WINNING ELECTIONS IN MONTENEGRO

Analysis of Misuse of Public Funds and Office in the Election Campaign

ABSTRACT

Trust in the fairness of the election process in Montenegro has been severely threatened. It has decreased after the latest accusations of the opposition and CSOs that the leading governing party has systemically misused public funds and office to affect election results. Laws governing this area need to be changed and practices improved in order to increase public trust in the most important instrument of democracy. Voter lists are still not sufficiently transparent and contain a great number of irregularities, which is why they need to be revised. State resources are still extensively misused during electoral campaigns, while institutions expressed a serious lack of capacities and will in dealing with this problem.

There are three main reasons for solving this issue as soon as possible. First of all, if irregularities are not tackled, citizens’ already shaken trust in the election process and work of state institutions will be even more decreased. Second, the regularity of the next elections would be affected, probably causing a heavy political crisis. Third, the European Union (EU) has made it clear that all cases of misuse of public funds and office must be investigated to the very end. Otherwise, Montenegro will slow down on its path towards the EU.

Against this background, MANS is proposing efficient legislative and practical changes to prevent misuses that have affected Montenegro in the last couple of months and help that the true democratic will of people is respected, while at the same time political corruption is significantly reduced.

BACKGROUND OF THE PROBLEM

Political corruption is one of the crucial problems Montenegro must solve on its path to the EU. Because of this, the focus of this paper will be on misuse of public funds and office during the election campaign, as one of the elements of political corruption. This became particularly evident during the last parliamentary, local and presidential elections which Montenegro held in the past months.\(^1\) Misuse of public funds and office during the election campaign are challenging fairness and accuracy of the election results. This problem gains special importance having in mind that during the last presidential elections the winner was decided by around 7,000 votes.

Several NGOs in Montenegro monitor election processes on the very day of elections, as well as the general implementation of the political party financing legislation.\(^2\) However, none of them monitored misuse of public funds and office prior to election, which is why there is still a lack of results in this area. As the anti-corruption NGO with significant expertise, MANS took more active role in monitoring misuse of

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\(^1\) Parliamentary elections were held on 14th October 2012, local elections in Niksic and Andrijevica were held on 9th March 2013, presidential elections were held on 7th April 2013, while the last local elections in Cetinje, Mojkovac and Petnjica were held on 16th November 2013.

\(^2\) Center for Monitoring and Research (CEMI), *Use of State Resources During Election Campaign*, Podgorica, 2010.
public funds and office during the election campaign.

Through monitoring of implementation of the election and political party finance legislation, MANS managed to identify various types of loopholes. Although these laws contain some efficient provisions, e.g. provisions related to various bans of misuse of public goods, there are loopholes left in the legislation, making laws inapplicable in practice. These gaps are causing ‘a number of shortcomings with regard to the implementation of the current legislation.’ No institution found itself obliged to process cases of law violation, thus de facto allowing some highly ranked officials still not to make a difference between state and personal or party property.

The misuse of public funds and office by individuals and parties compromised the legitimacy of the last presidential election, in this way creating a serious political crisis. Evidence for this claim was provided by the ‘Tape recording’ affair, which appeared at the beginning of 2013. Discussions among high officials of the ruling party how to obtain more votes by (mis)using state resources and office are made available to the public through this affair. Although the prosecution was asked to investigate the affair, it concluded that this affair conceals no criminal behavior, leading the largest opposition coalition to boycott the work of the Parliament. The opposition has claimed that there was clear evidence that state funds were misused during the last campaign and that the election day itself was undermined by various irregularities in the voting process. These irregularities led to the illegal victory of the ruling candidate. This was even supported with the claims given by members of the smaller governing party, Social-Democratic Party (SDP).

Bearing all this in mind, the EU, which monitored the election process in Montenegro closely, called upon state institutions, to ensure an electoral process (that is) free from misuse of state resources and to address public concerns over the accuracy of the voters’ register. The severe criticism from the EU threatened to seriously jeopardize Montenegro’s way towards the EU membership.

In the end, the prosecution decided to open investigations, but no case was concluded. The Parliament launched a parliamentary investigation on the misuse of public funds and office, with a special focus on the ‘Tape recording’ affair. However, this investigation was terminated with no single conclusion due to different views of governing and opposition MPs, who were members of the Parliamentary Inquiry Committee. According to SDP MP Rifat Rastoder, ‘he expected more from the Inquiry Committee, but it is our reality at the moment, which is

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7 Ten audio recordings from session of the Presidency of the Democratic Party of Socialists are available at www.dan.co.me.
8 Democratic Front.

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9 Statement given by the presidential candidate, Miodrag Lekić.
10 Statement given by SDP member and MP, Džavid Šabović.
12 Statement given by the Ambassador of the EU to Montenegro, H.E. Mr. Mitja Drobnic published at Daily DAN. M., Bo., We Will Stop Negotiations if the ‘Tape Recording’ is not Resolved, Daily DAN, Podgorica, 25th May 2013.
Unfortunately not enviable.¹³ In addition, the Parliament established the parliamentary Working Group for Building Trust in the Election Process, which started working in June 2013.¹⁴ The main aim is to amend six pieces of legislation relevant to the election process, political party finance and voters’ lists, to remove loopholes, improve control mechanisms and regain citizens’ trust in the election process.

Thus, the two major problems of the electoral process emerged, the lack of transparency and irregularities in the voter lists, which falls under the misuse of public office, and the misuse of public funds. This paper will give an explanation why and how these problems are being manifested. After analyzing problems that can undoubtedly affect the electoral will of citizens, this paper will propose some concrete steps to overcome major obstacles in ensuring fair and democratic elections. Its findings are currently being used by the Parliament’s working group.

I MISUSE OF PUBLIC OFFICE - INADEQUATE MANAGEMENT OF THE CENTRAL VOTER LIST

The Central Voter List (CVL) has sparked controversy in the pre-election period during all three last elections. The CVL is an electronic joint database of 21 voters’ lists managed by all municipalities solely, on the basis of inputs from the Ministry of Interior (MoI). The MoI also performs oversight of the CVL’s regularity. Ministry for Information Society and Telecommunications (MIST) provides MoI with the technical support through the comprehension of all electronic voters’ lists in one, unique CVL. The involvement of various institutions leads to systemic confusion due to the fact that no institution takes responsibility for errors that happen, either intentionally or unintentionally. Moreover, according to Veselin Radulović, who was a legal adviser in the Inquiry Committee ‘voter lists are the main mechanism for manipulating with the election results,’¹⁵ The analysis of the voter lists carried out by MANS showed that they contain a large number of failed entries and they are being managed irregularly.

Since Montenegro is a small country, some parties created and maintain a database of ‘secure voters’, which enables them to easily target voters who they should ‘recruit’ for the next elections or prevent from voting.¹⁶ Although the opposition accused the major governing party of having a database of ‘secure voters’¹⁷, Democratic Party of Socialists (DPS) denied this for some time, until it one its high-ranked officials confirmed it at the Parliamentary Inquiry Committee session.¹⁸

Having in mind the above, in a country with somewhat more than 620 thousand inhabitants¹⁹

¹³ Responds to the questionnaire submitted to Mr. Veselin Radulović, Legal Counselor at the Parliamentary Inquiry Committee for the Purpose of Collecting Information and Facts on the Events Relating to the Work of State Authorities Regarding Publishing of Audio Recordings and Transcripts from the Meetings of DPS Authorities and Bodies, on 25th November 2013.
¹⁴ This is suspected to be a database containing information on all voters of the governing coalition, but also on voters that firmly belong to the other parties.
¹⁵ Koća Pavlović, member of Movement for Changes and Democratic Front accused Nada Martinović from Nikšić of controlling this database. Pejović, Igor, Pavlović: Martinović Leads a Database, Vukosavić Coordinates Pressures, Podgorica, 10th July 2012.
¹⁶ Radenović, Yukmir, Gvozdenović Confirms that DPS Counts Secure Votes, Podgorica, Daily DAN, 11th July 2013. High-rank DPS official in an interview given to MANS stated that he ran the DPS’ database of ‘secure voters’.
¹⁷ According to the data from Census conducted in 2011, Montenegro has 620,556 citizens. More information in the
and more than 510 thousand voters, it is easy to find out whom to remove from the CVL and prevent him/her to vote for rival parties and/or you do not get sanctioned for that activity.

Municipalities and the MIST undertook significant changes in the CVL in a short period of time, without any clear explanation why it happened. Before the parliamentary elections in October 2012, MANS revealed that over 14,000 voters in the CVL had the same or very similar data. In addition, there were over 10,000 more entries with indications of irregularities. Although state institutions denied these accusations, the analysis of the CVL before the 2013 presidential elections showed that municipalities and the MIST made changes to the CVL. Over 16,000 voters were thus erased, including ‘identical entries’ and deceased people who were registered in the CVL for the parliamentary elections, while at the same time over 14,000 new voters were enrolled in just six months. However, MANS again raised questions how it is possible that so many people have been erased, if state institutions denied that there were failed entries in the CVL before the parliamentary elections, and on what grounds, but the state institutions never provided MANS with the answer. Having all this in mind, opposition parties and MANS suspected that the CVL is manipulated in a way to prevent part of opposition voters to participate in the elections.

These suspicions were additionally supported by the findings revealed in the ‘Tape recording’ affair, which appeared on the eve of the presidential elections. This affair puts a special emphasis on the voter lists. An audio recording of the meeting of the Presidency of the ruling DPS leaked into the public. Montenegrin citizens could hear different statements related to editing the voter lists to better suit the DPS’ interests. Two high officials pointed to the need to streamline the voting lists in a way to favor the ruling party by preventing opposition voters to exercise their right to vote.

Suspicious Changes in the CVL

According to the official data published by the MIST, between the last parliamentary and presidential elections over 14,000 new voters, or in average 75 voters per day, were registered in the CVL. However, during the period between the two parliamentary elections held in 2009 and 2012 registration amounted to an average of 30 new voters per day.

Also, dynamics of changes of the CVL data show a discrepancy when comparing the period between the parliamentary elections held in

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20 Number of voters on 28th March 2013, according to the MIST.
21 These data are: the same name and surname, the same or very close date of birth and the same address.
24 Statement given by Minister for Sustainable Development and Tourism and ex political director of DPS, Branimir Gvoždenović at the DPS Presidency session: ‘The key thing to do in the next few days is to implement the obligations regarding the voter lists. So, there are certain elements that are related to voter lists to scrub. I would ask all of you just to speed up the activity and to clear up the voter list till the end. Boro Maric and his team are at your disposal upon of these elements, you will get the latest voter lists so you can do the update, in a manner that suits the interests of our party.’ Velović, Marko, Dukanović: Change Ids to Our People, Daily DAN, Podgorica, 13th April 2013.
25 Daliborka Pejović, a member of DPS Presidency stated at the DPS Presidency session: ‘Thanks to a good analysis of the voter list, we’ve started from the assumption that all current residents of Herceg Novi do not have completely defined right to vote. Of course, we responded at the time by deleting 548 names because, as holders of identity cards for foreigners, there is a legal ground not to let them vote and it will definitely not be a target group we are going to pay special attention to. What was fortunate was that they were the persons who, according to our identification, would certainly vote against us in the upcoming elections.’ Radenović, Vukomir, Directors Made Lists of Who the Employees Will Vote, Daily DAN, Podgorica, 7th February 2013.
October 2012 and the last local elections held in March 2013 with the period between the local elections and the presidential elections held in April 2013. For instance, in the category ‘other changes’ only 4,800 changes, or in average 50 changes per day, were registered within the first period, compared to over 10,000 changes between the local and presidential elections, or in average 150 changes per day. Having in mind that the dynamics of these changes have considerably increased in a short period of time, it is suspected that the CVL is not being updated regularly, although it should be as stated by the Law on Voters’ Lists. In this way, the possibility of making an intentional or unintentional error increases due to the large number of changes in the CVL at the last moment. At the same time, increased number of changes can be used as an argument to justify the error, because of the insufficient amount of time to verify the accuracy of the CVL.

MANS could not claim that all detected cases were irregular entries in the CVL, which is why they asked the MIST to verify information presented in the media and correct irregularities. The main problem was that the CVL does not contain data columns that can certainly show whether the same person is enrolled in the list more than once. Checking the practice in the region, Croatia and Serbia, for example, managed to avoid the possibility of ‘identical entries’. In Croatia the Law on Voter Register contains a provision that the voter lists must contain the ID number, together with the Unique Master Citizen Number, while in Serbia the Law on Unique Voter List states that the voter lists must contain data on voters’ parent or guardian name.

Some parts of Podgorica, like Konik and Vrela Ribnicka are good examples of increased dynamics of entries in the CVL. This part of the city is well known for being mainly populated by Roma people, displaced persons without personal documents and citizenship. Through the analysis of the CVL, MANS noticed that in this neighborhood a massive registration of new voters had been carried out. In less than half a year more than 500 new voters were enrolled, out of which over 100 people in just one street (see figure 1). Political parties, as well as members of the international community and local observers are aware that these people are easy to persuade to vote for governing parties, due to the fact that they live in poor conditions and do not have personal documents.

The information that all citizens who did not have new personal documents were offered to change old IDs to new ones by the DPS, caused serious concerns among the opposition parties that this population could be offered the same. However, this was never proven by the actions of the prosecution or any other interested subjects, such as political parties or CSOs.

27 According to the MIST, ‘other changes’ are: change of voter’s address, change of voter’s polling station, change of date of voter’s birth, change of place of voter’s birth and supplement data on citizenship.

28 Numerical display of data changes between the parliamentary and local elections and numerical display of data changes between the parliamentary and presidential elections.

The prosecution should take into consideration these cases more closely and put additional light on massive registration of voters prior to the elections in this area, in order to find out whether there are any illegal activities prior to election.

Discrepancies with the Census Data

In 2011, the Statistical Office of Montenegro (MONSTAT) conducted a population census. Data collected by the Census showed big differences between the CVL data and the Census data. Comparing the two, we can notice that in some municipalities there are more voters than inhabitants. MONSTAT claimed that data from the Census and the CVL are not comparable due to the fact that these data are made for different purposes. However, the Law on Census of Population, Households and Dwellings passed in 2011 clearly states that the Census must include all Montenegrin citizens no matter whether they are in Montenegro at the time of the Census and no matter whether they posses personal documents. Also, according to the same Law, the Census must include foreign nationals who have a permanent or temporary residence in Montenegro. For this reason, MANS suspected that if the Census included all Montenegrin citizens, it is impossible that there are such big differences between the data from the Census and the CVL and that there are more voters than citizens.

The Municipality of Rozaje which is associated with numerous election controversies, illustrates the problem.

30 MINA, MONSTAT: You Cannot Compare Data from the Census and the CVL, Podgorica, 24th September 2012.
32 During the last several years there have been speculations from the opposition parties that people from Kosovo and Albania are crossing the border in order to vote for the ruling parties. Also, ex high-rank DPS official confirmed these speculations in an interview conducted by MANS in February 2013. However, this was never proven by the State institutions.
33 MONSTAT statistics on migrations in Montenegro show that 173 people left Rozaje, while 65 people moved to Rozaje.
34 Ibid.
almost 12,000 people in a six months period.\textsuperscript{35} This caused serious problems to many voters, due to fact they were not informed where they can exercise their voting rights. Most of these voters did not change their address, therefore expecting that they would have the voting right at the same place as in the previous elections. According to the Law on Voter Lists, only in cases where a new polling station was opened or voter changed residency, he can be legally moved to another polling station.

Moreover, according to the same Law, in cases when a voter requests a change of polling station, he has to submit a proof that he has changed residency. This, however, was not the case. Comparing the MIST\textsuperscript{1} data on people who checked out from one and checked into another address, there are noticeable differences. This should not happen, since according to the Law on Voter Lists a person must check out from one, before checking into other address.

This was confirmed by citizens who called MANS to report that they could not vote because they were not informed in which polling station they can do so, therefore they were de facto disabled to vote. As MANS was informed by people who contacted it, most of them were opposition voters.

\textit{Inspection Supervision}

Before the presidential elections, presidential candidates submitted 7,000 initiatives for inspection supervision of the CVL to the Mol each.\textsuperscript{36} As the candidate of the leading governing party failed to comply with the procedure, his initiatives were not processed. Mol has conducted inspection in just a small part of cases, but even this small part of cases resulted with great omissions. Mol has failed in giving valid reasons and documents which can prove whether a person was lawfully enrolled in or deleted from the electoral roll, nor has it followed other relevant obligations from the Law. This has proven that the inspection supervision of the CVL is a mechanism which exists on paper, but cannot be effectively enforced, which was also confirmed by a statement of the Minister of Interior.\textsuperscript{37}

\section*{II MISUSE OF PUBLIC FUNDS}

Constant accusations from the opposition and CSOs that ruling parties are misusing state resources in order to obtain political support attracted great attention prior to the elections. Using the Law on Free Access to Information, but also on the basis of specific complaints of citizens who have been the subjects or witnesses of various misuses, MANS investigated forms of misuse of public funds before and during the recent elections in the 2012 and 2013. The most frequent forms of misuse of public funds were social benefits, over expenditures of state budget, employments and private donations to the state.

\begin{quote}
Montenegro faced a serious problem in processing misuses of public funds and office during the election campaign, because institutions declared themselves incompetent. Unlike other countries, such as Croatia, which has the State Electoral Commission, or Serbia, which has the Agency for the Fight against Corruption, that can initiate these proceedings, Montenegro still does not have an independent and professional institution to deal with these issues.
\end{quote}

\textsuperscript{35} \textit{MANS, Report on Types of Electoral Misuses of Voter Lists and Inspection Supervision}, Podgorica, July 2013.

\textsuperscript{36} These initiatives were submitted according to inputs given by MANS after the analysis of the CVL.

\textsuperscript{37} Minister of Interior, Raško Konjević, confirmed that the Ministry cannot conduct inspection of the CVL, \textit{Raško Konjević: We Cannot Conduct Inspection of Voter List}, Podgorica, 4th April 2013.
**Social Benefits**

Social benefits during the election campaign can be used as a key instrument of vote-securing. Based on the official documents obtained by MANS, there is a serious suspicion that these funds have been misused. Rifat Rastoder agrees that this is a big problem having in mind that ‘social benefits are not being considered as a corruption tool, although they are being used to influence peoples’ opinions.’

MANS obtained documents that show how the number of citizens who were using one-time social aid increased in 2012 during the months September and October, which were the months of the parliamentary election campaign, and in November and December, the post-election period (see graph 2).

In the same period funds for one-time social aid increased substantially. Only in October 2012, a total of 1,785 citizens received one-time social aid of in total 170,792 euro (see graph 3). These data are indications that the granting of one-time social aid is not based on objective criteria, but on a partisanship, because these benefits are being given on the eve of the elections.

![Graph 2: Number of citizens receiving one-time social aid in 2012 by months](image)

**Graph 2: Number of citizens getting one-time social aid**

Source: data of MANS’ Center for Investigation based on information of state institutions obtained through Freedom of Information Law.

The most recent case was at the Centre for Social Work in the Municipality of Pljevlja. Research showed concrete evidence that the funds intended for one-time financial assistance, were used to purchase political support for the Democratic Party of Socialists before the parliamentary elections. Therefore, people who were voting for the governing party or potential voters of this party were favored.

After revealing this case, the prosecution opened an investigation against people involved in this issue. Revealing the case of the Center for Social Work Pljevlja helped MANS to discover a similar pattern of behavior of Social Centers in other municipalities, where an increase of one-time cash payments of the same amounts to gain votes was also noticed. Similar practices were detected as regards the allocation of flats to

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38 Interview with Mr. Rifat Rastoder, Chairman of the Parliamentary Committee on Political System, Judiciary and Administration, Member of the Working Group for Building Trust in the Election Process and Representative of the Social-Democratic Party (SDP), conducted on 26th November 2013.


pensioners and people in need\textsuperscript{41}, social packages and kits of textbooks.\textsuperscript{42}

\textbf{Over Expenditures}

The state budget of Montenegro is heavily burdened during election years. This is especially being done in months prior to elections, when state institutions start spending more money than usual. Over expenditures are related to severance payments, loans and other expenditures that are not predicted by the yearly budget. Although the Law on Political Party Financing (LFPP) contains a provision that prohibits an increase of budget spending during the period between the election day announcement and the very day of elections, it is being violated.

Just before the previous elections the Ministry of Agriculture allocated loans to farmers under a specific program. The obtained data showed that the applications for these loans prior to elections were used for political pressure on farmers. In addition, the agriculture minister used his official visit to farmers as part of a campaign for his party.\textsuperscript{43} The Government also decided to allocate funds to compensate for the damages caused by floods that happened a year and a half ago. The timing for the allocation of these funds is more than questionable, having in mind that some DPS officials stated that compensations should be given to DPS' members in order to get more votes in the upcoming elections.\textsuperscript{44} The Municipality of Mojkovac gave 70 thousand euro as a compensation for the damages caused by weather in 2012, which is six times more than envisaged by the budget.

The same thing happened with the severance payments. The Labor Fond paid severance to workers who lost their jobs, before the elections. Just in September, the Fond redirected 620 thousand euro for the severance fee.\textsuperscript{45} This again raised suspicion that funds are yet again being used to obtain more votes, bearing in mind that during October, November and December there was not a single severance given in Mojkovac (see graph 4).\textsuperscript{46}

\begin{figure}[h]
\centering
\includegraphics[width=0.5\textwidth]{Severance_Fee_in_2012_in_Mojkovac}
\caption{Severance Fee in 2012 in Mojkovac}
\end{figure}

\textit{Source: data of MANS’ Center for Investigation based on information of state institutions obtained through Freedom of Information Law.}

\textbf{Employment}

According to the official data, there are over 33,000 unemployed people capable of working in Montenegro.\textsuperscript{47} These people are usually offered a job on the eve of elections. This problem is recognized by all political actors, even the Government, which is why the prohibition of announcement of vacancies and employment

\begin{figure}[h]
\centering
\includegraphics[width=0.5\textwidth]{Employment_in_2012}
\caption{Employment in 2012}
\end{figure}

\textit{Source: data of MANS’ Center for Investigation based on information of state institutions obtained through Freedom of Information Law.}

\textsuperscript{42} Vučinić, Željka, Kajošević, Samir, \textit{DPS Started the Campaign: Giving Away Textbooks in Exchange for a Vote}, Podgorica, 23\textsuperscript{rd} August 2013.
\textsuperscript{43} Ibid.
\textsuperscript{44} Statement given by the DPS official and President of Municipality of Mojkovac, Dejan Medojevic at the DPS Presidency session. \textit{Café del Montenegro, ‘Tape Recording’ Affair: Compensate the Flood Damages Only to DPS Members}, Podgorica, 28\textsuperscript{th} February 2013.
\textsuperscript{45} Radenović, Vukomir, Vešović, Marko, \textit{Paid Votes with the Money for Severance}, Daily DAN, Podgorica, 12\textsuperscript{th} November 2013.
\textsuperscript{46} Radenović, Vukomir, Vešović, Marko, \textit{For Voters of the Governing Party 70,000 Euro of Compensation}, Daily DAN, Podgorica, 13\textsuperscript{th} November 2013.
\textsuperscript{47} According to official statistics for October 2013 provided by the MONSTAT.
was anchored in the LFPP. However, previous experiences gave hard proof to the public that this is not respected. Through official and unofficial data, MANS has managed to see that political parties are using their powers to employ as many people as possible in the state institutions in order to obtain their votes as well as the votes of their family members in the elections. This practice is known as the ‘secure vote’ system, which has been used in Montenegro for quite some time. It has been confirmed by people from the ruling party, through audio recordings of the session, as well as through party reports, which have not been refuted. One of the officials mentioned that every person employed by the DPS carries at least four votes for this party, based on the calculation that an average Montenegrin family has four members who are eligible to vote. In the meantime, during November a video from the DPS’ session in Plav was posted at YouTube, where the whole public could hear an MP Husnija Šabović, talking how the DPS got a promise that five of its members will be employed in public company ‘National Parks of Montenegro’.

In June 2012, just a month before the President of Montenegro called the parliamentary elections, the Government prepared a law on the employment of 4,500 graduate students, although it was not included in the Government’s annual plan at the beginning of 2012. Parliament adopted this law in July and the vacancy announcement for graduate students was open until 15th October 2012, i.e. until the day after the elections. Although the LFPP prescribes penalties for the violation of the provision banning employment and vacancy announcements, no one has suffered the consequences.

In cases where people are already employed but are opposed to the governing party, other mechanisms are used. Mobbing has unfortunately become a way of culture in Montenegro. People are forced to wear t-shirts and promote party interests or otherwise they are fired. In other cases, institutions and company directors are making lists for whom the employees will vote for.

**Private Donations to the State**

The LFPP also bans donations to parties by private companies that have conducted work of public interest or concluded a public procurement contract in a period of two years before signing the contract, during business relations and two years after the contract expiration.

This provision was incorporated in the Law in order to prevent private companies, which were conducting works of public interest, from giving donations to political parties so that they can obtain additional contracts.

After the adoption of the LFPP, private companies started donating to the State. This is a new practice which has not been recorded in any other country in the region. In this manner, private companies are not excluded from participating in works of public interest or involvement.

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48 Democratic Party of Socialists, Report of the DPS Podgorica Committee during the period of election activities conducted by local organizations, Podgorica, June 2012.
49 DPS official and MP, ZoranJelić, stated that every employee brings four votes for DPS. Kosović, Srdan, Audio recording: DPS’ Election Strategy - One Employee, Four Votes, Podgorica, 15th February 2013.
50 Vesović, Marko, We Have Arranged for Five DPS Members to be Hired in the National Parks, Daily DAN, Podgorica, 7th November 2013.
52 Law on Political Party Finance.
53 Jovanović, Jelena, Đurović, Milica, Got Fired After Refusing to Wear T-shirts with Circled Number 11 at Work, Podgorica, 13th October 2012.
54 Lajović, Vuk, Vijesti, Budva: School Director Counts Suitable Teachers, Podgorica, 18th March 2013.
Public procurement of state institutions. Private companies are constructing roads and other infrastructure projects which favor the governing parties without tendering. Moreover, the state has no obligation to pay for these works, but it is expected that the private company will get a tender after the election. Numerous examples have been noted in the last year.55

Furthermore, other companies, such as the National Electricity Company ‘Elektroprivreda Crne Gore’ (EPCG), which is, although majority state owned, de facto a private company, use other mechanisms. 56 EPCG is being suspected for using the ‘write-off of debts’ for electricity to households during election months and years.57 Although managed by the private company, Montenegrin government is the majority stakeholder and not one important decision can be made without Government’s support, which very much affects the work of the company. The official data show that the EPCG, during a period of nine months in the non-election year 2011, has ‘written-off’ 4,3 million euro of debts for electricity, while in the same nine-month period during the election year 2012 the EPCG has ‘written-off’ almost 13 million euro.58

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55 ‘Bemax’ company donated the reconstruction of several local roads and other facilities in Bijelo Polje, Kolasin and Podgorica, while ‘Čelebić’ company, whose owner together with the Prime Minister, Milo Đukanović is the co-owner of the private university, reconstructed a road to Beri in Podgorica, worth 100,000 euro. More available at: MANS, Report on the Misuse of State Resources and Public Authorities in the 2012 Parliamentary Election Campaign.
56 The State has a major ownership stake in EPCG, but the company is being managed by the Italian company A2A.
58 Ibid.
Recommendations to Step Forward

Inadequate management of the Central Voter List and various types of misuse of public funds, including the selective attribution of one-time social benefits over expenditures, massive employments before elections in exchange for votes and the newly evolving practice of state donations, are the most recurrent practices observed. All of these practices are seriously diminishing trust in the fairness of the election process. That is why the laws governing this area need to be amended and implemented adequately. Voters’ lists must be more transparent and corrected in order not to put into question the regularity of the elections. State resources must be used in accordance with the law and without any attempt to influence peoples’ election will. Institutions must tackle issues of previous misuse and investigate all concrete cases of unlawful expenditures in order to move towards the EU accession. Therefore, MANS recommends the necessary steps, both in legislative and practice, to achieve above mentioned goals:

1. Improve the transparency and accuracy of voter lists:

   **Legislative framework:**
   a) Amend the Criminal Code to codify the crime of ‘abuse of the voter lists’ in order to prevent ‘identical entries’, deleting people from the Central Voter List (CVL) without an adequate legal basis and the non-removal of deceased or people who lost the right to vote;
   b) Amend the Law on Voter Lists in order to have a centralized CVL, which will be managed by the Ministry responsible for public administration;
   c) Clearly specify the type of data that can be changed in the CVL and the conditions under which they can be modified in order to prevent discretionary decisions of changing voters’ data;
   d) Ensure that third parties have the right to submit initiatives for the inspection of voter lists;
   e) Ensure that the Inspection Administration is fully independent in conducting inspection supervision of the accuracy of the CVL;
   f) Proscribe a detailed procedure for the inspection of voter lists and fully align it with the Law on Inspection Supervision.

   **Practice:**
   a) Erase ‘identical entries’ and deceased people from the voter lists and compare data in the CVL with registers of births, marriages, deaths, residence and population of Montenegro;
   b) Establish software compiling all registers and add categories to the CVL: the name of a parent/guardian, ID number and a ‘note column’, in which to enter a decision on changes of voters’ data;
   c) Provide political parties and NGOs monitoring the election process with the electronic version of all registers so that they can conduct the control of the CVL in accordance with the Law.
2. Prevent misuse of public funds during the election campaign:

Legislative framework:

a) Establish the State Electoral Commission (SEC) as a fully independent body, whose representatives would be members of academia, lawyers and CSO representatives without any political background in the last ten years;

b) Amend the LFPP in a way that:
   - the SEC would be fully responsible for the implementation of provisions regarding various bans, especially in initiating misdemeanor procedures against law violators ex officio;
   - all payments of various one-time benefits and loans would be banned during the election campaign period, including:
     - subsidies and state aid to companies;
     - forgiveness of VAT and other taxes;
     - one-time emergency benefits to retirees;
     - loans to farmers and entrepreneurs;
     - severance payments;
     - payments for the foreign currency savings;
     - allocation of housing and housing loans;
     - allocation of textbooks and school supplies;
     - one-time fee for damages caused by floods and other natural disasters;
     - all other payments which may in any way affect an individual or group of people to vote for a coalition, a political party or a candidate;

   - all employment contracts concluded during the election campaign in the public sector, except the contracts for the indefinite, are considered automatically annulled;
   - more than 5% increase of the total amount for one-time social benefits comparing to the average monthly payments during the previous 12 months, in the period from the election day announcement until three months after the election day, would be banned;
   - more than 5% increase of the total amount for all permanent social benefits comparing to the average monthly payments during the previous 12 months, in the period from the election day announcement until three months after the election day, would be banned;
   - all donations of material and other resources to the State or local governments in the period from the election day announcement until three months after the election day would be banned.

Practice:

a) Oblige the Ministry of Labor and Social Welfare to publish quarterly analytical cards of all Centers for Social Work on the disbursement of social aid;

b) Oblige state-owned companies to publish reports on writing-off various debts during the election campaigns.

Based on the recommendations of this policy brief, MANS has developed and submitted over 80 amendments to six different laws regulating elections, political party finance and misuse of public funds and office to the Parliament of Montenegro. Amendments are currently under the revision of the Parliament’s Working Group.
Main Sources and Suggested Reading

Documents:

Media sources:

- Daily DAN online, 10 audio recordings from session of the Presidency of the Democratic Party of Socialists published on:
  - 16th February 2013 (http://www.dan.co.me/transcri/Audio96k.mp3)
  - 17th February 2013 (http://www.dan.co.me/transcri/Audio02896k.zip)
  - 21st February 2013 (http://www.dan.co.me/transcri/Audio03696k.zip)
  - 27th February 2013 (http://www.dan.co.me/transcri/Audio03396k1.25.04.mp3.zip)
  - 28th February 2013 (http://www.dan.co.me/transcri/Audio033_1.25.06.900_do_1.55.54.mp3.zip)
  - 5th March 2013 (http://www.dan.co.me/transcri/Audio_0331_55_54_2_27_04.zip)
  - 1st April 2013 (http://www.dan.co.me/transcri/Audio_1_april.zip)
  - 4th April 2013 (http://www.dan.co.me/transcri/Audio_033_02_54_34_02_56_29.zip)
  - 5th April 2013 (http://www.dan.co.me/transcri/Audio_033_01_29_58_kraj.zip)
  - 9th May 2013 (http://www.dan.co.me/transcri/Audio02496.zip).
- Vešović, Marko, *Dukanović: Change Is to Our People*, Daily DAN, Podgorica, 13th April 2013 (http://www.dan.co.me/?nivo=3&rubrika=Politika&datum=2013-04-13&rubrika=Vijest%20dana&najdatum=2013-04-05&clanak=374545&naslov=%D0u%ADka%ADn%AD%AE%E6%20Sta%AD%AD%20E%ADf%20za%ADm%ADje%ADn%A%AD%20%AD%AD%91m%20%AD%AD%AD%, visited on 28th November 2013).
- Radenović, Vukomir, *Gvozdenović Confirms that DPS Counts Secure Votes*, Podgorica, Daily DAN (http://www.dan.co.me/?nivo=3&rubrika=Politika&datum=2013-07-11&clanak=388393&naslov=Gvo%ADzde%ADn%AD%AE%26%2326%233Bpo%ADtv%ADdio%20%ADpre%ADbr%AD%20AD%AD%20ADgur%ADne%20%AD%AD%AD, visited on 28th November 2013).


Legislation

-Law on Voter Register of Croatia (http://www.zakon.hr/z/558/Zakon-o-registru-bira%C4%8Da, visited on 21st October 2013).
-Election Rule Nr. 02/2013, Creating, Confirming and Disputing the Voter List of Kosovo (http://www.ks.org/Uploads/Documents/2_gsqxttyePDF, visited on 28th November 2013).

Other sources:

-Interview with Mr. Rifat Rastoder, Chairman of the Parliamentary Committee on Political System, Judiciary and Administration, Member of the Working Group for Building Trust in the Election Process and Representative of the Social-Democratic Party (SDP), conducted on 26th November 2013.
-Responds to the questionnaire submitted to Mr. Veselin Radulović, Legal Counselor at the Parliamentary Inquiry Committee for the Purpose of Collecting Information and Facts on the Events Relating to the Work of

Winning Elections in Montenegro
State Authorities Regarding Publishing of Audio Recordings and Transcripts from the Meetings of DPS Authorities and Bodies, on 25th November 2013.
- Interview with the former highly-ranked DPS official conducted by MANS in February 2013 (name not disclosed due to the whistleblower protection).

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