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**DURBIN** Good Governance  
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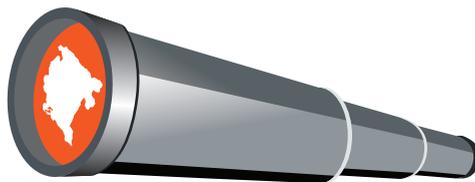
Good Governance in Montenegro  
*monitoring and recommendations*



C E N T E R F O R  
D E M O C R A T I C  
T R A N S I T I O N

# Good Governance in Montenegro

## *monitoring and recommendations*



**DURBIN** Good Governance  
Better Institutions

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Good Governance in Montenegro - monitoring and recommendations

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# 1. Introduction

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**Dear reader,**

What you have here is the publication “Good governance in Montenegro – monitoring and recommendations“, a part of the project DURBIN (Good governance – better institutions) which deals with one of the key challenges of the democratization process in Montenegro – establishment of a good governance system nationwide. The project has been financially supported by the USAID – Good Governance Activity in Montenegro (implemented by the East-West Management Institute – EWMI) with the Croatian non-governmental organization GONG as the partner in the project.

DURBIN follows development of introduction of the good governance standards in the work of state institutions by measuring and analyzing the state institutions’ accomplishments in three major areas – transparency, accountability and reform capacities.

Transparent and accountable state institutions are a key factor in enhancement of the democratization process in Montenegro. In practice, this means that state institutions need to function in the best possible way which would enable a better quality and more efficient work. State institutions have to understand that they work for the citizens and are financed by the tax payers which means that they are obliged to act accountably towards the citizens and be transparent towards them. Therefore, they have to make their work public, so that the citizens can have free access to information regarding the state institutions’ work and the decision-making processes, which should be done through promoting a pro-active approach, i.e. getting closer to the citizens. The citizens and the civil society need to be able to take part in and influence the political decisions being made by the state institutions on daily basis.

A precondition for having a good functioning state is for us to have unbiased, efficient and independent civil servants who are, within their professional boundaries, of service to the citizens and the civil society. In order to have a better future and a sustainable system, the state institutions need to commit to managing the resources in a fair way, but also to efficiently control and evaluate work and to sanction employees who are not doing their jobs well. If they are not transparent and accountable, the state institutions are prone to corruption.

In comparison to the previous period, monitoring the compliance with the good governance principles in the Montenegrin state institutions has shown progress in the field, but it has also indicated problems that should be addressed in the future. The goal of this publication is to offer concrete guidelines to the state institutions in order to improve the existing situation in the field of compliance with the good governance principles.

We would like to note that in order to present the monitoring results more clearly, we have created a special website ([www.durbin.cdtmn.org](http://www.durbin.cdtmn.org)) offering the possibility to compare the results achieved by the institutions. Furthermore, the website provides detailed information about the project, the monitoring results, the methodology and the regulations which have been analyzed.



## 2. Methodology

### 2.1. Monitoring methodology

The monitoring methodology has been developed in cooperation with the experts from the partner organization GONG from Croatia and it is based on the analysis of legal framework conducted for the project's needs. The legal framework analysis has included the Montenegrin legislation regulations regarding the state administration functioning, as well as the analysis of the international documents and recommendations regarding good governance.

The CDT believes that good governance in practice means: functionality of organization and procedures of state and local government institutions; accessibility of information, decision-making processes and services of state and local administration; participation of citizens and civil society as a way of taking part in and influencing political decisions as well as the methods of resolving problems; unbiased, efficient and independent work of civil servants; fair management and distribution of resources; accountability – both institutional and towards citizens; control and evaluation of state institutions work.

During preparations for the monitoring we first operationalized the good governance concept into a series of measurable indicators, and then selected those that we believed were of special importance for the current level of development of the good governance principles in Montenegro. We have divided the indicators by the following dimensions:

1. Transparency,
2. Accountability,
3. Reform capacities.

Within transparency as the first dimension we have investigated the institutions' transparency as well as the entire decision-making process and policies at the state level. We consider transparency as one of the key traits of an accountable government and we were therefore trying to check the public availability of the information on state institutions' work based on which it would be possible to follow and evaluate the quality of their work. In addition, we have paid attention to the functioning of the free access to information mechanisms, as well as to the compliance with the participation principles. We have also been following to what extent and under which circumstances the non-governmental organizations take part in formulating and monitoring public policies. The second dimension - accountability - measures vertical and horizontal accountability of institutions in the procedures, but also in practice. Therefore, we have paid special attention to the procedures and the functioning of the program and financial reporting within the Government, but also to the procedures which need to enable parliamentary supervision over the executive power. Within this dimension, several indicators were dedicated to the assessment of integrity and the conflict of interest management in the government institutions. The third dimension – reform capacities - evaluates the capacity and readiness of the government institutions to implement reforms. We have therefore evaluated the institutional structure for defining strategic goals, planning of activities and monitoring of work.

The monitoring has included the following state institutions:

- Parliament of Montenegro
- Government of Montenegro
- 16 ministries
- 37 other government institutions (administrations, secretariats, services, directorates and agencies)

*Table 1. Institutions included in the monitoring*

<b>Institutions</b>	Parliament of Montenegro
	Government of Montenegro
<b>Ministries</b>	Ministry of Justice and Human Rights Ministry of Interior Ministry of Defense Ministry of Finance Ministry of Foreign Affairs and European Integrations Ministry of Education and Sport Ministry of Culture Ministry of Economy Ministry of Transport and Maritime Affairs Ministry of Sustainable Development and Tourism Ministry of Agriculture and Rural Development Ministry of Health, Ministry of Minority Rights Ministry of Information Society and Telecommunications Ministry of Labor and Social Welfare Ministry of Science
<b>Administrations, secretariats, services, directorates and agencies</b>	Secretariat for Legislation Secretariat for Development Projects Tax Administration Real-Estate Administration Customs Administration Maritime Safety Department Port Authority Veterinary Directorat Directorate for Anti-Corruption Initiative Directorate for Prevention of Money Laundering and Terrorism Financing Forestry Administration Water Management Administration Staff Administration Police Administration Administration for Protection of Competition Game of Chance Administration Phytosanitary Administration Property Administration Statistical Office Hydrological and Meteorological Service Bureau for Education Services Administration for the Execution of the Penitentiary Sanctions State Archives Bureau of Meteorology Refugees Bureau Intellectual Property Office Directorate of Public Works Traffic Administration Railway Administration Public Procurement Administration Directorate for Development of Small and Medium Sized Enterprises Confidential Information Protection Directorate Tobacco Agency Environment Protection Agency Inspection Administration Administration for Cultural Heritage Preservation

The institutions were evaluated by indicators in line with the competencies covered by an individual institution. The indicators were formulated in July and August 2012.

*Table 2. A detailed display of indicators and sources of information by institutions individually*

Institution	Total number of indicators	Web indicators	Analysis of regulations and documents	Questionnaire	Tel. call	Analysis of media articles	Memo
Parliament of Montenegro	41	27	2	9	2	0	1
Government of Montenegro	48	19	16	9	2	1	1
Ministries	34 <sup>1</sup>	17	2	11	2	1	1
Administrations, secretariats, services, directorates and agencies	13	10	0	1	2	0	0

We have used two different scales for these indicators. The first scale is 0 – 1 points (yes/no, satisfying/not satisfying), and the other one is 0 – 3 points. The 0 – 3 scale includes indicators measuring more complex phenomena, i.e. determining their dynamics.

## 2.2. Source of information

Several methods were used for information collection:

1. The analysis of documents including: domestic legislation (the Law on State Administration, the Law on Civil Servants and State Employees, the Law on Budget, the Law on Announcements of Provisions and Other Acts, Rules of Procedure of the Parliament of Montenegro, the Decree on the Procedure and the Method of Running Public Discussion in Drafting of a Law, the Decree on the Method and the Procedure of Establishing Cooperation Between the State Institutions and the Non-Governmental Organizations, Code of Ethics for Civil Servants and State Employees, Rules of Procedure for Writing and Submitting of Financial Reports), the documents regarding the Montenegro integration processes: (National Integration Plan 2008 – 2012, the reports of the Government of Montenegro on implementation of the Stabilization and Association Agreement, Stabilization and Association Agreement, the Montenegro progress reports of the European Commission), international recommendations (recommendations of the program Support for Improvement in Governance and Management – SIGMA (Report on Montenegro for 2012, Coordination in the Center of the Government); Organization for Economic Cooperation and Development - OECD (in the document "Best Practices for Budget Transparency") and Inter-Parliamentary Union - IPU (publication "Parliament, the Budget and Gender")), as well as the reports and the strategic documents of the ministries. By analyzing the documents we were checking for the existence of the procedures enabling transparency and accountability of institutions, but also the existence of the mechanisms for following and implementing public policies.
2. Telephone calls by which we were checking how transparent and informed the civil servants were about the free access to information procedures.
3. Sending of a questionnaire to the institutions with which we have collected the information that we did not expect to find on the websites, but which we needed in order to evaluate the indicators' satisfaction.
4. Searching the official websites to check how transparent the institutions were and whether they post on their websites the information of interest for the citizens.

<sup>1</sup> Due to its specific competencies regarding the budget and financial reporting, the Ministry of Finance has 7 additional indicators, while the Ministry of Foreign Affairs and European Integrations, due to its specific competencies regarding the European integrations, has one additional indicator. Also, the Ministry of Interior Affairs, due to its specific competencies regarding the implementation of the Law on Civil Servants and State Employees, has one additional indicator.

5. Analyzing the media articles in the first 100 days of the government (28 December 2010 – 6 April 2011) to check if the state officials inform the citizens in a good quality way of the policies and priorities of the institutions which they are in charge of.
6. Sending of the memorandum which, at the same time, has served as an invitation for a meeting during which we wanted to check up-to-dateness and willingness of institutions to cooperate with non-governmental sector.

The monitoring is made complete by qualitative indicators with which we wanted to supplement the existing information so that the monitoring results, but also the conclusions based on the monitoring, can offer a more comprehensive picture of the institutions' state of affairs.

*Table 3. Number of qualitative indicators by institutions individually*

Parliament	Government	Ministries	Total
4	3	4	11

### 2.3. Data collection

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The monitoring has been conducted in the period 11 September – 3 December 2012. The documents used in the analysis were from the following websites: Official Gazette of Montenegro (<http://www.sluzbenilist.me>), European Commission (<http://ec.europa.eu>), OECD (<http://www.oecd.org>), Inter-Parliamentary Union (<http://www.ipu.org>) and the electronic base of regulations – NESPA.

The questionnaire was first sent to all institutions included in the monitoring on 11 September 2012, along with the letter for the officials in charge of each institution respectively explaining the purpose of the project (with the exception of the Secretariat for Development Projects, because we were not able to find contact information for this institution). An accompanying letter was also sent to the PR officers explaining in short the purpose of the project, but also requesting a meeting in order to present the project to them in more details.

We did not request the information through the request for free access to information, but we used a regular procedure instead, because for evaluation of transparency it is of extreme importance to verify the willingness of a state institution to voluntarily respond to a citizen's request. Only one institution - the Secretariat for Development Projects - did not provide us with the requested information, and the reason for that was that we could not find their contact information and thereby could not send them the questionnaire.

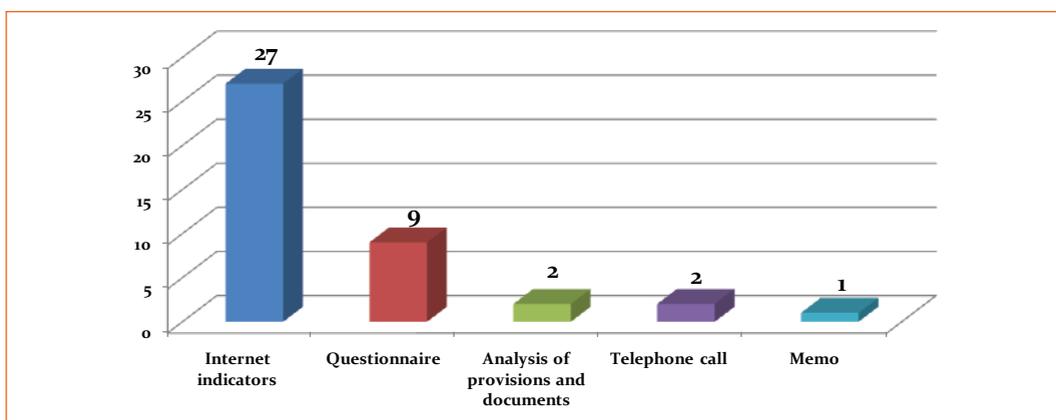
Internet analysis has confirmed that three institutions do not have their official websites (the Secretariat for Development Projects, the Inspection Administration and the Administration for Cultural Heritage Preservation). Taking into account the advancement of information technology, we believe that the lack of an official website could not be explained by insufficient funds, but that it actually tells us that the mentioned institutions are not being transparent.



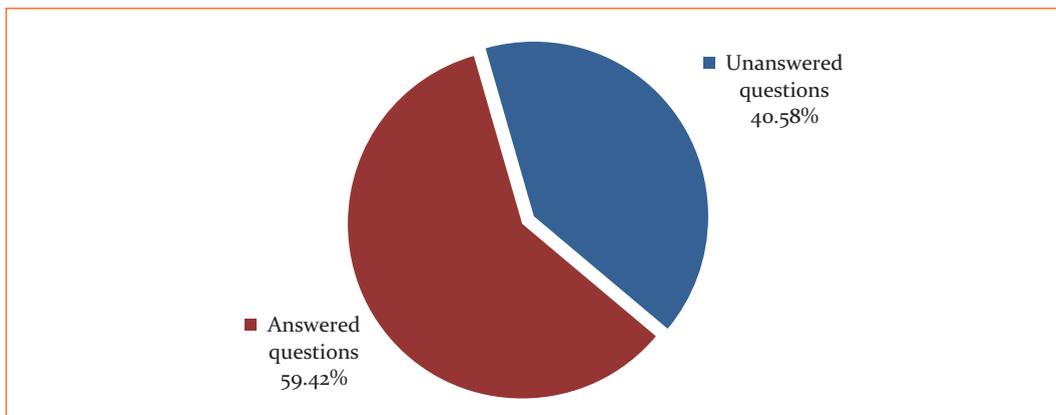
### 3. Parliament of Montenegro

The Parliament of Montenegro was followed by 41 indicators which, in the CDT opinion, represent the level on which good governance in the Parliament of Montenegro should have been by now. At the moment, the Parliament of Montenegro satisfies almost 60% of the desirable level. The Parliament has undoubtedly made progress in this area, but there is still a lot of room for improvement.

*Chart 1. Parliament of Montenegro – indicators*



*Chart 2. Overall results achieved by the Parliament of Montenegro*



*Table 4. Parliament of Montenegro - percentage of fulfilled indicators*

<b>TRANSPARENCY</b>	
Existence of the official website	100,00%
Is the website up-to-date?	100,00%
Are the most important administrative documents published on the website (organogram, competencies, biographies)	100,00%
Is there a public relations service?	100,00%
Does the website contain information about the public relations service?	100,00%
Does the website contain the key documents regarding public procurements (invitations for public procurement tenders, decisions on awarding contracts following invitations for tenders and public procurement contracts)	66,67%
Does the website contain contact information?	66,67%
Does the website contain the most important program documents (Program of Work for 2012, Strategy of Development, Report on Work for 2011)?	33,33%
Reaction of the spokesperson within 7 days to the CDT letter regarding the DURBIN project - regular institutional channel	0,00%
Does the website contain information about the structure and scope of work of the Parliament's working bodies?	100,00%
Does the Parliament's website contain the state budget for 2012?	100,00%
Does the Parliament's website contain the semiannual reports on expenses planned for the Parliament in the budget?	100,00%
Does the Parliament's website contain the annual reports for 2011 on expenses planned for the Parliament in the budget?	100,00%
Does the Parliament have audio and video broadcasts of the plenary sessions?	100,00%
Does the website contain the stenograms from the last 3 plenums?	100,00%
Does the Parliament have a strategy of development for the coming 3 - 5 years?	100,00%
Does the Parliament's website contain the listings of votes for the last three adopted draft laws or amendments to a law?	66,67%
Does the Parliament's website contain the minutes from the last 3 plenum sessions?	66,67%
Test search of the Parliament's website - searching for a phrase from the home page	66,67%
Does the Parliament's website contain listings of votes for the last three adopted reports?	33,33%
Does the Parliament's website contain the minutes from the last 3 committee sessions?	33,33%
Does the Parliament's website contain the Parliament's budget for 2012?	0,00%
Does the Parliament's website contain information about the budget that is understandable and comprehensive for the citizens (tables and text)?	0,00%
Does the Parliament's website contain the State of Accounts for 2011?	0,00%
Does the Parliament's website contain a database of documents related to the Parliament's supervisory function (hearings, investigations, questions of representatives, interpellations)?	0,00%
Does the Parliament have audio and video broadcasts of the working bodies sessions?	0,00%
Does the Parliament's website contain information about the representatives' individual activities?	0,00%
Does the Parliament's website contain the results of all elections and names of all representatives since the multi-party system has been introduced?	0,00%

<b>TRANSPARENCY</b>	
Does the Parliament's website contain the Act on Systematization and Internal Organization of Work Positions?	0,00%
Are there leaflets that are posted, distributed , etc., explaining to the citizens the 2012 budget ?	0,00%
Are there leaflets that are posted, distributed , etc., explaining to the citizens the Parliament's budget for 2012 ?	0,00%
How long did the parliamentary discussion on the budget last (in relation to the OECD and the IPU recommendations)?	0,00%
Does the Parliament's website contain the Free Access to Information Guide?	100,00%
Does the Parliament's website contain contact information of the public information officer (name, phone number, e-mail address)?	100,00%
Test telephone call to the public information officer	100,00%
Are the statistical records of the free access to information requests (written and oral) being kept?	100,00%
Do the Parliament's Rules of Procedure prescribe participation in/monitoring of the Parliament's work by civil society representatives and/or interested public?	100,00%
<b>ACCOUNTABILITY</b>	
Is there a prescribed obligation for the Parliament to adopt the annual report on the Government's work?	0,00%
<b>REFORM CAPACITIES</b>	
Are there annual plans for normative activities at the Parliament level?	100,00%
Are there annual reports on implementation of normative activities at the Parliament level?	100,00%
Is there an organizational unit within the Parliament dealing with the EU accession process?	100,00%
<b>TOTAL</b>	
	<b>59,42%</b>

### 3.1. Transparency

#### 3.1.1. Transparency of work

The Parliament of Montenegro has an up-to-date website containing important program documents as well as information about its public relations service. However, the website does not contain the Program of Work for 2012, or the institution's development strategy. The invitations for public procurements and the decisions on the best offers are published systematically, but not the actual contracts on public procurements, which is an important standard of an institution's transparency.

We checked for the lists with the parliament representatives' votes. Satisfaction of this indicator is 66% for the laws and amendments and 33% for the reports. We also searched for the minutes from the last three plenum sessions and found 2 out of 3. The situation with minutes from the boards' sessions is worse – we found minutes from only 1 of the last 3 sessions. Having in mind the fact that in some boards, the minutes are not verified before the next session, we believe that the citizens are therefore deprived of such important information, because more than a month can pass between two sessions of some of the boards.

During the monitoring we could not find the Act on Internal Organization or the Act on Job Systematization on the Parliament website.

On the Parliament website there is no documents database with regard to the Parliament supervisory function. We believe that this base would provide valuable information on the quality and quantity of this Parliament's function. This is especially important having in mind that the strengthening of the supervisory role is a challenge emphasized by all relevant international and national institutions. In addition, there is no information on the parliament representatives' individual activities. We believe that, from the aspect of political accountability, it would be important for the citizens to have an overview of activities of the representatives they have elected.

### *3.1.2. Budget transparency*

On the Parliament of Montenegro website there is no Parliament budget for 2012 and no information explaining to the citizens the content of this document. With regard to the state budget for 2012, the Parliament made no attempt to make it more clear and understandable for the citizens.

One of the indicators was the duration of the parliamentary discussion on the budget for 2012. The monitoring has indicated that the parliamentary discussions on the budget for 2010, 2011 and 2012 lasted in between 17 days (budget proposal for 2010) and 40 days (budget proposal for 2011). The situation with the budget proposal for 2013 is extremely worrying, because only about 10 days were left for the discussion in the Parliament on such an important act.

By comparing the data obtained by the analysis and recommendations by the OECD and the IPU regarding the budget transparency and the budget adopting procedure in general, we can conclude that the practice in Montenegro does not comply with the recommendations from the aforementioned international institutions.

**Regarding the amending influence of the Parliament on the budget, our monitoring has indicated that the opposition representatives are a lot more active than the governing representatives when it comes to the number of submitted amendments to the budget draft. Namely, the Parliament majority representatives have submitted 12 amendments, while the opposition representatives have submitted 24 amendments to the Law on Budget for 2012.**

### *3.1.3. Participation of non-governmental organizations*

The Rules of Procedure of the Parliament prescribe participation of the civil society representatives in the work of the boards, and we would like to emphasize a fair cooperation of the Parliament with the civil sector. What is missing is a fast and easy way to find a form in which the civil society representatives can express their opinion, because the form is not easily visible on the Parliament website.

## **3.2. Accountability**

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One of the mechanisms for parliamentary supervision over the executive power is an interpellation for discussing certain issues with regard to the Government's work. The Rules of Procedure of the Parliament proscribe that the Government can review an interpellation and submit to the Parliament a written report with its opinion.

We have determined that, with regard to interpellation, the Government did not submit to the Parliament the report containing its opinion. This is an example of irresponsible behavior by the Government, but also an indicator that a more precise regulation of this Government's responsibility is something that should be taken into consideration.

The monitoring has indicated that the Rules of Procedure do not define the responsibility of the Parliament to adopt the annual report on work of the Government, which is definitely something that should be considered in the context of increasing accountability and control over the executive power.

**In 2012 the Parliament representatives have asked the Government members 208 questions in total, as well as 20 additional question. The opposition representatives were, as expected, more active in asking questions than their counterparts in the government.**

Caucus Democratic Party of Socialist	17 questions
Caucus Socialist People's Party	92 questions and 4 additional questions
Caucus Social Democratic Party	11 questions and 2 additional questions
Caucus New Serb Democracy	42 questions and 6 additional questions
Caucus Movement for Changes	25 questions and 7 additional questions
Caucus Bosniak Party	5 questions
Caucus of Albanian representatives Mehmet Zenka (who is not a member of any caucus)	14 questions and 1 additional question 2 questions

Talking about another mechanism of control over the executive power – parliamentary investigation, we have obtained information that 1 parliamentary investigation was conducted in 2012. Namely, the Proposal for the Decision on starting a parliamentary investigation and forming of the Inquiry Committee for Information and Facts Gathering Regarding the Corruption During Privatization of the Montenegro Telecom and the Proposal for the Decision on forming of the Inquiry Committee for Information and Facts Gathering Regarding the Corruption During the Privatization of the Montenegro Telecom, were discussed and adopted during the third extraordinary session in 2012.

The Inquiry Committee for Information and Facts Gathering Regarding the Corruption During the Privatization of the Montenegro Telecom held 13 sessions and on 1 October 2012 it submitted to the Parliament the Technical Report containing information on the number of sessions held, the sessions' agenda, the information on individuals who gave their statements and the legal entities which provided documentation, as well as the list of documentation which was discussed.

Therefore, the Inquiry Committee has formally complied with the procedures in the sense of submitting of the Technical Report, but we do not have a concrete result regarding possible corruption in the case of the Telecom privatization.

In order to get a clearer picture of the parliamentary control over the executive power, we were curious to know whether the parliamentary boards discuss and analyze the ministries' annual reports on work and the state of affairs in the respective administrative areas. The obligation of the ministries to submit these reports to the Parliament is not prescribed by the Rules of Procedure. However, for the Ministry of Defense, for example, this obligation is defined by the Law on Parliamentary Supervision in the Area of Security and Defense. During its 14 May 2012 session, the Security and Defense Committee reviewed the report by the Ministry of Defense and made the conclusion which was more comprehensive than the conclusions issued by the Government when adopting the ministries' reports. However, its form and content can still be significantly better. The conclusion in a very general manner states progress in certain areas and suggests, also in general, the priority activities for the coming period.

### 3.3. Reform capacities

The Parliament has annual plans for normative activities as well as reports on work containing the information on normative activities. However, the annual plans for normative activities are not available to public on the Parliament's website. The reports on work are being published on the website, but based on these reports alone it is not possible to determine to what extent the plan for issuing provision has been realized.

### 3.4. Recommendations

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1. To publish the program and the administrative documents which are missing: the program of work for the next year, the development strategy (if there is one) and the act on internal organization and job systematization.
2. To publish public procurement contracts – In addition to publishing invitations for public procurement and decisions on the best offers, for the purpose of full transparency of public procurement procedure, it is necessary to publish public procurement contracts as well.
3. To publish in an up-to-date manner the listings of votes on the adopted laws/amendments to the laws/reports – Publishing of these listings is an extremely important activity for achieving transparency of the plenum sessions' work.
4. To publish in an up-to-date manner the minutes from the plenum and work bodies' sessions – The Parliament already has a routine practice of publishing the minutes, but our monitoring has indicated that there are still certain flaws which should not be neglected.
5. To significantly enhance the budget transparency on the website – The Parliament of Montenegro adopts the annual state budget and therefore it needs to be a lot more responsible in providing information on the budget to the citizens. The website does not provide information on the budget in a manner understandable to the citizens, but only the Law on Budget which is an official document and is not adapted for the citizens. In addition, the Parliament does not have its own budget separately stated on the website and that should be changed in order to enhance accountability towards the citizens who have elected their representatives in the government. It is necessary to have the annual budgets and final accounts of the budgets published in a format which enables simple use and manipulation with the data.
6. To have the Law on Budget precisely stating the deadlines for the Government's submission to the Parliament of the proposal for the law on budget for discussion – The recommendations with regard to the budget transparency, which the OECD has prepared as early as in 2002, emphasize that it is necessary for a proposal for the law on budget to get to the parliament no later than 1 October, in order for the parliament to have enough time to review such an important text. On the other hand, the Inter-Parliamentary Union believes that, according to the comparative practice findings, for an efficient review in the parliament of the proposals on the law on budget, it is necessary for the proposals to be submitted three, or even four months before the end of the current fiscal year.
7. To show individual activities of the parliament representatives, especially those related to the Parliament's supervisory function – If a citizen wants to find something about the activities of a certain parliament representative, about the questions he asked, or the proposals for the laws he took part in, the information can only be found by searching the Parliament's sessions or laws and other acts. This is definitely not an easy task for a citizen, so we recommend having a link for individual activities of parliament representatives created as soon as possible. This is also very important from the aspect of increasing the parliament representatives' political accountability.
8. To enhance presentation of activities regarding the Parliament's supervisory function by creating a database of the Parliament representatives' questions, interpellations, parliamentary hearings and inquiries. That way it would be made easier for the citizens to get informed on how active their representatives are in supervising the executive power, but also on the results of such activities.
9. To enhance the Parliament's supervision over the executive power through introduction of an obligatory reports which will be submitted to the parliamentary committees by the ministries and which will be dealing with the issues from the ministries' respected area of competence.

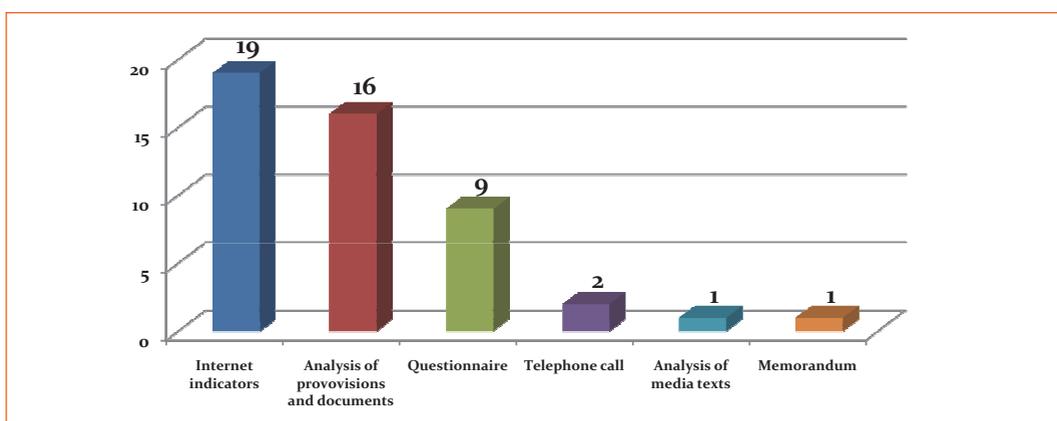


## 4. Government of Montenegro and ministries

### 4.1. Government of Montenegro

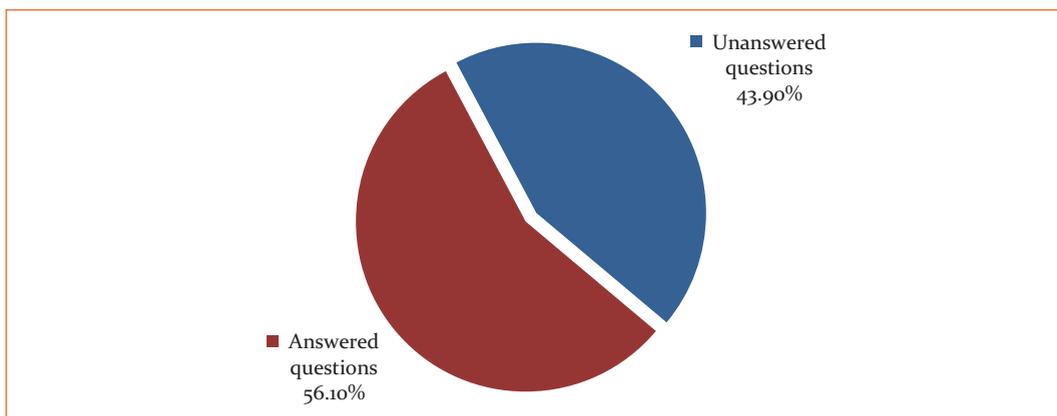
We have followed the good governance principles in the Government of Montenegro using 48 indicators divided into three dimensions: transparency, accountability and government reform capacities. The overview of the number of indicators in relation to the source of information is presented in the following chart.

*Chart 3. Government – indicators*



At the moment, the Government of Montenegro satisfies 56.10% of the desirable level of compliance with the good governance principles. The information tells us that, although the Government has made a progress in the field lately, there are still a lot of areas and issues that need to be improved.

*Chart 4. Overall results achieved by the Government of Montenegro*



*Table 5. Government of Montenegro - percentage of fulfilled indicators*

<b>TRANSPARENCY</b>	
Existence of the official website	100,00%
Is the website up-to-date?	100,00%
Test search of the Parliament's website - searching for a phrase from the home page	100,00%
Is there a public relations service?	100,00%
Does the website contain information about the public relations service?	100,00%
Reaction of the spokesperson within 7 days to the CDT letter regarding the DURBIN project - regular institutional channel	100,00%
Are public announcements available on the website after the Government's sessions?	100,00%
Do the president of the Government, the vice-presidents of the Government and the ministers explain to the citizens the priorities of their departments in media interviews?	66,67%
Does the website contain the most important program documents (Program of Work for 2012, Strategy of Development, Report on Work for 2011)?	33,33%
Are the most important administrative documents published on the website (organogram, scope of work, biographies)?	33,33%
Does the website contain the key documents regarding public procurements (invitations for public procurement tenders, decisions on awarding contracts following invitations for tenders and public procurement contracts)?	0,00%
Does the Government's website contain information about regular press-conferences following the Government's sessions?	0,00%
How are the Government's objectives presented on the website?	0,00%
Does the Government's website contain the State of Accounts for 2011?	100,00%
Did the Government organize a press-conference in order to inform the public about the details of the adopted budget for 2012?	100,00%
How developed is the legal basis for budget transparency - participation of citizens in creation of the budget, publishing of the budget, publishing of state of accounts?	66,67%
Does the website contain the Law on Budget for 2012?	0,00%
Are there leaflets that are made, distributed, etc., explaining to the citizens the 2012 budget?	0,00%
Does the Government's website contain information about the budget that is understandable and comprehensive for the citizens (tables and text)?	0,00%
Does the website contain the Free Access to Information Guide?	100,00%
Does the website contain contact information of the public information officer (name, phone number, e-mail address)?	100,00%
Test telephone call to the public information officer	100,00%
Are the statistical records of the free access to information requests (written and oral) being kept?	0,00%
Does the website contain the invitations to public discussions?	100,00%
What is the quality of procedures in the Decree on the Method and the Procedures of Establishing Cooperation Between the State Administration Institutions and Non-Governmental Organization?	66,67%
Are plans for the ministries' public discussions published on the website?	0,00%

<b>ACCOUNTABILITY</b>	
Is there a defined obligation for the ministries to report to the Government?	100,00%
Is the content of the reports defined?	100,00%
How many program reports of the ministries did the Government review in 2011?	66,67%
Are there defined deadlines for the ministries to submit their reports to the Government?	0,00%
Is the form of the reports defined?	0,00%
Does the form of the report prescribe an obligation to report on problems in the ministries' work?	0,00%
Does the form of the report contain recommendations for enhancement of the ministries' work?	0,00%
Are there prescribed sanctions for failure to submit a report or for delayed reporting?	0,00%
Did the Government respect the deadlines for submitting the report containing its opinion and views regarding interpellation?	0,00%
Does the Code of Ethics prescribe the procedures with regard to its violations?	100,00%
The quality of measures in the Code of Ethics of Civil Servants and State Employees (conflict of interest, relations of civil servants towards the citizens...)	66,67%
Readiness of the system for implementation of the new Law on Civil Servants and State Employees starting 1 January 2013	0,00%
<b>REFORM CAPACITIES</b>	
Are there annual plans for normative activities at the Government level?	100,00%
Are there annual reports on implementation of normative activities at the Government level?	100,00%
Is there a special organizational department within the Government that deals with the EU accession processes?	100,00%
How developed is the coordination within and in between the ministries and with the other EU affairs institutions?	100,00%
How efficient and contentful is the monitoring of the NPI implementation?	66,67%
How efficient and contentful is the monitoring of implementation of the Stabilization and Association Agreement?	66,67%
Are the strategic goals of the Government of Montenegro easily accessible to the citizens on the Government's website?	0,00%
Is there an institution at the government level that deals with defining of strategic goals, planning and monitoring their implementation?	0,00%
Are there indicators for implementation and effects of the reform programs and plans?	0,00%
Is there an internal document for monitoring and evaluating the efficiency of implementation of programs and projects?	0,00%
<b>TOTAL</b>	<b>56,10%</b>

#### 4.1.1. Transparency

The Government's results were satisfying in the field of up-to-dateness of administration in charge of public relations, which was helpful to us regarding our questions and requests, as well as during communication with the ministries. With regard to the official website of the Government and the Secretariat-General, the results in the field of up-to-dateness and search options on the website have been satisfying. In addition, after every Government's session an announcement containing the summary of the most important topics discussed during the session can be found on the website.

Our findings have indicated that the documents regarding public procurement (of the Secretariat-General) are not being published on the website. Although these documents are published on the public procurement portal, we believe that a transparency standard is to have them also published on the state institutions' websites. In addition, the Government's official website does not present plans for public discussions of all ministries. A positive thing is that invitations to public discussions are being posted visibly on the Government website's home page.

#### 4.1.2. Accountability

The normative framework of the ministries' reporting to the Government needs to be significantly enhanced. Although the Law on State Administration prescribes the content of the report, there is no precise form of the report and no precisely defined deadlines within which the ministries are obliged to submit reports on their work to the Government. Our monitoring has indicated that the ministries' reports are submitted in different time periods and they do not have a unified content. The lack of form brings into question the quality of reports, because the ministries are not obliged to report on problems in their work, to assess the quality of the completed work and to suggest recommendations for improvement of work. There are no sanctions prescribed for the failure to submit a report or for a delayed report, which leaves room for failure to comply with obligations prescribed by the Law.

**The ministries' reports are reviewed by the Government during its sessions and the Government makes conclusions regarding the reports by which it adopts them. Until 30 October 2012, the Government of Montenegro has reviewed in total 15 reports on work and state of affairs in the respective ministries' administrative areas. However, the conclusions do not contain obligations for improvement, but they are more of a technical nature (typos and formulation are being corrected, and occasionally there is an instruction for submitting a report to certain institution).**

**In the 21 June 2012 conclusion, adopting the Ministry of Finance report, the Government has instructed the Cabinet of the Vice President for Economic Policy and Financial System and the Cabinet of the Vice President for Political System, Internal and Foreign Policy, to within 10 days prepare a unified methodology for writing reports on work of ministries in the coming period. By searching the materials from the Government sessions that followed, as well as the Government of Montenegro website, the CDT was not able to find the aforementioned methodology or information about whether it had been prepared or not.**

The Government has also failed to achieve satisfactory results when it comes to the system's readiness for implementation of the new Law on Civil Servants and State Employees (it has come into force on 1 January 2013). The new Law on Civil Servants and State Employees prescribes issuing more than 10 bylaws<sup>2</sup>, which would enable the implementation of individual provisions of the Law. However, the only provisions issued based on this Law are the Code of Ethics for Civil Servants and State Employees ("Official Gazette of Montenegro", No. 20/12) as well as the Ordinance on Monitoring and Evaluating the Trial Period of Work of Civil Servants and State Employees (the Ordinance has been adopted by the Ministry of Interior, published in the 9 October 2012 Official Gazette No. 51/12). We believe that these acts should have been issued a lot earlier in the context of accountability of work of the competent institutions (the Government and the Ministry of Interior).

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<sup>2</sup> The bylaws are defined in the Articles 19, 33, 34, 43, 46, 50, 72, 87, 110, 114, 116, 152 of the new Law on Civil Servants and State Employees.

By analyzing the old and the new Code of Ethics for Civil Servants and State Employees we wanted to check whether the new Code of Ethics has brought improvement in comparison to the previous text. The key difference between the two Codes is that the new one has introduced an obligation to form the Board of Ethics authorized to follow on the Code's implementation. The Board is in charge of giving opinion on the complaints regarding the conduct of civil servants in a state institution as well as the opinion over the implementation of the Code, and it is also tasked to follow up on the implementation, to initiate amendments in the area of civil servants' ethics and to promote ethical standards and rules of conduct in state institutions.

Therefore, the current Code of Ethics for Civil Servants and State Employees contains more advanced solutions in comparison with the previous text, and it depends on the practice in the coming period whether it will be fully implemented. The CDT believed that an extremely important task for the Board of Ethics will be the promotion of ethical standards and rules of conduct in state institutions, which should inform all civil servants about the bans, and, most importantly, provide them with examples of good practice in line with the Code.

We have also conducted an analysis of the quality of measures in the new Law on Civil Servants and State Employees regarding the conflict of interest (reports and procedures), the whistleblowers protection, and the integrity plan. The new Law on Civil Servants and State Employees is a lot more precise than the old one in regulating these issues, defining also the integrity plan (which was lacking in the old Law). The integrity plan is a document containing the measures preventing and averting the possibility of emergence and development of corruption. The plan is made once it is assessed that a certain work position is prone to emergence and development of corruption and other forms of biased actions by civil servants and state employees. Furthermore, the state institution is obliged to appoint a civil servant who will be responsible for preparation and implementation of the integrity plan.

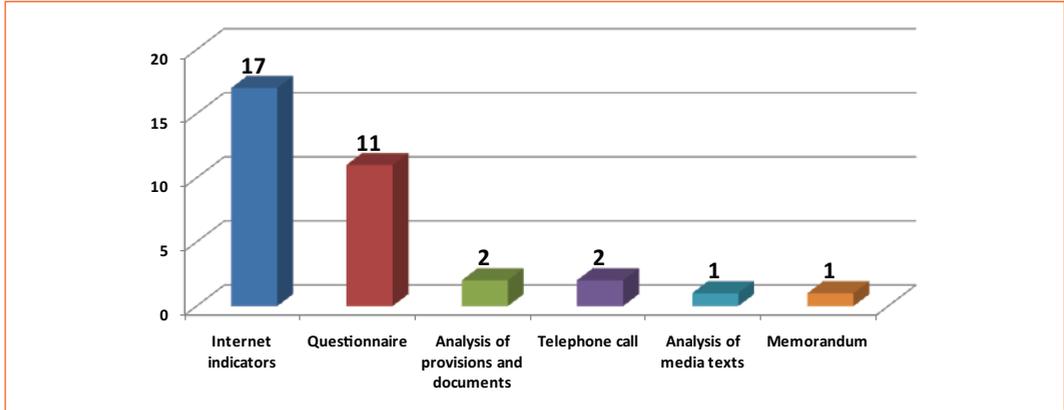
#### *4.1.3. Reform capacities*

In the context of the Government reform capabilities, the existence of measurable indicators of implementation and efficiency of the reform programs is of crucial importance. Our monitoring has indicated that usually there are no well-defined indicators of the implementation and the efficiency of the reform programs, so it is logical to wonder how the state measures the quality of the work done. Although we have received an answer that such body does exist, based on the clarification provided, we could not conclude that within the Government there is a special body dealing with defining the strategic goals, and planning and monitoring their implementation.

#### 4.2. Ministries

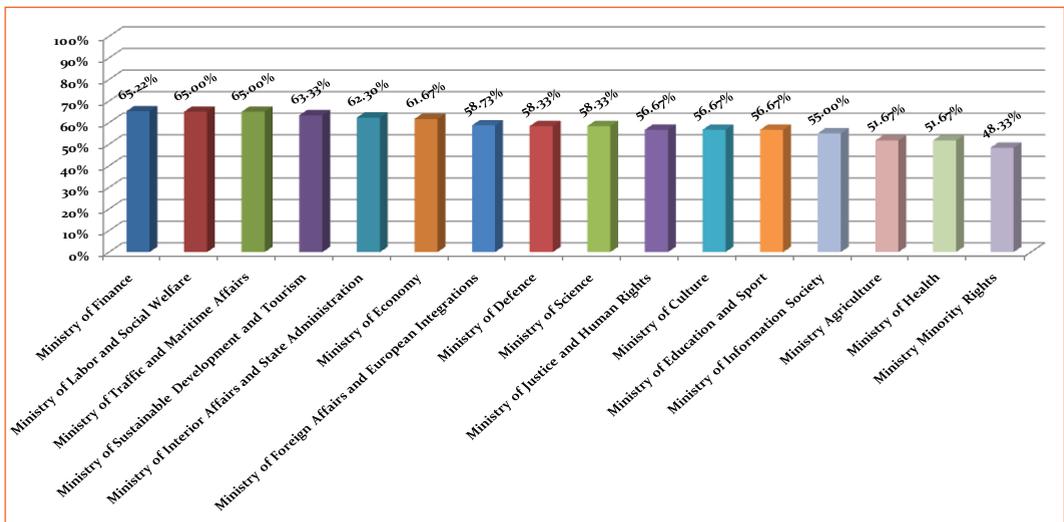
In case of ministries, we have monitored compliance with the good governance principles using 34 indicators, divided into three dimensions: transparency, accountability and reform capabilities. The following chart provides an overview of the number of indicators in relation to the source of information.

Chart 5. Ministries – indicators



Just like in the case of the Government of Montenegro, these 34 indicators, in the CDT opinion, represent the level on which good governance in the ministries should have been. The results of our monitoring indicate that the ministries have achieved better results in comparison to the Government – at the moment, the ministries satisfy 58.5% of the desirable level. The best results have been accomplished by the Ministry of Finance, and the worst by the Ministry of Minority Rights.

Chart 6. The ranking of ministries in relation to the percentage of filled answers



The difference of almost 20% between the best and the worst result can be caused by a number of factors. A possible conclusion is that there is no unified government policy for improving the good governance level. These differences can also be caused by different quality of the employees in the ministries, different interpretations of significance of this topic, but also difference in the funds allocated for the purpose.

*Table 6. Ministries - percentage of fulfilled indicators<sup>3</sup>*

TRANSPARENCY	
Existence of the official website	100,00%
Is the website up-to-date?	97,92%
Test search of the website - searching for a phrase from the home page	95,83%
Is there a public relations service?	87,50%
Does the website contain contact information of the ministry and its organizational units?	85,42%
Reaction of the spokesperson to the CDT letter regarding the DURBIN project within 7 days - regular institutional channel	60,42%
Does the website contain the most important program documents (Program of Work for 2012, Strategy of Development, Report on Work for 2011)?	54,17%
Are the most important administrative documents published on the website (organogram, scope of work, biographies)	54,17%
Does the website contain information about the public relations service?	45,83%
Does the minister explain to the citizens the priorities of his/her department in his/her statements for the media?	37,50%
Does the website contain the key documents regarding public procurements (invitations for public procurement tenders, decisions on awarding contracts following invitations for tenders and public procurement contracts)?	16,67%
Are the goals of the Government and the ministries presented on the website?	12,50%
Does the website contain the Law on Budget for 2012?	100,00%
Does the website contain information about the state budget that is understandable and comprehensive for the citizens (tables and text)?	33,33%
Does the website contain the State of Accounts for 2011?	6,25%
Does the website contain the budget of the ministry for 2012?	0,00%
Are there leaflets that are made, distributed, etc., explaining the 2012 budget to the citizens?	0,00%
Does the website contain information about the Ministry's budget that is understandable and comprehensive for the citizens (tables and text)?	0,00%
Test telephone call to the public information officer	93,75%
Does the website contain the Free Access to Information Guide?	87,50%
Does the website contain contact information of the public information officer (name, phone number, e-mail address)?	75,00%
Are the statistical records of the free access to information requests (written and oral) being kept?	37,75%
Is the public discussions moderator appointed for the E administration website?	75,00%
Is there at least one invitation for a public discussion published in the past year?	50,00%

<sup>3</sup> The questions highlighted with gray color are questions specific for certain ministries as described in the methodology.

Is there at least one report from a public discussion published in the past year?	43,75%
Is there a functioning body for development and monitoring of a policy or a program that includes non-governmental sector representatives?	41,67%
Were non-governmental sector representatives a part of the working groups for drafting of the last 5 draft laws or strategic documents of the Ministry?	20,83%
Are plans for public discussions published on the website?	18,75%
<b>ACCOUNTABILITY</b>	
Did the Ministry send to the Government its report on implementation of its Program of Work for 2011?	100,00%
Is there a defined obligation for the Ministry to submit its financial reports to the Ministry of Finance?	100,00%
Are there defined deadlines for the Ministry to submit its financial reports to the Ministry of Finance?	100,00%
Is the content of the reports defined?	100,00%
Is the form of the reports defined?	100,00%
Has the Ministry submitted its quarterly financial reports for 2012?	100,00%
Has the Ministry submitted its annual financial report for 2011?	100,00%
Are there prescribed sanctions for failure to submit a report or for delayed reporting?	0,00%
Readiness of the system for implementation of the new Law on Civil Servants and State Employees	0,00%
<b>REFORM CAPACITIES</b>	
How developed is the coordination within and in between the ministries and with the other EU affairs institutions?	100,00%
Is there a special organizational department within the Ministry that deals with the EU accession processes?	68,75%
Has there been in the past year at least one internal or external evaluation of the Ministry's work or of one of the Ministry's programs?	68,75%
How developed are the capacities of the Ministry of Foreign Affairs and European Integrations for coordination of the negotiation process?	66,67%
How developed are the reform programs and plans at the ministry's level - goals, indicators, deadlines, people in charge, the connection to the budget, administrative capabilities?	66,67%
Is there an internal document for monitoring and evaluating the efficiency of programs and projects?	43,75%
<b>TOTAL</b>	58,48%

#### 4.2.1. Transparency

The ministries' websites are generally unclear and unorganized. Although they are up-to-date in the sense of posting the news on the most important activities, that is not the case when it comes to the documents related to the ministries' work. Namely, some documents can only be found by using the search option on the website. The positive thing is that almost all ministries (15 out of 16) have a functional and advanced search option on their websites.

We checked whether the websites contain the most important program documents (Program of Work for 2012, Annual Report on Work for 2011, and at least one strategy falling under the ministries' com-

petencies) and we can now say that the average satisfaction of the indicator is 54.17%. The same satisfaction average is for posting the most important administrative documents including: the organizational structure of the ministry, the scope of work of organizational units and the biographies of leading officials. These are the key documents regarding the institutions' work and posting them requires minimum effort by the institutions' employees. Just like in the case of the Secretariat-General of the Government, the problem is the failure to publish key documents with regard to public procurement. The percentage of satisfaction of this indicator is only 16.67%. A Montenegrin citizen can find out very little on the activities of certain ministries by visiting their websites. Only two ministries (Ministry of Foreign Affairs and European Integrations and the Ministry of Finance) have their objectives explained on the website, but not the measures that can be used to determine if the objectives have been accomplished.

**Direct negotiation is a public procurement procedure. The Article 78 of the Law on Public Procurement prescribes that the total annual value of public procurements using direct negotiation cannot exceed 10% of the overall annual procurement budget. In the 2011 Report on Public Procurement, there is not enough information based on which it can be concluded how many public procurement processes involved direct negotiation. The State Audit Institution stated in its report: "The audit has confirmed that in a number of audited institutions there were numerous irregularities regarding the implementation of the Law on Public Procurement. Unrealistic public procurement plans, non-transparent conducting of procedures, not appointing public procurement officials, splitting of objects of public procurement and incomplete reporting have been the characteristics of the public procurement system so far."**

**According to the information from the Report on Auditing the State of Accounts of the Budget of Montenegro for 2011, the Law on Public Procurement is not sufficiently respected. Direct negotiation in conducting of the public procurement procedure is used a lot more often than permitted by the Law on Public Procurement.**

**We would like to commend the Ministry of Defense for the way it has presented the public procurement documentation on its website. Although we were not able to find the decision on the best offers, the invitations for public procurement procedures and the contracts are presented systematically and neatly. On the other hand, we commend the Ministry of Information Society and Technology for posting all the necessary documentation, although not fully systematically.**

essary to explain the budget to them in order for the citizens to know what quality of public services to expect. Since the ministries' budgets are not explained to the citizens in a narrative form, there is no simple way for the citizens to obtain information on how their money is being spent. The proposal for the state's annual state of accounts for 2011 is only available on the Ministry of Finance website. In addition, the ministries made no effort to explain the budget for 2012 to their citizens through promotional material (leaflets, announcements in the media, memorandums, etc.).

The Ministry of Finance website presented the state budget for 2012, but none of the ministries have their budgets for 2012 on their websites, and they also make no attempt to explain the budget to the citizens in a manner understandable to them. It is not enough to only post the state budget on the website, because the budget figures are not understandable enough to the citizens, and it is nec-

**The Ministry of Finance is the only ministry which on its home page, in the form of banners, has posted 5 priorities of the Ministry of Finance in 2012. This is a very simple way of presenting to the website visitors what is the focus of the Ministry of Finance in the current year, and that way it is also easier to evaluate the work of a ministry by comparing it to its defined priorities.**

In the field of free access to information, the Ministry of Information Society and Telecommunications and the Ministry of Science are the only two ministries which have not posted on their websites the Guide for Free Access to Information. In almost all ministries (15 out of 16) it is possible by using a telephone call to easily reach the person in charge of free access to information. However, we have found out that less than half of the ministries keeps record of the requests for free access to information, which is, in our opinion, a reason for concern.

The Guides for Free Access to Information posted on the institutions' websites differ in quality when it comes to neatness, comprehensiveness and up-to-dateness of information. The Guide which we would like to commend as a good practice for its placing an emphasis on individuals authorized and responsible for dealing with the requests is the Ministry of Education and Sport. The Guide is up-to-date and it contains the names of officials who are responsible and in charge of the ministry's sector including their contact telephone numbers.

We have compared the statistical data from 2011 and 2012 regarding the number of the free access to information related disputes against the ministries. Although the number of decisions made in these disputes in 2012 is less than in 2011, the number of decision approving the plaintiffs' requests, i.e. the decisions ruling against the ministries, is significantly large. This leads to the conclusion that the concept of free access to information is still not known enough, which eventually decreases the availability of information to the citizens and the civil sector.

The execution of the administrative court decisions remains an open question and that would give a very precise picture of whether the ministries act on the decisions or not.

When it comes to the non-governmental sector participation, we wanted to know if the NGO representatives had been a part of working groups for drafting the last five draft laws or strategic documents. The average number of satisfactory answers is very low – only 20.83%. We searched the websites looking for at least one published invitation for a public discussion in the last year, and since the requirement of this indicator is really minimal, it is devastating that the indicator is only half-way satisfied. Namely, only 8 out of 16 ministries have at least one invitation published. Despite the Decree<sup>4</sup> prescribing an obligation for the ministries, within five days of adopting the annual Program of Work, to publish on their websites the list of laws over which they would organize public discussions, only three ministries (Ministry of Minority Rights, Ministry of Interior and Ministry of Traffic and Maritime Affairs) have the plan for public discussions published on their websites. It is necessary for the ministries to be pro-active in this area and encourage the participation of the non-governmental sector, especially with regard to public discussions as one of the most important mechanisms for including the citizens in the decision-making process.

The Ministry of Labor is the only Ministry winning maximum points for the following question: Did the working groups involved in creating the last 5 drafts of laws or strategic documents include also the representatives of non-governmental organizations? Namely, the Ministry has provided all requested documents on forming the working groups for drafting laws or strategic documents with the representatives of non-governmental organizations.

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<sup>4</sup> Decree on procedure and the method of running public discussion in drafting a law

#### 4.2.2. Accountability

The accountability of ministries towards the Government and the Ministry of Finance implies submitting reports on work and financial reports within prescribed deadlines and in a prescribed manner. Financial reporting of ministries towards the Ministry of Finance is prescribed by the Ordinance<sup>5</sup> defining precise deadlines, content and form of the reports. In addition, based on the response from the Ministry of Finance we can conclude that the mentioned procedures are formally respected. Although we need to praise its precisely defined reporting system, we should emphasize one big flaw - the aforementioned Ordinance prescribes no sanctions for failure to submit a report or for delays in reporting. We were curious to know whether the system is ready for implementation of the new Law on Civil Servants and State Employees prescribing issuance of more than 10 bylaws, which would enable the implementation of individual provisions of the Law. However, during the monitoring we have determined that the only regulations issued based on this Law were the Code of Ethics of the Civil Servants and State Employees and the Ordinance on Monitoring and Evaluating the Trial Period of Work of Civil Servants and State Employees. Please note that the indicator was only used for the Ministry of Interior Affairs due to its specific competencies regarding the issuing of these bylaws.

**Two ministries received the recommendations by the State Audit Institution for 2011: the Ministry of Economy and the Ministry of Finance. The Ministry of Economy has fulfilled 71% of the recommendations, while the Ministry of Finance has provided us with an incomplete answer regarding the fulfillment of recommendations: "The Ministry of Finance has fulfilled the majority of the SAI recommendation for 2011."**

**We wanted to know whether the ministries had initiated any disciplinary procedures based on violations of the Code of Ethics in 2010, 2011 and 2012. We find it interesting that in three years none of the ministries had a disciplinary procedure following a breach of the Code of Ethics.**

#### 4.2.3. Reform capacities

We also wanted to know how many ministries in their strategic documents, but also internally, monitor and evaluate their activities. Less than half of the ministries have an internal document for monitoring and evaluating the effects in implementation of programs and projects, while in 68,75% of the ministries there has been at least one external or internal evaluation of work in the past year. This conclusion is supported by the fact that in the past year 5 ministries did no internal or external evaluation of the respective ministry's work or of a program within the ministry's competences.

### 4.3. Recommendations – Government and ministries

1. To have a unified policy of improving good governance in all ministries – The difference of almost 20% between the best and the worst result among the ministries indicates that compliance with the good governance principles is left for individual interpretations. It is necessary to have a unified policy of equal development in all ministries.
2. To improve the quality of the Government's and the ministries' websites – It is necessary to continue dynamic development of the Government's and the ministries' websites in order to create internet presentations that are significantly more accessible to the citizens. It is also necessary

<sup>5</sup> Ordinance on the Method of Writing and Submitting Financial Reports

to improve systematical aspect and up-to-dateness of the websites, especially when it comes to posting important documents. Furthermore, it is important to increase transparency of the institutions by presenting key documents with regard to public procurement (invitations for tenders, decisions on allocating contracts for public procurement and contracts on public procurement) on the websites.

3. To present in a good quality manner the Government's budget and the budgets of the ministries - Discouraging information that none of the ministries have presented their budgets on their websites means that the citizens' need to find out how their money is being spent has been neglected. It is necessary to explain to the citizens precisely how the adopted budget will affect their quality of life, i.e. the quality of public services which the Government offers to its citizens. In order to increase the transparency of the process of preparation, planning and adopting of the budget, we believe that it is necessary to precisely state the legal deadlines for the Ministry of Finance to submit the Draft Law on the Budget to the Government, as well as the deadlines for the Government to approve the Draft Law and sent it to the Parliament. What also speaks in favor of that recommendation is the last year's situation when the discussion over such an important document lasted only about 20 days, because it was as late as 17 December 2012 when the Government sent to the Parliament the Draft Law on the Budget for 2013. The recommendations related to the budget transparency, which the OECD has issued back in 2002, emphasize the importance for the Draft Law on the Budget to be sent to the Parliament no later than 1 October, in order for the Parliament to have enough time for reviewing such an important text. On the other hand, the Inter-Parliamentary Union believes that, according to the comparative practice results, in order to efficiently review the Draft Law on Budget in the Parliament, it is necessary for the Draft Law to be sent to the Parliament three, or even four months before the end of the current fiscal year.

In addition, in order to increase the transparency of state finances, it is important to have the annual budgets and final states of accounts published in the format which enables simple use and manipulation of data. Currently, these documents are published in the PDF format, which very often does not allow copying, let alone simple data processing.

4. To increase the quality of information provided to the citizens on strategic and operational objectives of the Government and the ministries – The analysis has indicated that the presentation of a department's priorities is at a low level both on the websites and in the ministers' media statements. What presents a concern is the information that only 12,5 % of the ministries have their priorities explained on their websites, and that less than a third of the ministers explains their department priorities in a concrete manner. Our recommendation is to make a unified procedure for the Government and the ministries, which would enable precise explanations of the ministries' priorities to the citizens.
5. To improve the quality of the ministries' reports to the Government and the Ministry of Finance – The program reporting has been imprecisely defined in the Law on State Administration. It is necessary to prescribe a precise form of the report which would, in addition to the content prescribed by the Law, also include obligation for the ministries to report on problems in work, to evaluate the work done, and to propose recommendations for improving the work. In addition, precise deadlines for submitting reports need to be prescribed, as well as sanctions in case of delays or failure to submit a report. Financial reporting is significantly more precisely defined by the Ordinance, but the key flaw is the lack of sanctions for a delayed report or failure to submit a report. Fulfilling this recommendation is of key importance for increasing accountability in the state administration work. And finally, it is necessary for the Government, during the adoption of the ministries' reports, to define the obligations for improvement of the ministries' work, and not only deal with technical aspects. An important part of the report should definitely be an overview of planned activities, with deadlines set for their implementation, as well as with

the specified goals to be achieved by these activities. Then it should be stated what has been done and in what time period (precisely stating of deadlines is desirable, because that contributes to easier evaluation of the ministries' work). In case a part of a ministry's report are the reports of the institutions supervised by the ministry, it is necessary for all of them to have a unified form, i.e. the same structure, making them easier to read.

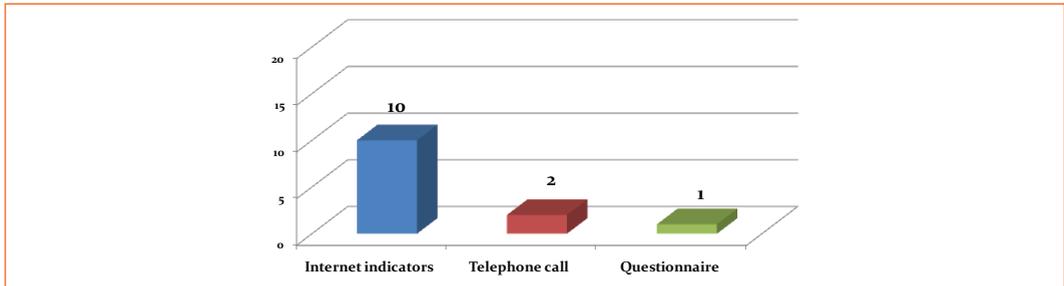
6. To create preconditions for an efficient implementation of the new Law on Civil Servants and State Employees – The new Law on Civil Servants and State Employees prescribed passing of more than 10 bylaws which would enable implementation of individual provisions of the Law. However, the only provisions passed based on this Law are the Code of Ethics for Civil Servants and State Employees and the Ordinance on Monitoring and Evaluating the Trial Period of Work of Civil Servants and State Employees. For the purpose of increasing the integrity of state administration and the conflict of interest management, it is necessary, as soon as possible, to pass these bylaws. We emphasize that 1 January 2013 was the legally prescribed deadline for passing these acts.
7. To introduce a better quality system of creating strategic objectives and monitoring the effects of the reforms – In order to increase accountability and quality of monitoring the reforms' effects, we recommend forming of a state body which would deal with defining strategic objectives, as well as planning and monitoring of their implementation. We recommend this primarily because our analysis has indicated that there are huge differences in the quality of the ministries' strategic documents, i.e. different quality of the set objectives, the success indicators, deadlines, etc. We believe that this way the accountability for conducting and monitoring reforms would be significantly increased. Introducing an internal document with precisely defined method of monitoring the effects of programs and projects in all state institutions should also be considered. Contrary to the evaluations used so far, it is necessary to have not only the evaluation of quality, but also the evaluation of the effects of the conducted reforms.



## 5. Administrative institutions

Our monitoring of other administrative institutions included the institutions stated in the Decree on Organization and Method of Work of State Administration<sup>6</sup>. Transparency was measured using 13 indicators. The overview of the number of indicators for other administrative institutions in relation to the source of information was presented in the following chart.

*Chart 7. Other administrative institutions – indicators*



**Rank list of administrative institutions you can find on next page.**

In the opinion of the CDT, these 13 indicators represent the transparency level on which these administrative institutions should have been now. In average, these administrative institutions satisfy 44.14% of the desirable level. This information tells us that the administrative institutions do not satisfy transparency standards and that in the coming period they need to focus on improving the existing situation. The best results have been achieved by the Directorate for Anti-Corruption Initiative and the worst by the Secretariat for Development Projects and the Administration for Cultural Heritage Preservation.

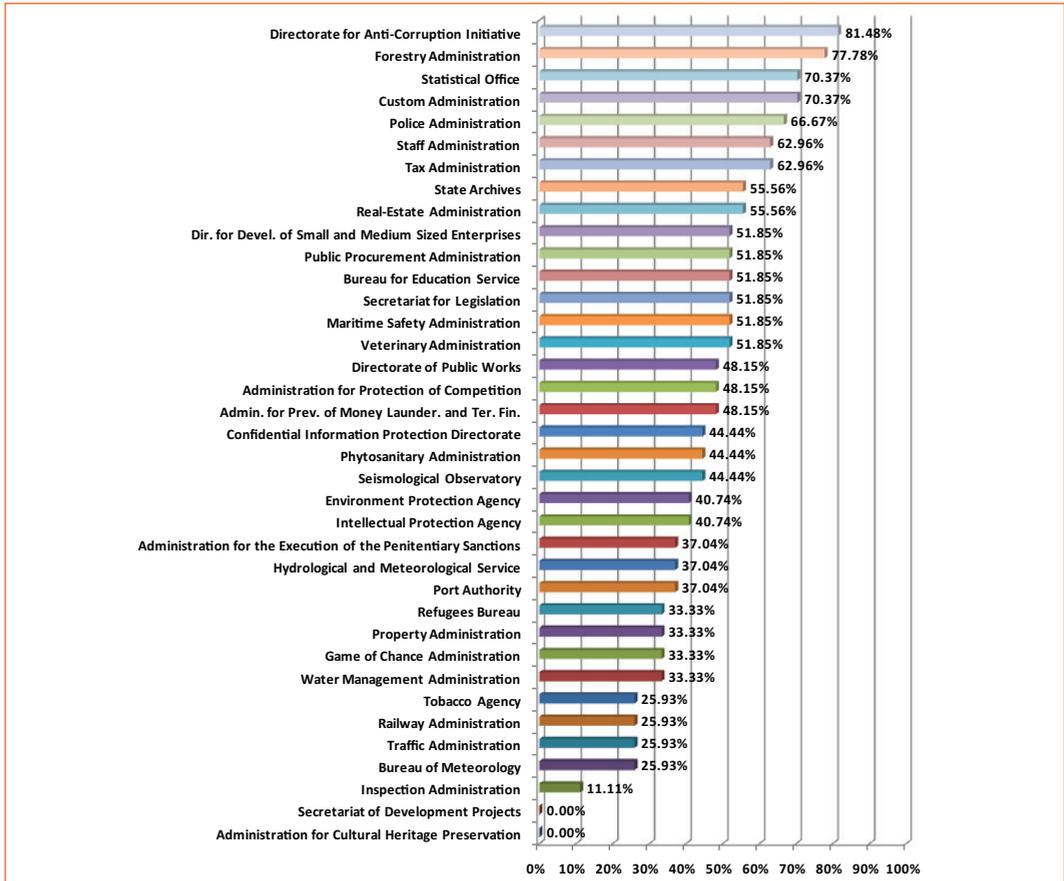
One of the main conclusions of the monitoring is that the administrative institutions do not dedicate enough attention to communicating with and informing of the citizens. What concerns is the information that there are huge differences in the institutions' development levels, so the impression is that the government does not have a unified policy for all administrative institutions.

In order to get the information about the administrative institutions, an average citizen will not reach for the Decree on Organization and Method of Operation of State Administration (or any of its amendments) first, but he/she will try to get the information via the administrative institutions' official websites. Our monitoring has shown the websites of the administrative institutions which no longer exist are still active, while some administrative institutions do not have their websites at all, so a citizen cannot figure out with certainty which state institutions exist and which do not exist.

During the monitoring a difference was detected between the Decree on Organization and Method of Operation of State Administration and the administrative institutions' internet presentations. To illustrate the difference, there are official websites of some state institutions which no longer exist, such as the Directorate for Public Procurement, the Bureau for International Cooperation,

<sup>6</sup> Official Gazette of Montenegro, No. 05/12 dated 23 January 2012, No. 25/12 dated 11 May 2012. Amendments to the Decree have also been adopted and they came into force on 7 December 2012. It has been decided, inter alia, to form again the Administration for Youth and Sport, which was not included in the monitoring, because the monitoring was completed on 3 December 2012.

Chart 8. The administrative institutions' ranking is presented in the chart



the Administration for Youth and Sport<sup>7</sup>, the Hydro-Meteorological Agency and the Seismological Agency (which are now combined into one the Hydro-Meteorological and Seismological Office).

An additional confusion during the monitoring was created by the list of administrative institutions on the Government's website. The list of administrative institutions, under the section Organization, was not updated. Since it is difficult anyway for citizens to find their way around in the labyrinth of state administration, it is necessary that the Government regularly updates the list of administrative institutions, as well as the links for the institutions' websites. During the monitoring we realized that the links for the websites of the Administration for the Execution of the Penitentiary Sanctions, the Directorate for Development of Small and Medium-Sized Enterprises, and the Environment Protection Agency have not been updated and they do not lead to the desired addresses. The State Archives and the Railway Administration have their official websites, but on the Government's website there are no links which could direct citizens to them.

The case of the Secretariat for Development Projects is also interesting, because the Secretariat has been established by the new Decree on Organization and Method of Operation of State Administration, but despite our attempts to establish a contact with this institution, we have not been able to find its contact information. The website of this institution does not exist yet.

<sup>7</sup> Administration for Youth and Sport has not existed formally at the time of the monitoring, although its website has been active.

## 5.1. Results by indicators

*Table 7. Administrative institutions - percentage of fulfilled indicators*

TRANSPARENCY	
Existence of the official website	91,89%
Test search of the website - searching for a phrase from the home page	61,26%
Are the most important administrative documents published on the website (organogram, scope of work, biographies)	60,36%
Does the website contain contact information of the administrative institution and its organizational units?	59,46%
Is the website up-to-date?	55,86%
Is there a public relations service?	35,14%
Does the website contain the most important program documents (Program of Work for 2012, Strategy of Development, Report on Work for 2011)?	19,82%
Does the website contain information about the public relations service?	12,61%
Does the website contain the key documents regarding public procurements (invitations for public procurement tenders, decisions on awarding contracts following invitations for tenders and public procurement contracts)?	5,41%
Test telephone call to the public information officer	86,49%
Does the website contain the Free Access to Information Guide?	56,76%
Are the statistical records of the free access to information requests (written and oral) being kept?	51,35%
Does the website contain contact information of the public information officer (name, phone number, e-mail address)?	45,95%
<b>TOTAL</b>	<b>44,14%</b>

### 5.1.1. Existence of official websites

The fact that four state institutions do not have their own websites is discouraging. These institutions are: the Administration for Cultural Heritage Preservation<sup>8</sup> (which has a blog as its website), the Secretariat for Development Projects, the Inspection Administration, and the Hydro-Meteorological and Seismological Office<sup>9</sup>.

The Administration for Cultural Heritage Preservation has been established in mid 2011, the Hydro-Meteorological and Seismological Office and the Inspection Administration in early 2012, while the Secretariat for Development Projects has been formed in mid 2012. Enough time has passed for the institutions to prepare their websites. This has demonstrated that the institutions are irresponsible and negligent towards the citizens' needs.

<sup>8</sup> The blog for the Administration for Cultural Heritage Preservation: <http://fomosme.wordpress.com/2011/08/14/uprava-za-zastitu-kulturnih-dobara-crne-gore/>

<sup>9</sup> There are two separate websites for this institution, so, since they have not created a unified website in the past year, we have reviewed them separately, because our indicators were mainly related to the administrative institutions' websites.

### 5.1.2. Up-to-dateness of the official websites

The situation with the websites' up-to-dateness is not at a satisfying level. Less than half of the state institutions (46%) have their websites updated in the past 15 days, 11% of the state institutions have updated their websites in the past 30 days, 9% in the past 45 days. In total, 38% of the institutions have not updated their websites in the past 45 days.

### 5.1.3. Publishing key documents related to public procurement

With our monitoring we wanted to check if the administrative institutions publish key documents<sup>10</sup> regarding public procurement. We have ended up with a very worrying result - 90% of the state institutions do not have the key documents on public procurement published on their websites. Although that is not prescribed by law, we believe that it is of crucial importance for the administrative institutions to publish the information on their websites, especially since the access to the Public Procurement Administration website is unsuitable for the citizens.

An example of good practice is provided by the Forestry Administration which is publishing public procurement documents on its website in an up-to-date and neat manner.

### 5.1.4. Publishing the most important program documents

The subject of our monitoring was also to check if the most important program documents are published on the administrative institutions' websites. We searched for the Program of Work for 2012, the Annual Report for 2011, as well as the strategies relevant for the institutions' work. The results indicated that only 25% of state institutions have all these program documents published on their websites. If the program documents are not published, it is impossible to find out if the work is being done according to the plan, what has been done in the past period or what is planned to be done in the future.

### 5.1.5. Publishing the most important administrative documents

We also searched the websites looking for the most important administrative documents including: organizational structure of administrative institution, scope of work of administrative institution and its organizational units, and the biographies of the leading officials. Only 24% of the administrative institutions have fully satisfied this indicator, i.e. they have all the aforementioned information contained on the websites.

During the monitoring we run into organizational structures of various quality regarding neatness and precision of the offered information. We commend the Public Procurement Administration and the Directorate for Development of Small and Medium Sized Enterprises for good graphic solutions for presenting their organizational structure on the websites, i.e. clear and contentful organograms.

### 5.1.6. Public Relations Office

Only 36% of the administrative institutions have a public relations office. This might be caused by different interpretations of the importance of a public relations office, but also by the difference in funds allocated or not allocated for the purpose. Only 13 administrative institutions have information about their public relations offices published on their websites.

<sup>10</sup> Under these documents we include invitations, decisions and contracts for public procurement.

### *5.1.7. Publishing contact information of administrative institutions and organizational units*

Complete contact information of administrative institutions and organizational units can only be found on little over a third of the administrative institutions' websites (14 out of 37), which is a worrying fact supporting the conclusion that the administrative institutions have to significantly enhance their transparency and availability and the possibilities to communicate with the citizens.

### *5.1.8. Free access to information*

Access to information is a field in which the administrative institutions have been found to be insufficiently transparent. Almost half of the administrative institutions do not have the Free Access to Information Guide published on their websites. This is concerning information, since a good practice in implementation of the Law on Free Access to Information is to have the Guide published on the websites.

In 5 administrative institutions it is not possible to reach the person in charge of free access to information by telephone. In addition, almost half of the administrative institutions do not keep record of the requests for free access to information.

## **5.2. Recommendations**

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1. To update the Government of Montenegro website, section Organization, where administrative institutions are listed – It is necessary to correct the list of administrative institutions, but also the links to their websites, because the situation as it is now does not match the Decree on Organization and Method of Operation of State Administration. In addition, it is necessary to make an organizational chart showing all our administrative institutions and indicating which ministries are responsible for their work.
2. To significantly enhance the quality of internet presentation of the administrative institutions – We recommend that 4 administrative institutions which do not have their own websites immediately create their own internet presentations. Administrative Institutions should improve their existing websites, because many are not being updated and are missing some of the main documents. It is necessary for the administrative institutions' websites to be systematical and up-to-date, especially when it comes to publishing important documents.
3. To improve the relationship between the administrative institutions and the citizens by forming public relations offices or appointing an employee for public relations tasks.
4. To publish the most important document with regard to the administrative institutions' work – Here we primarily have in mind publishing of the most important program documents, such as the program of work, the annual report and the strategic documents related to the administrative institutions' work.
5. To publish documents related to public procurements in order to increase transparency of the administrative institutions' work. It should be ensured that the documents are published systematically in order to make the search for information easier for the citizens using their websites. In addition, the obstacles from the public procurement website should be removed – the registering procedure should be simplified in order for the citizens to have easier access to the website.
6. Publishing the Free Access to Information Guide is an obligation defined by the new Law on Free Access to Information, so it is needless to say that the administrative institutions which have not published this document yet should do that as soon as possible.