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CORRUPTION ASSESSMENT: MONTENEGRO

JULY 9, 2009

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List of Acronyms

CDT	Center for Democratic Transition
CEMI	The Monitoring Center
COI	Conflicts of interest
CPI	Corruption Perceptions Index
CRNVO	Center for Development of Non-Governmental Organization
CSO	Civil society organizations
DACI	Directorate for Anticorruption Initiatives
DPS	Democratic Party of Socialists
EC/EU	European Commission/European Union
FOI	Freedom of information
FOSI	Foundation Open Society Initiative
GIS	Geographic information system
GRECO	Group of States Against Corruption/Council of Europe
GTZ	Gesellschaft für Technische Zusammenarbeit
ICITAP	International Criminal Investigative Training Assistance Program (US Department of Justice)
ICNL	International Center for Not-for-Profit Law
ICT	Information and communications technology
IFC	International Finance Corporation
IMG	International Management Group
MANS	Network for Affirmation of the Non-governmental Sector
MBA	Montenegro Business Alliance
MIPA	Montegrin Investment Promotion Agency
MP	Member of Parliament
NATO	North Atlantic Treaty Organization
NDI	National Democratic Institute
NGO	Nongovernmental organization
OECD	Organization for Economic Cooperation and Development
OPDAT	Office of Overseas Prosecutorial Development, Assistance and Training of the US Department of Justice
ORT	Organization for Rehabilitation through Training (ORT America)
OSCE	Organization for Security and Cooperation in Europe
PPL	Public Procurement Law
PzP	Movement for Changes
SAI	State Audit Institution
SIDA	Swedish International Development Cooperation Agency
SME	Small- and medium-sized enterprises
SMS	Short message service
UNCAC	United Nations Convention against Corruption
UNDP	United Nations Development Program
UNEM	Association of Independent Electronic Media
USAID/DCHA	United States Agency for International Development/Bureau for Democracy, Conflict, and Humanitarian Assistance

Executive Summary

Since independence in June 2006, the Montenegrin government has adopted many new laws and established new institutions to deal with the problem of public sector corruption. A national program and action plan to fight corruption was developed and implemented, a commission to monitor the plan was established, a directorate to promote preventive anticorruption initiatives was created, and a commission to monitor conflicts of interest was instituted, among many others initiatives. While these efforts denote that progress has been made on paper, implementation in practice has lagged behind. In many cases, actions do not produce major outcomes in terms of anticorruption enforcement or corruption prevention. Much more needs to be done in judicial reform, streamlining of licensing and permitting procedures, analysis and prevention of conflicts of interest, state auditing and control, transparency in government expenditures, and oversight of public procurements, among others.

Strong political leadership within government, as well as in civil society, the mass media and the private sector is required to activate the anticorruption framework that has been designed. However, no “champion” of anticorruption reform from within the ranks of government officials – at the national or local levels – could be identified. On the other hand, leaders of several anticorruption NGOs, as well as some media representatives, were identified as “champions;” these individuals and their organizations need to be supported and nurtured. Given Montenegro’s interests in European Union and NATO accession, along with its interests in attracting greater foreign investments, coordinated donor assistance and pressure can play a positive role in motivating constructive implementation of Montenegro’s prevention and enforcement anticorruption programs in the near future.

Underlying Causes and Opportunities for Reform

Corruption in Montenegro is pervasive at the grand and administrative levels. It can be traced back, in part, to extensive politicization of public institutions and the economy. The small population and strong familial relations that pervade Montenegrin society, politics and business reduce competition, promote conflicts of interest in decision-making and nepotism and favoritism in hiring. This clannish characteristic also results in extensive overlap among the political and economic elites and excessive political influence on government decisions.

There is undue bureaucratic discretion, overregulation and red tape that create barriers to business development and growth. Government transparency and information on legislation, rights and procedures are lacking, both for state officials and the public. Major initiatives toward decentralization, while enhancing democratic governance, also increases opportunities for corruption at the local level because significant controls on government action were not implemented and greater transparency was not required. Political leadership also lacks the political will to fully implement and enforce the framework of laws that have been adopted.

Adequate controls and oversight mechanisms have not been established in most government institutions to ensure strict accountability. Officials do not believe that “someone is watching the store.” Without these controls, they feel empowered to abuse their power for personal or private gain; public officials generally act with impunity.

On the other hand, there are several motivating factors that have propelled Montenegro forward in the fight against corruption. Strong interest in joining the European Union and/or NATO has motivated harmonization of laws and procedures, including anticorruption provisions. According to recent EC and GRECO evaluation team reports, Montenegro has adopted many laws and institutions that were recommended, though more work is still required and properly enforcing these laws and giving the institutions adequate resources and authority to investigate and prosecute corruption abuses has yet to be achieved. Accession to these organizations has been a major carrot motivating anticorruption activities in the past.

There is also a major economic interest in attracting foreign investors. Montenegro has limited opportunities for attracting foreign investors. There is a very small domestic market and few natural resources and businesses left to privatize. Tourism and construction are among the few viable targets of opportunity for investors. Typically, foreign investors are scared off from environments well-known for corrupt practices. It would be to Montenegro's benefit in attracting investors to demonstrate effective action and political will to deal with its corruption problems.

Lastly, there exist a very few civil society and media leaders who serve as gadflies to keep anticorruption reforms high on the national agenda. Among the few active sources of external pressure to address corruption are a handful of civil society organizations and a few mass media outlets. They have been persistent in their demands for reform, despite limited results. Their continued pressure on government is essential and needs to be supported.

Anticorruption Strategic Framework

Four fundamental issues appear to be at the root cause of corruption problems in Montenegro today.

- **Weak oversight of executive action.** There is a fundamental lack of accountability mechanisms on the executive branch -- checks and balances -- to keep corruption under control and make it a high risk-low reward activity.
- **Weak government institutions.** The civil service is highly politicized and suffers from a lack of professionalism. This is due, in large part, to the pervasive use of personal connections, nepotism and favoritism in political life
- **Limited political competition and extensive overlap between political and economic elites.** The dominance of one ruling party and the inability of opposition parties to mount a viable and popular alternative platform contribute to corruption abuses. Moreover, the overlap of political and economic elites blurs the boundary between the public and private sectors, making abuses more likely. The inherent conflicts of interest that result from these circumstances are at the heart of many governance problems faced by Montenegro.
- **Limited government transparency.** While there have been some improvements, much still needs to be accomplished to make government truly transparent. Access to information required to assess the integrity of government decisions and processes is still limited.

These are the strategic problems that need to be addressed if major progress is to be made in dealing with corruption over the mid- and long-term in Montenegro.

Recommendations for Anticorruption Reforms

In depth analyses were conducted and recommendations for reform action are proposed in six key government sectors/functions that were deemed to be ready for serious initiatives. These sectors/functions include (1) the justice sector, (2) spatial planning and construction, (3) business regulation and public procurement, (4) local governance, (5) nongovernmental organizations and the mass media, and (6) government transparency. A comprehensive, multi-sector approach is sought. International experience shows that limiting anticorruption programs to a small number of sectors or initiatives opens the door for corrupt practices to migrate to other sectors where oversight is not as strong. Thus, a multi-sector program is more likely to show demonstrable success over time.

High priority recommended program areas are highlighted below.

In the **justice sector**, initiatives are proposed to improve case management processes in courts; automate random selection of judges for case assignments; and enhance court reporting mechanisms. Special support should be provided to build capacity for the Special Prosecutor for corruption. Drafting and implementation support should be offered to develop an adequate whistleblower protection law.

In the area of **business regulation**, support should be given to promote formal coordination between inspectors and police by engaging them in formal memoranda of understanding. Joint training should be conducted in pilot programs and then rolled out to the entire country. A Business Ombudsman Office should be established to enhance oversight and give victims of corruption among entrepreneurs an independent channel to voice their grievances and seek redress. In addition, business regulations should be streamlined and one-stop shops for business licensing/permits established.

In the area of **public procurement**, training programs for local level procurement agencies need to be conducted to enhance their professionalism, reduce conflicts of interest and strengthen controls. Support should be given to NGOs and the mass media to make them into strong procurement watchdogs.

To strengthen **local governance**, support should be provided for training and establishment of strong internal audit units in pilot municipalities; these should be scaled-up when they have demonstrated effectiveness. Support is also needed to build the capacity of local NGOs in advocacy, citizen participation and watchdogging across all municipalities. In addition, independent legal assistance centers, "Citizen Advocate Offices," at the municipal level should be established to provide citizen victims of corruption with a trusted channel for their grievances.

To support **NGOs and the mass media** as public watchdogs, support should be provided to build capacity and establish issue-related NGO networks and media-NGO alliances that generate policy discussion on anticorruption reform issues. For media, programs should support regional alliances and pool reporting to motivate investigative reporting by the media.

To promote **government transparency**, programs should be initiated to establish NGO coalitions on budget transparency that will enhance citizen participation, advocacy and oversight

of the budgetary process – at the national and local levels. In addition, a sub-strategy for information society that includes information needs of citizen groups and media, and information needed to oversee potential government abuses and corruption should be developed. Lastly, support should be provided for central e-government web portal development including budgetary information and a citizen rights hub, among other information.

1. Introduction

Since independence in June 2006, the Montenegrin government has been proactive in adopting many new laws and establishing new institutions to deal with the problem of public sector corruption. The European Commission recognizes that progress has been made on tackling low-level corruption and on awareness-raising and training (Commission of the European Communities, 2008). Similarly, the Council of Europe's recent GRECO evaluation finds that Montenegro has implemented many of its anticorruption recommendations (GRECO, 2008). However, they both acknowledge that much more action by the government is required to effectively confront corruption in Montenegro. While many of the typical prerequisites for effective anticorruption programs are in place *on paper*, implementation *in practice* has lagged.

Important preventive and enforcement strategies and actions plans exist at the national level to deal with a range of corruption vulnerabilities and strategies and plans for municipalities are just being put into place now, but follow-up activities have been insufficient and not yielded clear outcomes or higher conviction rates in corruption cases. Much more needs to be done in judicial reform, streamlining of licensing and permitting procedures, prevention of conflicts of interest, state auditing, transparency in government expenditures, and oversight of public procurements, among others.

In sum, Montenegro is well on its way to establishing the framework for an effective and comprehensive anticorruption program at the national and local levels. But international experience clearly shows that such a framework, by itself, is not enough to have a significant impact on corruption. Strong political leadership within government, as well as in civil society, the mass media and the private sector is required to activate the framework and mobilize strict controls and accountability mechanisms to produce real anticorruption results. Given Montenegro's interests in European Union and NATO accession, along with its interests in attracting greater foreign investments, coordinated donor assistance and pressure can play a positive role in motivating constructive implementation of Montenegro's prevention and enforcement anticorruption programs in the near future.

Structure of this Report

The objectives of this assessment are twofold. First, this report provides a broad analysis of the state of corruption in Montenegro, taking into account the political-economic context, the current legal-institutional framework, stakeholders for and against reform, ongoing government and donor-sponsored anticorruption programs, and entry points for appropriate anticorruption initiatives. The assessment examines petty and grand corruption, corruption at the local and national levels, and key government sectors and functions where corruption has impaired governance capacity and the achievement of development objectives.

Second, the assessment reaches certain conclusions and provides particular guidance to the USAID mission in Montenegro concerning programmatic options it might consider to deal with corruption vulnerabilities. The report offers suggested approaches, sector-by-sector and function-by-function, that the mission can consider to embed anticorruption strategies across its entire portfolio of programs.

This assessment was conducted using the new Corruption Assessment Handbook which was developed by Management Systems International for USAID/DCHA.¹ Existing studies about corruption in Montenegro were reviewed and regional experts updated an analysis of the adequacy of the legal-institutional framework to combat corruption. Based on these reviews, the team conducted a preliminary political-economic analysis that drew upon *corruption syndrome* concepts and yielded a set of strategic propositions that address the underlying causes of corruption in the country, not just the symptoms. During the field visit, a wide range of stakeholders were interviewed and a set of key government sectors and functions were identified for in depth analysis where corruption is strong but opportunities to remediate the situation appear to be available. Program options that address sectoral corruption issues are presented in this report and an integrated set of priority recommendations for programmatic action are presented at the end of the report.

This study was conducted by a small assessment team composed of MSI staff and consultants and a US Department of Justice attorney between May 13 and June 19, 2009 with a field trip to Montenegro from May 24 to June 6. The team included Bertram I. Spector, Benjamin Allen, George Hardy and Srdjan Blagovcanin. We received strong support from Ana Scepanovic and Milena Ljumovic.

The team would like to extend its thanks to Ambassador Roderick Moore, the USAID/Montenegro team, especially Ramsey Day, the Officer-in-Charge, and Ana Drakic, the Senior Democracy and Governance Advisor, as well as to John Haub, the Resident Legal Advisor at the Embassy, for facilitating our access to information and important stakeholders. We are grateful to all those who granted us their time and thoughts on these sensitive issues – from the community of USAID implementing partners, international donor organizations, government officials, and NGOs, journalists, and businesses.

The content and conclusions of this report are the authors and do not necessarily reflect the policies or opinions of the United States Agency for International Development (USAID).

¹ Management Systems International (2009) *Corruption Assessment Handbook*. Washington, DC: MSI. Available with annexes at http://www.usaid.gov/our_work/democracy_and_governance/technical_areas/anticorruption_handbook/index.html

2. Overview of Corruption in Montenegro

The Government of Montenegro has invested significant effort in its Action Plan for implementing the program against corruption and organized crime since 2006. A high level National Commission to monitor achievement of Action Plan goals was established in 2007. By that Commission's count, 72 percent of the Action Plan's initiatives were realized out of a total of 270 measures, including actions by 54 institutions, during 2008. A large number of laws that are typically viewed as preconditions for strong anticorruption campaigns have been adopted and court decisions have been passed down on 61 percent of criminal cases with corruption elements between 2006 and 2009. Court backlog has been reduced substantially and cases are being processed more efficiently. A Code of Ethics for judges was adopted and some training has occurred. Beyond law enforcement and the judicial system, other activities include measures affecting internal and external audits of the budget, money laundering, public procurement, the Commission for Determining Conflicts of Interest, the Elections Commission, tax administration, customs administration, and the Directorate for Anticorruption Initiatives (DACI).

According to the European Commission (2008: 13), progress has been made in Montenegro, but "the declared commitment of the authorities to combat corruption has not been backed up by rigorous implementation with clear results, including higher conviction rates in corruption cases. Corruption continues to be widespread and inefficiently prosecuted, particular in cases of high-level corruption." They found weaknesses in several areas. The conflicts of interest law is too limited, the local self-government law is inadequate, and whistleblower protection is insufficient. Monitoring, analysis and enforcement of financial declarations of assets, privatization processes, construction permitting, public procurement procedures, and political party financing are not sufficient. Overall, there is weak administrative supervision and auditing of public functions which generate opportunities for abuse. The financial and criminal investigative capacities of law enforcement bodies are also very limited.

In 2007, a comprehensive analysis of corruption in Montenegro was sponsored by the Swedish International Development Cooperation Agency (SIDA) and conducted by the Christian Michelsen Institute.² That study contained a detailed overview of corruption problems across many major sectors as of 2007 and should be referenced for its insights. The key findings of that study help to describe the corruption situation in Montenegro today.

- Extensive politicization of public institutions and the economy is at the root of much corruption and abuse of power. There appears to be extensive overlap among the political and economic elites that results in corruption and collusion.
- Excessive discretion, overregulation and red tape create barriers to business.
- Government transparency and information on legislation, rights and procedures are lacking, both for state officials and the public. One prominent instance has been

² Trivunovic, Marijana, Vera Devine and Harald Mathisen (2007) *Corruption in Montenegro 2007: Overview over Main Problems and Status of Reforms*. Bergen, Norway: Chr. Michelsen Institute (R2007:9). Accessed at: www.cmi.no/publications/file/?2733=corruption-in-montenegro-2007. Another revealing corruption study from 2008 is the *Global Integrity Scorecard: Montenegro 2008*, accessed in May 2009 at: <http://report.globalintegrity.org/reportPDFS/2008/Montenegro.pdf>

- government's resistance to making privatization-related documents public, suggesting that these major transactions were marred by massive corruption.
- The small population and strong familial relations that pervade Montenegrin society, politics and business reduce competition; promote conflicts of interest in decision-making and nepotism and favoritism in hiring.
 - Major initiatives toward decentralization hold the potential for enhanced democratic governance, but also increased opportunities for corruption if significant controls on government action are not implemented and greater transparency is not required.
 - The new Constitution, the passage of many laws, the establishment of many special government institutions, the Program for the Fight against Corruption and Organized Crime, its accompanying Action Plan, and their extension to the local level are positive roadmaps for anticorruption efforts. But they must be more than paper solutions to demonstrate minimal compliance with international agreements; they must be implemented in practice with the force of strong political will from high-level political leadership, with visible and measurable anticorruption outcomes.
 - The emergence of a few strong independent nongovernmental watchdogs among NGOs and the mass media has been a positive development that maintains visible and constant pressure on government to follow through and implement anticorruption legislation and procedures.
 - The international community has been very tolerant of Montenegro's limited accomplishments in implementing anticorruption programs with teeth.

Our political-economic analysis of Montenegro places the country in Type II of the corruption syndromes framework.³ Based on this analysis, we see political and economic elites as connected by durable networks based on sharing the benefits of corruption. Corruption is controlled from above with the spoils shared within clans based on family, friendship and regional ties – especially in the banking and construction sectors. They act with perceived impunity – there are few controls to detect and prevent corruption, and there is insignificant enforcement and prosecution of high-level corrupt acts. Corruption is seen as a high reward-low risk activity.

The leading political party (DPS) has minimal competition, with the opposition parties severely fragmented along ethnic, religious or economic lines and no reasonable possibilities for coalition building. In part, because of the smallness of the society, there are major overlaps between state and business which promote conflicts of interest and porous boundaries between the public and private sectors. This environment opens the door, for instance, to suspicious privatization deals with limited transparency to cover up potential abuses. Political competition that threatens these corrupt networks is minimal. The legislative and judicial branches are dependent on the executive and do not impose significant controls that can reduce corruption. Corruption, in part, serves to stabilize the political system, partially compensating for moderately weak official institutions. This stability can be attractive to international investors, at least in the short-run. But tight-knit elite networks delay the growth of genuine political competition, preempt needed economic and policy changes, and reinforces rigidity into policy and governance. Civil society and the media appear to be relatively independent, but are largely ignored by the governing forces.

³ See the USAID *Corruption Assessment Handbook* (2009) and Michael Johnston (2005) *Syndromes of Corruption: Wealth, Power, and Democracy*. New York: Oxford University Press.

Contributing Factors

There are several key factors that contribute to the nature and scope of corruption in Montenegro.

Smallness and clannish nature of society. The use of personal connections, nepotism and favoritism by those in authority are seen as perks of office. Familial and clan loyalties are important influences on political and economic decision-making. Turning a blind eye on regulatory violations, doing a favor, benefiting one's own friends, and providing jobs and public contracts for family, friends and relations are seen as one's duty, not as corruption. In a society with such a small population, the more decentralized government gets, the more likely these personal connections are going to become important influences on political, economic and government decisions, at the expense of the larger public good. This motive is at the root of much of the corruption in Montenegro. The conflicts of interest embedded into this syndrome of corruption are difficult to erase.

Large unprofessional bureaucracy, underdeveloped market economy, scarce resources, and lack of history of democratic governance. In large part, due to the extensive resort to personal connections to fill public sector positions, the best and most trained are not recruited into government. Civil service professionalism is sorely lacking. This degrades the delivery of public services and promotes decisions based on inherent conflicts of interest. On top of this, Montenegro's limited resources for economic development reinforce motives to benefit one's own family, relatives and friends if one is in a position of authority. The mechanisms of strong democratic governance and effective delivery of services have not been established.

Insufficient controls and accountability. Public officials can act with impunity. There are minimal controls and oversight to ensure their accountability and, despite access to information laws, there are sufficient loopholes available to minimize government transparency.

Inadequate political will to fully implement and enforce laws. The political leadership in Montenegro appears to be willing to adopt the laws and establish the institutions that the international community demands, which are typically the prerequisites of strong anticorruption programs. But they do not appear to have the political will to forcefully implement and enforce these provisions to have a visible and measurable impact on corruption – at the grand or petty levels. The population has limited trust that government is acting on behalf of the greater good. Grand corruption abuses are perceived to be major and, on an everyday level, citizens typically experience petty corruption in transactions in the education and health sectors.

Inadequate political competition. Contributing to this lack of adequate political will is the minimal nature of political competition in Montenegro. Essentially, the Democratic Party of Socialists (DPS), as the successor to the League of Communists, has served as the ruling party for 60 years. The opposition parties appear to be hopelessly small and fragmented, with few proponents of coalition building. Without political competition from other parties or from the legislature or judiciary, the ruling party feels empowered to wield its authority without need to modify its grip on the spoils of power.

Factors that Help Control Corruption

Newly established Special Prosecutor's office. The Special Prosecutor for Corruption, Organized Crime, Terrorism and War Crimes provides a centralized focus for law enforcement in its fight against corruption. This is especially important as the new criminal procedure code transfers investigative powers to the prosecutor.

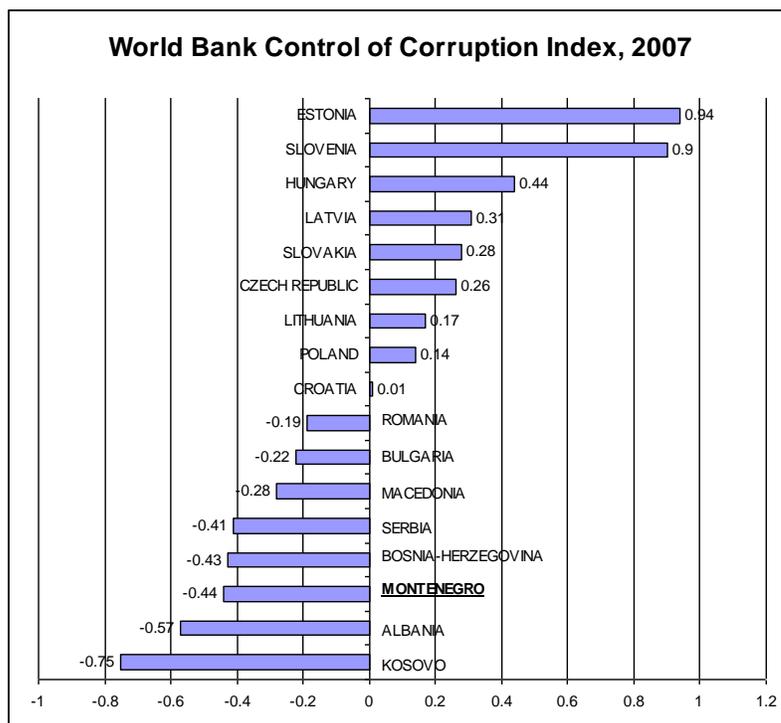
Interest in EU/NATO accession. Strong interest in joining the European Union and/or NATO has motivated harmonization of laws and procedures, including anticorruption provisions. According to recent EC and GRECO evaluation team reports, Montenegro has adopted many laws and institutions that were recommended, though more work is still required and properly enforcing these laws and giving the institutions adequate resources and authority to investigate and prosecute corruption abuses has yet to be achieved. Accession to these organizations has been a major carrot motivating anticorruption activities in the past.

Interest in attracting foreign investors. Montenegro has limited opportunities for attracting foreign investors. There is a very small domestic market and few natural resources and businesses left to privatize. Tourism and construction are among the few viable targets of opportunity for investors. Typically, foreign investors are scared off from environments well-known for corrupt practices. It would be to Montenegro's benefit in attracting investors to demonstrate effective action and political will to deal with its corruption problems.

Pressure from civil society and media. Among the few active sources of external pressure to address corruption are a handful of civil society organizations and a few mass media outlets. These have been persistent in their demands for reform, despite limited results. Their continued pressure on government is essential and needs to be supported.

Corruption Trends

All of the major corruption indices find corruption in Montenegro to be a pervasive, engrained and persistent feature of everyday life, at the grand and administrative levels. The following chart compares all Eastern European countries on the 2007 Control of Corruption index by the World Bank Institute. The index ranges from +2.5 (best) to -2.5 (worst). Within the region, Montenegro ranks among the lowest – slightly worse than Serbia and Bosnia-Herzegovina but slightly better than Kosovo and Albania. Comparing the six World Bank Institute governance indicators for

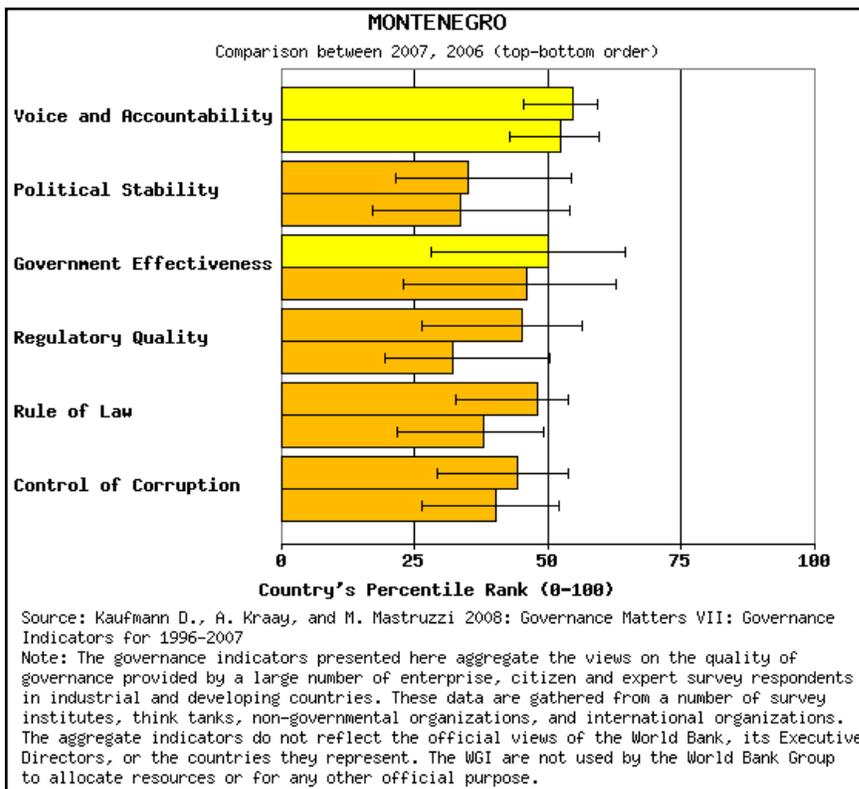


Montenegro between 2006 and 2007, all appear to get worse since the time of independence. The Control of Corruption indicator also declines slightly.

The Transparency International Corruption Perceptions Index (CPI) has remained essentially constant in recent years. Montenegro received a score of 3.3 in 2007 and 3.4 in 2008, with 0 being the worst and 10 being the best. In 2008, Montenegro ranked at number 85 out of 180 countries, sharing that spot with Serbia, Madagascar, Senegal and Panama.

Freedom House also rates Montenegro among the worst countries for corruption with fairly constant index ratings between 2006 and 2008 (between 5.25 and 5.50, where 7 is the worst). Freedom House experts blame the fact there have been no significant prosecutions for corruption in Montenegro despite the development of an ambitious Action Plan.

Lastly, the Global Integrity Report scores Montenegro within the worst corruption level among 94 countries and finds a slight decline in Montenegro's corruption score since 2006 (overall rating of 58 in 2006 and 56 in 2008). This Global Integrity Index assesses the existence, effectiveness, and citizen access to key anticorruption mechanisms at the national level in a country. Based on expert assessments, this Index measures the anticorruption and good governance safeguards or prerequisites in place in a country that should ideally prevent, deter, or punish corruption. Civil society and the media, as well as elections, are among the best features in this gloomy picture. Interestingly, when it comes to developing an adequate legal framework to deal with corruption, Montenegro scores a 77 out of 100 (categorized as "moderate"), but only a 36 out of 100 on actual implementation, deemed to be a



huge gap. According to the 2008 report:

Global Integrity Report Dimensions	2006	2008
Civil Society, Public Information and Media	Moderate	Weak
Elections	Very Weak	Weak
Government Accountability	Very Weak	Very Weak
Administration and Civil Service	Very Weak	Very Weak
Oversight and Regulation	Weak	Very Weak
Anticorruption Laws and Rule of Law	Very Weak	Very Weak

After its sovereignty was restored in 2006, Montenegro continues to face deep challenges

with its overall governance and anticorruption system. Extremely weak regulations undercut effective oversight of state-owned enterprises, police work is hampered by the politicization of the law enforcement agency, and ineffective whistle-blowing protections in the public and private sector are among the most notable problems. In addition, executive accountability is rated as very weak largely because basic conflicts of interest safeguards do not exist or are ineffective.

"Executive [branch officials]," as our lead researcher observes, "frequently do not provide any explanations [for their policy decisions] and even try to hide decisions of the government."⁴

⁴ <http://report.globalintegrity.org/Montenegro/2008> (accessed June 14, 2009)

3. Policy and Legal-Institutional Framework to Fight Corruption

The 2007 Constitution of Montenegro establishes the principle of division of powers into three branches: the legislative, executive and judicial. Constitutional provisions also define basic principles of the judiciary: transparency, immunity, Supreme Court functions, and the appointment of judges. A particularly important category for the independence of the judiciary is the functioning of the Judicial Council, which is defined by the Constitution.

The criminal code defines active and passive corruption. The law also defines several corruption-related criminal offenses, including abuse of official status, less than conscientious performance of office, unlawful collection and payment, fraud in service, embezzlement, unauthorized use, illegal mediation, and disclosure of official secrets. The new Criminal Procedures Code (anticipated for adoption in summer 2009) transfers investigative powers, currently vested in courts, to prosecutors and will introduce plea bargaining for all cases with punishment up to 10 years. Early estimates indicate that with these changes 25% additional prosecutors will need to be hired and trained.

Specialized departments in high courts for organized crime, corruption, war crimes and terrorism were established in September 2008. Also at the same time, the powers of the Special Prosecutor for organized crime were extended to cover the same areas. However, weak enforcement structures and mechanisms and lack of capacities and expertise remain serious problems. As a result, the sanctions mechanism is very weak and courts are slow and overburdened with cases, which all have adverse effects on the prevention of corruption and crime.

The Law on the Prevention of Money Laundering and Terrorist Financing was adopted in November 2007. Under this law, the list of reporting entities was extended. But according to the European Commission progress report (2008), "Montenegro's efforts to fight money laundering are not sufficient and need to be stepped up." That report particularly emphasized that the capacity of the police and the prosecution to investigate money laundering cases is limited and these institutions lack the necessary expertise.

Concerning transparency, the Law on Free Access to Information provides any natural or legal person the right to access (but not necessarily *copy*) information held in any form by state and local authorities, public companies and other entities that perform public powers. There are exemptions for national security, defense or international relations; public security, commercial or other private or public economic benefits; economic monetary or foreign exchange policy; prevention and investigation of criminal matters; personal privacy and other personal rights; and internal negotiations. The interests must be "significantly harmed" and the harm must be "considerably bigger than the public interest in publishing such information." Implementation of the law is very weak and inconsistent. According to the NGO MANS, state and local authorities respond to requests for information on time in around only 40% percent of the cases.

The State Audit Institution (SAI) is responsible for auditing the financial use of government resources. The law also provides for effectiveness and efficiency audits, but until now, only financial audits have been performed. The independence of the SAI is guaranteed by provisions in the Constitution and the Law on State Audit Institution. The SAI Senate and the President of the Senate are appointed by parliament. The SAI reports directly to the Parliament about audit

findings by submitting an annual report. In practice, the independence of the SAI is questionable; the law was recently amended to allow a particular ruling party MP to qualify for the Presidency post.

The Law on Public Internal Financial Control Systems was adopted in 2008 and centralized the audit control function. The Ministry of Finance is responsible for coordinating and establishing the internal control units in other major users of the state budget; these will become operational in the national government agencies by March 2010 and in local governments and state-owned enterprises by March 2011. A lot of training in procedures is needed and the EU is providing funding for this. A major recruitment campaign to find auditors is currently underway. However, this internal audit function, once fully implemented, is likely to be limited in detecting and dealing with corruption cases. For example, if irregularities are found, the head of the unit is to be notified, who in turn will notify the Minister, who in turn will notify the Prosecutor; this extended procedure can lead to corruption findings being suppressed. As well, there are no provisions to make internal audit reports and their recommendations public.

While the new Law on the Prevention of Conflict of Interest was adopted at the end of 2008, it still leaves many loopholes that impede proper controls. The Commission for the Prevention of Conflict of Interest does no serious investigation of the financial declaration submissions it receives. While the Commission is appointed by the Parliament, in practice, implementation of the law is very weak, inconsistent and conflicts of interest remain a persistent problem.

The Public Procurement Law establishes procedures that are harmonized with EC standards. The law also establishes an institutional framework consisting of a Directorate for Public Procurements (to set standards) and a Commission for the Control of Public Procurement Procedures (to respond to grievances), with clearly separated competencies. While open bidding is by far the most commonly used procedure, a large number of audit reports have identified inconsistent or irregular application of legal provisions or even deliberate flouting of the law.

In 2006, the government adopted a National Program and Action Plan for the Fight Against Corruption and Organized Crime. In addition, Action Plans for fighting corruption in each of 21 municipalities are being developed by Fall 2009. The government established a National Commission to monitor execution of the Action Plan and they report every year on accomplishments. The Action Plan lays out a very ambitious program.

The most significant international anti-corruption instruments signed and/or ratified by Montenegro are:

- United Nations Convention against Corruption (UNCAC);
- Council of Europe Criminal Law Convention on Corruption, with the additional protocol to the Criminal Law Convention on Corruption;
- Council of Europe Civil Law Convention on Corruption;
- Council of Europe Convention on Mutual Assistance in Criminal Matters; and
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

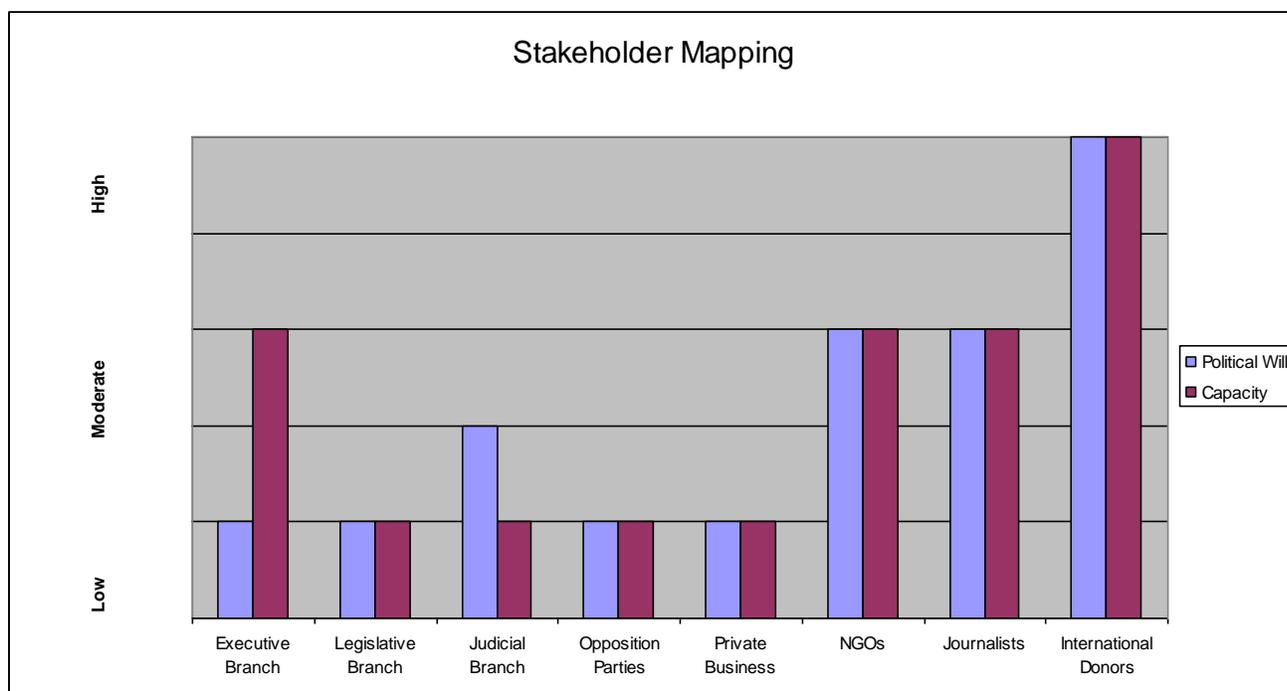
The Directorate for Anti-Corruption Initiative (DACI) within the Ministry of Finance is in charge of providing recommendations on harmonization of national legislation with international standards, coordination with international donors on anticorruption programs, support to the National Commission on revising the Action Plan, conducting corruption prevention and public outreach activities, conducting corruption research, and implementing training and education programs for government, civil society and business on anticorruption issues. The Capacity Assessment of DACI conducted by UNDP (2009) indicates that “the DACI appears to be in a transition phase from a relatively informal and horizontal structure and fluid processes, to more repeatable and defined ones,” but also that “DACI is facing reluctance from other actors.”

A comprehensive summary and analysis of Montenegro’s legal-institutional framework related to corruption and anticorruption issues is presented in Appendix B. It draws extensively on and updates the *Global Integrity Scorecard* (2008).

4. Anticorruption Stakeholders

The major stakeholders are rated below in terms of their apparent political will and capacity to fight corruption. This is a snapshot and represents our analysis of each group at the current time.

- The executive branch, essentially the government/ruling party, has sufficient resources and capacity to deal with the problem if it wants to, but it does not provide indication that it has the political will to do so. The legislative branch has little will or capacity to push forward or implement major reforms independently. The judicial branch appears to have slightly more political will to assert its independence of the executive authority, but little capacity. Local governments are just beginning to develop and implement anticorruption action plans so it is too early to assess their will or capacity.
- Opposition political parties and private business are also extremely passive in relation to the fight against corruption and cannot be assumed to be proponents.
- As indicated earlier, a small number of NGOs and media outlets appear to be ready, willing and able to mount external pressure on government to make anticorruption reforms. Unfortunately, they are few in number and their leaders seem to be reaching a threshold of frustration.
- Lastly, international donors appear to be the single major group that has both strong political will and significant capacity and resources to pressure government to make significant anticorruption reforms. Montenegrin government leaders have responded in the past to positive incentives from the outside world to begin the reform process related to anticorruption programs. The carrots of EU and/or NATO accession and increased foreign investment have produced good results, but the EC and Council of Europe have not used their influence effectively to get the government to follow-through on implementing and enforcing paper reforms. Negative incentives also appear to be needed – the withholding of rewards – until real implementation and enforcement is achieved.



Forward progress in anticorruption programs usually requires leadership – within government or outside of government. Unfortunately, no one that we interviewed could recommend a “champion” of anticorruption reform from within the ranks of government officials – at the national or local levels. On the other hand, leaders of several anticorruption NGOs, as well as some media representatives can be identified as “champions.” These individuals and their organizations need to be supported and nurtured if continued progress in anticorruption efforts is to be achieved.

The international donors and organizations are involved in or planning many anticorruption programs of their own. Coordination is essential as USAID plans its future programming. While not a comprehensive list of activities, some of the major themes of current and future donor programs are presented below:

- UNDP: Support for DACI, especially research studies on corruption in particular sectors (justice sector was completed in 2008; local self-governance in process; health sector and public administration are next); support for a judicial integrity program (slated from 2010-12); capacity assessment and program to enhance transparency and accountability in the North.
- European Commission: Ongoing project for local governance support including ethics training; ongoing project with Police Directorate, Anti-Money Laundering and DACI to strengthen inter-institutional cooperation, public outreach, and action plan revisions; upcoming support to implement the new Criminal Procedures Code (training for prosecutors and judges); upcoming project on public procurement to harmonize with EU procedures.
- World Bank: Land administration and titling project underway (with focus on getting the cadastre online in Podgorica).
- GTZ: Land management, surveys and cadastre and registration support (supported 50 urban plans throughout country); business regulation streamlining support.

5. Strategic Framework

Based on analysis of preceding data and trends, our initial strategic framework identifies several core problems that underlie the corruption environment in Montenegro and proposes related strategic goals for anticorruption programs and working hypotheses about the underlying causes of corruption and what can be done to reduce the problem.

Four fundamental issues appear to be at the root cause of corruption problems in Montenegro today.

- **Weak oversight of executive action.** There is a fundamental lack of accountability mechanisms on the executive branch -- checks and balances – to keep corruption under control and make it a high risk-low reward activity.
- **Weak government institutions.** The civil service is highly politicized and suffers from a lack of professionalism. This is due, in large part, to the pervasive use of personal connections, nepotism and favoritism in political life
- **Limited political competition and extensive overlap between political and economic elites.** The dominance of one ruling party and the inability of opposition parties to mount a viable and popular alternative platform contribute to corruption abuses. Moreover, the overlap of political and economic elites blurs the boundary between the public and private sectors, making abuses more likely. The inherent conflicts of interest that result from these circumstances are at the heart of many governance problems faced by Montenegro.
- **Limited government transparency.** While there have been some improvements, much still needs to be accomplished to make government truly transparent. Access to information required to assess the integrity of government decisions and processes is still limited.

Strategic Framework: Montenegro Corruption Assessment

Core Problems	Strategic Goals	Working Hypotheses
Weak oversight of executive actions and decisions	1. Strengthen advocacy and watchdog/oversight NGOs and increase their number, especially at local levels	- Strong NGOs that are trained and have issue-focused – at the national and local levels – can sustain effective pressure on government to make reforms - Focus on mobilizing awareness and action among youth
	2. Encourage investigative journalism and other media coverage of corruption issues	- Strengthen training on investigative reporting and follow up. - Support strategic alliance between media and NGOs to build external pressure on government for reforms.
	3. Strengthen legal framework (whistleblower protections, COI, FOI, etc.) and control institutions	- Filling in gaps in current legislation to develop prerequisites for solid anticorruption program. - Strengthen NGO, anti-libel, witness protection, and whistleblower laws to protect external actors - Strengthen framework and training for government control institutions, such as the State Audit Institution and Finance Ministry internal audit units, to include anticorruption responsibilities.
	4. Deal differentially with grand and petty corruption	Develop different strategies to deal with grand corruption (eg., in privatization, energy) vs. petty corruption (especially focused on local governance)
Weak government institutions*	1. Strengthen professionalization through training, recruitment, depoliticization, ethics codes, internal controls	- Weak institutions breed corruption, lack of control, and poor quality services. - Focus attention on service delivery sectors (health and education) to get early successes that are visible by the general public.

		- Insulate appointments and agencies from political influence
	2. Reduce conflicts of interest	Strengthen law and commission and strengthen meritocratic recruitment systems
Limited political competition and extensive overlap between political and economic elites*	1. Strengthen independence and professionalization of prosecutors, and develop stronger controls on the procurement system, zoning, and budget expenditure processes	- Strengthen Special Prosecutors Office to investigate and prosecute corruption cases - Seek to implement reforms at the local level, where there may be some political will.
	2. Strengthen conflict of interest commission analytical and follow-through procedures	Strong focus on conflicts of interest will reduce opportunities for political influence on government decisions
	3. Support media and CSOs to conduct monitoring	Promote investigations and watchdog activities, including citizen report cards.
Limited government transparency*	1. Increase transparency through access to government-held information (especially in privatization, business regulation, etc.)	- Enhance training for government officials, clarification of rules, targeted litigation. - Strengthen DACI to coordinate more effective information and awareness campaigns. - Strengthen Ministry for Information Society to coordinate government information systems and web portal
	2. Strengthen public access to information laws and procedures	Provide resources and training to Ministries and clarify procedures to deal with information requests more speedily.

Note: * denotes implication based on corruption syndrome designation.

Certain stakeholders and institutions are not viewed to be ready for near-term activity and not included in this framework. For example, because of the absence of an effective opposition, Parliament is not seen as a useful partner capable of taking on its oversight role. The Ombudsman is also not viewed as a strong player in anticorruption reforms at the current time.

6. Corruption in Government Sectors, Functions and Institutions

The assessment team selected six government sectors and functions to analyze in greater depth where corruption vulnerabilities are significant but, we believe, there are reasonable opportunities for initiating effective anticorruption initiatives. The following criteria were used in selecting these areas: (a) the existence of political will to fight corruption and the readiness of local actors to actively work on anticorruption activities; (b) good fit with Government of Montenegro priorities; (c) general compatibility with issue areas that USAID usually gets involved in; and (d) no redundancy with programs sponsored by other donor organizations. The resulting sectors/functions include: **(1) the justice sector, (2) spatial planning and construction, (3) business regulation and public procurement, (4) local governance, (5) nongovernmental organizations and the mass media, and (6) government transparency.**

Some other sectors and functions were considered, but were not included in the final list: Parliament, civil service, health care, education, and public financial management.

6.1 Justice Sector

Many of the core problems with which Montenegro must grapple in its fight against corruption can be found in its justice sector. “Weak oversight,” for example, can be seen in the relatively ineffectual efforts by the criminal justice system to identify, prosecute and sentence corrupt officials, whether they are on the national or local scene. Arguably, the strongest “oversight” of corrupt governmental practices and actions is a well-trained and well-equipped (legally and otherwise) criminal justice system. The expeditious investigation of a corrupt official, followed by a fair and transparent trial, followed by a fair and transparent sentence, is compelling evidence that a society is effectively combating corruption, and, if perceived as such by the public, can bolster confidence in institutions and undermine the widely-held perception that a citizen cannot or should not complain about corrupt officials.

Interviews were conducted of a spectrum of participants in the justice sector of Montenegro. Among those, judges, prosecutors, and police received most attention. In addition, the Ministry of Justice (not directly responsible for judges, prosecutors, or the police in Montenegro), private attorneys, and the University of Montenegro Law Faculty were contacted. Other institutions, notable for their history of less-than-ideal cooperation with law enforcement, were also part of this sector analysis. They include the State Audit Institution, the Commission for Prevention of Conflict of Interest, and the Administration for the Prevention of Money Laundering and Terrorist Financing.

These interviews were analyzed in light of several recent studies (Trivunovic, Devine and Mathisen, 2007 and Peric, et al., 2007) which provide an excellent background of the corruption issues prevalent in the justice sector prior to the adoption of the new constitution and other legislative reforms. Many of their core recommendations remain viable, including the need for greater transparency and accountability in the pertinent institutions. And one of the key comments remains applicable: “The preconditions for a successful confrontation with organized crime and corruption are in place, and it will soon be time to measure success not only on the number of laws passed, but by the number of convictions achieved” (Trivunovic, Devine and Mathisen 2007: 7).

The Directorate for Anticorruption Initiative (DACI) recently completed a survey research study of the justice sector (2008) (the sample included 1788 respondents from eight target groups: judges, lawyers, prosecutors, court staff, court experts, parties, inspectors in the criminal police sector, and businesses). Not surprisingly, given the difficulty inherent in quantifying the level of corruption in a society, the report relies primarily on perceptions of corruption. Also not surprisingly, the report found generally that perceived corruption in the justice sector is higher than data about direct experiences of the respondents with corrupt officials. In particular more than one-third of all interviewed parties and one quarter of companies had the perception that the judicial system in Montenegro is often or always corrupt. But, only 11% of parties, 8.5% of lawyers and 7% of companies indicated that bribes, illegal payments or some other corrupt act were requested of them from someone in the judicial process.

Ultimately, the conclusions of that DACI study are consistent with the findings of this assessment. It recommends consistent implementation of pertinent Codes of Ethics among the professions involved in the justice sector; strengthening disciplinary oversight of judges, prosecutors, and police; establishing an effective citizen-complaint process with appropriate follow up; enforcing conflict of interest rules more strictly; greater transparency; and increased public awareness campaigns and civic education (DACI, 2008: 71). These recommendations remain viable and worth pursuing.

The picture of the justice sector that emerges from this assessment is of a sector that can do more to combat corruption externally and internally. However, it is also a sector in rapid transformation. Many changes have been made in the last several years in the laws, regulations, personnel, and organizational structures involved. Many more very significant changes are on the horizon. The ability to absorb these changes is an enormous challenge; but it is a task that must be done and one that can be aided by prudent, coordinated help from international donors.

Major Corruption Vulnerabilities

The Judges and Courts

Montenegro's court system consists of basic courts, higher (district) courts, commercial courts, an appeals court, an administrative court, the Supreme Court, and the Constitutional Court.

Specialized judges to handle corruption are within the high courts of Podgorica (4 judges) and Bijelo Polje (3 judges). The current President of the Supreme Court is Vesna Medicina,

The new constitution provides for a 10-member Judicial Council, including a chairman who is also the President of the Supreme Court. The President of the Supreme Court is selected by the parliament; 4 additional judges are selected by the Conference of Judges; 1 is the Minister of Justice; 2 are Members of Parliament and selected by that body; and 2 are "distinguished lawyers" appointed by the President of the State.

formerly the Supreme State Prosecutor. She has pledged to hire 2 more specialized judges to handle corruption cases. All of these specialized judges will receive increased pay.

1. The Ombudsman reported that his office receives more complaints about the courts than any other institution in Montenegro. The complaints refer to delays in proceedings, obvious misapplications of the law, and court verdicts that are not executed.

2. Judges are selected and dismissed by a newly constituted Judicial Council. Although it is an improvement over the prior model, this council is still perceived to be too political, because its head and 2 members are selected by parliament, and another member is the Minister of Justice. Parliament is generally considered to be a body that rubber stamps the decisions of the controlling political party.
3. The disciplinary committee of the Judicial Council does not conduct any audit or examination that would reveal conflicts of interest that might arise between judges and the cases they handle. Although all judges (and prosecutors and high-level police) are required to file financial declarations with the Commission for the Prevention of Conflict of Interest, no effort is made to determine if judges are hearing matters with which they have a conflict of interest based on those declarations.
4. Trials take too much time, in part, because the courtrooms are not equipped with, and the judges do not use, any form of court-reporting mechanism; although audio recording equipment is available in some courtrooms. In addition, trials are frequently adjourned for lengthy periods of time, resulting in the elongation of the proceedings.

On June 4, 2009, the team observed a criminal trial in the Basic Court of Kotor. The trial was before a judge of the court, and 2 lay judges (appointed by the Judicial Council). Questioning of the accused and the victim was conducted by the judge, the prosecutor and the defense attorney. After the questioning ended, the judge essentially repeated the statements while a clerk typed them into a computer. Audio recording equipment (previously donated by USAID) was not used, and sat to the side of the judge.
5. Although specialized higher courts for organized crime and corruption have been established in Podgorica and Bijelo Polje, the four judges in Podgorica and the three judges in Bijelo Polje are insufficient to handle the caseload.
6. Judges are insufficiently trained in the provisions of the new Code of Criminal Procedure (likely to be adopted in the summer of 2009, with some provisions becoming effective later), and the Code of Ethics, adopted on July 27, 2008.

As of June 1, 2009, the Basic Court of Kotor (with jurisdiction over the towns of Budva, Tivat, and Kotor) had 12 cases on its docket related to corruption. 2 cases dated from 2007; 3 from 2008; and 7 from 2009. The President of the court has declared corruption cases to be a priority, consistent with the directive of the President of the Supreme Court, and has directed that steps be taken by the 5 (out of 13) judges working on corruption cases to expedite them.
7. Defendants who have insufficient resources to hire their own defense attorneys are given appointed counsel. The appointments of defense counsel are made from a list of attorneys maintained by the Clerk of Court. The appointment system is said to be “random,” but it is not believed to be automated.⁵ Appointed counsel does not necessarily have any experience or specialized training in criminal defense matters.

The DACI/UNDP report specifically notes, “Consistent implementation of Codes of Ethics by mentioned professions is necessary, which has significant importance for the integrity of the judicial system. Also, it is necessary to undertake appropriate measures against those who violate those Codes, which results in the effect of prevention and education. Acting according to the code needs to be taken into consideration in terms of career advancement.” (p. 71.)
8. Although semi-annual reports of the courts are prepared and made available to the media and public, daily or weekly court calendars are usually not made

⁵ In most courts, the cases are distributed according to alphabetical order.

public, and some Basic Courts do not maintain websites to keep the public aware of their activity.

9. A Code of Ethics for judges was drafted by UNDP with input from the EC and adopted in 2008. An initial training was scheduled, but poorly attended.

The Prosecutors

The Supreme State Prosecutor is the top prosecutor in Montenegro. Several divisions, including the Special Prosecutor for Corruption, Organized Crime, Terrorism and War Crimes, report directly to the Supreme State Prosecutor. There are 15 municipalities with Basic Courts and a State Prosecutor in each. The number of Deputy State Prosecutors in the Basic Courts varies with the size of the municipality. For example, Kotor has 1 State Prosecutor and 4 Deputy Prosecutors.

1. The Special Prosecutor is well regarded and professional. However, the breadth of her mandate (corruption, organized crime, terrorism, and war crimes), the limited prosecutorial and managerial discretion given to the office, the inadequate staffing, and the upcoming changes in law (primarily involving the role prosecutors will take in leading corruption investigations) constitute major challenges to the effectiveness of this important position.
2. The Special Prosecutor has only 2 deputies, out of a total of 5, assigned to handle corruption cases.
3. Although cooperation with police has improved recently, the degree of cooperation and interaction will have to be increased in light of the lead role the prosecutor will have in corruption investigations. Cooperation with other entities, including the State Audit Institution, the Commission for Preventing Conflict of Interest, and the Administration for the Prevention of Money Laundering and Terrorist Financing, is problematic.
4. There appears to be little or no communication between prosecutors of the Basic Courts, the police, and building inspectors at the local level.
5. Many recent improvements in the law have given the prosecutors new tools to combat corruption, including special investigative techniques such as secret surveillance (pursuant to court approval). The laws covering money laundering and asset forfeiture are either too complicated or insufficient to provide prosecutors with the appropriate tools to efficiently and legally separate criminals from their ill-gotten gains.

The President of the Kotor Basic Court advised that his court, which covers Budva (a town experiencing extensive new construction and perceived to be riddled with violations of building codes and spatial planning requirements), has not seen a single case of bribery involving a building inspector.

The Police

The Police Directorate, or Criminal Police Department, of Montenegro is not under the Ministry of Interior (as in other Balkan countries) and is considered to be relatively independent. The Assistant to the Director, and the Head of the Division for Combating Organized Crime and Corruption, are generally well regarded and have been good partners in the fight against

corruption. Over 100 police officers have been assigned to the special division for combating organized crime and corruption. On the local level, communal police departments are under the control of municipal governments, not the Police Directorate.

1. The transition from police-run corruption investigations to prosecutor-run investigations will be difficult. Although both police and prosecutors claim that cooperation is good, this change in management of investigations marks a significant break in practice and tradition. It will take time, and persistent leadership over time, before we know whether the new system is effective.
2. Police at all levels of involvement in the anticorruption effort will need to receive extensive training on the new tools available under the new criminal procedure code.
3. Although principal responsibility for corruption investigations rests with the Division for Combating Organized Crime and Corruption, the Department for Prevention of Economic Crime is also involved, particularly with respect to financial investigations and money laundering. The police need to improve their training, and therefore their abilities, in the area of financial investigations. Ultimately, the procedural impediment to police providing expert testimony and evidence in the field of financial investigations must be overcome.
4. The police are proud of a campaign initiated in October 2008 (with the support of DACI and OSCE) to publicize the process for reporting, and the protections for people reporting, corruption to the police. 27 people have been specially trained to provide assistance to those wishing to report corruption, with an emphasis on the confidentiality of these communications. There is in place, however, no “whistleblower” law that could provide beneficial protection. (Some whom we interviewed suggested that a modicum of “whistleblower” protection may be found in the civil service laws; but, it is generally regarded as insufficient.)
5. Police procurement is not subject to the tender requirements, and attendant transparency, of the public procurement rules. This exemption from the usual procurement rules has been cited as a real invitation for corruption and inside dealing.

Ministry of Justice

The Ministry of Justice has a limited role in the criminal justice system of Montenegro. The Minister of Justice is a member of the Judicial Council, which oversees the courts, but not the prosecutors or police. The Deputy Minister of Justice for Judiciary is concerned with policy issues, supervision of court administration, and the updating of laws relating to criminal justice, such as the criminal code and the criminal procedure code. Changes in legislation, therefore, are usually initiated in the Ministry of Justice. The Center for Mediation was founded by the Ministry of Justice.

1. The Ministry of Justice, while monitoring the implementation of the new criminal procedure code, should consider the adequacy of various other laws related to the fight against corruption in Montenegro. For example, the criminal code does not have a provision for false certifications, which, if applicable to the filing of financial disclosure documents, would be a forceful measure in the fight against corruption. In addition, the “whistleblower

protections” could be improved, as well as the legal basis for “legal aid” for citizens too poor to hire their own lawyers to complain about corruption.

2. With the assistance of IMG and the Norwegian government, the Ministry of Justice has been working on a plan to augment the jurisdiction of the basic courts to include misdemeanor cases. The resulting increased caseload could result in a further exacerbation of the backlog problem in the courts.
3. Mediation and Alternative Dispute Resolution mechanisms are in their infancy in Montenegro.

Private Attorneys and Law Schools

The Bar Association of Montenegro has been in existence for 100 years. It has 550 registered lawyers as members and 250 trainees. Its membership is composed of lawyers who practice before the courts; in British parlance—barristers. The Lawyers Association of Montenegro is composed of solicitors. The largest Law School in Montenegro is part of the University of Montenegro, which has three campuses and over 4000 students. There are two private law schools in Montenegro.

1. Functional free “legal aid” does not exist in Montenegro at the moment.⁶ We were informed that citizens who cannot afford their own legal services can receive court-appointed legal assistance only if they pay 30% of the official fee for civil cases. (Criminal defendants who cannot afford an attorney are apparently provided one at no charge; however, the Bar chamber advised that they are still supposed to pay 50% of the official rate for a defense attorney.) A functioning free legal aid program could provide much needed assistance to citizens throughout the country seeking to pursue grievances related to corruption.
2. Unfortunately, there is no tradition of “pro bono” work by attorneys in Montenegro, outside the context of providing free legal assistance to family (including extended family) members. The likelihood of attorneys volunteering their time to assist in “legal aid” facilities is remote.
3. Law students do not have the right to appear in court in Montenegro. However, with assistance, legal clinics in law schools could be organized to provide practical legal aid to citizens who have been victimized by corruption.
4. The defense bar has some concern that the reforms in the criminal justice system have concentrated too heavily on providing new tools for the police and prosecution, without adequate guarantees for the rights of the accused.
5. The defense bar acknowledges that the new Constitution, the European Union standards, and UN Conventions to which Montenegro is party, all call for the right of an accused to a speedy trial. However, they believe that the courts do not adhere to these legal requirements.
6. Although the University of Montenegro has an expert mediator in the faculty, and programs to support Alternative Dispute Resolution mechanisms, there has been little development of these programs, and little application of them in the justice sector.

⁶ Legal clinics had existed at the University at various times in the past to provide free assistance, but they depended on donor assistance and tended to halt operation once funding ended.

Other Institutions

State Audit Institution

1. The law does not currently require the auditors in the State Audit Institution to look for or report on corruption, fraud or any sort of criminal conduct.
2. Auditors are not trained to, and do not perform, audits of conflicts of interest.

Commission for Preventing Conflict of Interest

1. The Commission reports good compliance with reporting requirements by State officials, and not so good by local officials.
2. The decisions of the Commission, although largely affirmed by the Administrative Court and Supreme Court when appealed, are still criticized as being politically motivated.
3. The standards for determining “conflict of interest” seem questionable.
4. The Commission does not have the authority to, and does not in practice, conduct investigations to try to get to the reality of potentially problematic relationships.

Administration for the Prevention of Money Laundering and Terrorist Financing

1. This Administration processes about 250 transactions a day, and seems barely able to keep up with the clerical responsibilities.
2. Although it has analytical capacity, this work has resulted in only 27 referrals of suspicious transactions to police and state prosecutors since 2007. Apparently, no criminal prosecutions for money laundering have resulted.

Opportunities and Recommendations for Reform

As a country that has recently regained its independence, Montenegro appears highly motivated to make the necessary changes to eventually enter the European Union and the broader world community. This general attitude gives rise to many opportunities for donor countries and entities to encourage the correct sort of change—change that is calculated to strengthen the institutions of democracy, governance, and commerce to better reflect the will of the people, and to combat the debilitating effect of systemic and cultural patronage and corruption that has been all too prevalent in Montenegro.

The justice sector in Montenegro has already been the beneficiary of much donor assistance, particularly from USAID. Currently, the U.S. Government, through entities such as OPDAT, ICITAP, the FBI, Secret Service, and even the SECI Center, have a number of programs in place, or in planning, that will bring a variety of assistance to the courts, prosecutors, and police. In addition, UNDP, the European Commission, and IMG are also actively involved in providing assistance to the Montenegrin justice sector. The European Commission, in particular, is scheduling a “major intervention” in the area of organized crime and corruption in Montenegro for 2010. It goes without saying that “donor coordination” is critical if the donor community

intends to maximize its impact in Montenegro without duplicating efforts or perhaps even pushing counter-productive initiatives.

The opportunities for assistance are numerous. As noted above, the courts have reorganized and specialized in an effort to combat corruption. Support for this effort is an obvious choice. This could take many forms. The Judicial Council's disciplinary body could be singled out for support, including training the members of the committee (or staff) to audit the judges' cases for possible conflict of interest, not just for delay in clearing backlogs. Clearly, training on the requirements of the Code of Ethics, and the importance of linking compliance with professional advancement, is important. Increased transparency in the Basic Courts could be a focus of attention, perhaps through assistance in establishing websites for daily calendars and rulings. More efficient and transparent court administration and case management processes are also important. In addition, installation of audio/video recording equipment, or the initiation of some form of simultaneous reporting of proceedings, in the courts could expedite the proceedings, help clear backlogs, and improve the transparency of the proceedings. And, of course, with the many changes of law (particularly the code of criminal procedure), training of judges in these provisions is vital.

The Special Prosecutor for Organized Crime, Corruption, War Crimes and Terrorism is an important focal point for the fight against corruption. The success, or failure, of her efforts will have a major impact not only on the reality of corruption in Montenegro, but also the perception of corruption. The impending change in criminal procedure that will put the prosecutor in charge of the investigations is a new concept to law enforcement in Montenegro (and most of the rest of the Balkans). It is vitally important that this new method of investigation and prosecution be done correctly, and well. This means that training among all participants in the process must occur. Judges, prosecutors and police must train together. United States law enforcement personnel experienced in forming task forces of prosecutors and police (across a variety of jurisdictions) are perhaps uniquely qualified to provide this training. Additional investigation tools (Special Investigative Measures or SIMS) authorized in the new criminal procedure code, such as secret surveillance (wiretaps, etc.), controlled deliveries, and undercover operations, may also be subjects for training. OPDAT has already begun important training in the area of "plea bargaining" which can also be an important weapon in the fight against corruption.

Under this new system in which prosecutors will be the driving force in corruption prosecutions, the prosecutors will need to be smart, well educated, well trained and proactive. Among other topics, the prosecutors need to be trained to read audit statements and conduct (or supervise) financial investigations. They will also need to be leaders. They will need to be able to work with police, and be able to reach out to other entities for appropriate assistance, such as the State Audit Institution, the Commission for Preventing Conflict of Interest, and the Administration for Prevention of Money Laundering and Terrorist Financing. Ties with the Ombudsman need to be strengthened. In particular, the Ombudsman should be able to routinely refer anonymous complaints of corruption to prosecutors. The prosecutor's job will be very demanding. Every effort should be made to expand the number of prosecutors specializing in corruption cases (currently 2); and to establish a similar specialization, through appropriate vetting and training, within the prosecutor offices of the various Basic Courts. This is a group that should be held up as "the best of the best."

The police appear well organized and motivated to play their crucial role in the fight against corruption, although increased attention to an effective internal affairs department is in order. Both the Deputy Director and the Division Chief for Organized Crime and Corruption impressed the team with their determination, intelligence, and apparent candor. An investment in training police in new investigation techniques, and task force investigations, should be a staple of any assistance plan calculated to combat terrorism. More particularly, however, the police are in need of training in conducting (or being involved in) financial investigations. Corruption cases are very difficult to investigate. With no ability to conduct a financial investigation, corruption cases are virtually impossible to investigate. Police expertise in this area, coupled with a willingness of the courts to listen to it, would be a good step in the right direction.

Corruption in the area of building permits and spatial planning presents a unique opportunity for assistance. This is a problem that can be tackled only through cooperation, at the local level, among building inspectors, police, and prosecutors, and perhaps with the assistance of the Basic Courts because of their new misdemeanor jurisdiction. Assistance in bringing these entities together to discuss and address this corruption problem could be extremely beneficial.

Opportunities exist to assist **the Ministry of Justice** in crafting new legislation. Among those laws that would aid in the fight against corruption are an effective “Whistleblower Protection Law,” a “Free Legal Aid Law,” and perhaps a criminal false swearing charge, similar to the criminal provision in the United States known as “Section 1001.” In addition, the implementation of the plan to include misdemeanors within the jurisdiction of the Basic Courts is an area with which the Ministry of Justice could use assistance. This new responsibility will entail new record-keeping responsibilities, beyond the current capacity of the courts and the police. Finally, the Ministry of Justice is in the best position to review and revise the complete set of laws that govern criminal money laundering prosecutions, asset forfeiture, and property confiscation and management. Support for this review presents a very significant opportunity to assist in fighting corruption.

The **Bar Association of Montenegro** is headed by a well-known criminal defense attorney who is outspoken in his desire to be involved in the fight against corruption. His interest, and the strength of his organization, presents an opportunity to leverage private attorneys to support anticorruption efforts. This could take many forms; but perhaps most significant is the recruitment of attorneys to provide pro bono services directed at legal aid for citizens who may have been victimized by corruption. This effort could be strengthened by the involvement of well-structured legal clinic programs at the law schools that could provide real world training and experience in assisting with legal aid to the poor.

Alternative Dispute Resolutions mechanisms, including mediation and arbitration have been statutorily authorized, and some training has occurred, primarily in the law schools. The strengthening of these mechanisms, so that they provide an efficient, transparent, and fair system of resolving disputes outside a judicial system perceived to be corrupt, represents another opportunity for donor assistance. Training in the law schools and among the judges and lawyers of the country could be of significant assistance.

Currently on the periphery of the justice sector are three institutions: **a) State Audit Institution; b) Commission for Preventing Conflict of Interest; and c) Administration for the**

Prevention of Money Laundering and Terrorist Financing. They should not be on the periphery. They are relegated to this position by their relative lack of involvement with the investigation and enforcement segments of the sector. An opportunity exists to work with each of these entities to increase their ties to the prosecutors and police, in an appropriate way, so that criminal corruption activity may be identified more efficiently and quickly. Auditors need to be trained to look for signs of corruption and conflict of interest. The Commission for Preventing Conflict of Interest should tighten its standards for recognizing conflict of interest. And the Administration for Prevention of Money Laundering should have the right, and capacity, to conduct further investigation into suspicious transactions, and turn those investigative results over to the police and prosecutors.

Anticorruption Program Option	Major Counterparts	Potential Obstacles	Potential Impact on Corruption	Short-term Success	Impact Timing
Strengthen oversight capacity of Judicial Council	Judicial Council, President of Supreme Court, IMG	Political resistance	Medium	Medium	Long-term
Improve case management processes in courts	Judicial Council, President of Supreme Court, Justice Ministry, donors		Medium	Medium	Medium-term
Automate random selection processes for case assignments and appointment of lawyers	Judicial Council, President of Supreme Court, donors	Corrupt judges, political allies	Medium	High	Short-term
Improve transparency of court activity and rulings	Judicial Council, President of Supreme Court, donors	Corrupt judges, political allies	Low	Low	Long-term
Enhance court reporting mechanisms	Judicial Council, President of Supreme Court, Basic Court judges, donors		Medium	Medium	Medium-term
Provide training in new substantive and procedural law and ethics to judges, prosecutors and police	Judicial Council, President of Supreme Court, Chief State Prosecutor, Police Directorate, donors		High	High	Medium-term
Provide material and other support to the Special Prosecutor for Corruption	Chief State Prosecutor, Special Prosecutor for Corruption, donors	Corrupt politicians and political allies	High	High	Medium-term
Coordinate training of judges, prosecutors and police on the new role of prosecutors in corruption investigations	President of Supreme Court, Chief State Prosecutor, Police Directorate, donors		Medium	Medium	Long-term
Coordinate training of judges, prosecutors and	President of Supreme Court, Chief State		Medium	Medium	Long-term

police on the new special investigative methods	Prosecutor, Police Directorate, donors				
Sponsor roundtable discussions with prosecutors, judges, police and building inspectors on corruption in the development process	President of Supreme Court, Chief State Prosecutor, Police Directorate, building inspectors, donors		Low	High	Short-term
Provide special corruption prosecutors with access to good examples of anticorruption task forces	Special Prosecutor for Organized Crime, Corruption, Terrorism and War Crimes		Medium	High	Medium-term
Support Police Directorate in training police on new investigative techniques, including participating in task forces	Police Directorate		Low	High	Short-term
Provide training to police and prosecutors on conducting financial investigations and interpreting financial information, including audit reports	Police Directorate, Chief State Prosecutor, donors		Medium	Medium	Medium-term
Draft a model "whistleblower" protection statute	Justice Ministry, Bar Chamber of Montenegro	Corrupt politicians, political allies	Low	Medium	Medium-term
Strengthen free legal aid legislation	Justice Ministry, Bar Chamber of Montenegro, Law Faculty		Low	Medium	Long-term
Draft and propose a new "false swearing" criminal statute	Justice Ministry		Low	Medium	Medium-term
Strengthen the misdemeanor realignment effort	Justice Ministry, IMG		Low	Low	Long-term
Strengthen money laundering and asset forfeiture statutory basis and implementation	Justice Ministry, Administration for the Prevention of Money Laundering, donors		High	Low	Long-term
Educate and encourage lawyers to perform pro bono legal services for the poor	Bar Chamber of Montenegro, Association of Lawyers of Montenegro		Low	Low	Long-term
Strengthen clinical law programs in law schools	Law Faculties, Bar Chamber of Montenegro		Low	Low	Long-term
Strengthen ADR mechanisms	Justice Ministry, Law Faculties,		Low	Low	Long-term

	Center for Mediation				
Strengthen capacity of auditors to find corruption	State Audit Institution, Finance Ministry, donors		Medium	Low	Long-term
Strengthen capacity and function of Commission for Preventing Conflict of Interest	Commission for Preventing Conflict of Interest, Justice Ministry, Judicial Council, donors		High	Medium	Medium-term
Strengthen capacity and function of Administration for Prevention of Money Laundering	Administration for Prevention of Money Laundering		Medium	Medium	Medium-term

6.2 Spatial Planning and Construction

The Law on Spatial Planning provides for “presence of the public in the spatial development proceeding.” The text of the Law focuses heavily on public interest – it provides for public access to spatial planning information, defines structures of “general interest” (utilities, roads, large buildings, public areas), and provides mechanisms for input. Certain bodies (regulatory, utilities, etc) are *required* to submit proposals ‘necessary for the development of the planning document.’ In addition, the Ministry responsible (Economic Development) is required to submit its draft local planning document to state bodies and to “business organizations and other legal entities competent for” environmental protection and other issues. It is not clear whether this encompasses NGOs, as the remaining language seems aimed at regulatory bodies. However, the law also provides for public debate (advertised in advance) on draft planning documents and their related environmental impact statements. If the debate results in substantial changes to the document, a second public debate must be held for the revised document. Reports on each public debate are required and must be published online. Final decisions on the planning documents must be published in the Official Gazette. Local government staff were able to describe these mechanisms in detail and noted that they were applied for even minor alterations to the overall spatial zoning plan.

The Law also provides for compensation to private landholders for public utility easements, for permitting and review processes, insurance requirements, disabled access standards, health protection, nuisance limitations, documentation requirements, and a host of other issues. Every application for a building or use permit must be published online, as must the permit itself. The general contractor must post or make available extensive documentation on the site itself. In short, Montenegro has a sound legal framework for spatial planning.

At the same time, spatial planning and construction was suggested as an area of corruption concern by *every* interlocutor.⁷ While the South, in general, and the municipality of Budva in particular, were generally given as examples, the problem appears to pervade the country at all levels.

⁷ This was true even at the local level. For example, the Chief Administrator of Kotor described a survey that the municipality had carried out, in which respondents consistently mentioned cadastre and urbanism as prime targets of corruption.

The Department of Spatial Planning within the Ministry of Economic Development (which oversees property inspectors) provided a classically evasive, unresponsive interview. The interlocutors were not only visibly stressed, but answered virtually every question with the answer “it is in the law.” At the local level (which issues permits), staff were much more forthcoming, but appeared extremely naïve, suggesting that the existence of laws was enough to deter wrongdoing.

Despite these flaws, major donors have chosen to invest heavily in the sector. World Bank is just beginning a very large project focused on technical issues – cadastre, GIS, etc. GTZ is continuing a more modest program focused on the work of inspectors. Both organizations indicated that there was ample room for additional donor involvement.

Montenegro has staked a good deal of its economic future on the ability to attract tourists on a recurring basis. At the same time, it is attempting to attract foreign investors. The consistent reports of corruption in spatial planning form a serious obstacle to the former. Not only is a reputation for corruption in itself a deterrent to tourism, corruption in the letting of concessions for tourist destinations and in construction of tourism facilities is likely to lead to higher cost and lower quality options for those tourists that come. An example can be seen in Budva, which was consistently described as “ruined” or “lost” due to the profusion of illegally constructed buildings that has resulted in a well-located city with no central plan, difficult access, and only moderate facilities. Kotor, currently a small municipality with a beautiful old town, is commonly mentioned as the likely next victim of corruption.

The picture for foreign investment is more mixed. The Montenegrin Investment Promotion Agency (MIPA) takes a decidedly hands-off view of corruption, arguing that Montenegro’s corrupt reputation makes no difference to potential investors, while at the same time providing a concrete example of a major investor that chose not to invest due to corruption. This example encapsulated part of the government view – suggesting that the investor had been frightened off by a MANS report on corruption, and that the problem lay, not with actual corruption, but with a troublesome NGO. Similarly, MIPA argued that corruption is in the end immaterial – only results matter.

Montenegro has, in recent years, seen substantial foreign investment that may, as one interlocutor suggested, have hidden the true level of corruption. It may even be that, as MIPA inadvertently suggested, that some investors have even been drawn by corruption (the ease with which difficult requirements can be avoided). Certainly, questions have been raised, and suspicions aroused, by much of the privatization process, and about purchasers and developers of land on the coast. If Montenegro is to develop in the long term, however, it must begin to consider and attract investors that are more particular and more likely to be interested in the success of the community surrounding their investments.

Major Corruption Vulnerabilities

Given the quality and detail of the spatial planning law, the clear problem is in implementation. While it was interesting that municipality staff were well trained in the procedures required by law, it seems likely that much of the procedure (e.g. public hearings) is not applied in practice.

The process for getting permits has been streamlined in recent years, but the process for getting the documents *necessary* to get a permit is still complex. Even for the permit itself, local government staff noted the necessity to get a pre-approval, and then to get individual approvals from water, electric, and other utilities – all in different places – before getting the final permit

approval. This process allows not only needless delay, but great opportunities for corruption. For example, the World Bank estimates that the bureaucratic procedures necessary to get all the permissions to build a EUR 715,000 warehouse in Podgorica would cost over EUR 15,000, and take about 344 days.⁸

Inspectors are staff of the Ministry. There are two types of inspectors: inspectors for spatial development and inspectors for urban planning. If deemed necessary, the Ministry can delegate authority for inspections to the local level, but, to date, this has only been exercised in Podgorica. The Law provides inspectors with clear authority to halt construction activity, to close construction sites, and to demolish buildings. The authority, phrased as an obligation, provides relatively little room for discretion. Fines may also be imposed, with a range from 3 to 5,000 times the minimum wage. While the lower fines may not deter major investors, they may prove important to individuals.

Despite these powers, it appears that in practice inspectors are often unwilling to issue negative reports about the properties they inspect. Various reasons were given for this, including fear of physical violence, bribery, and the social discomfort of causing harm to a neighbor, friend or relative.

Corruption in spatial planning is so well known (for example, it was the subject of an extensive study by MANS in 2005), and apparently so little responded to, that one must suspect complicity at high levels of government. In a corollary to this, some interlocutors suggested that the permitting process is sufficiently complex, slow, and corrupt, and that everyone has at one time or another has built something illegally. Fear of having this come out restrains possible complainants.

Recommendations for Reform

It seems unlikely that Montenegro is willing to tackle spatial planning corruption at a high level. The eventual result of the World Bank support program will be instructive in this regard. However, since corruption in spatial planning is so extensive and well-known, it would be worthwhile to address it in some way. Since there is questionable political will at the top level, and very likely none with middle managers, the best opportunities appear at the lower level. While the team was not able to talk directly with inspectors, there was anecdotal information that at least some inspectors are willing to do their work properly, if sufficiently protected.

Insulate inspectors: As noted elsewhere, the team was impressed with the abilities and relative integrity of the police. There may be an opportunity to bring police and planning inspectors closer together, to increase physical safety, and to provide ‘cover’ for inspectors. Inspectors may also need greater physical protection, possibly including direct links to police stations or officers that can respond quickly to threats. At the same time, officers could be delegated to routinely accompany inspectors when serving sensitive orders (e.g., demolition), and could be tasked with reporting criminal violations to prosecutors, thus reducing the pressure on (and responsibility of) inspectors. In a similar way, it may be possible to protect inspectors by increasing their anonymity in other ways. As is done for Customs, border, and tax officials, property inspectors could be rotated around the country. While inspectors do currently work (at least at times) in teams, this could be instituted as a regular practice, and the teams could be made larger. While more resource intensive, the benefits (including from additional revenue) could be substantial.

⁸ <http://www.doingbusiness.org/ExploreTopics/DealingLicenses/Details.aspx?economyid=210>

The overall goal of the program would be to make inspectors more physically and socially secure in carrying out their work.

Chamber: The Law on Spatial Planning provides for the creation of a “Chamber in the area of spatial development and construction of structures” to which all persons engaged in spatial planning and construction must belong. The Chamber’s mission is as a regulatory body that oversees professional examinations, establishes and implements a code of conduct, and manages a disciplinary process for members. The Chamber has been established centrally in Podgorica and issues licenses for citizens, while the Ministry is in charge of licenses for businesses. It is considered to be independent from the national government. This Chamber could be an important counterpart in limiting corruption in spatial planning. An impartial disciplinary body could provide an avenue for anonymous reporting of violations and an important check on inspectors. While the team was not able to meet with the Chamber during the visit, we recommend that USAID devote some time to investigating the Chamber’s true capabilities and level of political will.

The team does not recommend working at a higher level with the Ministry of Economic Development unless there is substantial new evidence of political will to address the clear corruption problem in spatial planning.

Option	Major Counterparts	Potential Obstacles	Potential Impact	Short-term success	Impact timing
Insulate inspectors	Police, Inspectors	Political will within the Ministry of Economic Development	High	Low	Medium term
Support the Chamber of spatial planning and construction	Chamber	Political will and independence of the Chamber	High	Low	Long-term

6.3 Business Regulation and Public Procurement

Business Regulation

Despite legislative and procedural changes and reforms, a number of impediments to doing business remain. The IFC/World Bank’s *Doing Business* report for 2009 ranked Montenegro at the 90th position out of 181 countries.⁹ This position marks a drop for Montenegro of six places in comparison to the 2008 report. The five most problematic areas for doing business are starting a business, dealing with construction permits, paying taxes, enforcing contracts, and registering property.

- According to the *Doing Business* data, starting a business in Montenegro takes 15 steps, while the average in the East European/Central Asian region is 8 steps.
- Issuing construction permits takes 248 days and 20 steps in Montenegro (compared with only 162 days and 15 steps in OECD countries on average).

⁹ See <http://www.doingbusiness.org/ExploreEconomies/?economyid=210>, accessed June 17, 2009.

- A medium-sized company in Montenegro must pay a total of 89 different taxes/fees, while the average in the rest of the region stands at 47.
- Dealing with payment disputes and enforcing contracts in Montenegro takes 49 steps, while elsewhere in the region is averages at 36 steps.
- Registering property in Montenegro takes 8 steps and 86 days on average, while in the region it takes 6 steps and 72 days.

The inspections system is decentralized both vertically and horizontally; inspections generally function at local and national level within certain institutions. This is an area that is very often perceived by citizens and companies as a key obstacle in doing business and one where the inspector's discretion can easily lead to corruption. According to the 2008 Montenegrin Employers Federation survey,¹⁰ 35% of those interviewed companies believe that inspections are among the most corrupted government functions. While 25% of companies believe that corruption is present in the permits issuing process, 41% of respondents actually indicated that they witnessed corruption, but none of them reported it to the relevant institutions.

Major Corruption Vulnerabilities

The complex and multi-step process of issuing construction permits and registering property pose a major risk of resort to unofficial solutions. There are often opportunities for corruption to speed the processes particularly because of discretionary power given to officials. Moreover, non-participative and nontransparent processes of decision making in the spatial planning field, both on a state and local level, provide opportunities for unofficial payments.

The decentralized system of collecting taxes and the large number of taxes and fees which companies must pay, provides additional bureaucratic transactions and opportunities for bribes and extortion. Decentralized inspection systems and the lack of coordination between inspection agencies and other institutions (for example, the police) are of critical concern because they provide for only minimal controls on abuses.

Overall, the impact of such corruption on small and medium-sized enterprises (SME) is greater and more conspicuous than on large-scale enterprises, leaving smaller businesses in a more vulnerable position.

Opportunities

Reforming the business environment is a cross cutting issue, but at its core needs to include regulatory reform. The massive inflow of foreign investment over the past few years has strengthened the private sector in Montenegro. According to the Vienna Institute for International Economic Studies, Montenegro received the largest amount of foreign investment in the Southeast Europe region per capita (1325 euro) in 2008. But with the onset of the global economic crisis, foreign direct investments in the first four months of 2009 have declined 38% to 190 mn Euro, according to preliminary figures of the Montenegrin Central Bank. If the government wants to maintain an upward trend, especially in the face of the economic crisis, it will be necessary to undertake regulatory reform with combined focus on several of the

¹⁰ Montenegrin Employers Federation: Corruption Perception Survey 2008

vulnerable areas mentioned earlier. This will appear attractive to foreign investors. It will also be particularly important for creating an enabling environment for domestic SMEs that are disproportionately harmed by regulatory costs, barriers, risks and uncertainties, and associated corruption.

Some activities in this direction have already begun: the government established a Council for the Elimination of Barriers to Business and a website – <http://biznis-barijere.com> -- with the assistance of GTZ (Directorate for Development of Small and Medium-sized Enterprises, 2007). Constituencies for reform in this area include the private sector (particularly SMEs) and private sector associations like the Montenegro Business Alliance (MBA), government institutions (such as the Council for the Elimination of Barriers to Business and the Directorate for Development of Small and Medium-sized Enterprises), and international organizations and donors (such as the World Bank, USAID and GTZ).

Recommendations for Reform

As a matter of priority, the government should start reforming permit/licensing procedures, the tax/fee collection system, and inspection processes. First, an inventory of all permits, procedures, taxes and fees that are required by law in Montenegro should be undertaken and then analyses to streamline these activities should be conducted to reduce the number of procedures and steps, reduce the number of days they take, and reduce the costs. GTZ is involved in some activities already in this regard. A new activity can go a step further – to support implementation of a “guillotine approach” to overregulation. In this approach, all regulations are assessed, agency-by-agency, and those that are needed are proactively reasserted, while all those not reasserted will be eliminated by a certain deadline.

A second phase of activities could include strengthening the capacities of institutions dealing with permits, registrations and tax and fee collection to ensure efficiency, transparency and accountability. Introducing IT solutions with capacity building programs could contribute to more effective processing in these institutions.

A third phase is to establish one-stop shops for businesses to more easily obtain permits and licenses, register businesses, pay taxes and fees, register property, and so on. These units require that streamlining be accomplished first and that memoranda of coordination be signed across administrative agencies. These one-stop shops should increase the standards of administrative operation and reduce the burden for entrepreneurs in terms of time and money spent. One-stop shops would serve to reduce the number of unofficial transactions between entrepreneurs and officials.

In addition to this approach, a hotline, complaints office or Business Ombudsman can be established to provide enterprises with a single independent place to register their grievances.

Anticorruption program option	Major counterparts	Potential obstacles	Potential impact on corruption	Short – term success	Impact timing
Inventory all procedures for permits, licensing, registration, taxes and fees, and assess	Government agencies, Private sector associations, donors	Lack of institutional capacity and expertise	Medium	High	Result can be achieved within short term period

their necessity					
Adopt and amend laws, regulations and procedures to reduce administrative procedures to absolute minimum	Government, Parliament	Lack of political will	High	Medium	Midterm
Strengthen capacities of institutions that issue permits and registrations, collect taxes and fees, and conduct inspections	Municipalities, Ministry of Economic Development, inspections	Limited incentives for institutions to seek such capacity building	Medium	Medium	Medium to long term
Introduce IT applications where appropriate	Municipalities, Ministry of economic development, inspections	Lack of capacities	Medium	Medium	Medium to long term
Establish complaints office, hotline and/or ombudsman for businesses	Ministry of Economic Development	Fear of reprisals for complaining or cynicism	Medium	High	Short term
Application of one-stop shops for businesses	Municipalities, Ministry of economic development, donors	Lack of cooperation and coordination among various institutions	High	Medium	Medium to long term

Public Procurement

The Public Procurement Law (PPL) was adopted in July 2006 and came into force three months later. Generally, the PPL is harmonized with the main principles of the EU's public procurement procedures. The law established the Directorate for Public Procurement which plays an administrative standards-setting role and the Commission for Control of the Tendering Procedures which is in charge of reviewing complaints. The Commission:

- 1) reviews complaints of tenderers against public procurement procedures and makes decisions with respect of them;
- 2) examines the regularity of application of this law and proposes and undertakes remedy measures for identified irregularities, providing for competitive behavior of tenderers and transparency of public procurement procedures;
- 3) determines general provisions for the purpose of uniform application of the law; and
- 4) performs other operations in accordance with this Law.¹¹

The Commission also makes decisions with regard to infringements of public procurement procedures, which could significantly influence public contract awards. At the request of the Commission, contracting authorities can be obliged, within 3 days from the receipt of the request, to provide any files and documentation required for resolution of the complaint.¹² The Commission has never used this provision.

¹¹ Law on Public Procurement Official Gazette of Montenegro, 21 July 2006

¹² Law on Public Procurement Official Gazette of Montenegro, 21 July 2006

The law also takes transparency into account and requires that contracting authorities make the tentative contents of public procurement plans (a prior information notice), the invitation to tender and the decision on contract award publicly known.¹³ Also, according to the law, “the contracting authority shall publish the invitation to tender on the website of the responsible administrative authority and advertise it in one daily paper issued and distributed throughout the overall territory of the Republic.”¹⁴ The law also provides the possibility for carrying out procurement procedures in electronic form, but this has not yet occurred in Montenegro. In practice, the Directorate publishes relevant information on its website, but not always in a timely and consistent manner. According to the Law on Free Access to Information, all documents related to the public procurement process (including all tenders submitted after the contract award decision) are public. This option is frequently used by companies and NGOs to check the integrity of the process. Enforcement of the transparency principle depends on the availability of institutional resources which is minimal (the Directorate has only 5 staff currently). Apparently, more efforts still have to be made to improve transparency.

The law provides basic rules for avoiding corruption (Art. 13) and conflicts of interest in public procurement procedures (Art. 14). It also identifies criminal outcomes for infringements of procurement rules (both for contracting authorities and tenderers: Art.103-104). So far, the provisions have never been applied and nobody has been fined.

The amount of public procurements as a share of the Montenegrin economy increased in 2008 to 18.3% of GDP (481 million Euro). But the implementation of the Public Procurement Law is far from satisfactory, as stated in the report of the State Audit Institution¹⁵ and international organizations.¹⁶ Although open bidding is the most commonly used procedure, a large number of audit reports identified inconsistent or irregular application of legal provisions or even deliberate flouting of the law.

NGOs, the mass media and opposition parties have warned on several occasions that certain companies are awarded major government contracts under very suspicious circumstances, and that these companies know in advance what to include in the bid in order to win the contract. It has happened that, in open bids, the parties amend awarded contracts with annexes that completely change or nullify the very purpose of the bidding procedure.

Incompetent members of selection committees, along with nepotism, favoritism and political influence, make public procurement in Montenegro a government function that is especially prone to irregularities and abuse. However, the number of indictments issued by the competent prosecutors for such problems in public procurement remains extremely low. According to the

¹³ Law on Public Procurement Official Gazette of Montenegro, 21 July 2006

¹⁴ Law on Public Procurement Official Gazette of Montenegro, 21 July 2006

¹⁵ Annual Report Regarding the Audits Performed and Activities of the State Audit Institution of Montenegro for the period October 2007 – October 2008

<http://www.dri.cg.yu/podaci/Izvjestaji/Annual%20Report%20regarding%20Audits%20Performed%20and%20Activities%20of%20the%20State%20Auditing%20Institution%20of%20Montenegro%20for%20the%20period%20October%202007-October%202008.pdf>

¹⁶ Human Rights Reports: Montenegro Bureau Of Democracy, Human Rights, And Labor, 2008 *Country Reports on Human Rights Practices*, February 25, 2009 <http://www.state.gov/g/drl/rls/hrrpt/2008/eur/119095.htm>;
Global Integrity Report: Montenegro, <http://report.globalintegrity.org/Montenegro/2008/scorecard>

Montenegrin Employers Federation 2008 survey, 20% of interviewed companies perceived the public procurement process to be corrupt.¹⁷

Major Corruption Vulnerabilities

Corruption in public contracting can take many forms, including bribery, deception (fraud) or simple abuse. These can occur in various stages of the bidding procedure:

1. Decision to contract: The highly decentralized system of public procurement and lack of planning create many opportunities for corruption.
2. Identification/definition of contract characteristics: The technical requirements -- what to buy/sell/do and the description of goods and services – are wide open to conflicts of interest, for example, adjusting tender characteristics to match the interests of certain companies.
3. Contracting process opens following a particular type of process (open bid, restricted bid, shortlists, direct contracting, single source, etc): The main risk in this step is that the evaluation of bids is subjective and leaves room for manipulation and biased assessments. There are inadequate controls of this step to prevent such abuses.
4. Contract implementation and supervision: There is inadequate cooperation among key audit institutions (SAI and internal audit units) to ensure irregularities do not occur during contract implementation.

For a country that is so small, there is a very large number of contracting authorities (at least 980 throughout the country) and lack of adequate planning. This decentralization increases the likelihood of discretionary interpretation of the procurement procedures. Critical vulnerabilities for corruption are created by the fact that the government does not have sufficient capacity to monitor these decentralized units that are responsible for conducting procurements (Ware, et al., 2007).

Recommendations for Reform

The laws exist on paper, but implementation in practice needs to be sharpened.

- More staff training, especially at the local level where most procurement actions take place, is necessary to ensure that all involved in the process are well aware of the procedures and the punishments involved in violating them.
- Support the drafting of more robust laws, procedures and rules for the Commission to extend their mission, authority and capabilities to not only receive complaints, but to investigate potential problems, pass evidence on to law enforcement, follow-up on the investigation findings (including debarment from future government contracting), and enforce procurement regulations. Also, include among the Commission's functions that potential for randomized investigations without the need for a complaint being filed. As well, include the potential for random forensic audits that go beyond procurement process audits, to drill down and determine if funds are being used by awardees as intended (verifying authenticity of invoices and delivery and installation of equipment purchased,

¹⁷ Montenegrin Employers Federation: Corruption Perception Survey 2008

for example). Lastly, add provisions to the procurement regulations that encourage whistleblowing (without fear of reprisal) by contractors if they detect fraud or abuse in the procurement process or after award.

- Conduct more proactive oversight and inspection of the process by the Commission, the SAI and internal audit units, and NGOs and the media. All personnel involved must understand that abuse of procurement authority is a high cost-low reward activity that will be detected and punished.
- In addition, many contracting and procurement problems stem from inefficiencies in the contracting system. Efficient management is one of the most effective preventive mechanisms to promote transparency and accountability, facilitate oversight and citizen participation, and bring legitimacy to procurement decisions.
- Support independent procurement watchdogs among NGOs, the media, and business associations to monitor compliance with procurement regulations on particular tenders. This will require training programs, grant-making, coaching, and networking among groups.
- Promote the use of integrity pacts between government procurement agencies and bidders, where they pledge to uphold and comply with laws and regulations in particular tenders.

So, it is necessary to provide adequate training of procurement officers and key institutions, institute rotation of procurement officials, establish effective oversight and audit procedures, and develop more effective supervision and management over the process of procurement.

Anticorruption program option	Major counterparts	Potential obstacles	Potential impact on corruption	Short – term success	Impact timing
Provide training and technical assistance to Directorate for Public Procurement, Commission for the Control of Public Procurement Procedures, and for local procurement units	Directorate for Public procurement and Commission for the control of public procurement procedures, Donors	Lack of incentives from institutions to seek trainings	Medium	Success should be visible and can be achieved within mid-term period	Mid term
Support the drafting of more robust laws, procedures and rules for the Commission	Commission	Large private sector interests who benefit from the current procurement system	Medium	Success should be visible in mid-term with a more proactive Commission	Mid-term
Support cooperation between Directorate for Public Procurement, Commission for the Control of Public Procurement Procedures, State Audit Institution,	Directorate for public procurement, Commission for the control of public procurement procedures, State audit institution, Internal Audit	Reluctance to cooperation among institutions	Medium	Success should be visible and can be achieved within mid-term period	Short term

and internal audit units					
Support NGOs and media to monitor public procurement process	NGOs, Directorate for Public Procurement and Commission for the control of public procurement procedures, Donors	Resistance from state officials and private sector interests profiting from the lack of transparency	Medium	Success should be visible and can be achieved within mid-term period	Mid term
Support independent procurement watchdogs among NGOs, the media, and business associations	NGOs, media outlets, and business associations	Lack of adequate access to information	High	Possible detection of abuses	Near-term
Promote the use of integrity pacts	Business associations	Resistance from private sector interests that profit from rigged bids	Medium	Cleaner bidding processes	Mid-term

6.4 Local Governance

While the goal of decentralization is to bring democratic principles down to the level where citizens can readily see their impact and participate in decision-making that affects their lives, it typically also brings with it increased corruption. Decentralization often generates more government transactions which can become opportunities for corruption and spreads power to more officials who might abuse their authority. As a result, along with decentralization strategies, governments typically need to consider ways of integrating stronger accountability, control and transparency measures into their processes.

According to several observers, the worst corruption issues at the local level involve regulatory inspections and enforcement, transparency, registration and titling of land deeds, public procurement, and tax collection. At the same time, there are limited opportunities for public participation in these and other local issues, let alone citizen advocacy or monitoring of these issues.

Because of the nature of Montenegro's small and close-knit society, especially in localities, corruption often takes the form of nepotism, favoritism and the use of personal connections. Turning a blind eye and consciously disobeying the law, if it benefits yourself, your family or your close friends is common practice. In many cases, such behavior is not considered to be corrupt. Not behaving in this way can result in reprisals and is frowned upon. While money may not change hands in these transactions, they can still involve large deals that can be considered grand corruption.

On the other hand, as part of the national strategy against corruption, municipalities have or are in the process of designing their own strategies and action plans to fight corruption. Open hearings, surveys, and citizen participation in the development of these local strategies is a good

step toward creating local ownership and buy-in in the process and in future implementation of initiatives. Some local governments appear to have a good understanding of citizen participation processes, though it is unclear whether these are actually implemented.

Another innovative activity, one-stop shops for citizen information, has been implemented in at least six municipalities with the support, in part, of the Open Society Institute. These citizen bureaus provide a single source of information, forms, and payment of fees across local government agencies, thus reducing the number of transactional visits which are opportunities for corruption. However, while these one-stop shops provide good services to citizens, there are no similar facilities for businesses.

Major Corruption Vulnerabilities

One of the major risks for corruption at the local level involves conflicts of interest that are prompted by personal connections, nepotism or favoritism. Such conflicts can readily occur in public procurement decisions, obtaining construction permits/licenses, conducting local inspections, and in the actions of communal police.

Illegal construction, especially along the coast, is another key vulnerability. Valuable real estate attracts domestic and foreign investments, where cutting corners and building beyond permit allowances are typical behaviors. In recent years, corruption has increased in response to large sums have been invested in localities, especially along the coast; many of those in authority have grabbed what they can for family and friends, without regard for law.

The lack of adequate controls at the local level to detect, analyze and audit where familial/friendship ties might pose a threat presents major problems in dealing effectively with corrupt behavior. Local officials can act largely without fear of detection or punishment.

Opportunities and Recommendations for Reform

To date, three municipalities have developed local anticorruption action plans; the remaining cities are supposed to complete their plans by Fall 2009. This presents new opportunities for coordinated reforms across the country at all levels of government. The Ministry of the Interior has established a new commission to monitor the implementation of these local action plans. CRNVO has a representative on this commission and has organized a coalition of local NGOs to operate as watchdogs of these plans. A big question is whether there will be significant political will across municipality leadership to effectively enact the reforms detailed in the plans. To date, several localities have removed the proposed budget transparency provisions recommended by the UNDP, indicating that such reforms are already covered by the Access to Information Law.

Business permitting one-stop shops: Many delays and opportunities for corruption at the local level revolve around business permitting and licensing. Experience from other countries demonstrates that establishing One-Stop Shops for these functions can substantially speed processing time, while reducing costs, the number of transactions and corrupt payments. Based on past attempts to implement one-stop shops in Montenegro, special attention should be paid to developing Memoranda of Cooperation among the permitting agencies. The activity can begin with pilot testing in several municipalities.

Conflicts of interest analysis: Because of increased probabilities of conflict of interest situations arising at the local level, more effective procedures for collecting, analyzing and acting upon financial assets disclosures and familial information for government officials at all levels should be developed and adopted. More effective local-level internal audit capacity, as well as units within the Conflicts of Interest Commission that focus on local level authorities, ought to be established to analyze and act upon potential cases of conflict of interest at the municipal level. Pilot testing in several municipalities would be prudent at the outset.

CSO capacity building: More training for local CSOs to help them participate and advocate in local budget hearings more effectively is advisable. They need support in analyzing critical budgetary issues and in advocating for their interests. Some initial training has been conducted recently in this regard by the Balkan Trust Fund, but there needs to be dissemination of “participatory budgeting” to local groups. Building upon the work begun with ORT support through CRNVO, additional assistance to local CSOs could help them develop local and national watchdog networks that monitor government services and detect corruption abuses. Training in the use of “citizen report card” and “public expenditure tracking survey” techniques, for example, can help local CSOs to probe deeply into government operations to detect misuse of authority and identify vulnerable processes that need to be reformed.

Local legal support offices: Local independent legal support offices – Citizen Advocate Offices – can be established to provide a trusted channel for citizens and local businesses that are victims of corruption to register their grievances and get legal advice and remedial action. Government hotlines for the same purpose are rarely used because of lack of trust and fear of reprisal. Such independent legal offices, which have been implemented under USAID-supported projects in Ukraine, Albania, and Russia, and by Transparency International in a variety of countries, have been extremely popular, resulting in administrative remedies and civil litigation in response to corruption allegations.

Option	Major Counterparts	Potential Obstacles	Potential Impact	Short-term success	Impact timing
One-stop shops for business regulatory issues	City administrators	Developing MOUs across departments to ensure cooperation	High	Medium	Mid-term
Internal audit units and locally-focused units in the COI Commission to audit local conflicts of interest	City administrators	Lack of information available	Medium	Medium	Mid-term
Support for local CSO watchdogs	Local NGOs	--	High	High	Short-term
Citizen Advocate Offices	Local legal organizations and NGOs	--	High	High	Short-term

6.5 Mass Media and NGOs

One of Montenegro's strengths is the freedom of expression enjoyed by NGOs and most media outlets. With the important exception of the state broadcaster, media and NGOs feel free to say what they wish. Information on which to base reporting and action is more restricted; while there is a Freedom of Information law, it has serious flaws both in its text and its implementation. Ironically, despite this freedom of expression, neither NGOs nor media appear to have much impact on electoral decisions. However, newspapers and television remain an important source of information, and some NGOs have clearly had an impact on government action.

The Mass Media

While the Montenegrin population is highly literate (about 93%), newspapers have modest distribution. Radio stations focus mainly on music, though Antenna M was lauded for having done good investigative reporting (e.g., on electricity). Television is the most accessible news medium, dominated by the state broadcasting company. This company, while in theory in the process of transformation to a public service broadcaster, remains highly biased in its presentation. Rival television stations are both popular and critical, but are more commercially focused than public-minded.

The investigative talk show, *Robin Hood*, on IN TV was cited as an independent program. The show is focused on resolving complaints against state bodies. The show is popular, and while its direct impact is modest (320 cases per year), the host and the editor note that state officials are slowly learning that it is better to respond to initial public queries and complaints than to be embarrassed on air. The show faces limitations that include death threats (against the host), financial pressures (most of the coming year's costs are covered by a Rockefeller Foundation grant), and staffing (limited resources to work outside Podgorica). The show would like to build closer links with NGOs and others at the local level in order to expand its effective area of operation.

Of the relatively few print periodicals, *Vijesti* was repeatedly cited as the most objective and most widely respected. However, there were suggestions that the entire industry has begun to focus more on sensation and scandal than on news. This may be driven in part by frustration at the lack of impact and in part by financial pressures. *Vijesti's* revenue is 55% advertising-derived, with 45% from sales of the paper. However, the paper expects a 30% drop in advertising revenue this year due to the global economic crisis, and the paper has cash-flow problems. On the bright side, private firms no longer 'punish' the paper, as they did in the 1990s, for coverage they do not agree with. However, the ruling party does not publish any ads in *Vijesti*, a position thought to be at the personal direction of the Prime Minister. Interestingly, state institutions do occasionally publish ads in the paper.

A few training institutions exist and are respected, including the university school of journalism and the Montenegrin Media Institute. While the major journalists' association has split in two and appears deadlocked, other active organizations include the Association of Independent Electronic Media (UNEM), and the Association of Young Journalists (which provides an extensive news archive). Several newspapers own their own presses, and there are two major

competing distribution networks. Most reporters are employees of particular periodicals, with very few freelancers. Journalists are not required to be licensed.

Libel remains a criminal offense, though this was not known to all, and some journalists displayed a poor understanding of defamation. Libel convictions have resulted in substantial fines that have the potential to seriously damage media outlets, and it was suggested that social and financial attacks have been launched against *Vijesti*, *Dan*, and *Monitor* (and that no libel suits at all have been brought against state media). Similarly, a number of journalists have been beaten or harassed in recent years, and there was frustration at the lack of follow up by law enforcement bodies. However, the more immediate barrier to objective journalism was the limited size of Montenegrin society, and the social discomfort of criticizing a friend or family member. The combination of stress factors is clearly taking its toll. *Vijesti* noted that 3 journalists had left the paper in the last 10 months – not for other outlets, but for different professions entirely.

The lack of follow-up on corruption stories from law-enforcement bodies is a major concern, and a cause of frustration among journalists. An example was given of a story on ‘football mafia’ in Serbia and Montenegro that was broadcasted by an independent Serbian TV station, B92. In Serbia, a subsequent investigation resulted in convictions. In Montenegro, the police claimed they could not pursue the case because they had no information. Meanwhile, a Montenegrin journalist associated with the story was attacked, and in that case also there were no convictions.

This is not to say that journalism never has an impact. Articles on a proposed dam for the Tara River eventually led to the cancelation of the project. However, the government did replace the editor of a state-funded media outlet that had covered the dam story.

Investigative journalism, while recognized as important, is relatively uncommon. One interlocutor suggested that Montenegrin investigative journalism is a ‘UFO’ – every one claims to see it, but cannot show hard evidence of it. Most suggested that media outlets simply cannot provide the resources to sustain the long-term work required for an investigative piece. However, as previously noted, investigative journalism appeared more affected by Montenegro’s small society, and by personal pressures than by political or physical ones – that is, by discomfort in writing about relatives or friends rather than by oppression or fear.

Nongovernmental Organizations

As with many countries in the region, Montenegro is well supplied with NGOs – registration is a simple procedure, and nearly 4,000 groups are said to have taken advantage of it. Of those, however, only a few hundred are thought to be active, and among these active organizations, a small handful address corruption issues.

MANS (*see box*) is far and away the most recognized anticorruption NGO in the country. The organization was mentioned in virtually every meeting, and clearly has a distinct impact on both government action and public perceptions. When asked who oversees their actions, many government bodies named MANS rather than any internal group or government agency. This high visibility has attracted criticism – for example, government actors suggested that open criticism by an NGO was an unpatriotic act, since it might harm sensitive negotiations (e.g. with the EC).

When other nongovernmental groups were listed, the names were limited to just a few working on governance issues - CDT, CEMI, and CRNVO. CDT (the Center for Democratic Transition) has focused on election monitoring, election and political party finance, gender, and a successful

internship program with parliament and the executive branch. It noted that by using cell phones and SMS, it is able to have preliminary election reports available within 30-60 minutes after polls close – an impressive and perhaps unprecedented achievement.

CEMI (the Monitoring Center) runs an interesting and now expanding OSCE-funded court monitoring program that may be worth greater attention. In addition, the organization has worked on the political party finance law, the law on the state electoral commission, on civic education, and on health corruption. CEMI has conducted election process observation and ongoing monitoring of political party financing, as well as training of NGOs in election procedures. The organization is in the process of forming at least part of itself into a think tank capable of producing quality analyses of topical governance issues.

CRNVO (the Center for Development of Non-Governmental Organization) is primarily an NGO resource center, though with a recent direct focus on transparency and local government issues. The organization has developed a model anticorruption action plan for local governments, and is working with five municipalities to adopt and implement versions of the plan. CRNVO has also worked to develop coalitions of NGOs, media, and individuals to monitor the implementation of the plans. Transparency of local budgets has been a particular concern, and the area in which local governments have made the most changes to the model plan (deleting transparency provisions that they claim are unnecessary). CRNVO is working with the Balkan Trust for Democracy to develop a manual and training on budget transparency. CRNVO is also working to develop local NGOs, which it says currently rely on CRNVO as a backstop for legal advice and training. Local NGOs have difficulty understanding legal documents, producing quality analysis, and standing up to local actors

These organizations, while less confrontational and less visible than MANS, appear equally committed to improving Montenegrin governance. MANS, CDT, CEMI, and CRNVO are primarily active at the national level, though even at the local level, MANS was noted to have an interest in oversight. While local organizations do exist, they appear to be quite weak. However, CRNVO leads a coalition of roughly 200 NGOs (“Together Towards the Goal”) that is building a network of national and local actors. Coalition members have developed self-regulatory standards. About 120 of the members have signed a code of conduct and submit regular financial reports that are made public.



Despite its ambiguous formal name (Network for Affirmation of the Non-governmental Sector) MANS is, without question, the pre-eminent good governance NGO in Montenegro. Sadly, it is virtually the *only* such NGO.

The organization, run from a house in Podgorica, is headed by the charismatic Vanja Calovic, MANS's Executive Director, known across the country as a vigorous champion of transparency and aggressive foe of corruption.

With a hard-working staff, Ms. Calovic and MANS have made a particular study of the Freedom of Information (FOI) law in Montenegro. Finding that many FOI requests take months or longer to fill, MANS has made a virtue of necessity by focusing on quantity. Ms. Calovic notes that MANS, with its organized database of requests, can afford to wait for any one reply, given that thousands of others wait in the pipeline. With this database and an efficient process, MANS can quickly process its own and others' FOI requests, to the extent that the sheer number of submissions may overwhelm government agencies. MANS' theory is that the agencies will respond by fighting fewer requests.

In addition to this documentary approach, MANS stays in public view through frequent and colorful public protests – for example, dressing up as Santa Clauses in front of the Parliament.

While criticized as unpatriotic and overly aggressive, it is clear that MANS' confrontational tactics have been highly successful in both modifying and drawing attention to government decisionmaking in Montenegro.

While highly critical of MANS, the government has included both MANS and CEMI as members of the National Commission Against Corruption – the body overseeing implementation of the national anticorruption plan. While it appears that MANS is often the only holdout in Commission votes, the inclusion of these two key governance-focused NGOs is a significant step by the government, and ensures that the Commission functions as more than just window-dressing.

While broad governance-specific NGOs are relatively few, other watchdog NGOs do exist. Active thematic NGOs were said to exist in areas such as labor, construction (e.g. on disabled access), and consumer rights. While these groups do not focus on corruption per se, it is clearly relevant to their work, and they may provide an avenue for an oblique approach to the issue.

While the laws do not appear to provide formal mechanisms for participation in government decisionmaking, most interlocutors observed that virtually any interested organization (including critical bodies such as MANS) could take part in policy, legislative, and oversight workgroups if they so desired. This was an interesting and somewhat surprising counterpoint to clear government hostility to some groups, and suggests that, while the government would prefer to muzzle such critics, it recognizes the need to work with them in public. Complaints about the legal framework for NGOs were few, but CRNVO will work with ICNL and OSCE to provide a thorough analysis of the framework in the coming months.

The donors most supportive of civil society have been USAID, the Foundation Open Society Initiative (FOSI), and the European Union (which has funded service NGOs). The FOSI program, while small, has worked with MANS, CEMI, and others to produce useful analyses of freedom of information, political party finance, judicial reform, and other corruption-related issues. Of particular note is its support for citizen bureau/one-stop shops in six municipalities (see photo). These offices are intended to greatly increase efficiency in citizen interaction with local governments. The team visited the one-stop shop in Kotor, which appeared well equipped, almost fully staffed (appointment of one staff person was pending), and well located for public access. Some one stop shops have been criticized for their limited hours of operation.



USAID has supported NGOs on a number of fronts, most notably through the ORT program. This program has worked closely with MANS, CRNVO, and others, and has supported the NGO coalition led by CRNVO. USAID support to NDI has also enabled CDT to run a successful and expanding internship program with Parliament and executive branch institutions.

Major Corruption Vulnerabilities

As noted, the media is relatively free to express criticism, but there is a perception that the quality of independent journalism has declined over recent years, with a growing tendency towards sensationalism and scandal at the expense of serious reporting. Vijesti, while still the most widely respected independent newspaper, was repeatedly mentioned in this regard. Conversely, it was clear that some journalists have grown extremely frustrated with the lack of

government and electoral response to critical reporting, and it is possible that this very frustration may eventually lead to less balanced reporting.

The primary weakness of the NGO community is its limited numbers. While active NGOs such as MANS are well known and effective, they are simply too few and far between – MANS was virtually *always* the group mentioned by interlocutors. Because of MANS’ high visibility, and based partly on the example of the Movement for Changes (PzP), an NGO turned opposition political party, there is a wide expectation that MANS will eventually become a political party, and this perception is used by the government to discredit MANS’ findings.

Recommendations for Reform

Anonymous investigative reporting:¹⁸ Montenegro is a very small country – as was frequently noted, everyone knows everyone. Journalists are uncomfortable in writing critical commentary about people they know personally, and may even be related to. This, along with a lack of resources, libel prosecutions, and physical violence, limits interest in investigative reporting. A recent cash prize for investigative journalism drew relatively few entries, suggesting that at least as important as resources is the need for a mechanism to ‘anonymize’ reporting.

Potential anonymization mechanisms include:

- Pool byline – Reporters write for their own periodical as usual, but the byline states simply “Anticorruption Pool” rather than naming a particular author. This provides some protection for the reporter, but the number of possible writers is small, making it relatively easy to guess at the author.
- Pool reporting – Reporters contribute stories to a pool managed by a separate institution. The institution makes the story available for purchase to periodicals under its own name. This provides a much larger pool and thus greater protection. However, a locally managed institution may not be able to resist local pressures.
- Regional aggregation – Reporters work on stories in the region, rather than necessarily in Montenegro. If combined with a generic or aggregated byline this can allow reporters a fairly good degree of anonymity.

The major difficulty with all the above approaches is in the funding mechanism. Since most Montenegrin reporters work directly for media outlets, they will need both permission and funds in order to spend the time on one story that will likely be required. This could be resolved by an agreed contribution of funds and/or staff to the reporting pool.

There are good examples in the region. Centers for Investigative Journalism exist in Bosnia, Bulgaria, and Romania, among others. While these countries are substantially larger than Montenegro, they can provide both useful lessons, and potential partners for a regional activity. In addition, the Center for Public Integrity has published stories about Montenegro. While Montenegrin government officials suspect who the authors are, they appear to be unsure, indicating that this anonymization effort has succeeded at least in part.

Focus on Anticorruption Institutions: Montenegro has created a fair number of agencies with an anticorruption role. At the same time, it appears that persistent stories about corruption in

¹⁸ It is worth noting that ORT says it has “tried everything” to encourage investigative reporting, with limited success. While the assessment team believes our suggested approach is promising, any program design would need to first make a detailed review of ORT’s efforts in this area.

government have had relatively little impact on the Montenegrin electorate. Media outlets may increase their effect by covering, not only government action, but that of the organizations assigned to *address* corruption. While all government bodies benefit from oversight, the Commission for Prevention of Conflict of Interest, the State Audit Institution, and the Ombudsman, to name only a few appear less than aggressive, and might be encouraged to act more boldly by regular media coverage of their work.

Improved data on corruption experience¹⁹: Most corruption data available in Montenegro is perception based, with relatively little known about the true extent of corruption in the country.²⁰ DACI has begun to address this by conducting four sector-specific surveys (justice, local government, private sector, public sector).²¹ The first (relatively weak and general) of these has been released, and the second is due soon. At the same time, NGOs have begun to collaborate and coordinate their own efforts, and to try to build local-national links. Finally, media actors such as *Robin Hood* are attempting to expand their reach by forming networks of media, NGOs, and local government.

USAID could capitalize on this confluence of efforts by helping NGOs to develop sound corruption experience data at the local level, feed it up to coordinating NGOs at the national level, and encourage media outlets to provide substantive coverage of the result. This collaborative effort would result in substantial data that could be presented in several different ways (e.g. by region, by topic, by actor) that would allow different media outlets to draw from the same source material for many different reports. The result would be not only better coverage of corruption issues, but more substantive material for media analysis, a stronger civil society community, more visibility for local CSOs, and a shift from a Podgorica focus to a wider national and local view of corruption.

Potential counterparts for such an effort include:

- the existing NGO coalition “Together Towards the Goal,” already working with local and national NGOs.
- the group FORUM MNE, which while primarily focused on youth rather than governance, has been effectively involved in shaping national youth policy, has a national network of youth clubs, and works closely with over half the municipalities in the country
- the Association of Independent Electronic Media, the Young Journalists Association, and the show *Robin Hood* in particular.

More anticorruption active NGOs: There are simply too few anticorruption NGOs active in civil society. MANS is very effective and highly visible, but it nearly alone in its vigorous focus on governance issues. This limited pool poses several risks:

- Isolation – without a community of like-minded actors, it is possible that MANS and its leaders may lose focus, become distracted by personal conflict, or simply burn out.
- Vulnerability – because Vanja Calovic is so visible a figure, her personal vulnerability is greatly increased. She appears willing to accept this risk to date, but is unlikely to do so

¹⁹ This suggestion draws in part on the excellent concept paper “Civil Society Anticorruption Program” prepared by Eric Rudenshiold of USAID.

²⁰ Note that it is important to fight even an inaccurate perception of corruption. A simple declaration that “it’s just perceptions” is not enough.

²¹ With the assistance of UNDP, UNODC, and the Norwegian government

for very long. The same is true for MANS as an organization. If MANS were to close down for any reason, the country would lose its only strong civil society anticorruption voice.

- Credibility – because the anticorruption issue is so closely tied to MANS and Vanja Calovic, it is relatively easy for opponents to criticize MANS’ actions as a personal vendetta or quest for attention. While probably not credible to most Montenegrins, this argument is strengthened by the previous shift of the Movement for Changes from NGO to political party.

While MANS is currently the main anticorruption actor, it is not entirely alone in its activities. As noted, CDT, CEMI, and CRNVO also deal with good governance issues. More important, they are involved in the NGO coalition “Together Towards the Goal.” This coalition has a substantial network of national and local actors, and offers a mechanism for encouraging other groups to take on anticorruption activities. While it would be beneficial to have more than one NGO solely focused on anticorruption work, there are important intermediate steps that can be taken. These include:

- Thematic NGOs – while NGOs focused on health and education may not see corruption as their core issue, it is one they need to take note of. These sectors in particular are widely held to be corrupt, and the associated costs naturally affect the quality of service being offered. Encouraging thematic NGOs to increase attention to corruption issues would strengthen impact for all NGOs, and serve to spread the risk somewhat. Networks of thematic NGOs have begun to appear, and may provide a convenient entry point for programming.
- Local NGOs – local NGOs appear to be weak. By nature and ability, they are likely to be non-confrontational, and thus unlikely to adopt a MANS-style approach. However, they may well be willing to participate in more positive approaches with an anticorruption impact. For example, a local NGO might be interested to participate in a “citizen report card” activity, developing information about the quality of government services. The results of such a scorecard can be used collaboratively, to help local government understand and respond to citizen concerns. Over time, local NGOs may grow stronger and more able to lead activities or to confront local government when necessary. As noted, FORUM MNE already has connections with many municipalities, and these could also form the nexus for greater local action. FORUM MNE’s particular focus on public participation opportunities for youth could provide a non-threatening entry point for building local government experience with participation mechanisms, especially mobilizing youth stakeholders. CDT as well has a network of 30 or more municipal/regional coordinators that could be tapped, though its chief purpose is for election monitoring.

Other recommendations for NGOs and media include:

- Legal aid to NGOs – There is substantial room for support to legal aid organizations. While MANS has its own crew of staff and contract legal specialists, other NGOs with fewer resources do not have legal capability. Pro-bono or fee-based legal services for NGOs could be provided by individual attorneys or by legal-focus NGOs.
- Professional associations – the team did not have time to meet with professional associations other than the Bar and the Lawyers’ Association. However, such

organizations have played important anticorruption roles in other countries, and may be worth greater investigation.

- **Budget transparency** – As noted elsewhere, the national budget is available online, but with little detail. Several interlocutors suggested the benefit of greater transparency of and public involvement in the budgetary process at both national and local levels. For example, when questioned about budget oversight, the municipality of Kotor named MANS rather than a local body. A previous USAID implementing partner was said to have had success in supporting budget hearings and other public participation at the local level, and it may be worth reviewing and reviving the efforts that program made. CRNVO in particular noted this as an area of interest, suggesting the existence of a strong local partner, and building on its growing network of local NGOs.

Option	Major Counterparts	Potential Obstacles	Potential Impact	Short-term success	Impact timing
Anonymize investigative reporting	Montenegrin Media Institute, regional journalism centers, Center for Public Integrity	Very small Montenegrin society argues for external anonymization	High	Low	Long-term
Media focus on anticorruption actors	Media, formal anticorruption agencies	Agency resistance	Moderate	High	Medium term
Improved data on corruption experience	Media, NGOs, local governments	Coordination of the various actors, training of local NGOs on data collection	High	Moderate	Medium term
Increase NGO anticorruption focus	Thematic NGOs, network of NGOs		Moderate	Moderate	Short-term
Legal aid to NGOs	NGOs, attorneys	Disinterest of attorneys	Moderate	Low	Medium term
Professional associations	Professional associations	Unwillingness to address corruption	Moderate	Low	Long-term
Budget transparency	CRNVO, municipalities		High	Low	Medium term

6.6 Government Transparency

Free and easy public access to information about government and government decision-making at the central and local levels is an essential element of good governance. It empowers citizens by giving them the tools by which to assess how well government officials are developing public policy, transacting business, delivering services, and planning and expending public funds on behalf of citizens. The absence of free and open access to such information, or severe limitations on access, generates an environment that is rife for corruption and abuses of power. It is said that sunlight is the best disinfectant to detect and prevent corruption. By being transparent and opening government actions and decisions to detailed public scrutiny -- by providing full and up-to-date information – government makes itself more accountable to democratic society.

One measure of a country's transparency is the United Nations E-Government Readiness Index (United Nations, 2008) which ranks 189 countries on their capacity to provide computer access to information about government operations, to allow two-way communication between government officials and the public, and to facilitate public inputs into the decision-making processes of government. Montenegro ranked 156th in the world in 2005 (with an index rating of 0.1960), but achieved major improvements in its ranking by 2008, reaching a rank of 100 (and a rating of 0.4282), which is just below the world average.²² While there clearly have been major improvements over these three years, Montenegro is still the lowest rated country in Southern Europe. By this measurement, Montenegro is certainly lagging behind its peers, but appears to have begun to mobilize its resources in the right direction to improve public access to information.

Many steps have been taken in Montenegro to enhance government transparency, but there is still much more to accomplish. At the core, there is a Law on Free Access to Information, which obliges government agencies to publish and provide open access to government information. The law guarantees the right to access information, unless it falls within exceptions defined by legislation. Every public institution is to adopt guidelines for citizens requesting information and each is to appoint an officer in charge of receiving requests and providing information. While a good start, this law leaves much of its implementation to the discretion of government officials. In practice, access to information is frequently delayed, due to the lack of willingness to release government data, especially in some privatization cases. If citizens appeal to the courts, it usually takes more than six months for a decision, and even if the verdict favors the citizens, institutions can still refuse to provide the information. The majority of government institutions provide reasons for denying information, but frequently such explanations are not made on the basis of the law or are vague. Almost no institution is properly conducting the "harm test" if information is not provided.

According to the 2008 US State Department Human Rights Report, "the government's record on access to public information was mixed. Some ministries were reluctant to implement the law fully and at times publicly criticized information requests, while others were supportive. NGOs reported that their requests for information from the government frequently went unanswered. The NGO MANS reported that from December 2005 to December 2008, institutions provided information in response to 47 percent of their requests; in the last six months of the year, 39 percent of their requests were answered. Authorities usually gave reasons for denials, and these could be appealed to the courts. While the courts usually supported access to information, their orders to the ministries were often ambiguous and, consequently, sometimes ignored."

At the same time, the Ministry of Information Society – only established in 2008 -- is a major champion and integrator of government transparency policy. It is currently promoting three major projects – a Central Registry of Citizens (in coordination with the Ministry of Interior), a Judicial Information System (with the Ministry of Justice), and a Registry of Legal Entities (with the Commercial Court). Moreover, it has recently developed a five-year *Strategy for the Development of Information Society in Montenegro, 2009-2013*. This plan outlines data bases, registries, websites, information access and e-government applications across a wide range of government functions and ministries, including education, banking, and health. It presents a plan for a government-wide information and communications technology (ICT) infrastructure, and for

²² The index ranges from 0 (poor) to 1 (best).

data security. This strategy is very ambitious -- its realization will take many years – but it has a strong advocate in the current Minister, who is also the Deputy Prime Minister for Economic Affairs. It remains to be seen as these systems come online whether the information provided is made truly accessible to citizens and whether the data is at the appropriate level of detail and disaggregation to enable useful government monitoring and oversight by the public.

Major Corruption Vulnerabilities

The law governing public access to information currently stands in the way of ready access. It needs to be strengthened to remove excessive bureaucratic discretion, clarify where and how citizens can view or access requested information, and reduce the need for resort to the courts to gain access. Without these changes, the current law presents major hindrances to openness and transparency.

Secondly, implementation of the law is lagging. Sufficient personnel and resources are not assigned in government offices to execute the law as intended. As a result, long delays are incurred.

Lastly, while an ambitious strategy for information society has been developed, it is not clear if the strategy is based on a solid needs assessment, if the resources are available to implement the strategy and then maintain the resulting systems, and if the political will exists in the primary ministries to follow-through on these projects.

Opportunities and Obstacles

Only 41% of the population is currently connected to the internet. This fact, by itself, limits public accessibility of information that may only be available on the internet. However, on average, every Montenegrin has two mobile phones capable of retrieving data. This may be a future channel by which information can be searched and disseminated.

While the Strategy identifies many diverse application systems and databases that can be built, there is a need for coordination and integration of these systems to ensure usability. Information standards need to be established across all government agencies. A centralized e-government web portal may also be advisable to provide citizens with a common approach to finding and accessing information.

Some systems and databases already available or in the planning stage may be too superficial. They may not get down to the level of detail that is useful for citizen monitoring of government operations. For example, government budget data is not available at a detailed line item level for the central government and not at all at the municipal level.

Information security and privacy issues, especially EU personal data protection standards, need to be reviewed and harmonized to balance the desire for government transparency while protecting personal privacy.

Recommendations for reform

Needs assessment: The Information Society Strategy needs to be grounded in citizen needs for information. A needs assessment ought to be conducted that surveys individual citizen, civil society group and media organization needs and requests for government information. The assessment should also include an analysis of mobile phone technology as a potential channel for requesting and delivering information. Based on such an assessment, priorities for information system projects can be established that also take into account greater accountability, transparency and anticorruption criteria. The results can be used to revise the current Information Society Strategy.

Central e-government web portal: A central e-government portal should be designed and implemented, with room for future expansion, that can serve as a easy-to-access gateway to a wide range of government information across national ministries and local governments.

Budget website: A government budget website should be designed, implemented and maintained that offers national and municipal budget planning and expenditure data over time at a detailed line item level.

Citizen rights website: A website should be designed and implemented that focuses on citizen rights, to include information on anticorruption hotlines, how to obtain a wide range of services that citizens are entitled to from government, how to report grievances and complaints, easy access to frequently used forms for permits, licenses and registration, etc.

Revise laws: Legal reforms should be pursued to revise and upgrade the Law on Access to Public Information. In addition, laws that restrict the filing of anonymous complaints ought to be reconsidered, given low trust in government and fears of reprisals.

Option	Major Counterparts	Potential Obstacles	Potential Impact	Short-term success	Impact timing
Conduct needs assessment	Ministry of Information Society	-	Improved priorities for system development	High	Short-term
Central e-government portal	Ministry of Information Society	Difficulties in coordination and standards across ministries	Improved access for citizens	Medium	Medium-term
Government budget website	Ministry of Finance	Difficulties in getting data from localities and in maintaining database over time	Improved access to government expenditures for citizen watchdog groups	Medium	Medium-term
Citizen rights website	Ministry of Justice; NGOs	--	Improved access to key information	High	Short-term
Conduct legal reforms	Ministries of Justice and Information Society	Special interests	Reduced discretion	High	Short-term

7. Strategic Plan and Priority Recommendations for Anticorruption Programming

A range of recommendations for future USAID programming options in Montenegro was presented in the earlier sectoral analyses in this report. To provide additional guidance to the USAID Mission in planning its future strategy, we have developed an integrated set of priority recommendations that offers a comprehensive multisectoral approach to anticorruption programming. It suggests an overall plan that can be expanded or contracted depending on available funding and resources, and supplemented by other recommendations presented in the earlier sectoral sections.

The recommendations are guided by the strategic framework described in Section 5 above and our sectoral analyses. The framework takes into account our analysis of Montenegro’s corruption syndrome, and its legal-institutional and political-economic dynamics. As a result, our recommendations seek to address the underlying causes, not just the symptoms, of corruption. We also focus on options that are likely to have near- or mid-term impacts. Lastly, a comprehensive, multi-sector approach is sought. International experience shows that limiting anticorruption programs to a small number of sectors or initiatives opens the door for corrupt practices to migrate to other sectors where oversight is not as strong. Thus, a multi-sector program is more likely to show demonstrable success over time.

Priority options from each of the sectoral discussions in this report are presented in the following table. For more detail on each option, refer to the earlier sections. The high priority recommended program areas are highlighted below.

Sector/Function	Priority recommendations	Strategic problems addressed
Justice sector	Improve case management processes in courts; automate random selection of judges for case assignments; and enhance court reporting mechanisms	Weak institutions
	Support capacity building for the Special Prosecutor for corruption	Weak institutions
	Support design and adoption of whistleblower protection law	Weak oversight
Business regulation	Support formal coordination between inspectors and police by engaging in memoranda of understanding; conduct joint training; conduct pilot programs and roll-out	Weak oversight
	Establish Business Ombudsman Office	Weak oversight
	Streamline business regulation (with GTZ) and create one-stop shops for business licensing/permits	Weak institutions
Procurement	Conduct training program for local level procurement agencies to enhance professionalism, reduce conflicts of interest and enhance controls	Limited competition
	Support NGOs and media to become procurement watchdogs	Weak oversight
Local governance	Support training and establishment of strong internal audit units in pilot municipalities; then scale-up	Weak oversight
	Support capacity building for local NGOs in advocacy, citizen participation and watchdogging across all municipalities	Limited competition
	Establish independent legal assistance centers, “Citizen Advocate Offices,” at municipal level to provide victims of corruption with a trusted channel for their grievances; start with a few pilots and then scale-up	Weak oversight

NGOs and media	Support capacity building to establish issue-related NGO networks and media-NGO alliances that generate policy discussion on anticorruption reform issues	Limited competition
	Support regional alliances and pool reporting to motivate investigative reporting by the media	Weak oversight
Government transparency	Establish NGO coalition on budget transparency to enhance citizen participation, advocacy and oversight of budgetary process – at the national and local levels	Weak transparency
	Develop a sub-strategy for information society that includes information needs of citizen groups and media, and information needed to oversee potential government abuses and corruption.	Weak transparency
	Support central e-government web portal development including budgetary information and citizen rights hub, among other information	Weak transparency

Other major donors in Montenegro have programs or planned activities of their own that can support such a comprehensive anticorruption program. Close coordination is essential. As well, a more balanced message on anticorruption actions – wielding both carrots and sticks -- needs to be given to the government by donors and international organizations. The government should not be rewarded only for paper achievements such as the adoption of laws or establishment of commissions; the government needs to demonstrate that it is solidly behind these laws and institutions by committing itself to effective implementation and achievement of anticorruption results.

Performance management plans need to demonstrate more than improved conviction rates on corruption cases in court; “frying big fish” can be important but must not be the only achievement. Improvements are also needed in government oversight, professionalism, institutional strengthening and government transparency, along with reductions in conflicts of interest; these need to be measured too. Both strengthened enforcement and more active prevention should be the hallmarks. These types of indicators should be built in to the revised national and local anticorruption action plans.

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