



## **PROGRESS REPORT 2016.**

### **-analysis, comments and recommendations-**

Unfortunately, Progress Report 2016 showed that specific deviations in our society are repeating each year, and that the institutions are unable to fight against these occurrences. Although progress has been made, essential changes have not been achieved. Institutions are still under the strong political impact, fight against corruption and organised crime is strongly controlled by the centres of power, and exercising and protection of human rights is so far only a distant goal.

Following the Report, focus on stronger communication between citizens and institutions is inevitable in order to focus on the real needs, because the overall assessment of the situation in the country is not only a subject that is in the hands of the ruling elite. Establishing of the more transparent and responsible administration at all levels, shall not be a challenge after the creation of the strong model of cooperation with the civil society, and when citizens become more intensively involved in decision making processes. The Report itself focused on the above mentioned, and on concrete achievements, which are the result of the systematic work and cross-sectoral cooperation.

Statements from the Report, on which Civic Alliance indicated continuously in terms of media freedom, especially in the light of the fact that the Commission for investigation of murders of journalists is obstructed and has no concrete results- show that Montenegro approaches the EU membership with steps that are significantly smaller than its predecessors.

In that name, we invite decision makers to seriously contribute in the process of removing obstacles and resolving of the problems that we have pinpointed below.

### **Fight against torture and ill-treatment – Impunity still present for the most severe human rights violations**

The Report confirmed findings of Civic Alliance, especially in terms of absence of urgent and independent investigations in the cases of torture and abuse committed by the police and other public officers. What especially causes the concern are the cases of torture of the prisoners in ZIKS registered in January 2015; and cases of torture committed by the police during the last year's protests, which have remained unresolved; Court proceedings against responsible officers were not initiated and prosecuted. During 2015, Montenegro lost the case before the Court in Strasbourg in this area (see the verdicts Milic and Nikezic, and Orlov let). It is important to urgently improve capacities, so that competent institutions could implement practices in accordance with the international standards.

#### **Impunity for war crimes**

Although the Report stated positive developments in regards to the facing wartime past, essential steps related to investigations of the command responsibility and war mongering were absent.





## Freedom of public gathering improved

Civic Alliance welcomes improvement of freedom of gathering that is reflected in adoption of the new Law on public gatherings and public events, which has significantly been harmonised with the Constitution and international standards. In the following period, it is important to provide full exercising of this right and better coordination of public institutions competent for the law implementation. We are especially concerned by the behaviour of police officers, on which we pointed in the part related to impunity of torture, due to their illegal acting during public gatherings.

## Rights of vulnerable groups remain uncertain

Although the Report stated that the progress has been made regarding the rights of vulnerable groups, it is important to provide full respect of the law and establish line of responsibility in cases of human rights violations. Persons with disabilities, LGBT community, women and Roma population are especially endangered.

## Right of minorities still insufficiently developed

The Report indicated on certain positive developments. However, there are specific insufficiencies in terms of exercising of minority rights. Allocation of funds by the Fund for Protection and Exercising of Minority Rights will be improved under the full implementation of the new law. Question of responsibility for illegal allocations have not been initiated yet.

We would like to remind that the Administrative court abolished five decisions of the Fund for the Protection and Exercising of Minority Rights after the lawsuits of CA, and that the Fund has not made new decisions in accordance with the verdicts of this court which clearly shows its avoidance to obey the Law.

Roma population is still the most endangered minority community, and efforts for improvement of the quality of life of this population are needed. It is also important to improve their education system, employment system, medical treatment and housing.

## Cooperation between institutions and nongovernmental organizations

In the previous period, Civic Alliance continuously indicated on failures of cooperation of public institutions with nongovernmental organizations, especially in terms of financing of NGOs from public funds.

The Report says that there is a progress in this field but the full participation remains to be achieved. It is important to strengthen overall transparency and the capacities of the ruling structures when achieving cooperation and consultations with NGOs, which was clearly stated in the research of CA about the Participation in Montenegro ( <http://www.gamn.org/index.php/mn/novosti/389-predstavljani-rezultati-istrazivanja-gradanska-participacija-u-crnoj-gori.html> ).





## Allocation of funds not in accordance with the law

CA especially indicated the failures in financing of NGOs from the public funds. Verdicts of the Administrative court in this area pointed out these issues, according to the reports of CA. The Report 2016 stated that Montenegro has to establish the efficient system of financing of NGOs through sustainable and appropriate institutional and legislative framework. The Report especially pointed out that the law on gaming that defines the most important NGOs financing, is not being implemented properly and the amount allocated to NGOs has not been in line with legal requirements.

## Corruption

Work of the Anticorruption Agency is not transparent, a case that Civic Alliance indicated on for some timew and the Report stated the same. NGOs were not allowed to attend the sessions of the Council of the Agency at the beginning of its work, and this opposes to what this Agency strives to, and this we severely condemned. CA also indicated that it was important to improve work, in all segments of work of the Agency, especially in the part related to whistleblowers and monitoring and control of work of political parties. The Pabrić case, reflects the level of independence of this Agency. A citizen that has revealed the corruption case did not receive the whistleblower status. Even though, on the grounds of her statements- the proceeding was initiated for the misuse of public resources for the benefits of one political party. Afterwards, the Prosecution filed charges against the responsible ones in the Railway Transport of MNE.

Large number of reports on corruption still comes from NGOs, citizens and private companies while the State Audit Institution mostly does not use the legal possibility to report and file criminal charges against individuals and institutions after the audit shows misuse.

## Work of the Special Prosecution

Large number of investigations and indictments in the field of high corruption were opened, and ended in Agreements on guilt confession. We pointed out that the omission of financial investigations in all the cases of high level corruption and seizure of the property obtained in this manner, would additionally stimulate future illegal acts. Responsibility of prosecutors should be higher, especially in the cases of dropped charges, like in the Kalic case. For that reason, Montenegro has to pay enormous sum as the compensation to Kalic.

## Cooperation between the police and the prosecution

Civic Alliance pointed out that cooperation between the police and the prosecutors office has to be improved, especially in terms of financial investigations and strengthening of capacities. The Progress Report pointed out the same.





## Money laundering

Dealing with the progress during the decade of independence, CA pointed out on devastating results that showed that enormous amounts of money were laundered in Montenegro. In addition, the prosecution had problems to prove this criminal act, which did not end with the court epilogue or the process on court was not even started.

## Punching deadlines

The Constitutional court still has increasing influx of constitutional complaints. Still, the court has not found functional manner to cope with the backlog and solved cases within 18 months' prescribed timeframe.

## Freedom of media

It is not possible to speak about the progress in terms of freedom of media until perpetrators are identified and sentenced for assaults on media, property and journalists, together with those who ordered the attacks. It is important to provide criminal and legal protection of journalists and a matter of public interest, bearing in mind that journalists are under the high security risk in Montenegro. At least, this will discourage those attempting to suffocate freedom of expression. Otherwise, foundations of the country will be seriously shaken. If the freedom of expression is not guaranteed, basic right to be informed is seriously suffering.

Newly established Commission for monitoring the work of public institutions in the investigations of threats and attacks on journalists started working in September, alongside public appeals by civil sector that all the necessary conditions for her work should be provided. We believe it is necessary for the Government to ensure that the Commission has unconditional access to investigations and data, in order to add the new impulse to the investigations which have been ongoing for several years. It is also necessary to enhance dialogue and media legislation with the adoption of constructive amendments to the Media Law.

## Regulatory bodies

Agency for electronic media should point financial capacities to media pluralism and change the Rulebook on program standards which is full of deficiencies. The Rulebook does not regulate specific areas and sets too general complaint mechanisms for broadcasters, which leads to similar tabloid reporting of certain private printed media- copied in electronic media, targeting those that criticise the System. CA underlines that it is important for independent regulators to be out of parliamentary influence. The Agency also has not used certain measures- such as revoking of the license to those media that constantly break the rules of program standards, although it had the opportunity to do this.

The new Code of Journalists of Montenegro is presented, and still there are no options for sanctioning of media and journalists who do not respect it.



There is no unique Self-regulatory body that would gather all media in Montenegro, and regulate their work and monitor the situation in media. This sector is still divided and there are no signs of harmonization of opinions and positions, although a number of media has established the institution of Ombudsman.

Media community is divided, which was especially obvious during the pre-election campaign. Competent bodies should be concerned by the fact that financial unsustainability of media left hundreds of journalist in the previous four years period- without jobs. Due to poor financial situation, obviously, the quality of reporting and professionalism of media will suffer as well.

## Censorship and institutions

GA has considered the privatisation of key institutions when it comes to media relations- completely inappropriate. Personal attitude of officials towards some media often limits the freedom of the media and the ability to get answer on questions about important social issues, and also endangers the public's right to know.

This is most evident in the case of ignoring the demands for free access to information, while the most recent examples are related to the special prosecutor Katnic and his refusal to answer questions from newspaper "Dan", considering that it was his personal opinion not to answer to the Dan journalist. GA also considered unacceptable when director of the Agency for Prevention of Corruption (ASK) Sreten Radonjic denied access to certain media which, in his opinion, write "inaccurately and unprofessional".

## Public Broadcasting Service

The Report also mentioned that any changes of the editorial team in Public service should be in accordance with the law, and that Montenegro is obliged to provide financial and editorial independence of RTCG. We would like to remind that there are still public speculations regarding the information that the political influence on election of manager and editorial team of Public service is still present and direct. Depoliticized Public service is essential and can be achieved only through full and unconditional respect of media laws. The willingness of the ruling elite is essential for providing it.