

**REPORT ON ABUSES DURING CAMPAIGN FOR
PRESIDENTIAL ELECTIONS 2018**

JUNE 2018

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Abstract

During the election campaign for presidential elections, a number of abuses that could influence the election result were identified. Among them are the most problematic misuse of institutions in order to promote one candidate, as well as the use of public resources for the election purposes.

Conditions for the election match were not equal because the candidate of the ruling coalition and the election winner, Milo Đukanović, had an institutional advantage. In the capacity of a candidate, he visited public works and participated in the activities of state institutions, while other candidates did not get this opportunity.

Financing of the presidential election campaign could not be controlled due to the sudden change in practice of the Agency for Personal Data Protection and Free Access to Information. The Agency decided that political parties were not obliged to publish information on their finances after MANS had discovered suspicious donations during the previous elections.

The election campaign was marked by secret media donations where candidate Milo Đukanović also had an advantage. Media outlets close to the government, in addition to regular programme schedule, organized special shows to promote this candidate by violating a range of election and media laws. This media coverage was not reported or paid, and can only be treated as a secret donation.

During the election campaign, there was also an increased spending of the state budget, especially for assisting agricultural labourers and social protection, although the law prohibits the exceeding of average monthly consumption. Similar things have also been recorded in earlier election cycles, which indicates possible abuse of these budget funds in order to exercise unauthorized influence on voters.

Compared to the previous presidential elections, almost half of the voters' data were changed in the voter list. However, due to a change in the law, the voter list could not be adequately monitored.

Introduction

On April 15, the presidential elections were held in Montenegro, third elections since regaining the independence, where 533,113 citizens had the right to elect the head of state. They could elect one of the following seven candidates: Marko Milačić (nominated by True Montenegro (PCG)); Mladen Bojanić (nominated by Democratic Front (DF), Democratic Montenegro (DCG), Socialist People's Party (SNP) and Citizens' Movement URA); Hazbija Kalač (nominated by the Party of Justice and Reconciliation (SPP)); Vasilije Miličković (nominated by Voters' Group "Citizen Action" and the Party of Pensioners, Persons with Disabilities and Restitution); Dobrilo Dedeić (nominated by Serb Coalition); Draginja Vuksanović (nominated by Social Democratic Party (SDP)); and Milo Đukanović (nominated by Democratic Party of Socialists (DPS)). 340,462 people voted and the highest number of votes won the DPS candidate who secured victory in the first round.

The elections were organized in the atmosphere of a long-lasting political crisis and a boycott of the Parliament that had been going on since the last parliamentary elections. Elections were monitored by 333 international observers as well as by domestic non-governmental organizations. When it comes to domestic NGOs, the elections were monitored by the Centre for Monitoring and Research (CEMI) and the Centre for Democratic Transition (CDT) that had observers in almost all polling stations. The Network for Affirmation of NGO Sector (MANS) monitored campaign financing, while the Centre for Civic Education (CGO) conducted media monitoring.

However, despite this, numerous irregularities were noted both on the election day and during the election campaign. Therefore, this report gives an overview of the various types of abuses that occurred during the election campaign. The abuses are divided into several categories according to their nature. At the beginning, the report will focus on the media, which were instrumentalised and abused in the previous election cycles as well for the purpose of propaganda of a particular party, or candidate in this case.

In addition to the media, incapacity and inability to adequately check the voter list further undermines the trust in the electoral process. In the part referring to the institutional advantage, noted in the OSCE preliminary conclusions for the presidential elections, some of the illustrative examples were given to show in what way institutions were manipulated in order to promote a certain political option. An analysis is also made on the transparency of financing of political parties as a matter of democratic standard by respecting the Law on Financing of Political Entities in Montenegro.

1. Inequality of candidates - Institutional advantage

One of the visible forms of pre-election abuse is the institutional advantage enjoyed by the candidate nominated by the ruling party. He took part in activities that are particularly important because of their great campaign power and influence on voters. The preliminary conclusions by the OSCE regarding presidential elections also highlight the fact that Milo Đukanović had an institutional advantage.



Photo 1: Part of the OSCE preliminary conclusions on 2018 presidential elections

During the pre-election campaign, the presidential candidate emphasized the policy led by the executive power over the years, preserving stability in Montenegro, improving the business environment and the arrival of important investors. Particular attention was paid to visits to the most important investment sites in the country, visits to companies that have enviable work and upsurge in business, as well as to visits to public institutions during donation ceremonies.

1.1. Attending donation ceremony at the Clinical Centre of Montenegro

Just five days before the presidential elections, together with DPS officials, Đukanović attended the official commissioning of a valuable magnetic resonance imaging (MRI) device at the Clinical Centre of Montenegro. The latest generation MRI device, worth more than half a million, was installed at the Department for Radiological Diagnosis, of which €400,000 was donated by Nicholas Alissa along with business partners from the United Arab Emirates.



Photo 2: Presidential candidate Milo Đukanović attending the official commissioning of a MRI device at the Clinical Centre of Montenegro

It had been announced earlier that the ceremony would be held in the first half of March, but the event was shifted for the end of the month in the run-up to the pre-election campaign. The Prime Minister Duško Marković was also supposed to attend, however, he welcomed the investors the day before. Nicholas Alissa pointed out that the initiative for donation of the device came from Đukanović, who "enjoys great reputation in the United Arab Emirates".

1.2. Visiting Bar-Boljari highway construction

DPS presidential candidate, Milo Đukanović, took the opportunity within the election campaign in Kolašin and visited the construction site of the first section of the Bar-Boljare highway. During the visit, he spoke with engineers and workers of the company "China Raod and Bridge Cooperation" who are working on one of the largest infrastructure project in Montenegro.



Photo 3: Presidential candidate Milo Đukanović visiting section of the Bar-Boljari highway

He emphasized that the policy of accelerated economic development of Montenegro is advocated exactly by DPS and the executive authorities, with a special emphasis on accelerating development of capital infrastructure, and hence the balanced regional development and overcoming of lagging of the northern part of the country.

1.3. Visiting “Porto Novi” construction site

During the pre-election campaign, Đukanović also visited the largest construction site of the tourist resort "Porto Novi", run by the Azerbaijani company Azmont, whose construction began a few years ago at the site of the former military complex in Kumbor. He met with the executive director and investor of the project, which is one of the most important projects in Montenegro.



Photo 4: Presidential candidate Milo Đukanović visiting tourist resort Porto Novi

Đukanović took this opportunity to highlight the significance of the project for development of tourism, financial engagement of important investors in the country, as well as the increase in the volume of employment and overall economic and social development, which is the policy pursued by the executive power during previous years.

1.4. Visiting hotel “Karizma” construction site

During his visit to Ulcinj, Đukanović visited the construction site of the company "Karizma" at the locations of the former Belvi and Olimpik hotels. He emphasized the extraordinary work of the company "Karizma", which does business with "TUI" company, which showed interest in the construction of the "Ulcinj Riviera" as well, which will contribute to development of that part of Montenegro in terms of economy and tourism. Due to successful and efficient implementation of the project, further cooperation was announced not only in this part of the country, but also in other parts in order to raise Montenegrin tourism to a higher standard.



Photo 5: Presidential candidate Milo Đukanović visiting hotel “Karizma” construction site in Ulcinj

1.5. Visiting construction site within “Porto Montenegro” marina

During his visit to Tivat, Đukanović visited new construction sites within “Porto Montenegro” marina and met with the executive director of the company “Adriatic Marinas”, which is one of the best marinas and nautical settlements in the Mediterranean. The project “Porto Montenegro” is one of the most valuable brands of both tourism and Montenegro at an international level, which aims to further develop in the next 10 years, and is also one of the most expensive projects implemented in Montenegro.



Photo 6: Presidential candidate Milo Đukanović visiting construction site within “Porto Montenegro” marina

2. Transparency of financing

Transparency of financing of political parties is a matter of democratic standards, but also of respecting the Law. According to the Law on Financing of Political Entities in Montenegro, “political entities may acquire funds for regular operation and the election campaign from public and private sources”¹, and according to the same Law, total amount of funds from private sources which are raised by the political entity may amount up to 100% of the funds belonging to it from the budget funds”².

The law stipulates that parliamentary parties are mostly financed from citizens' money, and therefore it should not be disputable whether citizens should have an insight into the spending of that money. Nevertheless, information on the quantity and the ways in which their money is spent should be presented to the citizens, as defined by the Law on Free Access to Information (Law on SPI).

With the aim of exercising democratic control of power and realization of human rights and freedoms, this law prescribes the right of the public to know³, which implies „access to information on a legal entity whose work is mainly funded from public revenues”⁴, and therefore access to information on parliamentary parties.

When it comes to funds from private sources, the responsibility of the parties to the public on its spending is no less. Full transparency of the financing of political parties, especially in countries where corruption is widespread⁵, is one of the key mechanisms in combating the impact of economic power centres on the sphere of politics.

In order for parties not to be the mean of obtaining specific and individual interests of party donors, openness towards the public and transparency of cash flows are the basic guarantees of democracy and protection of the public interest, as well as legitimacy of the work of political entities. Finally, only a complete insight into the financial structure enables the verification of the legality in financing of parties from private funds (sources of donations, money amounts, types of donations, etc.).

The Agency for Personal Data Protection and Free Access to Information, with its decision submitted to the Network for Affirmation of NGO Sector (MANS) on April 16, 2018, abruptly changed the established decision-making practice, and enabled political parties in

¹ Law on Financing of Political Entities and Election Campaigns, Official Gazette of Montenegro, no. 52/2014, 76/2015 - decision US, 83/2016 and 92/2017, Article 3

² Law on Financing of Political Entities and Election Campaigns, Official Gazette of Montenegro, no. 52/2014, 76/2015 - decision US, 83/2016 and 92/2017, Article 12

³ Article 4 of the Law on Free Access to Information, Official Gazette of Montenegro, no. 044/12, 030/2017,

⁴ Article 9 of the Law on Free Access to Information, Official Gazette of Montenegro

⁵ According to the latest Corruption Perception Index by Transparency International, Montenegro is on the scale between 0 and 100 with score 46 and still in the group of countries prone to corruption.

https://www.transparency.org/news/feature/corruption_perceptions_index_2017

Montenegro to hide data on their finances. Thus, the Agency violated the Law on FAI, introduced the practice of a political rather than a legally-based decision, challenged the legitimacy of its entire previous work and discredited the concept and the right of the public to have an insight into the finances of political parties.

In April 2018, the Agency for the first time submitted a decision rejecting the appeal, on the grounds that political parties are not obliged to act on requests for free access to information. Thus, during the validity of the same law, regarding the same request and the same party (DPS), the Agency made two completely different decisions.

First controversial decision was submitted to MANS the day after the presidential elections in Montenegro, i.e. two days after the Special Prosecutor launched an investigation into suspicious donations of DPS, which MANS discovered precisely thanks to the data obtained based on the Law on FAI.

This decision was adopted at the session held on December 2017, while it took almost four months for the Agency to submit it to MANS. However, immediately after submitting this decision, in less than a week, the Agency submitted to MANS another 90 decisions in similar cases, for which it made no decision for months. Each of them enabled political parties to hide data on finances.

Day after the elections, the Agency submitted the first decision to MANS that changed the practice and released parties from obligation to publish information. At the same time, the President of the Agency Council was a member of DPS immediately prior to the appointment, although the Agency, according to its Statute, was an "independent body"⁶.

Two days after submitting the decision, the European Commission Report was published indicating that procedures regarding the cases of possible abuse of public funds for political purposes have not been completed and criticized the lack of results in the field of fight against corruption, especially at the highest levels.

Such dynamics of events on Montenegro's political scene gives a specific context for a sudden shift in the Agency's conduct. This enabled the parties to finance their campaigns and activities under the veil of secret, which may be contrary to the Laws, which in such circumstances cannot be established, since the Law on FAI is the only legal act that allows full transparency of the parties' finances.

International organization Transparency International (TI) also believes that denial of the request for free access to parties' financial information is a political issue and a step backwards for transparency, and condemned APDP's conduct. "Governments should be transparent about how political campaigns are funded and where the money comes from. Freedom of information requests are a vital way for citizens and civil society to hold their governments to account", said Delia Ferreira Rubio, chair of Transparency International.

⁶ Article 1 of the Statute of the Agency for Personal Data Protection and Free Access to Information

This organization has particularly expressed concern about the timing of the FAI rejections which was in proximity to the upcoming local elections, which also raised concerns that the FAI process has become politicised.⁷

Changing the practice by which APDP attempts to legitimize the hiding of data on parties' finances, in addition to direct violation of the Law by the institution that should be the first guarantor of its implementation, as well as politicization and discrediting of the entire process and the concept of free access to information, such behaviour of the Agency provides a wide space for political corruption.

Since political corruption is most prominent in systems that had a transition to multi-party system, which the European Commission continuously warns about, it is clear that full transparency guaranteed by the power of the Law is necessary on the path to eradicating corrupt practices and establishing of clientelistic relationship, in which parties represent services for policy-making and decision-making in the interests of their donors. Finally, non-selectivity and timeliness in informing voters on political entities are crucial in the choice of their legitimate representatives.

⁷https://www.transparency.org/news/pressrelease/rejection_of_freedom_of_information_requests_raises_alarm_in_montenegro

3. Secret donations through the media

Visible media inequalities and open support to the ruling party's candidate Milo Đukanović are sufficient for the pre-election period not to be characterized as fair, free and in line with international democratic standards. The influence and coverage of media as well as equality in media reporting is of great importance for every pre-election campaign. By analysing the work of the media and regulatory institutions, it can be concluded that this part of the election campaign was not legal when considering the significant advantage of the candidate Milo Đukanović who had the greatest media attention. In addition to disproportionate representation in the media, greater concern is the free space allocated to a particular candidate and thus giving priority to him.

During the pre-election campaign for presidential elections, a number of abuses were reported in campaign financing. Democratic Party of Socialists (DPS) was favored by the television company Pink M and Television 777. On Pink M TV, the show "Intervju mjeseca" was broadcasted for the purpose of presentation of the presidential candidate Milo Đukanović.

All media companies are obliged to submit to the Agency for Electronic Media a programme schedule for media presentation of electoral lists or candidates. The aforementioned TV show was not in any document submitted to the Agency by TV Pink. The show "Intervju mjeseca" was not part of a regular programme schedule and no presidential candidate could take part in it. Thus, it was noticed that apart from the presidential candidate Milo Đukanović, who presented himself during a 104-minute interview which was replayed shortly before the presidential elections, no other candidate had a presentation on TV Pink.

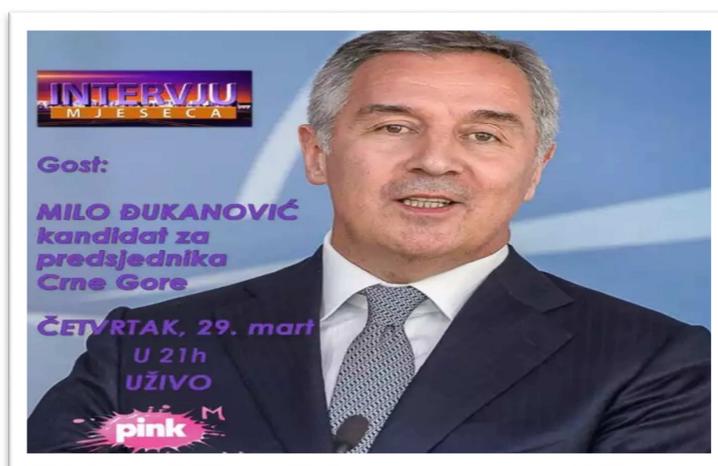


Photo 7: Announcement of the appearance of the presidential candidate Milo Đukanović in the show „Intervju mjeseca“ on TV Pink

Show “Živa istina“ broadcasted on Sundays at 14:00 on TV Prva and Antena M, was broadcasted in prime time on Wednesday, April 11, 2018, and the guest was the presidential candidate Milo Đukanović. The show lasted 98 minutes, which is longer than usual.



Photo 8: Appearance of the presidential candidate Milo Đukanović in the show “Živa istina“

Television 777 did not host the presidential candidate Milo Đukanović, instead it took over the content of other broadcasts from Radio Television of Montenegro (RTCG) and TV Prva. During the broadcast of the "Intervju" show on April 10 in duration of 56 minutes, and the broadcast of the show "Živa istina" on April 12, 2018, in duration of 98 minutes, the broadcaster did not specify the source or the original broadcast, such as RTCG and TV prva, nor was specified whether it was payed or free presentation of the presidential candidate, or political marketing.

Convention of the presidential candidate Milo Đukanović, held in Nikšić, was broadcasted directly at TV Nikšić in a period not provided by the program schedule and political marketing.

There is no price for advertising in the price list of Pobjeda's supplement "Arena" delivered for the presidential elections, however, there was advertising of the presidential candidate Milo Đukanović. Thus, it can be concluded that there was no possibility of advertising for other candidates in the said supplement, only for the presidential candidate Milo Đukanović, while the price of advertising itself is unknown.



Photo 9: Advertising of the presidential candidate Milo Đukanović in "Arena", supplement of the daily "Pobjeda"

Article 24, Paragraph 1, Item 7 of the Law on Financing of Political Entities and Election Campaigns stipulates that it is prohibited that the political entities receive material and financial assistance and in-kind contributions from casinos, bookmakers and other providers of games of chance. A contract concluded between DPS and the Lottery of Montenegro was submitted to the Agency for Prevention of Corruption (APC), which contains the types of advertising that will be implemented by TV 777 as well as the prices of those services. However, this agreed and paid amount to the Lottery of Montenegro, which has been officially declared to APC, amounts to € 4,165, and the approximate estimate of the same services is around € 81,000.

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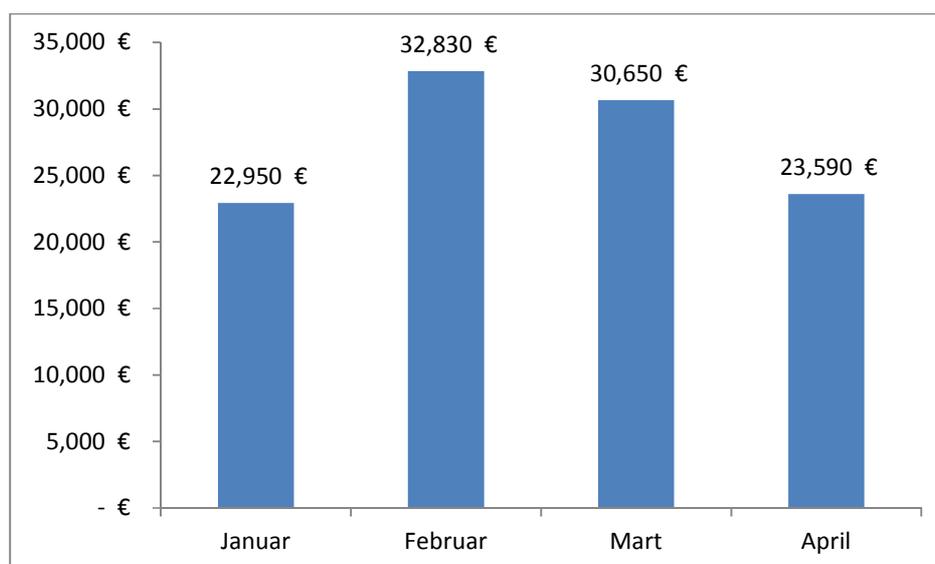
4. Increase of public spending in the election period

In pre-election campaign, abuses were also noted in the part referring to public spending. The greatest attention attracted social benefits in the capital city, increased allocations for infrastructure within the Water Supply Programme of the Ministry of Agriculture, as well as short-term employment by the Employment Agency of Montenegro.

4.1. Social benefits of the Capital City

When it comes to Capital City Podgorica, in the first four months of this year 60% of the annual budget was allocated to the social welfare. The budget foresees one-off social assistance in the amount of €240,000 to the Secretariat for Social Welfare, which means that the monthly average of spending is €20,000.

From January 19, when the presidential elections were scheduled, to the end of that month, €22,950 was spent, €32,830 was spent in February, €30,650 was spent in March, while €23,590 was spent from beginning of April to April 12.



Graph 1: Social benefits paid (€) in the Capital City for the period January-April 2018

In this way the permissible consumption of €22,000 per month was exceeded. Thus, in four months, €140,000 was spent, while for the remaining eight there is only €100,000. Additional €46,000 was allocated from the budget for payment of social benefits, although it is money that, according to the Law, is intended only for extraordinary circumstances.

4.2. Allocations for infrastructure within the Water Supply Programme of the Ministry of Agriculture

Construction of infrastructure in order to achieve political advantage was also present in the pre-election campaign. The budget for infrastructure expenditure for the water management programme is €1,050,000, which means that the monthly average of consumption is €87,500. This budget specifically refers to the construction of water supply systems in rural areas.

From the beginning of February to the presidential elections, a total of €648,000 was paid for the construction of the water supply system, i.e. as much as 61.7% of the total annual budget was spent in two and a half months. For the construction of local water supply in the first 4 months of 2018 the Ministry allocated almost $\frac{3}{4}$ of the annual budget. Half a million Euros was allocated to municipalities where elections are held. It accounts for almost half of the total annual budget.

4.3. Short-term employments by the Employment Agency of Montenegro

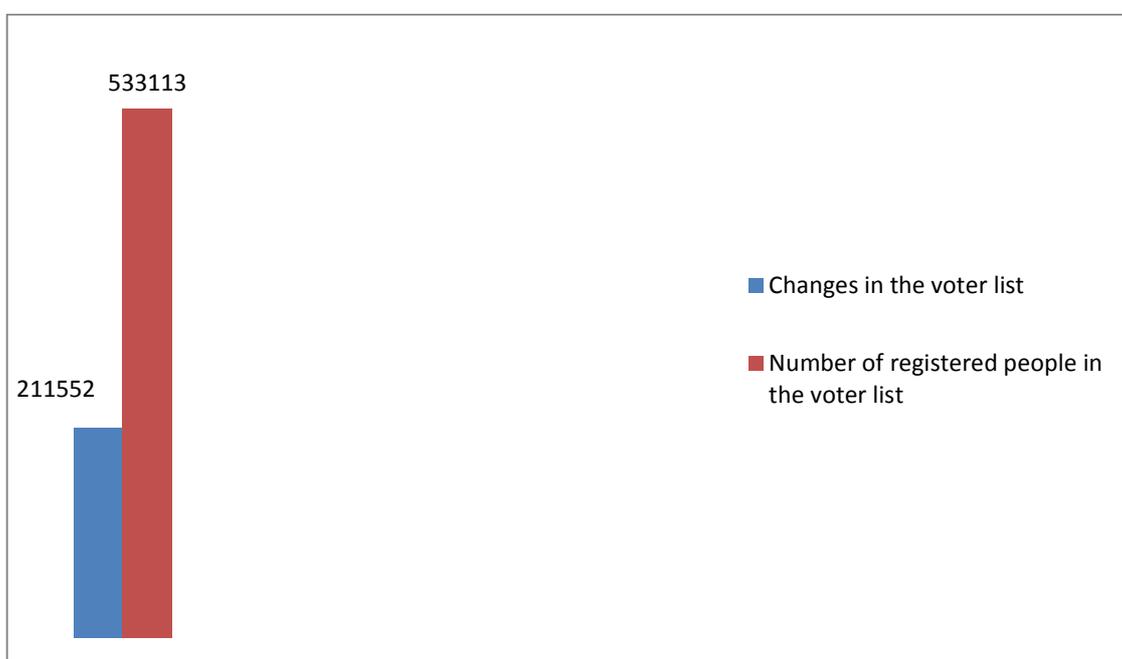
When it comes to the Employment Agency of Montenegro, there was no increase in payments in the pre-election period, but in that period, a decision was made on short-term employment of 747 people based on the public work programme, for which €1.1 million will be allocated. This year, the program was launched already in January, i.e. two months earlier than in previous years. Last year, the Agency allocated a smaller amount of money for public work and hired fewer persons, i.e. it allocated over €600 thousand for 580 persons, while it was launched only in March.

Also in January, the Agency launched a grant program for employment of persons with disabilities worth €1.5 million, but the decision was adopted at the end of April, after the end of the presidential elections.

5. Voter list

A large number of changes in voters' data were made in the voter list for presidential elections held in April 2018. The mentioned changes in the voter list were not verified in an adequate manner due to the fact that the legal solutions that treat this area had changed, which limit the possibility of controlling the electoral process.

In the period since the previous presidential elections in Montenegro to date, the Ministry of Internal Affairs has made a number of changes in the voter list, more precisely 211.552, which now has a total of 533.113 registered voters.



Graph 2: Overview of number of changes in the voter list compared to the number of voters

Out of the total number of changes, over 100,000 refer to changes in the polling station of citizens who did not change their address or residence. Having this in mind, significant number of citizens will vote in other polling stations, even though they have not changed their place of residence which may lead to numerous problems on the election day.

This can be particularly problematic because the polling boards have only data on voters from their own polling station, thus cannot instruct the citizens where they are to vote; only municipal election commissions can give them such information. This can create particularly

great problems for those voters who vote in rural areas, that is, parts of the town that are away from the premises of the municipal election commissions.

Just to remind, only municipal election commissions can give voters information at which polling station they can exercise their civic duty. All of this can disturb the voters who would ultimately rather choose not to exercise their voting rights rather than follow time-consuming procedures.

Also, the number of voters who are registered for the first time on the voter list based on meeting the voting age requirement are also suspicious. In the period from the previous presidential elections until the parliamentary elections, i.e., in three and a half years, 14,500 voters were registered on this basis. On the other hand, as many as 12,400 voters have been registered since the parliamentary elections to date, i.e., in one and a half years. Taking into account the above data, it can be concluded that in the period from 1998 to 2000, the birth rate doubled compared to the previous period, which does not correspond to the official statistical data.

The issue in this area arose due to amendments to the Law on Voter List adopted at the end of 2017. Namely, according to the current law, MANS cannot check and compare data the way it did in the previous period, when tens of thousands of abuses were detected.

Due to the aforementioned changes in the legislative framework, the procedure for checking a large number of data cannot be automated, instead one case at the time can be checked, which is theoretically unfeasible for such a large number of changes. This is supported by the fact that access to the voter list is possible only for a limited period of time, from the day of scheduling to the day of the election.

Current law limits the ability to analyze data according to parameters by which a number of irregularities, such as “phantom” voters, including deceased, double-entered voters, unreasonably deleted, etc. were previously found. Now, access to data can only be obtained exclusively as determined by the Ministry of Interior, that is, the work of the said Ministry can be controlled only in a manner allowed by the Ministry. Thus the control of the voters list, as well as the work of the Ministry itself is discredited.

Because of all this, the presidential elections were conducted with a voter list that could not be verified by any independent institution, which represents a major step backwards compared to the previous period and contributes to a further decline in trust in the electoral process. If we wish to create fair and democratic elections, the existing legal framework needs to be amended. Also, better control needs to be enabled to independent institutions enabled, while transparency of institutions responsible for conducting the election process must be increased.