 49). From 1 January 2016 to 1 June 2017 784 designations of persons receiving and acting upon the application in different authorities and institutions were made, out of which 137 designations were from private sector.

2) Protection of whistle-blowers

In the first year of implementation of whistle-blower protection (2016) the ACA received 9 requests for the protection of whistle blowers. 127 different documents (requests for explanation) were sent to the different bodies regarding the requests for whistle-blower protection. Employees made 22 official visits to the competent authorities and bodies, responsible for the cases.

The ACA completed 7 requests by the opinion (3 positive and negative for 4 whistle blowers) in 2016. Regarding the positive Opinions on requests for the protection a total of 10 recommendations were given to different authorities.

Out of the 10 recommendations 3 recommendations were fully implemented and 2 are monitored, while about the remaining 5 bodies to whose work recommendations are related did not report on the measures taken, so in that sense offence proceedings were initiated and the Agency filed two requests to competent courts for initiation of misdemeanour proceedings against the authorities, and the trials are in progress.

From January to June 2017 the ACA received only 1 request for whistle-blower protection. In 2017 the ACA completed 2 procedures on whistle-blower protection from 2016 (with negative opinions for whistle-blowers).

In 2017 for the first time the whistle-blower asked for the expert assistance by the Agency (Article 66, LPC) after initiated the judicial process due to the retaliation. Employees explained that the ACA established all the help needed to the whistle-blower in this publicly exposed case. The judicial procedure is ongoing.

I assess that the ACA successfully established all the “technical” requirements for the implementation of reports on threat to the public interest which indicates the existence of corruption and whistle-blower protection (system of work, internal procedures, protection of identity, IT solutions ...) but there are some issues which deserve attention.

Employees (2 advisors and the head of the department) who work on whistleblower protection cases have sufficient level of knowledge. I noticed lack of personnel in the department. I recommend recruitment of 1 to 2 persons more in the Department for acting on reports of whistle-blowers and whistle-blower protection.

I assess that the Law on Prevention on Corruption is in accordance with international standards and recommendations regarding whistle-blower protection. Regarding the law I have only some small comments regarding protection for persons who help whistleblowers and the recommendation to consider the possibility that recommendation of the ACA regarding the whistle-blower protection for the competent authorities will become mandatory. (Please see the attachments for the further comments on the Law). To conclude, my opinion regarding the whistle-blower protection in the LPC is very good and represents a proper basis for the successful implementation on that field in the future.

Regarding the implementation I need to point out that I found some discrepancies in the statistics data on reports and requests for whistle-blower protection in different (unofficial) documents of the ACA. Sometimes it is not clear enough how many reports on the threat to the public interest and how many requests for whistle-blower protection the ACA received, for example. The reason for these discrepancies could be in the different methodologies used. I didn't notice big differences in data but some of them could make some confusion. I recommend putting it clearer how many reports are received from competent authorities, how many from whistle-blowers and that the data on requests for whistleblower protection to be strictly separated from other databases (with the aim of proper and clearer evidence and statistics).

I assess procedures on the threats to the public interest initiated by the Agency ex officio as the example of best practice and very positive. On the other hand, the number of reports from whistle-blowers and requests for whistle-blower protection seriously decreased in 2017.

I agree with employees that they did everything “by the law” in the Ramada case on which we discussed but some issues remain open. On my opinion, the ACA could have a more “flexible” approach in communicating with the media when political and/or publicly sensitive cases are in question, and implementation of the Communication Strategy 2017-2020 can be of a great help. Since the Ramada case were politically very sensitive and it's completed, I don't have any further comments with this regard. In respect to public trust in the (relatively new) institute of whistle-blower protection, successful cases on whistle-blower protection in the future can help to build public trust. I strongly recommend the European Commission to follow up the development of the institute of whistle-blower protection closely in the future.

3.2 Lobbying

Lobbying is a relatively new legal institute in Montenegro. It is regulated with the Law on Lobbying (Official Gazette of Montenegro, No. 52/2014 of 16 December 2014 and came into force on 24 December 2014). The law is prescribing the requirements and manner of conducting lobbying activities, the rules on lobbying and other issues of importance for lobbying. In accordance with Article 42 of the Law on Lobbying, the ACA is responsible for the supervision over the implementation of the Law on Lobbying from 1 January 2016. The ACA is, inter alia, responsible for the register of lobbyist, examinations for lobbyists, issuing certificates and licences for conducting lobbying activities. The ACA must regularly publish

the register of lobbyists and legal entities engaged in lobbying activities on its website. The ACA shall monitor the reporting obligation to the state bodies on lobbying contacts, as well as the obligation to submit a written report on the work of lobbyists and legal entities engaged in lobbying activities. In the case of illegal lobbying, Agency will lodge requests for initiating of misdemeanour proceedings based on complaints filed by the authorities in accordance with the Law.

Bylaws regulating lobbying more in details are:

- Rulebook on the form and content of activity reports of lobbyists and legal entities registered for conducting lobbying activities (published in the Official Gazette of Montenegro, 52/2015, dated 11 September 2015, and entered into force on 19 September 2015),
- Rulebook on the form and manner of keeping the Register of lobbyists (published in the Official Gazette of Montenegro, 52/2015, dated 11 September 2015, and has entered into force on 19 September 2015),
- Rulebook on the program and manner of taking the exam for conducting lobbying activities (published in the Official Gazette of Montenegro, 60/2015, dated 16 October 2015, and entered into force on 24 September 2015).
- Rulebook on the form and content of lobbyist identification card (published in the Official Gazette of Montenegro, 52/2015, dated 11 September 2015, and entered into force on 19 September 2015),
- Rulebook on the form and content of request for issuance of authorization for conducting lobbying activities (published in the Official Gazette of Montenegro, 52/2015, dated 11 September 2015, and has entered into force on 19 September 2015).

In respect to lobbying activities, the ACA has started with informing public about the importance of the lobbying system and about the obligations of lobbyists under the law.

The Objective 9 in the Work Plan of the ACA for 2017 is **Effective implementation and monitoring of the implementation of the Law on Lobbying.**

Regarding lobbying activities, all the important IT solutions and applications for the register of lobbyists and reports on lobbying contacts are prepared. All the forms needed (applications, reports on lobbying contacts...) are published on the ACA's website.

Pursuant to the Law on Lobbying, the Agency shall submit the request for initiating offence proceedings or issue an offence warrant based on reports on violation of the laws that are submitted to the Agency's lobbied persons;

Lobbied persons shall inform the Agency on illegal lobbying and provide information about the person or entity that engages in illegal lobbying;

The Agency has not received any report relating to illicit lobbying yet and therefore the ACA has not issued any fines for the breaches of Law on Lobbying so far. Moreover, the ACA has not received any reports on lobbying contacts from the state employees (institutions) so far

In February 2017, one person has received a certificate of having passed the examination for performing lobbying (and another one was under the procedure for receiving a certificate during the mission in June 2017):

In 2016 the ACA started with activities for raising awareness of the new obligations of lobbyists and civil servants. Employees have done the following raising awareness activities so far:

The website of the Agency has published ten public calls for candidates to take the exam for performing lobbying so far (four in 2016 and six in 2017);

The Agency has produced a flyer with information about the Law on lobbying and in November 2016 carried out insertion of 5,500 flyers in the daily press.

The Agency sent letters and 1,000 copies of flyers to other State authorities, asking that these institutions inform their members about the call for applications for the exam in 2016 and implemented a great number of other activities (trainings on obligations of the ACA in 13 municipalities and different competent authorities for 340 state employees and training in cooperation with the The *Human Resources* Management Authority Montenegro for 120 employees in 2016). Training on lobbying for the state employees is also planned in 2017.

I assess that the ACA successfully implemented all the “technical” requirements for the supervision over the implementation of the Law on Lobbying. The law, by-laws, technical solutions and basic knowledge of employees are proper and represent the sufficient for the effective work. The ACA has done numerous of trainings and raising awareness campaigns on that institute so far but only two candidates applied for (and passed) the exam. I assess the Montenegrin law on lobbying as one of the most progressive laws on lobbying not only in the region but also at the international level, but it should be done more on the implementation (and it will take some time).

Bearing in mind that lobbying is a new institute, the current law is maybe even “too progressive” (regarding exams for lobbyists) for the start, according to the cultural and historical background. As employees explained, the assessment of the Law on Lobbying is planned within the project of IPA Twinning Project in 2017. I assess that the definition of lobbying in the law is unclear (it is not clear what lobbying is and what is not). The obligation of taking the exam for registration as a lobbyist represents a positive approach but as I already mentioned, it is a question whether the expectation that lobbyists will be interested in taking that kind of exam is realistic. I have not noticed any information on the candidates who passed the exam successfully on the ACA’s website so far (this is related to my recommendation and comments on better communication with media previous in this report).

I recommend to Montenegro to change focus from lobbyists (which do not apply for the registration in practice) to the state institutions (bodies) and state employees, due to their obligation to report on lobbying contacts. I strongly recommend that the information on whistle-blower protection are systematically and clearly included into the trainings, brochures and raising awareness campaigns on lobbying (and into the all other trainings on different responsibilities of the ACA and obligations of citizens). More proactivity in the implementation of the Law on Lobbying is highly recommended.

4 CONCLUSIONS

To summarize, the legal framework for the work of the ACA MNE is very good (it is in accordance with international best practices and standards) and from the start of the Agency in January 2016 a significant progress in the implementation of the set of anti-corruption laws were made. The Agency for the Prevention of Corruption is an independent state body with a sufficient number of high-skilled employees, proper budget (for current needs), strategic and work plans and with the well-established working methods, technical conditions and IT solutions.

I assess IT solutions (development of applications and modules) as one of the most important achievements of the Agency so far. IT system is well connected with all the internal databases (from different areas of work) and with databases of other competent institutions as well. The ESB platform will be upgraded to the end of 2017 with all the modules needed (for integrity plans, register of public officials, lobbyists ...) for easier analysis and cross-checking all data. The website enables submitting all kinds of applications and requests in electronic forms. Data are well secured and I need to point to the proactiveness of the ACA in publishing all the important data and information (asset declarations, for example) regularly on its website.

The ACA successfully started with the technical implementation of some completely new institutes (whistle-blower protection and lobbying in particular). In 2016 and in 2017, the Agency initiated some procedures regarding the threats to the public interest *ex officio*. Out of 11 proceedings initiated *ex officio* in May 2017 7 proceedings were completed in July 2017 – and the threat to the public interest were confirmed in all 7 cases. That kind of activities are also very good for the public recognition and building public trust in the Agency.

Regarding technical conditions and “numbers” (statistics), the ACA exceeded all expectations in a relatively short period of time.

However, there are still some discrepancies and critical issues, for example:

- lack of Agency’s personnel in some of the main fields, especially within Department for acting on reports of whistle-blowers and whistle-blower protection),
- lack of “flexibility” in communication with media (with respect to some critical and publicly and/or politically sensitive cases (Ramada case, for example),
- Agency cannot obtain bank details from banks without public officials’ written consents,
- misdemeanour proceedings are still not effective,
- the vast amount of information on the web site is published in a too unsystematic way which makes it difficult to search for concrete information,
- reducing reputation of the Agency due to the integrity issues of the members of Council,
- lack of successfully solved whistle-blower protection cases,
- some confusion and discrepancies in the statistical data (please see my comments in the chapter on whistle-blower protection in this report),

- unclear definition of lobbying in the Law on lobbying,
- ineffective system for identifying public officials (employees must daily manually check Official Gazette to identify new public officials and institutions).

-

In this manner, I identified following main recommendations and considerations for the future:

- to recruit 1 or 2 persons more in the Department for acting on reports of whistle-blowers and whistle-blower protection,
- to consider implementing the Communication Strategy more successfully, in the case of the future “sensitive” cases (“crisis communication”) in particular,
- to amend the Law on Lobbying and make the definition of lobbying clearer,
- to consider changing the focus from registration of lobbyists to education and control of state officials with the obligation to report on lobbying contacts,
- to consider if the demand for exams for registered lobbyists is not “too progressive” with respect to the relatively new institute of lobbying in Montenegro and to the historical and cultural background,
- to make the Agency’s opinion publicly available using anonymization of such documents,
- to focus more on high profile officials,
- to put more “content” over the numbers (statistics) into the annual reports and work plans,
- to consider the more narrow internal definition on whistle-blower (with the aim to divide “persons who report threat to the public interest from “persons who request whistle-blower protection” (whistle-blowers),
- to use unified (and more “clear”) methodology for the evidence on whistle-blower reports and requests on whistle-blower protection,
- to consider adding protection for persons who help whistle-blowers into the Law,
- to consider solving ineffective sanctioning system,
- to consider including the institute of whistle-blower protection into all the education, trainings and awareness raising activities from all fields of work of the Agency (lobbying, conflict of interest, control of financing of political parties and election campaigns, etc).