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UNIVERZITET CRNE GORE
PRAVNI FAKULTET



University of Maribor

Faculty of
Criminal Justice and Security



ARRS

SLOVENIAN RESEARCH AGENCY

PREVENTION OF CORRUPTION IN LOCAL SELF-GOVERNMENT IN MONTENEGRO

Mijat Vuković

Vuk Sekulović

Ivana Barović

Tijana Petrušić

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Introductory considerations

• THE TERM OF LOCAL SELF- GOVERNMENT

- Local self-government is the right of citizens to participate directly or through their elected representatives in the exercise of competence established by the constitution and law in local self-government units with the existence of organized, personal, and financial independence.¹
- The importance of self-government is presented in the fact that it enables the citizens to take part in governing the public affairs that have direct, and common interests in the local community.

THE TERM OF CORRUPTION

- Corruption is defined as any abuse of official, business and social position, or influence aimed at gaining a personal benefit or benefit for someone else.²

¹ Law on Local Self-government, Official Gazette, no. 2/2018, 34/2019, and 38/2020

² Law on Prevention of Corruption, Official Gazette, no. 53/2014, and 42/2017

STRATEGY FOR THE FIGHT AGAINST CORRUPTION AND ORGANIZED CRIME (2010 - 2014)

- This act was imposed on 29th June 2010 by the Ministry of Internal Affairs and Public Administration.
- The main aim is to create conditions for the prevention and sanctioning of corruption and organized crime on all levels.³
- Considering that Montenegro does not have a strategy of this kind in power (this raises an alarm), we will take into consideration the most important provisions of the latest strategy.



³ Strategy for the Fight Against Corruption and Organised Crime (2010-2015)

STRATEGY FOR THE FIGHT AGAINST CORRUPTION AND ORGANIZED CRIME (2010 - 2014)

Aimed at achieving better results in the fight against corruption on all levels (local level also) the Strategy pledges to the respecting of the basic legal principles, which are the following:

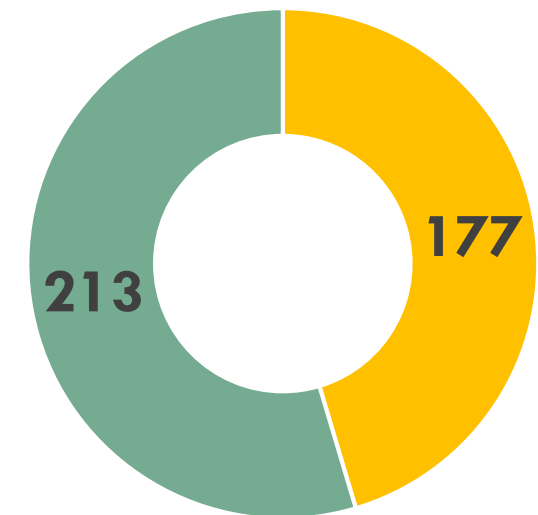
- the rule of law
- political will
- respect for human rights and freedom
- development of personal and institutional integrity
- respect for international standards
- work transparency



STRATEGY FOR THE FIGHT AGAINST CORRUPTION AND ORGANIZED CRIME (2010 - 2014)

- The Strategy lists numerous research and surveys carried out to follow the corruption level in Montenegro. It emphasizes the fact that local self-government has been recognized as one of the main risks.
- The same research shows that the citizens of Montenegro are not accustomed to reporting corruption (on local and all other levels) mostly because of the mistrust in the competent institutions.
- The Strategy states that the perception of corruption in Montenegro does not correspond to the statistics on cases with elements of corruption. Although the citizens consider that corruption cases are frequent, in the period before the adoption of the Strategy, only 177 out of 390 court verdicts were convicting.

Court cases involving corruption since 2009



■ Convictions ■ Acquittals

INFORMATION IS A PREREQUISITE FOR CIVIL ACTIVISM

- To participate in the democratic process of dealing with public businesses, citizens need to have insight into the information held by the relevant bodies. This is also important because citizens need to be a part of active control of the government bodies. Informing citizens is the base for immediate participation in making decisions in the local area. ⁴
- Every local self-government that is transparent and responsible in its businesses will not have problems overcoming the barrier of the citizens not being well informed.
- Direct communication via open doors with the citizens almost does not exist, and they are informed mostly about the "good news" on the work of the local self-government.
- Citizens must be informed about safe and efficient means of reporting cases of corruption and corruptive acting. Apart from these means, it is necessary to ensure complete citizens' confidence in their efficiency.

INVOLVEMENT AND THE ROLE OF THE ELECTED CITIZENS' REPRESENTATIVES



- Involvement includes the interest and willingness of all the relevant subjects (self-government bodies and citizens) to cooperate.
- Involvement reduces tensions, enables wider support of the self-government bodies, and demands responsibility and ethics.
- Four possible strategies depend on the potential of the local self-government bodies:
 - **interactive** - both self-government bodies and citizens have big potential (motivation, capacity, influence, interest)
 - **proactive** - big potential for self-government bodies, small potential for citizens
 - **reactive** - small potential for self-government bodies, big potential for citizens
 - **inactive** - small potential for self-government bodies as well as citizens



Elected citizens' representatives are supposed to give examples of transparent work for other subjects and remain active in the fight against corruption on the local level.

ANTI-CORRUPTION MEASURES

-

Preventive

-

Repressive

-

Educative



DIFFICULTIES IN FIGHTING CORRUPTION ON THE LOCAL LEVEL

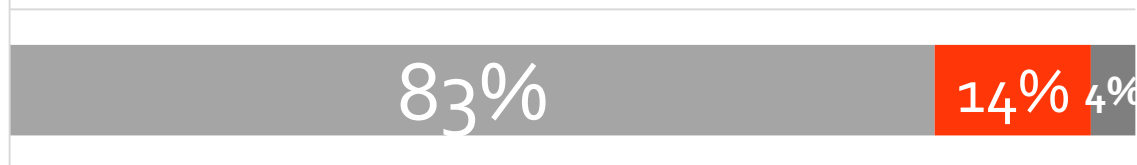
- Generally speaking, Montenegrin citizens are neither encouraged nor informed to report corruption cases.
- Citizens who report corruption are not adequately protected.
- Whistleblowers must be better protected.
- Lack of strategic approach, procedural issues, passive stands, and insufficient political will are the main problems.
- Positive new mechanisms:

Anti-corruption Action Plan for Podgorica (2020 - 2021) requires the creation of instructions for reporting corruption; placing boxes for anonymous tips in visible places; creating an email address and telephone number for reporting local corruption cases.

WOULD YOU REPORT A CASE OF CORRUPTION?

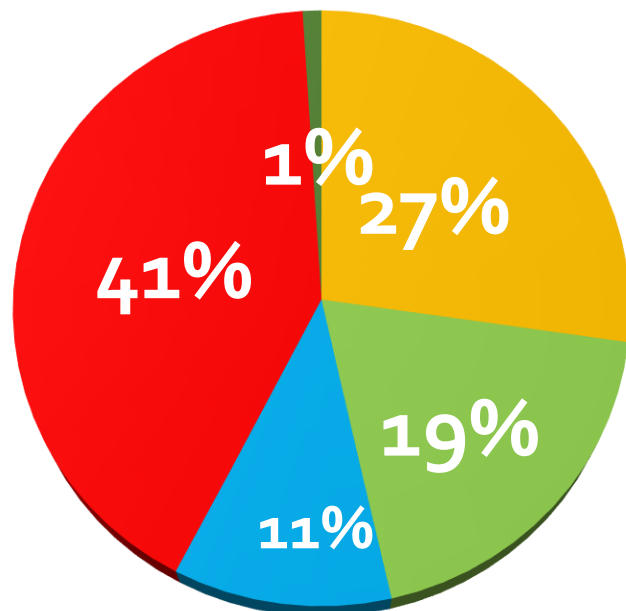


IS CORRUPTION A PART OF EVERYDAY LIFE?



■ Yes ■ No ■ Undeclared

Why would you not report a case of corruption



- That is not my job, but the state's
- I am concerned about my safety.
- People must make a living.
- I doubt it would be effective.
- Undeclared

MISLI LOKALNO - DJELUJ LOKALNO!

Rezultati lokalnih samouprava u primjeni mehanizama prevencije i borbe protiv korupcije na lokalnom nivou u Crnoj Gori
-GODIŠNI IZVJEŠTAJ-

INTERNAL ACTS OF SELF-GOVERNMENT

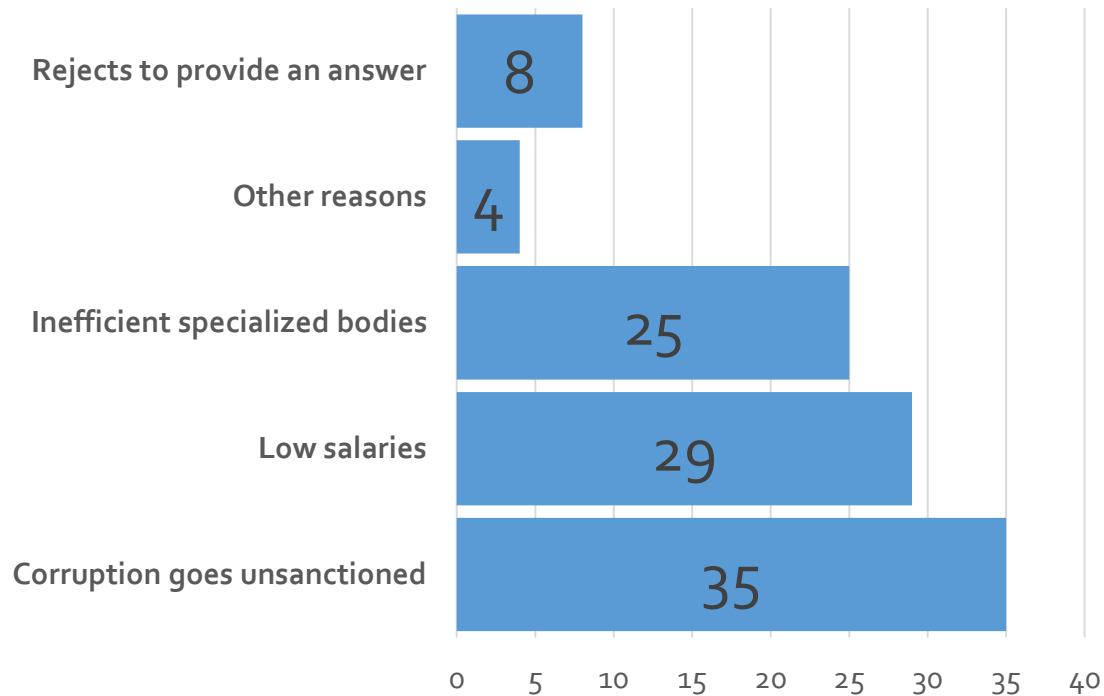
- As the most important area in the fight against corruption, the Strategy identifies the area of employment, issuing of building permissions, work permissions and inspection.
- Local self-government units are instructed to make action plans for the fight against corruption, but not many municipalities have passed these acts on time.
- It is worrying that **66** percent of the surveyed citizens are not informed about the existence of the Action Plan Against Corruption on the Local Level. At the same time, **72** percent of the citizens are not informed about two strategies: the Operative Document for the Prevention of Corruption in the Areas at Risk and Integrity Plans on the Local Level.

AWARENESS OF CORRUPTION ON THE LOCAL LEVEL

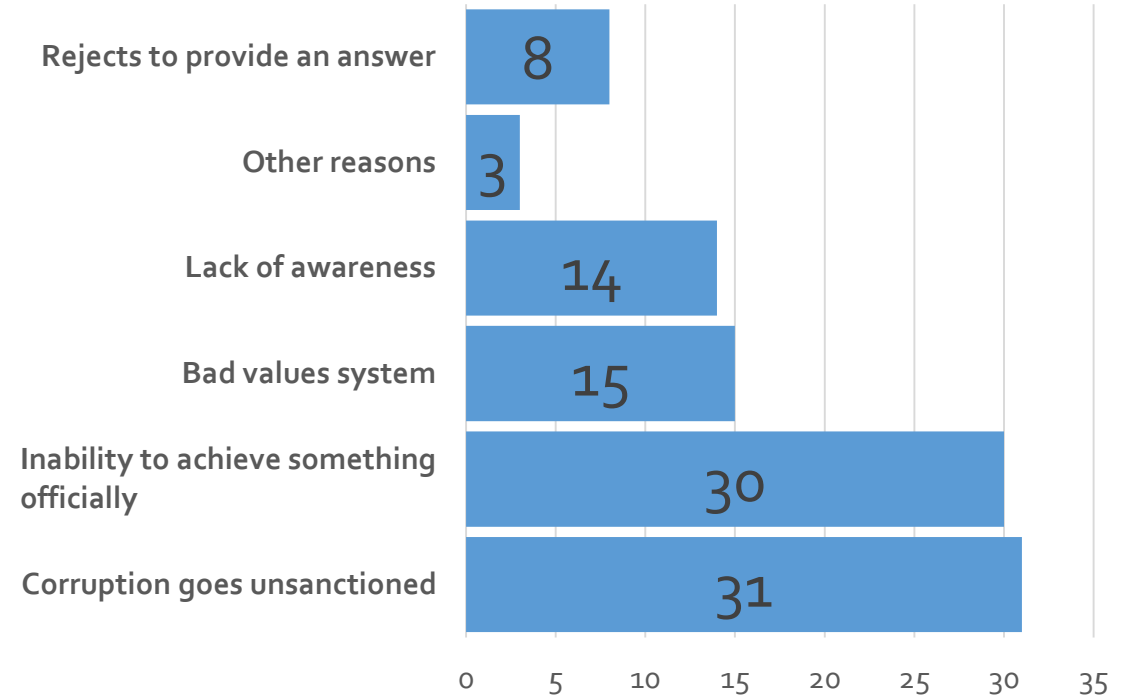
- Even **66** percent of the citizens think that corruption is present in the self-government organs.
- Montenegrin citizens generally consider that corruption is equally or even more present on the local level than on the state level.
- More than **40** percent of the citizens claim that they have heard of corruption cases on the local level, as **30** percent of the citizens state that such cases occurred more than once.
- According to the citizens' claims, the most frequent examples of activities aimed at the corruption of self-government public officials are giving presents and money, and treating to restaurants and other services.



WHAT DO YOU THINK IS THE MAIN REASON FOR BRIBING?



WHAT DO YOU THINK IS THE MAIN REASON FOR ACCEPTING A BRIBE?



Cases of corruption on the local level in Montenegro

FIRST EXAMPLE - PODGORICA

- One example is the case of the former mayor of the capital.
- In 2018 Montenegrin public was informed that the High Court Panel was considering filing an indictment against the ex-mayor of Podgorica on suspicion that he had caused multimillions of damage.
- The ex-mayor was charged with the abuse of power. Allegedly, he had reached the decision to transfer the property rights to a certain company without proper execution of the public procurement procedure.

- The investigation against the ex-mayor was initiated after the experts had appraised the damage caused in 2007 in the business deal made with the Municipality of Podgorica.
- By the decision rendered by The Supreme Court of Montenegro, the aforementioned company was obligated to return the land, and the Municipality was obligated to return the money in the amount of the paying price.
- Without the knowledge of the Assembly of the Capital City, on October 27th, 2011 the former mayor made a Decision on the transfer of property rights on the construction land to this private company, and on November 9th, 2011 concluded an agreement on the regulation of mutual relations with the private company.
- In February of the current year, the first-instance verdict of acquittal was annulled and the case was sent back for a new trial.



The second example is the case of Budva

- The data reached by MANS (Network for Affirmation of the Non-Governmental Sector) indicate that The Municipality of Budva has in the past few years established several companies dealing with real estate and construction.
- Among the members of the companies' boards of directors were the leading officials of The Municipality of Budva and the owners of the companies connected to them. This brought them into a situation where they are self-supervised and that way they cannot be effectively monitored.
- The statutes of companies give the Board the authority which is contradicted by the Law on Spatial Planning and Urbanism and the Law on Local Self-government. For example, the boards of directors have the right to suggest signing contracts on selling the companies' property, which is contrary to the law that prescribes that the selling must be done through public bidding.
- MANS requested these companies' work reports. Budva City Council issued a statement saying that the reports had not been delivered and therefore could not be discussed at the Council assemblies.
- It appears that the Action Plan for the fight against corruption on the local level had no effect in the Municipality of Budva, which is at high risk of corruption because of the great amount of money that flows through this area.

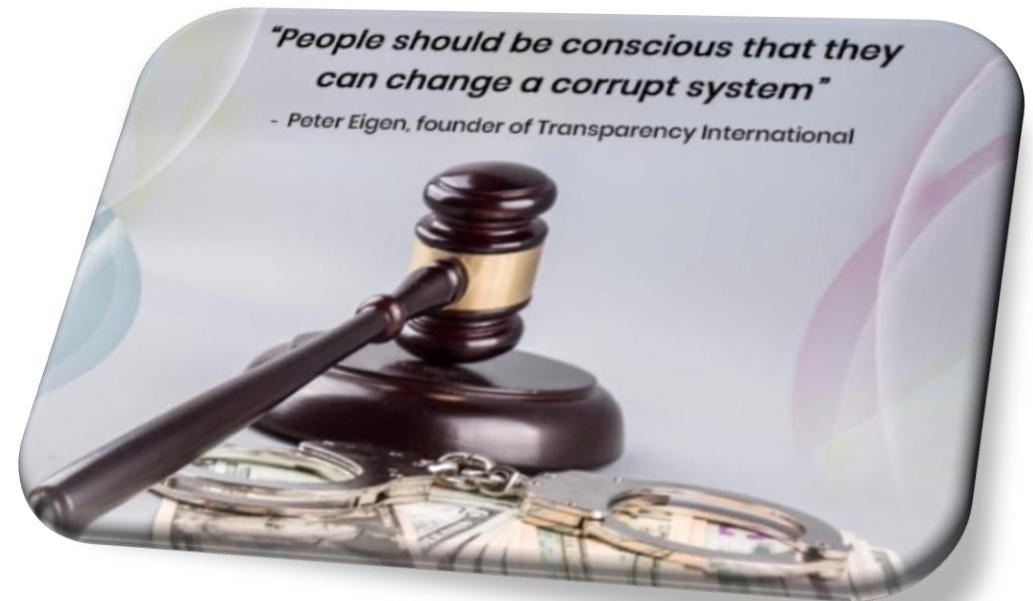
The third example is the case of Berane

- Another case of potential corruption in urbanism in the northern region of Montenegro, refers to Berane and its former mayor.
- The Montenegrin prosecutor`s office accuses the forever mayor of having exempted a certain company from paying fees for the development of construction land in September 2011, without a legal basis.
- The prosecution accuses the former mayor of exempting a certain company from paying communal fees to the detriment of the budget of the municipality of Berane. According to the prosecutor`s opinion, in this way, damage of more than twenty thousand euros was inflicted on the city of Berane.
- The trial against the aforementioned and other suspects in this case is still ongoing.



Recommendations for the future

- Seen from the point of positive legal regulations, a large number of necessary measures have already been adopted. However, in practice, the fight against corruption seems different.
- For better results these measures are necessary:
 - Systematic approach to the problem
 - More pronounced political will
 - Raising awareness of the harmful effects of corruption
 - Clearer mechanisms of action
 - Higher level of transparency



Conclusion

- Article 22 of The Constitution of Montenegro guarantees the right to local self-government, and article 113 establishes the right for the local self-government bodies to organize and manage certain public and other affairs based on their responsibility in the interest of the local population.
- In order for the local self-government as an institution to prevent corruption, it is necessary that the managing structures, elected representatives and employees in local self-government are firmly committed to moral values that eliminate any form of abuse of their position. Only under this condition, we can talk about the development of ideal local self-government.
- Local self-government units are not sufficiently transparent and accountable in their work, which hinders their efficiency. Also, local self-government units do not achieve the necessary partnerships with other entities. However, it is not only the local self-government that is responsible for this.
- Citizens, non-governmental organizations and the private sector are also responsible for the lack of success in the fight against corruption. In order to achieve integration, the involvement of all subjects in the community in decision-making processes of general interest and all for the purpose of sustainable development and social inclusion, it should first be understood that money and material resources are not the property of local self-government units and bodies, but also of citizens and that it gives them the right and obligation to get involved in decision-making at the local level.

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THANK YOU FOR YOUR ATTENTION!

