

CASE STUDY: EMPLOYMENT IN ELECTION PERIOD REPORTED TO AGENCY FOR PREVENTION OF CORRUPTION

I: INTRODUCTION: According to the Law on Financing of Political Entities and Electoral Campaigns¹, from the date the elections are announced until the date they are held, the state administration may provide temporary employment in exceptional cases, only if the employment is necessary for ensuring smooth and regular functioning of the state and municipal bodies, institutions, or public enterprises.²

The Law also requires the state and municipal bodies, institutions and public enterprises to submit to the Agency all decisions on employment adopted in the pre-election period, along with the complete documentation, which will then be published on the Agency's website.³

II: 1,271 EMPLOYMENT CONTRACTS REPORTED TO THE AGENCY: In the period from mid-July to mid-October 2016, during the election campaign⁴, 228 state and municipal bodies, institutions and public enterprises reported to the Agency for Prevention of Corruption conclusion of 1,271 different types of employment contracts.⁵

**228 bodies, institutions and companies reported employment in pre-election period
1,271 contracts submitted to the Agency for Prevention of Corruption**

Out of this figure, the state and municipal bodies and enterprises hired 536 persons, of whom 161 persons signed permanent contracts, 187 people signed fixed-term contracts, with 178 persons consultancy agreements were signed, while internship agreements were concluded with 10 people.

¹ Parliament of Montenegro adopted the Law on Financing Political Entities and Electoral Campaigns in December 2014; Official Gazette of Montenegro 52/2014, link:

<http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag={A05058D4-06C4-457A-97A8-CA37FB140A28}>

² Article 33 Paragraph 1 of the Law on Financing Political Entities and Electoral Campaigns stipulates: "The state authorities, state administration, local authorities, local government bodies, public enterprises, public institutions and state funds, during the period from the announcement to Election Day can be extremely employ persons at a specific time, or to conclude a contract for temporary and occasional jobs, in order to ensure smooth and regular structure and functioning process of these bodies, on the basis of the decision of the competent authority of these entities, only if so provided by the job classification scheme places."

³ Article 33 Paragraph 2 of the Law on Financing Political Entities and Electoral Campaigns stipulates: "Bodies and legal entities referred to in paragraph 1 of this Article shall submit all decisions on employment adopted in line with the laws governing labor relations, rights and obligations of civil servants and state employees and obligation relations, with the complete supporting documentation, to the Agency within three days from the day of adoption of the decision", whereas Paragraph 3 stipulates: "The Agency shall publish the submitted documents referred to in paragraph 2 of this Article on its web site within seven days from the day of submission."

⁴ Pre-election campaign officially began on July 11 2016, when parliamentary elections were called, and was completed on 16 October 2016, when the elections were held.

⁵ All employment decisions are on the website of the Agency for Prevention of Corruption, link: <http://www.antikorupcija.me/me/kontrola-politickih-subjekata-izbornih-kampanja/podnijeti-izvjestaji-odluke/?rt=15>

At the same time, 735 persons were hired in primary and secondary schools as well as kindergartens and nursery schools, 704 of whom were hired for a fixed period of time, 27 people concluded permanent employment contracts, and four signed consultancy agreements.

	Permanent employment contract	Fixed-term employment contract	Consultancy agreements	Internship agreement
STATE AND LOCAL ADMINISTRATION	161	187	178	10
EDUCATIONAL INSTITUTIONS	27	704	4	/
TOTAL:	188	891	182	10

Table 1: 1,271 employment contracts reported to the Agency

What is particularly interesting is the fact that as many as 182 temporary job contracts were reported to the Agency for Prevention of Corruption.

According to the Labor Law⁶, an employer may conclude consultancy agreements, which do not require public advertising, only for those jobs that do not require special expertise and skills and do not last more than 120 working days.⁷ In other words, these are not employees' regular jobs.

However, the documentation published on the website of the Agency for Prevention of Corruption shows that the consultancy agreements were mainly concluded illegally, since regular jobs in the state administration were in question, requiring public announcement, which was avoided.

In this sense, the municipality of Niksic is the most dramatic example, where 71 persons signed consultancy agreements with the local authorities in the pre-election period. The second comes the Real Estate Administration where 23 people were hired this way, followed by the Institute for Public Health with 12 employees.

If observed at the municipal level, it follows that in the pre-election period those cities with the largest number of voters had the highest employment rate. Thus, the four cities with the largest number of voters - Podgorica, Niksic, Bijelo Polje and Bar - where about a half of the country's electorate votes⁸, 741 people were employed, which is 58 percent of the total number of the contracts submitted to the Agency for Prevention of Corruption.

III: EMPLOYMENT BASED ON GOVERNMENT'S INTERNAL DOCUMENT: According to the official data, in August 2016, the Institute for Execution of Criminal Sanctions submitted to the Agency for Prevention of Corruption six consultancy agreements concluded during the election period.

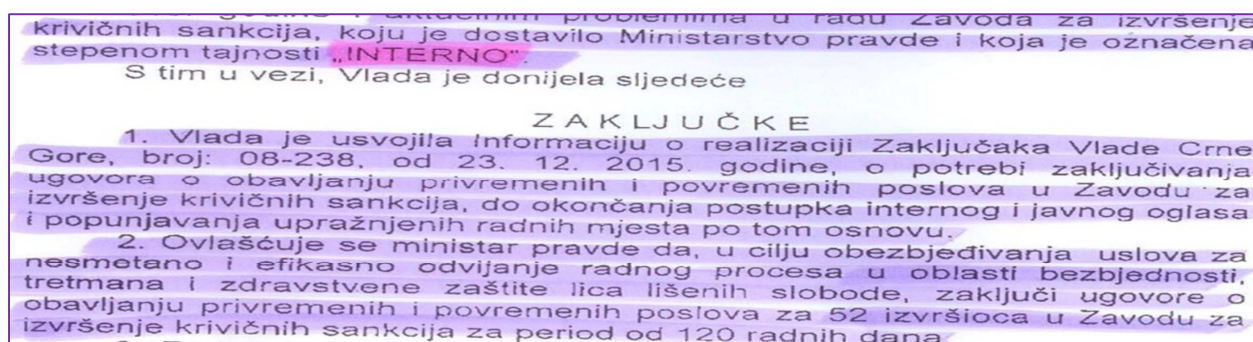
⁶ Official Gazette of Montenegro 49/08, 26/09, 88/09, 26/10, 59/11, 66/12, 31/14, 53/14

⁷ Article 163 of the Labor Law prescribes: "For the purpose of performing certain activities that do not require special knowledge and expertise, and, by their nature are such that they do not exceed 120 business days in a calendar year (temporary and occasional jobs), the employer may conclude a special labor contract with a person registered with the Employment Agency or intermediation agency."

⁸ 528,817 voters was entitled to vote in the parliamentary elections, out of which 269,601 in Podgorica, Niksic, Bijelo Polje and Bar; link: <http://www.mup.gov.me/vijesti/165813/Numericki-tabelarni-prikaz-podataka-o-promjenama-u-BS-7-10-2016.html>

In these cases, the Agency referred to the document of the Government of Montenegro, i.e. the conclusions that were classified as "internal" and by which the Minister of Justice was given the powers to conclude consultancy agreements with 52 persons.

In case a document is classified as "internal", it is implied that it includes classified information. The Information Secrecy Act⁹ provides that information shall be defined as classified if its disclosure threatens or might threaten security and defense, political, foreign, monetary or economic policy of Montenegro, while the information the disclosure of which would cause detrimental consequences for functioning of a body is classified as "internal".



Excerpt from the Government's document on employment, which was declared secret

Under the Labor Law, employment procedure in the public sector must be carried out in accordance with the required public announcing, which means that employment procedure is not subject to confidentiality, and in accordance with the legal system of Montenegro, the Government's conclusions may not have greater legal force than law.

IV: POSITION OF "PRESS CLIPPING ADVISOR": Documentation published on the website of the Agency for Prevention of Corruption has raised the issue whether all the employment contracts during the election period were grounded, or in some cases, a fictitious or imaginary jobs were at issue.

In this sense, the most illustrative example of the employment contract for a position of "Press Clipping Advisor in the Office of Executive Director", which was concluded for a period of 90 days with the Investment and Development Fund. This vacancy was opened by the Director of the Fund Zoran Vukcevic, one of the participants of the "Tape Recording" affair,¹⁰ while a contract was concluded in July 2016.

It is not known whether the Agency for Prevention of Corruption has checked the real need for hiring an advisor for press clipping in the office of the Executive Director of the Investment and Development Fund or a fictitious workplace is at issue.

*Author: MANS Investigation Center
Podgorica, November 2016*

⁹ Information Secrecy Act of Montenegro 14/08, 76/09, 41/10, 40/11, 38/12, 44/12, 14/13, 18/14, 48/15

¹⁰ "Tape Recording" Affair was launched in early 2013 and refers to the transcripts from the sessions of the highest party organs of the ruling DPS, which were held on the eve of the early parliamentary elections in 2012; top officials of the DPS revealed some of the mechanisms that the ruling party used in the pre-election periods, such as the payment of social welfare, workers' severance pay or employment