

Terms of Reference

Expert for supporting the Ministry of Public Administration of Montenegro in the Preparation of the Analysis and Report on the Implementation of the Law on Administrative Procedures

1. Background

The Regional School of Public Administration (ReSPA) is an inter-governmental organization for enhancing regional cooperation, promoting shared learning and supporting the development of public administration in the Western Balkans. ReSPA Members are Albania, Bosnia and Herzegovina, Montenegro, North Macedonia and Serbia, while Kosovo* is a beneficiary. ReSPA's purpose is to help governments in the region develop better public administration, public services and overall governance systems for their citizens and businesses and prepare for membership in the European Union.

ReSPA establishes close cooperation with Ministers, senior public servants and heads of units in Member countries. ReSPA also works in partnership with the European Union, specifically Directorate General for Neighbourhood and Enlargement Negotiations (DG NEAR), other regional actors such as OECD/SIGMA and Regional Cooperation Council (RCC), as well as agencies and civil society organizations. Since its inception, ReSPA, as an international organization and a key regional endeavour in Public Administration Reform, has contributed to capacity-building and networking activities through on-demand support mechanisms, peering and the production of regional research materials.

The European Commission (EC) provides directly managed funds for the support of the ReSPA activities (research, training and networking programmes) in line with the EU accession process. Currently, ReSPA is implementing its fifth EC Grant Contract "Support to the Regional School of Public Administration for implementing PAR Agenda and facilitating EU accession process in the WBs" which is active as of 1 January 2023.

ReSPA works primarily through regional networks which operate at three levels: Ministerial, Senior Officials, and networks/working groups of experts and senior practitioners. There is one network – Programme Committee composed of the senior civil servants representing the ministries responsible for the Public Administration, ministries of Finance, and institutions in charge of the European Integration process coordination of the ReSPA Members and four regional thematic groups: (1) Policy planning, better regulation and coordination of Centre of Government, (2) European integration and accession negotiations; (3) Human Resources Management and Professional Development; (4) Service Delivery (digitalization and quality management).

2. Problem statement and description of the assignment

Strategy for Public Administration Reform (PAR Strategy) for Montenegro for the period 2022 –

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and ICJ Advisory opinion on the Kosovo Declaration of independence.

2026 (with Action plan for 2022 – 2024) has been developed with a view to ensuring continuity of the public administration reform and with the aim to ensure joint building of an accountable, efficient, transparent public administration, oriented towards the needs of citizens and businesses. Strategy aims the reform by establishing standards at all level of functioning of the public administration, starting from policy making and implementation, workforce planning, human resource management and civil service system, service delivery quality standard and functioning of the public administration.

The importance of service delivery is recognized in Strategic goal II – Citizens and Businesses Use High-Quality Management. Action plan envisages a number of activities related to improving service delivery, two of which are "Improving reporting on administrative decisions quality" and "Creation of Catalogue of services".

According to the Balkan Barometer, the public's perception of the efficiency of administrative procedures has decreased in Montenegro in 2021 and is below the regional average. The most recent reports of the European Commission, as well as OECD/SIGMA, contain the conclusions that administrative procedures in Montenegro are still bureaucratized and complex, therefore, the need for analyzing possible causes for change is timely and relevant.

In 2022 the Ministry of Public Administration, Directorate for Effective Implementation of Good Public Administration (Directorate), worked intensively on improving the methodological approach for the preparation of annual reports on the situation in administrative matters. The preparation of this Report is a legal obligation, and three reports have been prepared so far (for 2018, 2019 and 2020). For 2021, it has been prepared and will be submitted to the Government of Montenegro for adoption along with the Report for 2022.

Annual report is an analytical document that shows the work of the administration at both the central and local levels. The methodology used for the preparation of earlier reports (for 2018, 2019 and 2020), and the reports themselves, contained only summary data, without analysis of individual administrative procedures. Therefore, the result of such reporting was insufficiently objective and did not show the real challenges in exercising the rights of citizens and businesses before the administration.

In order to improve such an approach, in 2022, the Directorate, in cooperation with SIGMA/OECD experts, prepared a new methodology for the preparation of this Report, which is focused on the analysis of individual administrative procedures. Focusing on individual administrative procedures, rather than aggregate data, allows for a more precise analysis of the situation and the formulation of recommendations that target specific challenges and easier monitoring of the implementation of these recommendations.

By analysing the data for individual administrative procedures, more reliable analysis of the application of the Law on Administrative Procedure will be provided, with an overview of specific challenges and the creation of expedient measures to overcome them. Also, the categorization of administrative procedures is the basis for creating a book of administrative procedures at the local level, the establishment of which should contribute to the transparency and availability of information about administrative services at the local level, but also to the optimization and digitization of services.

The Ministry of Public Administration (MPA) creates public policies that regulate the system of public administration in Montenegro and implements digital transformation that should provide better quality of services and new digital services.

Its main task is to work with line ministries to introduce new practices, processes and methods for designing, delivering and managing programs and services that meet the needs of citizens from the very beginning of creating the service.

The Directorate for Good Public Administration performs activities related to:

- Monitoring the implementation of the Law on Administrative Procedure and the preparation of reports on the state of administrative matters on an annual level at the central and local level.
- • Monitoring the application of regulations under the Ministry's competence, as well as monitoring the application of the principles of good public administration;
- • Administrative supervision over local self-government units;
- • Administrative proceedings under the competence of the Ministry (registration of non-governmental organizations, free access to information);
- • Dealing with appeals against the decisions of the Administrative Inspection Department;
- • Preparation of methodologies for the implementation of analyses, reports and other analytical materials within the competence of the Directorate

Administrative capacities in the Ministry of Public Administration and the Directorate are limited, due to changes and fluctuations of public servants, which caused a decrease in the quality of analysis, but also could cause delays in delivering the documentation. This is especially important considering that the new Report on the implementation of Law on administrative procedures will be the basis for improved service delivery for citizens and businesses.

Bearing in mind that municipalities already submitted the majority of reports and that the data collection from the central level was recently completed, technical support is needed for data analysis and preparation of the Report. In that sense, technical assistance provided through expert assistance will be vital in this phase of analyzing data.

As mentioned above, this was recognized and identified as a concrete measure in the Action Plan 2022-2024 of the Strategy for Public Administration Reform.

3. Tasks and responsibilities

Based on the determined need for technical assistance to the Directorate the expert is sought to perform the following tasks:

1. Data analysis by individual administrative procedures
2. Draft Report on handling administrative matters for the year 2022

Both tasks will be implemented in close cooperation with the designated public servants. The Ministry of Public Administration has appointed two contact persons who will monitor the entire process of data collection and stay as the long-term point of capacity for reporting on the Law on

Administrative procedure. Two designated public servants will work alongside the expert, organize meetings and facilitate communication with the authorities by providing the support to expert on a daily basis.

1. Data analysis by individual administrative procedures (analysis of the situation)

A high-quality and comprehensive analysis of data for individual administrative procedures will enable a better understanding of the current situation in terms of the provision of administrative services, identifying success stories as well as challenges and proposing possible measures to overcome challenges in terms of further improving the provision of administrative services.

With a new developed methodology for data collection, the quality analysis of the data collected by the municipalities and at the central level is the key activity that lies ahead.

The analysis of data for the local level will include 50 administrative procedures, of which 30 relate to citizens and the economy and 20 internal procedures in public law bodies.

Each of the administrative procedure, regardless of the level, will be analysed in relation to:

- The total number of initiated procedures at the request of the party (electronically and traditionally in person submitting the request to the authority) and ex officio;
- The efficiency of handling administrative cases (number of pending cases on January 1, 2022, and on December 31, 2022, the total number of resolved cases (within and after the deadline);
- The number of decisions adopted by short procedure,
- Number of adopted, partially adopted and rejected requests,
- Number of suspended procedures,
- Legal protection of the party in the proceedings (total number of filed appeals, of which the total number of appeals due to the administration's silence, the number of rejected appeals, the devolution effect of the appeal, the number of decisions annulled by appeal when the case was returned to the first-instance authority for retrial, the number of decisions made following a request for repetition of the procedure, the number of accepted objections in other administrative activities)
- Burden, i.e. the obligation of citizens to collect additional documentation when submitting a request (number of data or documents obtained ex officio during the administrative procedure, number of requests that were resolved on the basis of data obtained ex officio);
- Number and type of issued certificates and other documents about facts about which official records are kept, number and type of issued certificates and other documents about facts about which official records are not kept;

- Decision execution procedure.

It follows from the above that the efficiency of the work of public law bodies, the efficiency and effectiveness of legal remedies and the quality of the work of first and second-instance bodies, the degree of digitization of the administrative procedure, starting from the possibility of submitting requests electronically to the ex officio data exchange, will be analyzed.

Data analysis should indicate the need and ways to improve the implementation of the Law on Administrative Procedure. The analysis should indicate the situation regarding the application of the principles and rules of the administrative procedure, on the basis of which it will be possible to make relevant decisions in the direction of improving the situation. On the other hand, the analysis will be the basis for creating a book of administrative procedures, on the basis of which further steps will be taken in the direction of optimization and digitization of services.

2. Draft Report on handling administrative matters for the year 2022

The obligation to monitor the implementation of administrative procedures is prescribed by Article 159 of the Law on Administrative Procedure. The report should show the degree of efficiency of the administrative resolutions of public bodies at the central and local level and indicate issues related to the established practice in the segment of exercising and protecting the rights, obligations and legal interests of natural and legal persons and other parties in proceedings before public by applying the basic principles and rules of administrative procedure.

The report should contain the data analysis of the situation, with a clear assessment of the functioning of individual administrative procedures as well as measures and recommendations for improvement. Upon the Ministry's approval of the draft of the report, the presentation of the draft report will be organized for all relevant stakeholders, with the aim of increasing the visibility of the results, the transparency of the institution's work and having the dialogue on the identified challenges, lessons learned and recommendations for improvement.

Both tasks will be implemented in close cooperation with the designated public servants. The Ministry of Public Administration has appointed two contact persons who will monitor the entire process of data collection and stay as the long-term point of capacity for reporting on the Law on Administrative procedure. Two designated public servants will work alongside the expert, will organize meetings and will facilitate communication with the authorities by providing support to an expert on a daily basis..

The whole activity will be also used as a training exercise aimed at increasing the capacities in the Directorate and Ministry, especially those that relate to analytics and summarizing of results focusing on individual administrative procedures, as per the new Methodology.

To complete both tasks the expert will conduct specifically:

1. Meetings with relevant stakeholders and representatives of authorities on central or/and local level, previously identified and organized by designated public servants and provide minutes of the meeting

(up to 2 working days)

2. Conduct the analysis of the data provided by authorities and produce Excel sheets and graphics on the analyzed data

(up to 10 working days)

3. Preparation of the draft Report on implementation of the Law on administrative procedure, obtaining comments of the draft reports and revising the report based on the comments obtained.

(up to 5 working days)

4. Preparation of the Agenda for the presentation event and presentation of the report and the written document on the undertaken steps, lessons learned and recommendations for the improvement of the process.

(up to 3 working days)

4. Necessary qualifications of the required expert

The expert shall possess the following profile:

Qualifications and skills:

- At least a University degree preferably in Public Administration, Public Management/Policy, Political Sciences, Administrative Law, HR development, or related/similar fields;
- A master's degree will be considered an asset.

General professional experience:

- At least 7 years of experience working in or with the public sector and related assignments/positions, as a public servant, consultant, expert, advisor, etc.

Specific professional experience:

- At least 5 years of relevant professional experience in monitoring and reporting on PAR reform programmes, including service delivery and administrative simplification assignments
- Previous engagements/experience in analyses of policy papers, and administrative data, especially related to the subject of this assignment or similar.
- Familiarity with the Montenegrin public administration, framework/state of play of Public Administration Reform and expert assignments in Montenegro shall be considered an asset.

Skills:

- Written and oral communication skills in English;
- Knowledge of Montenegrin language shall be considered an important asset;

- Ability to write clear and coherent analytical documents;
- Ability to prepare and deliver well-structured presentations;
- Ability to work with people of different nationalities, religions and cultural backgrounds.

5. Timing and Location

The assignment foresees work from the home/office and on-site in Montenegro (Podgorica). The Ministry of Public Administration will provide the necessary logistics, print handouts, flip charts, and other logistic aspects. The assignment is expected to be performed tentatively during **December 2023 – February 2024**.

6. Remunerations

The assignment foresees engagement of up to **20 (twenty) expert days in the amount of up to 8.000 EUR**.

The payment will be done in one instalment upon completion of the assignment. The final outputs will be subject to approval from ReSPA before the execution of the payment.

Note: No other costs will be covered apart from the expert cost per day. The expert cost per day comprises of expert's fee per day and (if needed) a lump sum for covering related costs which include travel, accommodation, local transport, meals and other incidentals.

7. Reporting and Final Documentation

The Expert will be requested to deliver the following documents before the payment is conducted:

Outputs

- Outputs of the meetings with the stakeholders,
- Final two documents: Report with included analysis of the situation and the written document on the undertaken steps, lessons learned and recommendation for the improvement of the process,

Documents required for payment

- Invoice (signed original);
- Timesheets (signed original);
- Final brief report on the performed tasks under the assignment.