

REPORT ON PARLIAMENTARY ELECTION 2016

**Financing of election, electoral register and
oversight over election laws enforcement**

Podgorica, December 2016

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REPORT ON PARLIAMENTARY ELECTION 2016

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INTRODUCTION

This report is the result of a months-long effort MANS devoted so as to contribute to better implementation of the election legislation, increase the transparency of election financing, improve the electoral register and detect and prosecute cases of political corruption.

MANS monitored the implementation of the electoral laws during 2016 parliamentary election under the project supported by the European Union and the United States Embassy.

MANS monitored whether institutions complied with the new obligations stipulated by the Law on Financing of Political Parties, and regularly published information on the pre-election spending in the budget. In cases where the institutions did not proactively published information, MANS requested the information on the basis of the Law on Free Access to Information and filed initiatives against them.

MANS examined suspicious payments and collected detailed information so as to determine if there had been possible misuses of public funds for electoral purposes. MANS also monitored and reported illegal employment in the pre-election period, especially in the state administration and local governments.

MANS examined the reports of political parties on the sources of funds and the election campaign costs, and requested financial documentation for specific deposits and withdrawals.

MANS provided legal assistance to citizens who reported cases of political corruption and asked for information about their rights. MANS investigated specific cases in more detail, filing initiatives and complaints.

MANS examined the electoral register and other databases on the basis of which the status of voters was changed and submitted initiatives to remove illegally registered voters from the register.

MANS monitored sessions of the key institutions involved in implementation of the electoral laws, such as the State Election Commission and a special Committee of the Parliament of Montenegro. We analyzed the work of the Agency for Prevention of Corruption and Special State Prosecutor to which MANS submitted complaints and initiatives.

SUMMARY

Application of the new electoral laws was not very effective because key institutions adopted political decisions, avoided performing new duties and deepened distrust in the electoral process.

The greatest progress was made in terms of access to information on the pre-election spending of the budget. Most institutions proactively published information, in accordance with the obligations under the new Law on Financing of Political Parties. However, certain important institutions that manage large funds kept hidden the purpose of spending public money including where it was channeled during the pre-election campaign, and designated documents that had previously been available to the public as classified.

The collected official data show that the employment practice in the pre-election period was continued, both in the public administration and private companies where the government gave subsidies for creating new jobs. On the eve of and immediately after the elections the expenditures for one-time financial assistance for the poorest such as socially vulnerable, laid off workers and farmers increased manifold. At the same time, the state fund reduced interest rates to the companies.

The total reported costs of campaigns of all political parties amounted to €3.6 million. According to the reports, the parties earmarked most of the money for media campaign, then the commercials, billboards and material printing. There is not enough information to consider the sources of funding of political campaigns and the reasonableness of the reported costs since most political parties keeps the information about deposits, payments, contracts and invoices under wraps, and the Agency for Prevention of Corruption did not publish this information.

The parliamentary elections were held on the basis of the electoral register which contained at least 15 percent of controversial information, i.e. voters who were not eligible to vote under the Constitution. The greatest number of irregularities was related to granting electoral right to those individuals who did not live in Montenegro for an extended period of time. The electoral register still contains large number of deceased voters, as well as thousands of voters who were registered or removed only on the eve of the elections so as to gain or lose the right to vote only in one election cycle. Based on the MANS's initiatives, at least two thousand illegally registered voters were removed from the electoral register, but tens of thousands of cases could not be checked since the documentation was not delivered to MANS.

The institutions responsible for supervision and enforcement of the electoral laws deepened citizens' distrust in the electoral process and restricted public access to the information about their work. Thus, the State Election Commission adopted a series of political decisions and did not carefully control the electoral register. The Ministry of Interior failed to submit to MANS tens of thousands of pages of documents on the basis of which the contested voters were registered to vote. On the eve of the elections, the Interim Committee of the Parliament for monitoring the application of the laws and other regulations crucial for building trust in the electoral process was established, but it failed to oversee spending of public resources during the election campaign.

The Agency for Prevention of Corruption only superficially monitored financing of the election campaign and refused to investigate publicly published cases of possible political corruption and collect evidence ex officio, as well as to control how the institutions published data on the pre-election spending and determine if there was something suspicious about it.

The Prosecution found a loophole in the recent amendments to the law. Thus, instead of the Special Prosecutor, basic prosecutors, who are the reason the law has been changed, prosecuted for crimes against the electoral laws. Just as before, they failed to produce any results. On the election day, the Agency for Electronic Communications and Postal Services blocked Viber and WhatsApp, by which it violated citizens' basic human rights to freedom of expression.

INTRODUCTION

The new Law on Financing of Political Entities and Election Campaigns obliges state and local institutions to publish important data on the budget spending during the election campaign. MANS monitored implementation of the law by more than 100 state and local institutions which had the largest budget. Those institutions published more than half of the documents on their spending during the election campaign and one month after the election, about 40 percent of the documents lacked complete information, and percent was not published at all.

In cases where the institutions did not publish information on budget spending as required by law or when MANS needed more detailed information for analysis and investigation of specific cases, MANS requested the information on the basis of the Law on Free Access to Information. MANS submitted over 16,000 requests, and received every third piece of information requested. These institutions claimed that they did not have most of the required information, and often ignored the requests, as well as decisions of the second instance institutions and court judgments. During the election period, some institutions designated data previously available to the public as classified.

Despite the amendments to the Law which stipulate restrictions on employment during election campaigns, practice of employing several thousand persons in the state administration and local government continued in this election cycle, as well. In many cases it was a short-term employment with questionable legitimacy. Also, few hundred contracts that the institutions had not reported were revealed, and some institutions employed through employment agencies without reporting it. During the pre-election campaign, the government launched several projects on granting state aid to the private sector, which led to creating new jobs.

The Ministry of Sustainable Development, the Ministry of Agriculture and the Transport Directorate, as well as the seven largest municipalities in Montenegro, increased expenditures for local infrastructure during the election campaign manifold. Even the military built roads in the election period, and the media published several articles about citizens who claimed that only the streets where the ruling party's voters lived were renovated, and there were examples of offering votes in exchange for "the asphalt".

On the eve of and immediately after the election expenditures, one-off financial assistance for the poorest, such as the socially vulnerable, laid off workers and farmers, increased manifold. On the eve of the election, the state fund reduced interest rates to companies and farmers whose business was under wraps.

Most of the political parties were reluctant to publish detailed information on the election campaign financing, making it impossible to check the information given in their official reports. Therefore, neither sources of funding, nor costs of the campaign can be realistically considered. Only the *Democratic Montenegro* and *Croatian Civic Initiative* published all the contracts and costs of the election campaign, the *Democratic Front* and *FORCA* published some of the data, and all other parties concealed important information from the public. The Agency for Prevention of Corruption contributed further to reducing the transparency of financing political parties by failing to publish any data on party financing that it had in its possession.

1. ACCESS TO INFORMATION ON STATE BUDGET SPENDING IN ELECTION PERIOD

1.1. Legal framework

The new Law on Financing of Political Entities and Election Campaigns obliges state and local institutions to publish key data on budget spending during election campaigns. Furthermore, state bodies are required to publish information on their activities and finances, according to the Law on Free Access to Information.

1.1.1. Proactive Publishing of Information on Budget Spending

All state and local budget units are obliged to weekly publish **statements of account** on their websites i.e. data on budget spending for the previous week¹, and the institutions are bound to publish them not only until the election day as is the case with all other bodies, but one month after the election. This is a control measure within the Law which prohibits institutions from spending more money on a monthly basis during the election period compared to the average spending in the previous six months. However, these provisions do not apply to state-owned companies or legal entities whose founder and/or majority owner is the state, because they are not considered as budget lines.

Furthermore, all state bodies, state administration bodies, local government bodies, local administration bodies, public enterprises, public institutions, state funds and companies the founder and/or majority owner of which is the state or local government unit shall publish on their websites on a weekly basis all **travel authorizations of official vehicles** for the previous week². This measure is a part of the legal regulation that prohibits misuse of official vehicles for election purposes.

The Ministry of Finance shall, on a fifteen-day basis, publish on its website the statements from the State Treasury as well as statements of account **on budget reserve spending**, whereas all local government bodies responsible for finance are under the same obligation³. The Ministry of Labor and Social Welfare shall collect and publish **statements of account containing data about the amount of social welfare and the number of beneficiaries of all forms of social welfare**, including the **data on welfare types and welfare beneficiaries** which are published on the Ministry's website semimonthly. Municipalities shall publish all data on **all forms of welfare benefits** they have provided during the election campaign.⁴

During the pre-election campaign, **in exceptional cases** for reason of ensuring smooth and regular functioning of state bodies, state administration bodies, local government bodies, local administration bodies, public companies, public institutions and state funds, fixed-term contract as well as temporary employment contract may be concluded, only if envisaged by the job classification act. These bodies **shall submit employment contracts** with all the supporting documentation **to the Agency for Prevention of Corruption** within three days from the date of adopting the decision, and the Agency shall publish them seven days after receiving them at the latest.⁵

¹ Law on Financing of Political Entities and Election Campaigns, Article 28

² Ibid, Article 32

³ Ibid, Article 30

⁴ Ibid, Article 29

⁵ Ibid, Article 33

1.1.2. Access to Data on the Basis of Law on Free Access to Information

Access to information is governed by the Law on Free Access to Information.⁶

Parties subject to the Law are state bodies, local administration and local government bodies, institutions, companies and other legal entities founders, co-founders or majority owners of which are the state or local **governments**.

The Law defines that legal persons whose work is mostly financed from the public funds, as well as natural persons, entrepreneurs or legal entities that perform public duties or manage public funds are also obliged to act according to this Law.

The procedure for access to information shall be initiated upon written or oral request of the individual seeking access to information. Parties subject to the Law are required to adopt a decision on the request within 15 days and submit it to the applicant.

If within this period the applicant does not receive the requested information or if he/she is not satisfied with the response, the applicant is entitled to file a complaint to the Agency for Protection of Personal data and Free Access to Information. The Agency shall adopt a decision on the complaint within 15 days. A complaint against the Agency's decision may be lodged to the Administrative Court of Montenegro.

The Law stipulates that access to information or piece of information may be restricted if it is in the interest of protecting:

- privacy of individuals
- security, defense, foreign, monetary and economic policy of Montenegro
- investigation and prosecution of crime perpetrators
- performing official duties, as well as
- commercial and other economic interests.⁷

The exception to this rule is the information which the relevant authorities designate as classified, in accordance with the Data Secrecy Act⁸ and in such situations a complaint to the Administrative Court should be lodged.

However, the Law stipulates the obligation of the parties subject to the Law to carry out a so-called **damage test** and determine whether publishing of the information would cause adverse effect to the interest that is of greater importance than the public interests to obtain that information.⁹

This Law recognizes the **prevailing public interest for publishing of information** or piece of information and in cases when the requested information contains data that reasonably suggest:

- Corruption, non-compliance with regulations, illegal use of public funds and abuse of office,
- Illegally obtaining or spending of public revenues
- endangering public safety,
- endangering life, public health or the environment.¹⁰

⁶ Official Gazette of Montenegro 44/12 dated 9 August 2012

⁷ Article 14, paragraph 1, item 1, 2, 3, 4 and 5 of the Law on Free Access to Information

⁸ Official Gazette of Montenegro 38/2012 dated 19 June 2012

⁹ Article 16 paragraph 1 Law on Free Access to Information

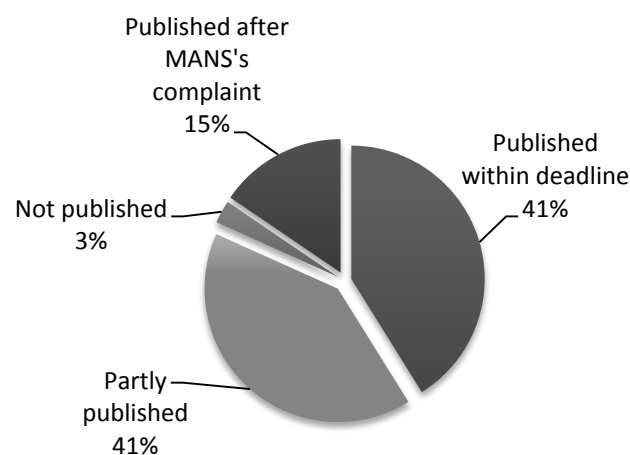
1.2. Proactive Publishing of Information

More than 100 state and local institutions with the largest budget proactively published more than half of the documents on their spending during the election campaign and one month after the election. Around 40 percent of documents were published without complete information, and three percent were not published at all.

Since the announcement of the election until a month after they were finished, MANS monitored if more than 107 state and local institutions and state-owned enterprises, which had the largest budget, fulfilled the obligations concerning publishing of information prescribed by the Law.

The Institutions initially published more than 40 percent of all documents on budget spending adequately, from which it was clear how much money was spent for which purpose and where it was directed.

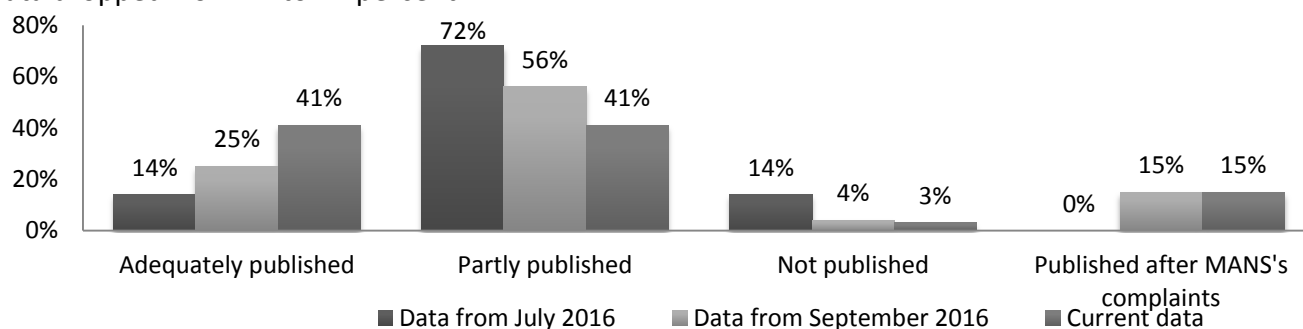
Additional 15 percent of the documents was published adequately after MANS filed complaints with the Agency against the institutions, pointing out the fact that they failed to publish all the relevant information. Although the Agency rejected MANS's initiatives, certain institutions started acting in a lawful manner and improved the contents of the published data after those complaints were filed.



Graph 1: Publishing information on pre-election spending (12 July -13 November 2016)

Still, over two-fifths of the institution continued publishing incomplete data, from which the purpose of spending public money was not clear and/or where the money was specifically directed. A small number of documents, only three percent, was not published at all.

MANS's monitoring and persistent submission of initiatives against institutions that failed to adequately publish data produced positive results so the institutions that were not sufficiently aware of the laws started to improve. The graph shows that at the beginning of the election campaign only 14 percent of the data was properly published, but in the end more than 40 percent of institutions was publishing all the information. At the same time, the number of institutions which partially published data dropped from 72 to 41 percent.



Graph 2: Comparison of data proactively published from July¹¹, September¹² and November 2016¹³

¹⁰ Article 17 paragraph 1 items 1, 2, 3, 4, 5, 6 and 7 of the Law on Free Access to Information

¹¹ Data for the initial 66 institutions for the period from 12 to 31 July 2016

1.2.1. Proactive publishing of statements of account on budget spending

Half of statements of account was published with all the required information on budget spending during the election campaign, an additional 20 percent was published after the initiative of MANS. Almost every third published statement of account was lacking the key information, and only two percent of the statements was not published at all.

MANS monitored spending of the biggest budget units at the state and local levels¹⁴. By the election day, these institutions published 45 percent of statements of account containing all relevant data on the expenditures, whereas one month after the election, this percentage increased to a half of all the published statements of account.

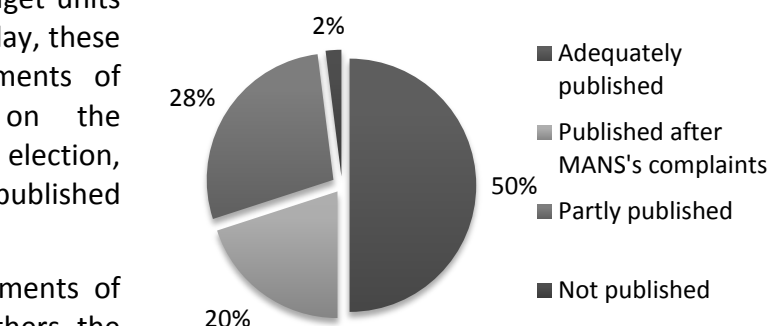
Certain institutions published complete statements of account from the very beginning, among others the Ministry of Justice, the Fund for Pension and Disability Insurance, the Municipality of Niksic, the Municipality of Pluzine, the Municipality of Pljevlja and the Tobacco Agency.

The institutions adequately published an additional fifth of the statements of account after MANS submitted complaints to the Agency for Prevention of Corruption. Only two percent of the statements of account was not published.

By the election day, there was one third of partially published statements of accounts that do not contain all relevant information on spending, such as the purpose of the payment and/or information about where the money was channeled, and after the election that number slightly decreased to 28 percent. Thus, the published data are confusing, and it is impossible to tell from them how the funds were really spent, i.e. if there is suspicion of misuse of public funds for electoral purposes.

Case studies of institutions that persistently kept hiding data

Almost a third of the institutions persisted in covering up the information about spending public money. One of the most illustrative examples are the statements of account of **the Ministry for Information Society and Telecommunications**. For four months this institution persisted in removing data other institutions published in their statements of account. These statements do not contain the purpose of payment nor the name of a supplier, and it is impossible to conclude from them how the state money was spent and for which purpose.



Graph 3: Publishing statements of account
(12 July – 13 November 2016)

Izvor sredstava	Broj dok.	St.izd/pr	Datum dok. plaćanja	Plaćeno
Budžet	40119361	41490000000	24.8.2016	5.588,72
Budžet	40119361	41490000000	24.8.2016	5.588,72
Budžet	40119361	41490000000	24.8.2016	5.588,72
Budžet	40119361	41490000000	24.8.2016	5.588,72
Budžet	40119361	41490000000	24.8.2016	7.632,12
Budžet	40113527	41150000000	26.8.2016	770,63
Ukupno:				30.757,63

Figure 1: Ministry for Information Society and Telecommunications, statements of account from 22 August - 28 August 2016

¹² Data from September 2016 are taken from MANS's document "First Report on Proactive Publishing of Data on State Budget Spending," which was published in September 2016 and covers the period from election announcement - 12 July to 28 August 2016, link: www.mans.co.me/wp-content/uploads/2016/09/01Izvjestaj-PotrosnjaBudzetaSEP2016.pdf

¹³ Data collected a month after election i.e. until 13 November 2016 - by which time statements of account were published

¹⁴ List of institutions is given in the Annex 1 to the Report.

Broj dok.	St.izd/pr	Naziv dobavljača	Datum dok. plaćanja	Plaćeno
5100001659	41470000000	ING-INVEST D O O ZA GRADJEV.T	11/7/2016	20.569,75
40150657	41510000000	AUTO MOTO SAVEZ CG	11/7/2016	37.500,00
40150663	41510000000	CRNAGORA PUT AD	11/7/2016	200.000,00
40150668	41510000000	CRNAGORA PUT AD	11/7/2016	200.000,00
40151771	41950000000	CRNOGORSKA KOMERCIJALNA BANKA	11/7/2016	212,01
40151771	41950000000	CRNOGORSKA KOMERCIJALNA BANKA	11/7/2016	3.903,33
40151771	41950000000	CRNOGORSKA KOMERCIJALNA BANKA	11/7/2016	160,72
40151771	41950000000	CRNOGORSKA KOMERCIJALNA BANKA	11/7/2016	3.216,65
40151771	41950000000	CRNOGORSKA KOMERCIJALNA BANKA	11/7/2016	4.299,12
5100001702	41470000000	PUT-INZENJERING PODGORICA	11/7/2016	38.388,44
40154931	41310000000	KASTEX DOO	11/7/2016	75,08
40154931	41310000000	KASTEX DOO	11/7/2016	72,65
40154931	41310000000	KASTEX DOO	11/7/2016	85,84
40157929	41470000000	CRNOGORSKA KOMERCIJALNA BANKA	11/7/2016	150,00
40157935	41470000000	JEDINSTVENI RACUN POREZA I DOPRIN	11/7/2016	10,09
40157940	41470000000	PRIREZ NA POREZ KOTOR	11/7/2016	1,51
40156024	41120000000	JEDINSTVENI RACUN POREZA I DOPRIN	11/7/2016	2.909,80
40156024	41140000000	JEDINSTVENI RACUN POREZA I DOPRIN	11/7/2016	1.680,33

Figure 2: Ministry of Transport and Maritime Affairs, statement of account, 1-14 November 2016

The State Election Commission pursued the same practice. Although this institution does not have such a large budget as the Ministry of Transport and Maritime Affairs, it is responsible for the legality of the electoral process, so it should be an example of transparency. Instead, the Commission also concealed the information about the purpose of spending public money for four months.

Case studies of institutions that improved data published after MANS's complaints

Following MANS's complaints, around 20 percent of institutions subsequently published their statements of account with all the relevant information. A characteristic example is the Agency for Prevention of Corruption, which is responsible for monitoring the implementation of law. The Agency first removed a part of data on spending, but after MANS's complaints to the Agency's Council, it published the statements with all the data.

Broj dok.	St.izd/pr	Dobavljač	Naziv dobavljača	Referentni detalji	Zatvaranje	Dat. dosp.	Plaćeno
40103883	41420000000	42398	GS COMPANY PODGORICA		15.07.2016	11.07.2016	31,70
40104252	41310000000	34200	STATUS DOO PODGORICA		15.07.2016	11.07.2016	427,21
40104341	41930000000	42984	4 SEC DOO		15.07.2016	11.07.2016	7.675,50
40104356	41940000000	35694	SAVA MONTENDRO OSIGURANJE		15.07.2016	11.07.2016	353,82
40104366	41940000000	35694	SAVA MONTENDRO OSIGURANJE		15.07.2016	11.07.2016	353,82
40104382	41940000000	35694	SAVA MONTENDRO OSIGURANJE		15.07.2016	11.07.2016	146,18
40104382	41940000000	35694	SAVA MONTENDRO OSIGURANJE		15.07.2016	11.07.2016	146,18
40104382	41940000000	35694	SAVA MONTENDRO OSIGURANJE		15.07.2016	11.07.2016	33,64
40104382	41940000000	35694	SAVA MONTENDRO OSIGURANJE		15.07.2016	11.07.2016	500,00
40104317	41330000000	34534	KASTEX DOO		15.07.2016	11.07.2016	1.506,78
40104259	41900000000	27127	PREMIER BIS DOO		15.07.2016	11.07.2016	390,50
40104276	41330000000	44689	3 PRESS PLUS DOO		15.07.2016	11.07.2016	25,50
40104290	41330000000	44689	3 PRESS PLUS DOO		15.07.2016	11.07.2016	25,50
*					15.07.2016		11.616,33
**							11.616,33

Figure 4: Statement of account of the Agencije for Prevention of Corruption 12-17 July 2016, published before MANS's complaint

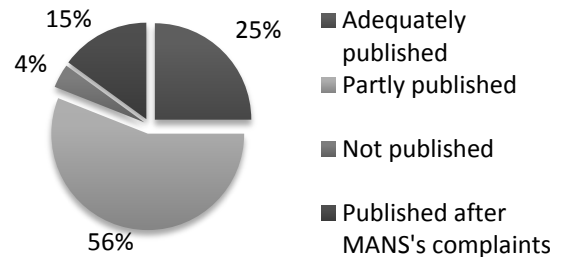
Broj dok.	St.izd/pr	Broj.pozic	Naziv dobavljača	Zatvaranje	Plaćeno	Konta GK	Naziv konta GK	Rev.akorda
40104443	41510000000	520011942	ON LINE COMPANY DOO	26.07.2016	1.767,00	4415004000	Telekomunikaciona oprema	BUDGET
*				26.07.2016	1.767,00			
40111396	41910000000	520011942	BIPOTEKARNA BANKA	29.07.2016	450,00	4191001100	Ugovori o djelu-nato	BUDGET
40111402	41910000000	520011942	JEDINSTVENI RACUN POREZA I DOPRIN	29.07.2016	189,30	4191001200	Ugovori o djelu-obaveza	BUDGET
40111406	41910000000	520011942	PRIREZ NA POREZ PODGORICA	29.07.2016	6,04	4191001300	Ugovori o djelu-obaveza	BUDGET
40111408	41910000000	520011942	Societe generale (Podgoricka) banka	29.07.2016	439,83	4191001100	Ugovori o djelu-nato	BUDGET
40111415	41910000000	520011942	JEDINSTVENI RACUN POREZA I DOPRIN	29.07.2016	182,49	4191001200	Ugovori o djelu-obaveza	BUDGET
40111427	41440000000	520011942	SOCIETE GENERALE (PODGORICKA BANKA)	29.07.2016	51,93	4144001000	Bankarske usluge/provizije	BUDGET
40111589	41110000000	520011942	PRVA (MIRISICKA) BANKA	29.07.2016	646,26	4111001000	Zarada za redovan rad	BUDGET
40111590	41440000000	520011942	SLB MONTENDRO BANKA	29.07.2016	21,40	4144001000	Zarada za redovan rad	BUDGET
40111545	41440000000	520011942	ADDIKO BANK (HYPO ALPE ADRIA)	29.07.2016	3,14	4144001000	Bankarske usluge/provizije	BUDGET
40111567	41440000000	520011942	ADDIKO BANK (HYPO ALPE ADRIA)	29.07.2016	3,12	4144001000	Bankarske usluge/provizije	BUDGET
40111122	41110000000	520011942	CRNOGORSKA KOMERCIJALNA BANKA	29.07.2016	11.991,22	4111001000	Zarada za redovan rad	BUDGET
40111139	41110000000	520011942	SOCIETE GENERALE (PODGORICKA BANKA)	29.07.2016	10.385,22	4111001000	Zarada za redovan rad	BUDGET
40111147	41440000000	520011942	BIPOTEKARNA BANKA PODGORICA	29.07.2016	8,78	4144001000	Bankarske usluge/provizije	BUDGET
40111184	41440000000	520011942	ATLAS BANKA	29.07.2016	3,07	4144001000	Bankarske usluge/provizije	BUDGET
40111425	41440000000	520011942	ERSTE (OPORTUNITI) BANKA	29.07.2016	7,13	4144001000	Bankarske usluge/provizije	BUDGET
40111205	41110000000	520011942	ERSTE (OPORTUNITI) BANKA	29.07.2016	1.425,64	4111001000	Zarada za redovan rad	BUDGET
40111161	41110000000	520011942	VEL MONTENDRO BANKA	29.07.2016	4.279,78	4111001000	Zarada za redovan rad	BUDGET
40111204	41110000000	520011942	ADDIKO BANK (HYPO ALPE ADRIA)	29.07.2016	627,13	4111001000	Zarada za redovan rad	BUDGET
40111222	41110000000	520011942	ADDIKO BANK (HYPO ALPE ADRIA)	29.07.2016	623,97	4111001000	Zarada za redovan rad	BUDGET
40111287	41440000000	520011942	PRVA (MIRISICKA) BANKA	29.07.2016	3,23	4144001000	Bankarske usluge/provizije	BUDGET
40111421	41910000000	520011942	PRIREZ NA POREZ PODGORICA	29.07.2016	5,82	4191001300	Ugovori o djelu-obaveza	BUDGET
40111336	41110000000	520011942	MIRISICKA BANKA PODGORICA	29.07.2016	1.756,29	4111001000	Zarada za redovan rad	BUDGET
40111475	41440000000	520011942	CRNOGORSKA KOMERCIJALNA BANKA	29.07.2016	59,96	4144001000	Bankarske usluge/provizije	BUDGET
40111062	41110000000	520011942	ATLAS BANKA	29.07.2016	614,32	4111001000	Zarada za redovan rad	BUDGET
*				29.07.2016	33.779,07			
**					35.546,07			

Figure 5: Statement of account of the Agency for Prevention of Corruption 25-31 July 2016, published after MANS's complaint

1.2.2. Proactive publishing of travel authorizations of take-home vehicles

Institutions published around 40 percent of travel authorizations of official vehicles with all data, 15 percent of which after MANS's initiatives, while more than half of the published logs do not contain all the information necessary to determine whether there was a misuse for electoral purposes.

The institutions published a quarter of travel authorizations with all the data, and 15 percent more after MANS's complaints. The **Ministry of Justice** was publishing complete travel authorizations from the beginning and the same goes for the **municipalities of Savnik and Kolasin**. About 56 percent of the travel authorizations were partially published and four percent was not published at all. In the initial period, the institutions mostly published only the first page of their travel authorizations, without other parts of the form,¹⁵ relating to the movement of vehicles or fuel consumption.



Graph 4: Publishing of travel authorizations
(12 July – 16 October 2016)

The obligation of proactive publishing of travel authorizations is the only provision of the law that applies to state-owned companies, or legal entities founded and/or majority owned by the state or a municipality. MANS monitored **18 biggest companies**,¹⁶ **only eight percent of which published complete travel authorizations**, with the information on the movement of vehicles and fuel consumption, while 19 percent published the complete data were subsequently. Over two-thirds of the companies published a part of the data and six percent did not publish the document at all.

Case studies of institutions that persisted in hiding data

The Ministry of Economy was the least transparent and their travel authorizations persistently concealed data on the movement of vehicles, fuel consumption, as well as the persons who filled the logs.

The case of the state-owned company **Montenegrin Electrical Transmission System (CGES)**, which published travel authorizations without records of fuel consumption and the data on the movement of vehicles is also a bad example. Such are the examples of the **Constitutional Court of Montenegro and the Capital Podgorica**, which also have travel authorizations without the data on the movement of vehicles and fuel consumption.

Figure 6: Travel authorization of CGES
10-16 October 2016

Figure 7: Travel authorization of the Ministry of Economy
10-16 October 2016

¹⁵ First by-law is the Rulebook on the form of the travel authorization, the manner of issuance and keeping records of issued travel authorizations, Official Gazette of Montenegro, No. 015/06 of 13 March 2006, and the second is the Regulation on conditions and manner of use of means of transportation owned by Montenegro, Official Gazette of Montenegro, No. 011/15 of 12 March 2015.

¹⁶ MANS monitored the following companies in the pre-election period: Crnogorski elektroprenosni sistem A.D. Podgorica (Montenegrin Electrical Transmission System), Elektroprivreda Crne Gore A.D. Niksic (Montenegrin Electric Enterprise), Montenegro airlines A.D. Podgorica, Aerodromi Crne Gore A.D. Podgorica (Airports of Montenegro), Monteput DOO Podgorica, 13 Jul Plantaze A.D. Podgorica, Posta Crne Gore A.D. Podgorica (Montenegro Post), Zeljeznicka infrastruktura A.D. Podgorica (Railway Infrastructure), Zeljeznički prevoz Crne Gore A.D. Podgorica (Railway Transport), Investment and Development Fund of Montenegro, Parking services Bijelo Polje, Parking services Budva, Parking services of the Municipality of Berane, Parking services of the Municipality of Herceg Novi, Parking services of the Municipality of Niksic, Parking services Podgorica, Agency for Construction and Development of Herceg Novi, Agency for Construction and Development of Podgorica.

Case studies of institutions that improved the data published after MANS's complaint

Much like in the case of the statements of account, the **Agency for Prevention of Corruption**, which is supposed to control whether other institutions publish adequate travel authorizations, did not initially publish them in an appropriate manner. The Agency had been publishing travel authorizations without the records on fuel consumption, and after MANS's complaint, it started publishing the complete travel authorizations with all the data. However, although it had established the practice of publishing complete travel authorizations with all the data, the Agency subsequently regressed and again began to hide the records on fuel consumption.

Figure 8: Travel authorization of the Agency
12-17 July 2016
Published before MANS's complaint

Figure 9: Travel authorization of the Agency
22-28 August 2016
Published after MANS's complaint

Figure 10: Travel authorization
of the Agency
10-16 October 2016

The **Supreme Public Prosecutor's Office**, after MANS's complaint, subsequently published travel authorizations for all prosecutors' offices, with the information on the movement of vehicles and fuel consumption, which had previously been missing.

Figure 11: Travel authorization of the Prosecutor's Office
in Bar, 26 September - 3 October 2016, published before
MANS's complaints

Figure 12: Travel authorization of the Prosecutor's Office
in Bar, 26 September - 3 October 2016, published after
MANS's complaints

A similar positive example is the one of the **Parking services Budva**, which had initially been hiding the data on fuel consumption, and after MANS's complaints started to publish complete logs, invoices and fiscal receipts for the purchase of fuel.

1.2.3. Proactive publishing of statements of state and municipal treasuries

During the first two months after the announcement of elections, the Ministry of Finance published the state treasury statements without any description of the costs. After the MANS's initiative, it subsequently published the complete data for the first four periods and continued to publish the complete statements for the remaining three periods. Most of the municipalities published their treasury statements without the name of supplier, or, in some cases, without any description of the expenses.

Treasury statements show all payments that were made from the state or municipal budgets within a certain period. This is the key source of information on possible abuse of public funds by any state or local authority, which also enables control of the accuracy of published statements of account institutions publish on their own.

State treasury statement

During the first two months after the announcement of elections, the Ministry of Finance published statements from the state Treasury **without the purpose of payment**. Therefore, it was not possible to compare the Treasury data and statements of accounts of the institutions and determine the accuracy of the reporting of state bodies, nor the legality of the money spending.

After MANS filed complaints against the Ministry to the Agency for Prevention of Corruption, this institution amended the statements and continued to publish **complete data in the remaining three periods**.

Broj dokumenta	Stavka	Naziv dobavljača	Plaćeno	Datum plaćanja	Izvor sredstava	j dokumenta	Stavka izdatka	Konto GK	Naziv konta GK	Naziv dobavljača	Plaćeno	Datum plaćanja	Izvor sredstava
40117244	44150000000	INOVATIK DOO	14.997,03	12.08.2016	BUDGET	40120357	41330000000	4133005000	Publikacije casopisi i g	S PRESS PLUS DOO	24,30	22.08.2016	BUDGET
40117247	44150000000	SAGA CG DOO	82.363,48	22.08.2016	BUDGET	40120373	41330000000	4133005000	Publikacije casopisi i g	S PRESS PLUS DOO	25,50	22.08.2016	BUDGET
Naziv kor.budžeta Skupština CG - administracija			97.360,51			40120378	41330000000	4133005000	Publikacije casopisi i g	S PRESS PLUS DOO	25,00	22.08.2016	BUDGET
40121023	41270000000	CRNOGORSKA KOMERCIJALNA BANKA	5.020,00	19.08.2016	BUDGET	40120451	41310000000	4131001000	Kancelarijski materijal	KASTEX DOO	133,52	22.08.2016	BUDGET
40121027	41270000000	SOCIETE GENERALE (PODGORICKA BANKA)	5.020,00	19.08.2016	BUDGET	40120479	41310000000	4131009000	Ostali rashodi za materijal	KOMIC DOO	57,72	22.08.2016	BUDGET
40121030	41270000000	HYPO ALPE ADRIA	1.255,00	19.08.2016	BUDGET	40120459	41310000000	4131001000	Kancelarijski materijal	KASTEX DOO	318,33	22.08.2016	BUDGET
40121032	41270000000	NLB MONTENEGRO BANKA	1.255,00	19.08.2016	BUDGET	40120467	41310000000	4131001000	Kancelarijski materijal	KASTEX DOO	133,52	22.08.2016	BUDGET
Naziv kor.budžeta Državna izborna komisija-izbori i statis			12.550,00			40120495	41490000000	4149002000	Medijske usluge i promot	MONTENEGRO METROPOLIS MEDIA d.o	8.000,00	22.08.2016	BUDGET
40118940	41530000000	SJEVER-MONT PRED.ZA PROIZV.I P	1,12	11.08.2016	BUDGET	40120495	41490000000	4149002000	Medijske usluge i promot	MONTENEGRO METROPOLIS MEDIA d.o	1.311,75	22.08.2016	BUDGET
40118940	41530000000	SJEVER-MONT PRED.ZA PROIZV.I P	246,59	11.08.2016	BUDGET	40120506	41490000000	4149009000	Ostale usluge	PARKING SERVIS PODGORICA	316,80	22.08.2016	BUDGET
40118944	44150000000	TELEMONT DOO	362,95	11.08.2016	BUDGET	40120510	41490000000	4149002000	Medijske usluge i promot	NOVINE DOO	71,40	22.08.2016	BUDGET
40119807	41140000000	SAVEZ SINDIKATA	57,40	17.08.2016	BUDGET	40120365	41330000000	4133005000	Publikacije casopisi i g	S PRESS PLUS DOO	27,60	22.08.2016	BUDGET
40119882	41430000000	CRNOGORSKI TELEKOM AD (T-COM)	9,14	15.08.2016	BUDGET	40120388	41330000000	4133005000	Publikacije casopisi i g	S PRESS PLUS DOO	24,30	22.08.2016	BUDGET
40119828	41270000000	JEDINSTVENI RACUN POREZA I DOPRIN	846,31	17.08.2016	BUDGET	40120409	41330000000	4133005000	Publikacije casopisi i g	S PRESS PLUS DOO	27,60	22.08.2016	BUDGET
40119830	41270000000	JEDINSTVENI RACUN POREZA I DOPRIN	1.166,55	17.08.2016	BUDGET	40120643	41310000000	4131001000	Kancelarijski materijal	KASTEX DOO	133,52	22.08.2016	BUDGET
40119856	41270000000	JEDINSTVENI RACUN POREZA I DOPRIN	728,39	17.08.2016	BUDGET	40120656	41310000000	4131001000	Kancelarijski materijal	STRATUS DOO PODGORICA	11,90	22.08.2016	BUDGET
40119966	41270000000	JEDINSTVENI RACUN POREZA I DOPRIN	8,90	17.08.2016	BUDGET	40120672	41430000000	4143003000	Rashodi za postanske usl	POSTA CRNE GORE DOO	728,35	22.08.2016	BUDGET
40119968	41270000000	JEDINSTVENI RACUN POREZA I DOPRIN	44,60	17.08.2016	BUDGET	40120682	41430000000	4143002000	Rashodi za korišćenje in	CRNOGORSKI TELEKOM AD (T-COM)	416,00	22.08.2016	BUDGET
40119812	41530000000	SOCIETE GENERALE (PODGORICKA BANKA)	240,00	17.08.2016	BUDGET	40120710	41490000000	4149001000	Usluge prevodjenja stamp	SPECTAR GROUP DOO	2.261,00	22.08.2016	BUDGET
40119842	41270000000	PRIREZ NA POREZ PODGORICA	126,96	17.08.2016	BUDGET	40120701	41490000000	4149001000	Usluge prevodjenja stamp	SPECTAR GROUP DOO	737,80	22.08.2016	BUDGET
40120224	41910000000	JEDINSTVENI RACUN POREZA I DOPRIN	144,59	18.08.2016	BUDGET	40120725	41930000000	4193002000	Održavanje softvera	CRNOGORSKA KOMERCIJALNA BANKA	4.016,25	22.08.2016	BUDGET
40120227	41910000000	JEDINSTVENI RACUN POREZA I DOPRIN	329,34	18.08.2016	BUDGET	40120732	41440000000	4144001000	Bankarske usluge/provizij	CRNOGORSKA KOMERCIJALNA BANKA	15,00	22.08.2016	BUDGET
40120231	41910000000	JEDINSTVENI RACUN POREZA I DOPRIN	205,63	18.08.2016	BUDGET	40120741	41530000000	4153003000	Tekuaee odrz opreme-Uslug	KOLJENSIC DOO PODGORICA	89,25	22.08.2016	BUDGET
40120233	41910000000	PRIREZ NA POREZ PODGORICA	21,69	18.08.2016	BUDGET	40120647	41310000000	4131001000	Kancelarijski materijal	KASTEX DOO	200,28	22.08.2016	BUDGET
40120769	41440000000	SOCIETE GENERALE (PODGORICKA BANKA)	5,84	22.08.2016	BUDGET	40120661	41330000000	4133005000	Publikacije casopisi i g	S PRESS PLUS DOO	25,50	22.08.2016	BUDGET
						40120675	41430000000	4143001100	Rashodi za telefonske us	CRNOGORSKI TELEKOM AD (T-COM)	246,16	22.08.2016	BUDGET
						40121801	41310000000	4131001000	Kancelarijski materijal	KASTEX DOO	254,66	24.08.2016	BUDGET
						40121804	41530000000	4153003000	Tekuaee odrz opreme-Uslug	OSMANAGIC CO DOO	103,30	24.08.2016	BUDGET

Figure 13: Ministry of Finance, Treasury statement 11-25 August 2016, before MANS's complaints

Figure 14: Ministry of Finance, Treasury statement 11-25 August 2016, after MANS's complaints

Local treasury statements

Most municipalities have published treasury statements without the name of the supplier or the purpose of payment, and unlike other institutions, they have very little improved their behavior after MANS's initiatives.

In more than four fifths of the cases, local governments published partial treasury expenditure information, and that information generally lacked purpose of payment or supplier's name.

In ten percent of the cases complete information was published, while only one percent of the institutions did not publish information at all.

After MANS's complaints, the institutions only amended around three percent of their statements.

In treasury statements of most municipalities there is a column called "item description", which sometimes contains purpose of payment, while in some cases it contains the name of the supplier. Therefore, in both cases an important piece of information is missing from the treasury statement.

The example of Pljevlja Municipality shows that, for these reasons, it is impossible to see, for example, who was paid subsidies for milk or got award for sports achievements on the eve of the election, or which suppliers were compensated for various capital expenditures.

021001	41432000000	Mobilni telefon	0,00 €	98,92 €
065001	41440000000	Bankarske usluge i negativne kursne razlike	0,00 €	14,63 €
072001	41850100000	Subvencija za mlijeko	0,00 €	197,58 €
093001	43130100000	Transferi "Centar za sport i rekreaciju"	0,00 €	6.020,00 €
093001	43134000000	Program kvalitetnog sporta	0,00 €	813,45 €
093001	43136000000	Nagrada za sportske rezultate	0,00 €	800,00 €
232025	46340000000	Otplata obaveza iz prethodnog perioda -kapitalni izdaci	0,00 €	5.000,00 €
241010	46340000000	Otplata obaveza iz prethodnog perioda -kapitalni izdaci	0,00 €	446,00 €
261077	44190000000	Ostali kapitalni izdaci	0,00 €	500,00 €
261081	44144000000	Izdaci za uređenje zemljišta-pravo službenosti	0,00 €	1.152,35 €

Figure 15: Municipality of Pljevlja, part of treasury statement
26 June – 11 July 2016

After submitting complaints to the Agency and requesting the free access to information to relevant secretariats, a number of municipalities, such as Kotor and Tivat, responded that their softwares do not allow the provision of separate columns for suppliers.

OPŠTINA KOLAŠIN					
ANALITIČKA KARTICA			10.10.2016		
KONTO	OPIS	PRIMALAC	BANKA	ŽIRO-RAČUN	IZNOS (€)
414-4	Bankarske usluge	Erste banka AD	Erste banka AD	907-54001-10	0,05
431-6	Naknada za opremanje novorođenog djeteta	I.P	Erste banka AD	/	100,00

However, the example of the Municipality of Kolasin shows that the public can be provided with all the relevant data from the treasury statement. Thus, this statement includes all the necessary items, including the purpose of payment and the name of the person to whom the money was paid.

OPŠTINA KOLAŠIN					
ANALITIČKA KARTICA			11.10.2016		
KONTO	OPIS	PRIMALAC	BANKA	ŽIRO-RAČUN	IZNOS (€)
414-4	Bankarske usluge	Erste banka AD	Erste banka AD	907-54001-10	6,21
414-3	Račun za 09.2016	Telenor DOO	CKB AD	510-106-13	444,71

Figure 16: Municipality of Kolasin, treasury statement 10-16 October 2016

1.2.4. Proactive publishing of statements of account of budget reserve

The Ministry of Finance published all statements of account with all the information on the spending of budgetary reserves upon MANS's initiatives and local self-governments published full information in almost 90% of cases.

According to data published by the **Ministry of Finance**, in the first 15 days after the election was called, there were no payments from the state budget reserve. In the following month and a half, the published statements on the consumption of the budget reserve did not contain the purpose of the payment, but it is not known for what purposes the funds were spent.

After MANS submitted complaints to the Agency for Prevention of Corruption, the Ministry published statements of account with the purpose of the payment.

Naziv kor.budžeta Min.finansija-finans.i ugov.E	60,00		
40115446 47100000000 AD CRNOGORSKA PLOVIDBA K	2.744.750,61	29.7.2016	BUDGET
40116126 47100000000 CETINJESAHOVSKI KLUB	1.500,00	1.8.2016	BUDGET
40116785 47100000000 SUBNOR CG REPUBLICKI ODB	15.000,00	2.8.2016	BUDGET
Naziv kor.budžeta Budžetske rezerve	2.761.250,61		

Figure 17: Statement of account of the Ministry of Finance on spending budget reserve 27 July – 10 August 2016, published before MANS's complaints

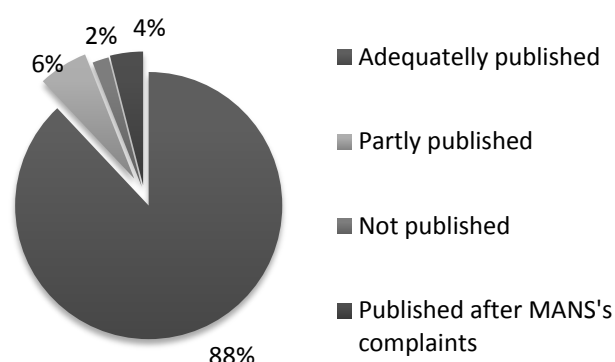
POTROŠNJA SREDSTAVA TEKUĆE BUDŽETSKJE REZERVE ZA PERIOD 27.07.-10.08.2016. GODINE

Broj dokumenta	Stavka izdatka	Konto GK	Naziv konta GK	Naziv dobavljača	Plaćeno	Datum plaćanja	Izvor sredstava
40115446	47100000000	4710410015	Odluke vlade- Ministrans	AD CRNOGORSKA PLOVIDBA KOTOR	2.744.750,61	29.07.2016	BUDGET
40116126	47100000000	4710002004	Odluke komisije za budze	CETINJESAHOVSKI KLUB	1.500,00	01.08.2016	BUDGET
40116785	47100000000	4710000004	Odluke vlade-pomoc pravn	SUBNOR CG REPUBLICKI ODBOR	15.000,00	02.08.2016	BUDGET
Naziv kor.budžeta Budžetske rezerve					2.761.250,61		

Figure 18: Statement of account of the Ministry of Finance on spending budget reserve in the period 27 July – 10 August 2016 after MANS's complaints

In more than four fifths of the cases, four percent they subsequently published an amended statement of account of the budget reserve, while in over six percents they published partial information.

In less than two percent of the cases, the relevant institutions did not publish information on spending budget reserves.



Graph 6: Publishing of statements of account of budget reserve on the local level (12 July – 16 October 2016)

Most municipalities published the complete statements of account the budget reserves at the local level, but the **Capital Podgorica** in the course of five periods persisted in hiding the purpose of the disbursement of funds from the budget. After MANS's complaints, the Capital has finally started to publish complete statements.

Analitička kartica									
Fiskalna godina: 2016									
Stavka budžeta: 47110000001									
Šifra org.	Datum odobrenja	Datum plaćanja	Br. obr.	Br. lin.	Konto	Primalac	Račun primaoca	Duguje	Potražuje
050001	12/07/2016	12/07/2016	03394	01	471100000001	Podgorička banka	907-55001-17	200,00 €	0,00 €
050001	25/07/2016	25/07/2016	03542	01	471100000001	Crnogorska komercijalna banka	907-51001-86	150,00 €	0,00 €
050001	25/07/2016	25/07/2016	03543	01	471100000001	NIKŠIČKA BANKA	535-1-76	100,00 €	0,00 €
050001	25/07/2016	25/07/2016	03548	01	471100000001	Podgorička banka	907-55001-17	150,00 €	0,00 €
050001	25/07/2016	25/07/2016	03549	01	471100000001	Crnogorska komercijalna banka	907-51001-86	150,00 €	0,00 €
050001	25/07/2016	25/07/2016	03551	01	471100000001	Crnogorska komercijalna banka	907-51001-86	150,00 €	0,00 €
050001	25/07/2016	25/07/2016	03552	01	471100000001	Podgorička banka	907-55001-17	150,00 €	0,00 €
050001	25/07/2016	25/07/2016	03553	01	471100000001	NIKŠIČKA BANKA	535-1-76	150,00 €	0,00 €
								1 200,00 €	0,00 €
								SALDO: 1 200,00 €	

Figure 19: Statement of account of the Capital Podgorica on budget reserve expenditure 12–26 July 2016, published before MANS's complaints

Analitička kartica

za period od 10/10/2016 do 16/10/2016

za šifru budžeta: 4711 - TEKUĆA BUDŽETSKA REZERVA

Stavka budžeta: 47110000001 POMOĆI ZA POBOLJŠANJE MATERIJALNE SITUACIJE									
Šifra org.	Datum odobrenja	Datum plaćanja	Br. obr.	Br. lin.	Konto	Primalac	Račun primaoca	Duguje	Potražuje
050001	10/10/2016	10/10/2016	04959	01	471100000001	NIKŠIČKA BANKA	535-1-76	150,00 €	0,00 €
050001	10/10/2016	10/10/2016	04961	01	471100000001	Crnogorska komercijalna banka	907-51001-86	150,00 €	0,00 €
050001	10/10/2016	10/10/2016	04963	01	471100000001	Crnogorska komercijalna banka	907-51001-86	150,00 €	0,00 €
050001	10/10/2016	10/10/2016	04964	01	471100000001	NIKŠIČKA BANKA	535-1-76	150,00 €	0,00 €
050001	10/10/2016	10/10/2016	04965	01	471100000001	Podgorička banka	907-55001-17	100,00 €	0,00 €
050001	10/10/2016	10/10/2016	04966	01	471100000001	Crnogorska komercijalna banka	907-51001-86	200,00 €	0,00 €
050001	10/10/2016	10/10/2016	04967	01	471100000001	Podgorička banka	907-55001-17	150,00 €	0,00 €
								1 050,00 €	0,00 €
								SALDO: 1 050,00 €	

Stavka budžeta: 47110000002 POMOĆI ZA LJEČENJE									
Šifra org.	Datum odobrenja	Datum plaćanja	Br. obr.	Br. lin.	Konto	Primalac	Račun primaoca	Duguje	Potražuje
050001	10/10/2016	10/10/2016	04957	01	471100000002	Podgorička banka	907-55001-17	200,00 €	0,00 €
050001	10/10/2016	10/10/2016	04958	01	471100000002	Podgorička banka	907-55001-17	150,00 €	0,00 €
050001	10/10/2016	10/10/2016	04962	01	471100000002	Podgorička banka	907-55001-17	200,00 €	0,00 €
050001	10/10/2016	10/10/2016	05052	01	471100000002	NIKŠIČKA BANKA	535-1-76	200,00 €	0,00 €
								750,00 €	0,00 €
								SALDO: 750,00 €	

Stavka budžeta: 47110000013 POMOĆ ZA SANACIJU ŠTETE USLED ELEMENTARNE NEPOGODE									
Šifra org.	Datum odobrenja	Datum plaćanja	Br. obr.	Br. lin.	Konto	Primalac	Račun primaoca	Duguje	Potražuje
050001	10/10/2016	10/10/2016	04960	01	471100000013	Crnogorska komercijalna banka	907-51001-86	150,00 €	0,00 €
								150,00 €	0,00 €

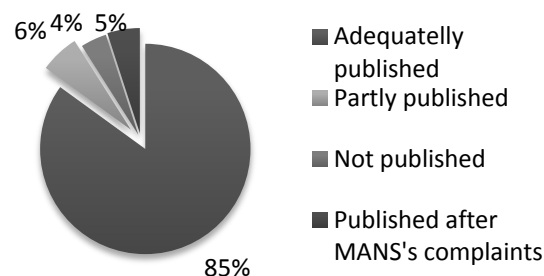
Strana 1 od 2

Figure 20: Statement of account of the Capital Podgorica on budget reserve expenditure 10–16 October 2016, published after MANS's complaints

1.2.5. Proactive publishing of information on welfare payment

Most of information on welfare payments published in accordance with Law.

In over 85 percent of cases the welfare payments benefits and after MANS's complaints they published information in another five percent of cases. The institutions partly published information in over six percent of cases, while in only four percent they did not publish the information at all.



The **Ministry of Labor and Social Welfare** did not publish complete information on welfare payments in the first 15 days after the elections were called. The statements of account that the Ministry published at first did not contain information on one-off cash assistance that had been distributed through centers for social welfare. Yet, there were these payments, which can be seen from the data that some centers posted on their websites.

After MANS's complaints to the Agency, the Ministry amended the statement of account with the information on one-off assistance. All subsequent statements included one-off social assistance and other data essential to control the abuse of welfare payments.

Municipalities have generally shown promptness in disclosing full information on welfare payments, with the exception of the **Capital Podgorica**, which was the only one to disregard this positive practice. The Capital revealed the purpose of payments only in the last 15 days before the election, after a series of MANS's complaints, but those data were missing in the published documents for the preceding two and a half months.

Graph 7: Publishing of information on welfare payments (12 July – 16 October 2016)

REKAPITULACIJA OBRACUNA							
Broj obračuna:	201607						
Godina i mjesec obračuna:	2016/7						
Datum i vrijeme obračuna:	03.08.2016 13:53						
CSR	Vrsta drzavlja	Prezime	Ime	Broj rješenja	Za godinu	Za mjesec	Iznos
CSR Kotor	Materijalno obezbjeđenje	Izvršeno brisanje	Izvršeno brisanje	0701-90/2015-4	2016	6	0.00
CSR Kotor	Materijalno obezbjeđenje	Izvršeno brisanje	Izvršeno brisanje	0701-1031/2015-3	2016	6	0.00
CSR Kotor	Materijalno obezbjeđenje	Izvršeno brisanje	Izvršeno brisanje	0701-457/2014-7	2016	6	0.00
CSR Kotor	Materijalno obezbjeđenje	Izvršeno brisanje	Izvršeno brisanje	0701-744/2014-8	2016	6	0.00
CSR Kotor	Materijalno obezbjeđenje	Izvršeno brisanje	Izvršeno brisanje	0701-1207/2015-3	2016	6	0.00
CSR Kotor	Materijalno obezbjeđenje	Izvršeno brisanje	Izvršeno brisanje	0701-658/2014-8	2016	7	123.53
CSR Kotor	Materijalno obezbjeđenje	Izvršeno brisanje	Izvršeno brisanje	0701-90/2015-6	2016	7	64.98

Figure 21: Statement of account of the Ministry of Labor and Social Welfare on welfare payments in the period 11–25 August 2016– after MANS's complaint

Analitička kartica							
Fiskalna godina: 2016							
Šifra org.	Datum odobrenja	Datum plaćanja	Br. obr.	Br. lin.	Konto	Primalac	Račun primaoca
080001	02/08/2016	02/08/2016	02600	01	431600000001	HIPO ALPE ADRIA BANK	907-55001-09
080001	02/08/2016	02/08/2016	02607	01	431600000001	HIPO ALPE ADRIA BANK	907-55001-09
080001	02/08/2016	02/08/2016	02608	01	431600000001	HIPO ALPE ADRIA BANK	907-55001-09
080001	02/08/2016	02/08/2016	02609	01	431600000001	HIPO ALPE ADRIA BANK	907-55001-09
080001	02/08/2016	02/08/2016	02610	01	431600000001	ERSTE BANKA	540-8201-08
080001	02/08/2016	02/08/2016	02611	01	431600000001	ERSTE BANKA	540-8201-08
080001	02/08/2016	02/08/2016	02612	01	431600000001	ERSTE BANKA	540-8201-08

Figure 22: Statement of account of the Capital Podgorica on welfare payments for the period 27 July - 10 August 2016

Analitička kartica							
za period od 10/10/2016 do 24/10/2016							
Ifru budžeta: 4316 - TRANSFERI ZA JEDNOKRATNE SOCIJALNE POM							
Šifra org.	Datum odobrenja	Datum plaćanja	Br. obr.	Br. lin.	Konto	Primalac	Račun primaoca
080001	17/10/2016	17/10/2016	03201	01	431600000001	Podgorička banka	907-55001-17
080001	17/10/2016	17/10/2016	03205	01	431600000001	Podgorička banka	907-55001-17
080001	17/10/2016	17/10/2016	03206	01	431600000001	Podgorička banka	907-55001-17
080001	17/10/2016	17/10/2016	03207	01	431600000001	Podgorička banka	907-55001-17
080001	17/10/2016	17/10/2016	03208	01	431600000001	Podgorička banka	907-55001-17
080001	17/10/2016	17/10/2016	03209	01	431600000001	Podgorička banka	907-55001-17
080001	17/10/2016	17/10/2016	03210	01	431600000001	Podgorička banka	907-55001-17

Figure 23: Statement of account of the Capital Podgorica on welfare payments for the period 10 – 24 October 2016 – after MANS's complaint

1.3. Availability of data on pre-election expenditure on the basis of the Law on Free Access to Information

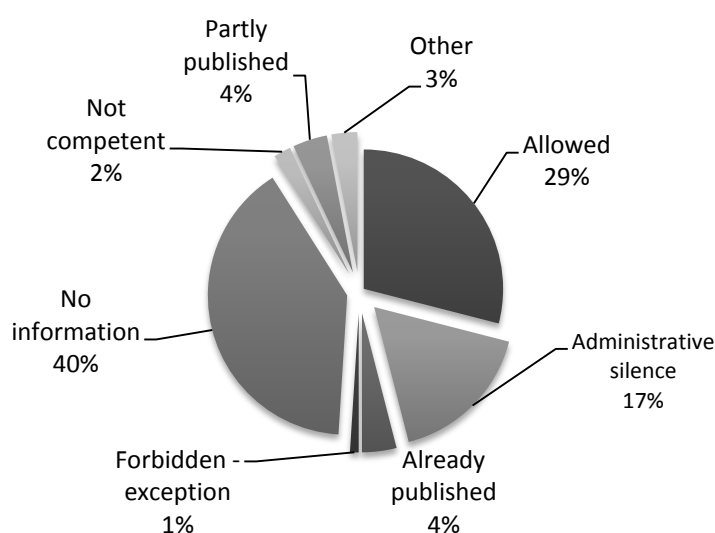
MANS submitted over 16,000 requests for information on the consumption of budget funds in the election year and got every third requested piece of information. The institutions claimed they did not possess most of the requested information, but often ignored the requests, as well as the Agency's decisions and the Administrative Court's rulings.

From January to November 2016, MANS submitted **over 16,000 requests** for free access to information pertaining to pre-election expenditure of the state budget to state institutions and local government bodies. **Institutions published every third requested piece of information**, but in most cases they claimed that they did not have the requested information.

Institutions allowed access to information in almost 30 percent of cases, while in four percent the access was partly allowed. In about 40 percent of cases, the access to information was denied, because the institutions were not in possession of the requested information.

Administrative silence is still at a high level, as the state institutions ignored almost every sixth request.

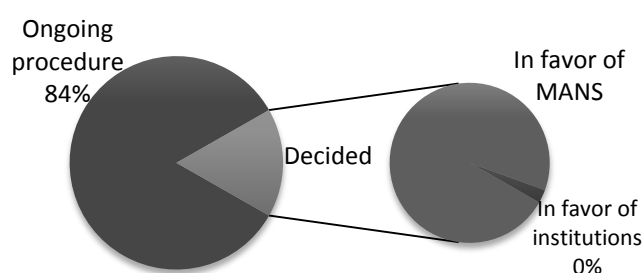
Access to information was limited in one percent of the cases, while in two percent the institutions declared themselves incompetent.



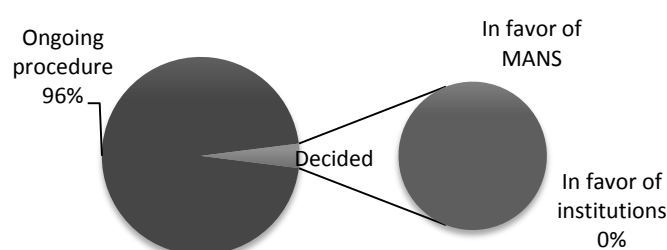
Graph 8: Responses to requests for information

In the mentioned period, nearly 6,000 complaints were filed to the Agency for Protection of Personal Data and the Free Access to Information. Until the conclusion of this report, the Agency has decided with regard every sixth case on average, or a total of 783 complaints. Of this number, the Agency has decided in favor of transparency in 97 percent. Acting on these decisions, on average, every third institution published information after the decision of the Agency (35%). Only 8 percent of the total number of decisions adopted by the Agency were complaints lodged with regard to the content of decisions of state authorities, while the remainder relates to administrative silence.

MANS filed 825 complaints with the Administrative Court, 810 out of which were lodged due to administrative silence and 15 due to unlawful decisions of the authorities. The Court issued 33 verdicts, all due to administrative silence. The institutions published the information after the court's decision in only three cases.



Graph9: Agency decisions



Graph 10: Administrative Court decisions

1.3.1. Secret data on pre-election expenditure

In the election period, some institutions proclaimed secret important information that should have been available to the public, according to an earlier institutional and judicial practice.

Case study: Secret procurement of AFIS

The Ministry of Interior (MoI) twice proclaimed secret the procurement procedure for the fingerprint identifying system. The Administrative Court in the two judgments quashed the decisions as illegal, but the Ministry has not published the requested information. This system is of particular importance for the electoral process because it should serve as the main mechanism for identifying duplicates in the voters list, or people who share one and the same fingerprints in the system of the MoI.

On the basis of the Law on Free Access to Information, on 25 January 2016, MANS requested the MoI to submit the contract on the procurement of AFIS (Automated Fingerprint Identification System) and any other acts that MUP had in relation to this legal transaction.¹⁷ After the MoI failed to issue the decision according to our request within the legal, MANS filed an appeal due to the administrative silence to the Agency for Protection of Personal Data and the Free Access to Information.

After that, the MoI issued a decision with regard to the MANS's request **banning the access to the requested information** because, as stated, **that procurement procedure was classified.**

The decision of the MoI stated that it **"is a software the disclosure of which could compromise the fingerprints."**

In February, MANS filed a complaint with the Administrative Court because the MoI's decision did not provide clear reasons why access to the requested document could not be granted, nor the explanation of how the disclosure of the document could "compromise the fingerprints." In addition, the Ministry of Interior did not conduct the "harm test" and did not explain how it concluded that the publication of the requested information would be more detrimental than in the public interest to know.

CRNA GORA
MINISTARSTVO UNUTRAŠNJIH POSLOVA
Odjeljenje za zaštitu podataka o ličnosti
i slobodan pristup informacijama
08 Broj: UPI – 007/15-7121/2
Podgorica, 22.01.2016.godine

Ministarstvo unutrašnjih poslova - Odjeljenje za zaštitu podataka o ličnosti i slobodan pristup informacijama, na osnovu člana 30 Zakona o slobodnom pristupu informacijama („Službeni list CG”, broj: 44/12), i člana 196 stav 1 Zakona o opštem upravnom postupku („Službeni list CG”, br. 60/03 i 32/11), rješavajući zahtjev za pristup informacijama, NVO MANS, iz Podgorice, donosi

RJEŠENJE

Odbija se zahtjev za pristup informacijama NVO MANS, kojim traži sljedeće informacije: ugovor/ili sporazum o nabavci sistema AFIS i sva druga akta koja MU posjeduju u vezi sa ovim pravnim poslom.

OBRAZLOŽENJE

NVO MANS iz Podgorice, dana 30.12.2015.godine Ministarstvu unutrašnjih poslova podnijela je zahtjev za pristup informacijama, kojim traži informacije: ugovor/ili sporazum o nabavci sistema AFIS i sva druga akta koja MUP posjeduju u vezi sa ovim pravnim poslom (Vaš zahtjev broj 15/81975).

U postupku, po ovom zahtjevu prvostepeni organ je utvrdio da je nabavka civilnog policijskog AFIS-a izvršena u postupku koji je rješenjem Uprave policije označen oznakom „INTERNO”, broj rješenja I-47-98 od 17.03.2015.godine. Nakon dobijanja obavještenja da postupak nabavke označen stepenom tajnosti „INTERNO”, prvostepeni organ je donosio rješenja Sektor kriminalističke policije pitao da li ostaju pri odluci da stepen tajnosti ostaje i dalje na snazi. Sektor kriminalističke policije je odgovorio da stepen tajnosti ostaje i snazi, jer se radi o softverskom rješenju čijim bi objelodanivanjem moglo doći do kompromitovanja otisaka prstiju, odnosno čijim bi otkrivanjem nastupile štetne posljedice za ostvarivanje funkcije organa.

*Figure 24: Excerpt from the decision of the Ministry of Interior
08 No. UPI-007/15-7121/2, 22 January 2016*

In mid-July, the Administrative Court passed a judgment which annulled the MoI's decision issued in January and stated that the police was obliged to eliminate irregularities and adopt a new.

¹⁷ Automated Fingerprint Identification System (AFIS) is a biometric identification method using digital technology to recognize and analyze fingerprint data.

Following the ruling of the court, the Ministry issued a new decision that did not differ much from the previous - it again restricted the access to the contract, citing the statement that the case was classified as "INTERNAL."

In late August, MANS filed a new complaint with the Administrative Court, which, on 19 October, **passed a new judgment, again abolishing the Mol's decision** and ordering it to make a lawful one. The deadline for adopting a new decision is 30 days, but **the Mol did not provide the new decision until the beginning of December, when the report was completed.**

tražene informacije nose oznaku "interno" uz pozivanje na odredbe Zakona o slobodnom pristupu informacija ne upućuju na nesporn zaključak da je pravilno primijenjeno materijalno pravo. Naprotiv, osnovano se tužbom ukazuje da je tuženi organ bio dužan da u obrazloženju da dovoljne i ubjedljive razloge da bi se na njima, s obzirom na utvrđeno činjenično stanje i pravilnu primjenu materijalnog prava, mogao zasnovati nesporn činjenični i pravni zaključak da je potrebno ograničiti pristup traženim informacijama označenim stepenom tajnosti "interno". Naime, polazeći od sadržine zahtjeva tužioca, dovedenog u vezu sa stanjem u spisima predmeta, kao i sa članom 24 Zakona o slobodnom pristupu informacijama, koja odredba ostavlja mogućnost organu da omogući pristup informacijama nakon brisanja dijela informacija kojem je pristup ograničen, Sud nalazi da je tuženi organ propustio da utvrdi da li sve tražene informacije mogu ugroziti interes koji je pretežniji od interesa da javnost zna te informacije, što za posljedicu takođe ima nepotpuno utvrđeno činjenično stanje.

Sledstveno izloženom, imajući u vidu učinjene povrede pravila postupka, kao i nepotpuno utvrđeno činjenično stanje, to je bilo nužno u skadu sa tim utvrđenjem usvojiti tužbu i poništiti kao nezakonito osporeno rješenje.

U ponovnom postupku, tuženi organ će, vodeći računa o datim primjedbama u ovoj presudi, (član 57 ZUS-a), donijeti novo, zakonito rješenje.

Odluka o troškovima spora, zasnovana je na odredbi člana 152 Zakona o parničnom postupku, u vezi člana 56 stav 2 Zakona o upravnom sporu, a odnosi se na naknadu za sastav tužbe, u iznosu od 200,00€, pristup punomoćnika na usmenu pravu u iznosu od 200,00€, uvećano za PDV u skladu sa članom 5 Advokatske tarife ("Sl.list RCG", br.12/05 i "Sl.list CG" br.45/08 i 11/15), što ukupno iznosi 476,00€.

Iz iznijetih razloga, a na osnovu člana 37 stav 1 Zakona o upravnom sporu ("Sl.list RCG", br. 60/03), riješeno je kao u izreci presude.

UPRAVNI SUD CRNE GORE
Podgorica, 19.10.2016.godine

Zapisničar,
Davor Stojković, s.r.

PREDSJEDNIK VIJEĆA,
Svetlana Budisavljević, s.r.

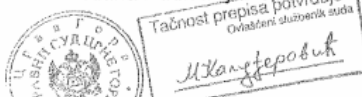


Figure 25: Excerpt from the judgment of the Administrative Court No. 2561/2016, 19 October 2016

Case study: Secret employment in the Municipality of Niksic

In mid-June, the municipality of Niksic banned the access to information on employment due to alleged concerns about the privacy of employees. The previous practice of the second-instance Agency confirms that the data on employment in the civil service are public, but because of the Agency's drastic violation of the legal deadline for the decision-making, the information has not been delivered to MANS even five months later.

Earlier positions of the Agency¹⁸ confirm that the public has the right of access to this type of information, after deletion of personal data (unique master citizen number, customer's account number

¹⁸ Decision of the Agency for Protection of Personal Data 1408/14, dated on 26 February 2014.

with a commercial bank, etc.). In addition, the work of employees in this Municipality is financed from the money of the citizens of Montenegro, as taxpayers, based on which there is a legitimate interest to enable the access to this type of information.

Case study: Secret expenditure of state-owned companies in the pre-election period

State-owned companies Plantaze 13. jul AD and Montenegro Airlines, as well as the Investment and Development Fund, concealed information on their expenditures in the pre-election period, although the previous institutional and judicial practice obliged them to make such information available to the public.

According to the Law on Free Access to Information, these companies are obliged to act in accordance with this law because they are established by the state and the state owns a significant share in them. In addition, the access to information on cash expenses can on no grounds be restricted because there is a general public interest to be acquainted with the operations of companies engaged in public activity and which are established by the state.

However, the Plantaze company stated that the company had its Regulations on Protection of Persons and Property, as well as the Rulebook on Business Secret, which restrict the disclosure of the requested information.

Access to information cannot be restricted by internal regulations, completely ignoring the law regulating this area, including the obligation to conduct a harm test.

Montenegro Airlines AD and the Investment and Development Fund have said they do not have to disclose the information on their expenditures, because they are not financed from the budget but from their own resources.

Iz citiranog člana Zakona o Investiciono-razvojnom fondu Crne Gore, a u vezi sa članom 5 Zakona o finansiranju političkih subjekata i izbornih kampanja, nedvosmisleno je da se **Investiciono-razvojni fond Crne Gore A.D. ne finansira iz Budžeta Crne Gore i budžeta lokalne samouprave.**

Takođe odredbama Zakona o Budžetu Crne Gore za 2016. godinu nije predviđena stavka finansiranja IRF CG A.D. po bilo kom osnovu.

Imajući u vidu navedeno, Investiciono – razvojni fond Crne Gore A.D. nije u obavezi da objavljuje analitičke kartice sa svih računa koje ima jer je Investiciono-razvojni fond Crne Gore A.D. akcionarsko društvo koje posluje po tržišnim principima, a to znači da na međunarodnom tržištu kapitala obezbjeđuje kreditna sredstva i iz sopstvenih prihoda pokriva sve troškove poslovanja, pa prema tome IRF CG A.D. nije ni budžetska, ni lokalna potrošačka jedinica, niti je korisnik budžetskih sredstava.

Na osnovu izloženog odlučeno je kao u dispozitivu rješenja.

UPUTSTVO O PRAVNOM SREDSTVU: Protiv ovog Rješenja podnosilac zahtjeva i drugo zainteresovano lice može izjaviti žalbu Agenciji za zaštitu podataka o ličnosti i pristup informacijama preko ovog organa, u roku od 15 (petnaest) dana od dana dostavljanja ovog Rješenja.

2. Izvršni direktor
Dr Zoran Finković

Figure 27: Excerpt from the decision of the Investment and Development Fund of Montenegro No. 05-17003-5309/1, 12 September 2016

„13 JUL- PLANTAŽE“ a. d.
PODGORICA
Broj 1-111
Podgorica 22.09.2016

16/98725
BROJ 22.09.2016
PODGORICA

Na osnovu člana 30. Zakona o slobodnom pristupu informacijama (Sl. list CG br. 44/12) i člana 50. Statuta „13. Jul – Plantaže“ a.d. Podgorica, a u postupku po zahtjevu mreže za afirmaciju nevladinog sektora MANS iz Podgorice, Dalmatinska 188, br. 16/98725, 16/98724, 16/98722, 16/98723, 16/98721, 16/98720, 16/98719 od 09.09.2016. god. donosi

RJEŠENJE:

Mreži za afirmaciju nevladinog sektora MANS, na osnovu Zahtjeva br. 16/98725, 16/98724, 16/98722, 16/98723, 16/98721, 16/98720, 16/98719 od 09.09.2016. god. ne dozvoljava se pristup traženim informacijama.

OBRAZLOŽENJE:

Mreža za afirmaciju nevladinog sektora MANS, Dalmatinska 188, podnijela je dana 09.09.2016. god. Zahtjev za pristup informaciji br. 16/98725, 16/98724, 16/98722, 16/98723, 16/98721, 16/98720, 16/98719 kojim traži da im se na osnovu Zakona o slobodnom pristupu informacijama dostavi kopija:

- Analitičkih kartica svih računa za period od 22.08.2016. godine do 28.08.2016. godine
- Analitičkih kartica svih računa za period od 15.08.2016. godine do 21.08.2016. godine
- Analitičkih kartica svih računa za period od 01.08.2016. godine do 07.08.2016. godine
- Analitičkih kartica svih računa za period od 08.08.2016. godine do 14.08.2016. godine
- Analitičkih kartica svih računa za period od 25.07.2016. godine do 31.07.2016. godine
- Analitičkih kartica svih računa za period od 18.07.2016. godine do 24.07.2016. godine
- Analitičkih kartica svih računa za period od 12.07.2016. godine do 17.07.2016. godine

Odredbama člana 16 Zakona o slobodnom pristupu informacijama propisan je test šteta odjelodanjanja informacija.

Shodno tome „13. Jul – Plantaže“ a.d. ima propisan Pravilnik o zaštiti lica i imovine kao i Pravilnik o poslovnoj tajni koji ga ograničava u pogledu odjelodanjanja traženih informacija.

Figure 26: Excerpt from the decision of Plantaze 13. jul AD, No. 2-1712, 21 September 2016

Obrazloženje

Dana 08.09.2016. godine, Mreža za afirmaciju nevladinog sektora MANS iz Podgorice, podnijela je ovom organu zahtjev za slobodan pristup informaciji, br. 16/98711 od 08.09.2016. godine, kojim je tražila da joj se dostave kopije dokumenta-informacija iz stava 1 ovog Rješenja.

Postupajući po predmetnom zahtjevu, ovaj organ je utvrdio da nije u mogućnosti da podnosiocu zahtjeva odobri pristup istima, iz razloga što je Montenegro Airlines akcionarsko društvo koje se ne finansira iz budžeta, već iz sopstvenih sredstava.

Imajući u vidu izloženo odlučeno je kao u dispozitivu ovog Rješenja.

PRAVNA POUKA: Protiv ovog Rješenja može se izjaviti žalba Agenciji za zaštitu ličnih podataka i slobodan pristup informacijama u roku od 15 dana od dana dostavljanja rješenja, preko Montenegro Airlines-a AD Podgorica

Obradila: Dragana Zindović

Izvršni direktor
Kostić Zoran

Figure 28: Excerpt from the decision of Montenegro Airlines No. 13394, 21 September 2016

However, the state is the owner of Montenegro Airlines, and the company has received subsidies of nearly €60 million from the state. There can be no dispute that Montenegro Airlines is obliged to implement the Law on Free Access to Information, because the Agency has repeatedly taken a clear stance on the issue.

CRNA GORA
AGENCIJA ZA ZAŠTITU LIČNIH PODATAKA
I SLOBODAN PRISTUP INFORMACIJAMA

PODGORICA, 12.05.2016.

Br. UP II 07-30-400-2/16
Podgorica, 12.05.2016. godine

Agencija za zaštitu ličnih podataka i slobodan pristup informacijama - Savjet Agencije je, rješavajući po žalbi NVO Mans br.16/82417-82428 od 16.03.2016. godine, izjavljene zbog povrede pravila postupka-nedonošenja rješenja Montenegro airlinesa AD Podgorica, na osnovu člana 38 Zakona o slobodnom pristupu informacijama („Sl.list Crne Gore, br.44/12) člana 238 stav 1 Zakona o opštem upravnom postupku („Sl.list Crne Gore, br.60/03, 73/10 i 32/11) je na sjednici održanoj dana 10.05.2016.godine, donio:

RJEŠENJE

Žalba se usvaja.

Nalaže se Montenegro airlinesu AD Podgorica da donese rješenje po zahtjevu za slobodan pristup informacijama NVO Mans 16/82417-82428 od 22.02.2016.godine u roku od 15 dana od prijema rješenja.

*Figure 29: Excerpt from the decision of the Agency for Protection of Personal Data and the Free Access to Information
No. UP II 07-30-400-2/16, 15 May 2016*

The Investment and Development Fund was also established by the state and operates with state authorities, such as the Ministry of Agriculture and Rural Development and the Ministry of Economy, which gives the Fund the title of a body with "public authorities". *At the same time, in its responses to other requirements, the Fund does not dispute that it is obliged to act in accordance with the Law on Free Access to Information, but it changes the practice compared with non-election years.*

It is also interesting how the Investment and Development Fund changed practices in the election year compared with its earlier actions. For example, earlier this year, the Fund refused to provide MANS with the decisions on granting the loans, while it had provided the same information two years earlier.

Earlier this year, MANS asked the Investment and Development Fund to disclose its protocols on cooperation with commercial banks and local governments, as well as the Decisions on Granting Loans. The Fund refused to provide the documents on the grounds that such data were already available on the institution's website.

Yet, the only available information on the website are tables with an overview of granted loans and decisions of the Committee, but not their content.

It is interesting that the Fond had provided such data two years earlier - in September 2014, on the grounds of this law, the Investment and Development Fund provided MANS with all the decisions on granted loans that had been concluded that year.

N.V.O. "MANS"
Broj: 14/72932
Podgorica, 10. 09. 2014. god.

INVESTICIONO-RAZVOJNI FOND

CRNE GORE A.D.

Broj: 05-3512/1

Podgorica, 09. 09. 2014. godine

Na osnovu člana 30 Zakona o slobodnom pristupu informacijama („Službeni list CG“, br. 44/12) i člana 28 Statuta Investiciono-razvojnog fonda Crne Gore A.D. ("Sl. list CG", br. 25/10, 26/11, 03/12, 6/12, 51/13 i 10/14), Investiciono-razvojni fond Crne Gore A.D. u postupku po Zahtjevu Mreže za afirmaciju nevladinog sektora – MANS iz Podgorice, Dalmatinska 188, br. 14/72932 od 31.07.2014. godine, donosi

RJEŠENJE

Mreži za afirmaciju nevladinog sektora – MANS, na osnovu Zahtjeva br. 14/72932 od 31.07.2014. godine, dozvoljava se pristup informaciji - dokumentima u posjedu Investiciono-razvojnog fonda crne Gore A.D.:

- Svim odlukama o odobrenim kreditima koje je Investiciono-razvojni fond Crne Gore A.D. donio od 20. maja 2014. godine do 1. avgusta 2014. godine.

Pristup traženoj informaciji ostvariće se dostavom fotokopije traženih akata, na adresu podnosioca zahtjeva Mreže za afirmaciju nevladinog sektora – MANS, u prilogu ovog rješenja.

*Figure 30: Excerpt from the decision of the Investment and Development Fund of Montenegro
No. 05-3512/1, 9 September 2014*

The question is: why does MANS get completely different responses to identical requests and why is the same information available to the public in one period and unavailable in another.

For these reasons, MANS has complained to the Agency for Protection of Personal data and the Free Access to Information against this controversial decision.

However, as there was no reaction within the legal deadline, on 15 September 2016, MANS filed a complaint to the Administrative Court, which ordered the Agency to act upon our complaint a month later. The case is still in progress.

2. POSSIBLE SOURCES OF ABUSE OF STATE FUNDS

2.1. Pre-electoral employment in public administration

Despite the amendments to the Law on Financing of Political Parties, which stipulate restrictions in employment during an election campaign, employment in the public administration continued during the election period. Published contracts show that there were many cases of short-term employment, and concrete examples call into question the foundations of such employment in the pre-election period.

Employment in public administration in the pre-election period were supposed to be an exception, but official figures show that it was intense. According to data from the website of the Agency for Prevention of Corruption and the documentation that MANS collected on the basis of the Law on Free Access to Information, at least 1,546 different types of employment contracts were concluded in the pre-election period.

2.1.1. Reported employment with public administration

During the election campaign, from mid-July to mid-October 2016,¹⁹ **228 state and municipal authorities, institutions and public enterprises reported to the Agency for Prevention of Corruption that a total of 1,271 different types of employment contracts was concluded.**²⁰

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

Out of these, 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.

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 contracts	Temporary employment contracts	Interim contracts
State and local government	161	187	178	10
Educational insitutions	27	704	4	/
Total:	188	891	182	10

Table 1: 1,271 employments reported to the Agency

¹⁹ 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.

²⁰ 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>.

2.1.1.1. Temporary employment contracts

Particularly interesting is the fact that as many as 182 temporary employment contracts were reported to the Agency for Prevention of Corruption.

According to the Labor Law²¹, 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.²² 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 places with the largest number of voters had the highest employment rate. Thus, the four places with the largest number of voters - Podgorica, Niksic, Bijelo Polje and Bar - where about a half of the country's electorate votes²³, 741 people were employed, which is 58 percent of the total number of the contracts reported to the Agency for Prevention of Corruption.

Case study: Temporary 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. 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**.²⁴

In case a document is classified as "internal", it is implied that it includes classified information. The Information Secrecy Act²⁵ 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".

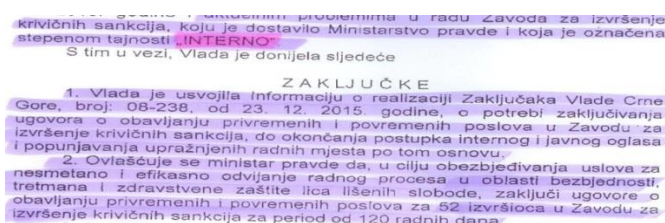


Figure 31: Excerpt from government's classified employment document

²¹ Official Gazette of Montenegro 49/08, 26/09, 88/09, 26/10, 59/11, 66/12, 31/14, 53/14.

²² 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."

²³ 528,817 voters were 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>.

²⁴ Conclusions of the Government of Montenegro 08-149, 24 June 2016.

²⁵ Information Secrecy Act of Montenegro 14/08, 76/09, 41/10, 40/11, 38/12, 44/12, 14/13, 18/14, 48/15.

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.

Case study of the 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.

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,²⁶ while the 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 if it is a fictitious position.

Case study: Manipulation with law – teaching assistant

While there was a large-scale employment in the pre-election period, the Ministry of Education used the legal limitations as an excuse not to allow the employment of teaching assistants in primary schools and preschools which provide assistance to children with special needs.

The Ministry of Education recommended schools to hire teaching assistants on the basis of voluntary work from beginning of September until 16 October, the election day.²⁷ At the same time, it was announced that the assistants would be paid for their work in those months and obtain new contracts after the election. However, by the end of November 2016, it did not happen.²⁸ In late September, 11 NGOs sent an appeal to the Government, the Ministry of Education and the Ministry of Labor and Social Welfare to permanently solve the problem of assistants so that the schools define those positions in their job classification acts.²⁹

²⁶ "Tape Recording" affair was initiated in early 2013 and refers to transcripts from the sessions of the highest bodies of the ruling DPS party held on the eve of the parliamentary elections of 2012. The highest officials of the DPS exposed on that occasion some of the mechanisms that the ruling party used in pre-election periods, such as the payment of social welfare, severance payments for employees, loans or employment.

²⁷ Article in the daily "Vijesti": "Assistants volunteering until the election," 23 September 2016, link: <http://www.vijesti.me/vijesti/asistenti-volontiraju-do-izbora-skole-duzne-da-isprave-gresku-904723>.

²⁸ Letter of a teaching assistant published on the Facebook page of the NGO Association of Youth with Disabilities of Montenegro, 30 November 2016, link: <https://www.facebook.com/UMHCG/posts/1178717885496663>, „Vijesti“ reported on its portal, link: <http://www.vijesti.me/vijesti/pismo-asistenta-u-nastavi-od-septembra-radimo-bez-centa-914142#>.

²⁹ Article in the daily "Vijesti": „NGO sector appeals to the authorities: Provide teaching assistants,“ 29 September 2016, link: <http://www.vijesti.me/vijesti/nvo-sektor-apeluje-na-nadlezne-obezbijediti-asistente-u-nastavi-905425>.

2.1.2. Unreported employment with the state administration

MANS followed employment in the seven largest municipalities³⁰ and 140 public companies owned by 17 municipalities³¹ the beginning of 2016, on the grounds of the Law on Free Access to Information.

Since the announcement of the parliamentary election, **at least 42 institutions have failed to respect the legal obligations for at least 275 employment contracts that have not been submitted to the Agency for Prevention of Corruption.**

These institutions employed 275 persons in the election period, mostly on a fixed-term basis. A total of 119 consultancy agreements were signed, 75 temporary employment contracts, 67 fixed-term contracts, six permanent employment contracts and eight contracts on volunteering. As stated, MANS followed employment only in some municipalities, but it can be reasonably assumed that the total number of unrecorded employment at the state level is much higher.

In the election period, utility companies concluded 28 different types of employment contracts, without reporting them to the Agency, in the municipalities of Kolasin,³² Berane,³³ Zabljak,³⁴ Tivat,³⁵ Herceg Novi,³⁶ Bar,³⁷ Niksic³⁸ and Pljevlja.³⁹ The Water Utility Company in Herceg Novi⁴⁰ concluded temporary employment contracts with 20 people, while the Protection Service of the Municipality of Ulcinj⁴¹ made contracts with 16 people. National Library of Budva,⁴² Budva Parking Service⁴³ and the Agency for Residential and Commercial Fund Pljevlja⁴⁴ each concluded 10 agreements on temporary jobs.

When it comes to consultancy agreements, public institution Zahumlje Niksic⁴⁵ concluded 26 such agreements, the Tourist Organization of Kotor⁴⁶ 15, Radio Television Budva⁴⁷ 12 contract, the Cultural Center Bar⁴⁸ signed contracts with 10 persons, the Tourist Organization of Mojkovac⁴⁹ with nine, Museums and Galleries of Budva⁵⁰ with six, the Cabinet of the Mayor of Ulcinj⁵¹ with five, the Tourist Organization of Pljevlja⁵² with four and the Day Care Center for Children with Disabilities Niksic⁵³ with three persons.

³⁰ In Podgorica, Niksic, Bijelo Polje, Pljevlja, Rozaje, Tivat and Ulcinj.

³¹ From January to September 2016, MANS collected documentation on employment in public enterprises and institutions of the following municipalities: Podgorica, Budva, Rozaje, Bijelo Polje, Niksic, Pljevlja, Bar, Herceg Novi, Mojkovac, Tivat, Berane, Cetinje, Danilovgrad, Kolasin, Zabljak, Ulcinj and Kotor; the data for October 2016 have not been delivered.

³² Decision of „Komunalno“ Kolasin to NGO MANS No. 464/2, 13 September 2016.

³³ Decision of „Komunalno“ Berane to NGO MANS No. 3093, 13 September 2016.

³⁴ Decision of „Komunalno i vodovod“ Zabljak to NGO MANS No. 194, 16 September 2016.

³⁵ Decision of „Komunalno“ Tivat to NGO MANS No. 15-UP-111, 13 September 2016.

³⁶ Decision of „Komunalno stambeno“ Herceg Novi to NGO MANS No. 3084/1, 9 September 2016.

³⁷ Decision of PE Utility Services Bar to NGO MANS No. 6133, 23 September 2016.

³⁸ Decision of JKP Niksic to NGO MANS No. 6453, 19 September 2016.

³⁹ Decision of „Komunalne usluge“ Pljevlja to NGO MANS No. 02-2560, 17 October 2016.

⁴⁰ Decision of „Vodovod i kanalizacija“ Herceg Novi to NGO MANS, 19 September 2016.

⁴¹ Decision of Protection and Rescue Service Ulcinj to NGO MANS No. 12-50/16-2, 19 August 2016.

⁴² Decision of PE National Library of Budva to NGO MANS No. 299, 13 September 2016.

⁴³ Decision of Parking Services Budva to NGO MANS No. 471, 16 September 2016.

⁴⁴ Decision of Agency for Residential and Commercial Fund Pljevlja to NGO MANS No. 03-554/1, 14 September 2016.

⁴⁵ Decision of PE „Zahumlje“ Niksic to NGO MANS, 9 September 2016.

⁴⁶ Decision of Tourist Organization of Kotor to NGO MANS No. 1539/16-1, 20 September 2016.

⁴⁷ Decision of „Radio televizija Budva“ to NGO MANS No. 486/3, 13 September 2016.

⁴⁸ Decision of Cultural Center Bar to NGO MANS No. 1421, 28 September 2016.

⁴⁹ Decision of Tourist Organization Mojkovac to NGO MANS No. 377, 15 September 2016.

⁵⁰ Decision of PE Museums and Galleries of Budva to NGO MANS No. 692/1, 19 September 2016.

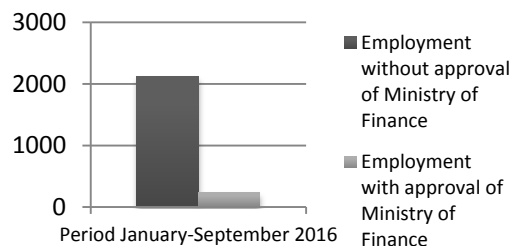
⁵¹ Decision of Cabinet of the Mayor of Ulcinj to NGO MANS No. 266-241/16, 27 September 2016.

⁵² Decision of Tourist Organization of Pljevlja to NGO MANS No. 16-459, 17 October 2016.

⁵³ Decision of PI Day Care Center for Children with Disabilities Niksic to NGO MANS No. 480/16, 11 October 2016.

2.1.3. Employment in local self-governments

According to the documentation that is MANS collected on the basis of the Law on Free Access to Information, in the election year 2016, **an increase of employment was recorded in the 17 largest municipalities⁵⁴ in Montenegro**, despite the Government's decision to suspend the employment of officials and employees of local governments adopted back in 2010, due to high indebtedness of municipalities in the amount of up to €167.7 million and a surplus of employees in local administration.⁵⁵



Graph 11: Employment with and without approval of Ministry of Finance

The collected data show that from January until the end of September 2016, 2,125 of officials were employed in 17 municipalities on the basis of different types of employment contracts. The largest number of contracts was fixed-term, but mostly they are the same persons whose contracts are continuously extending, which is definitely a huge space for political influence in the pre-election period.

What is particularly disputable is that most of the municipalities did not have the approval to employ from the Ministry of Finance, although they had committed to acquiring such approvals in the agreements on debt rescheduling debts signed with the government.⁵⁶ Thus, 17 municipalities received an approval from the Ministry of Finance to employ a total of 240 persons⁵⁷ during 2016, but they employed 2,125 people.

Case study: Number of employed in municipalities increased in election years

Municipalities have not respected the government's decision of the beginning of 2010 on the prohibition of employment,⁵⁸ while the government has tacitly condoned such action especially in election years.

In early 2010, the country's municipalities had 10,751 persons employed.⁵⁹ Precise data on the number of employees at the end of 2011 and 2012 are not publicly available, but the data from the end of 2013 show that, instead of downsizing, new employment took place. So, at the end of 2013, the number of the newly employed increased by 553 compared with the same period of 2010,⁶⁰ or to 11,304 employees in total. In 2013 presidential elections was held, while the parliamentary elections took place a year before.

In 2014, when local elections were held in most municipalities, the number of persons employed increased additionally by 474, so at the end of this year the number of employees in local governments amounted to 11,778. By the end of 2015, this figure slightly decreased and amounted to 11,660

⁵⁴ From January to September 2016, MANS was gathering documentation on employment in the public enterprises and institutions of the following municipalities: Podgorica, Budva, Rozaje, Bijelo Polje, Niksic, Pljevlja, Bar, Herceg Novi, Mojkovac, Tivat, Berane, Cetinje, Danilovgrad, Kolasin, Zabljak, Ulcinj and Kotor.

⁵⁵ Conclusion of the Government of Montenegro No. 03-1772, 11 March 2010.

⁵⁶ Agreements on debt rescheduling signed during 2015.

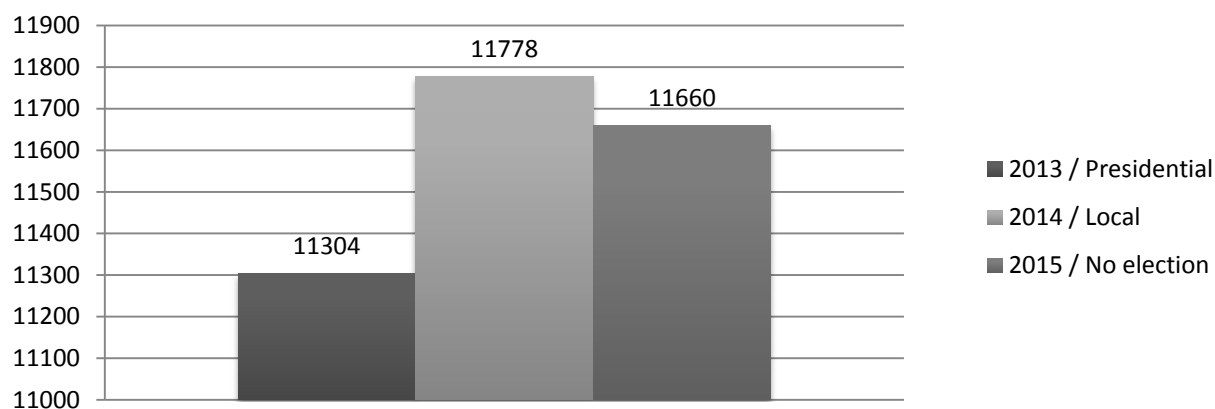
⁵⁷ MANS collected consents in accordance with the Law on Free Access to Information on a monthly basis.

⁵⁸ Conclusion of the Government of Montenegro No. 03-1772, 11 March 2010.

⁵⁹ Information on indexes of financial situation of local government, March 2010.

⁶⁰ Information on public finances and number of employees at the local level, session of the Government of Montenegro, 4. December 2014. Link: http://www.gov.me/sjednice_vlade/92.

employees.⁶¹ In comparison with 2010, however, when a prohibition of further employment was introduced, the total number of employees increased by 909. Official data on the total number of employees for 2016 are not known yet.



Graph 12: Increase of employment per year

On the other hand, at the beginning of 2010, the municipalities were owing €167.8 million.⁶² The Ministry of Finance recorded the largest debt in Podgorica - 25 million, in Bar - 19.9 million, Budva - 12 million, Pljevlja - 5.8 million and Bijelo Polje - 4.4 million. By the end of 2014, the indebtedness of municipalities amounted to €168 million,⁶³ while by the end of 2015 it increased to €177.5 million.⁶⁴

2.1.4. Employment through employment agencies

Some state institutions and enterprises owned by the state or municipalities employed staff through employment agencies in the pre-election period.

The institutions and the companies did not submit to the Agency for Prevention of Corruption information on employment through employment agencies for employment, but MANS acquired the information on the basis of the Law on Free Access to information and found that this practice had been followed in the pre-election period.

Thus, for example, in July 2016, the local company Vodovod i kanalizacija Niksic⁶⁵ (Water and Sewerage) hired 26 people through an agency, while Sportski centar Niksic⁶⁶ (Sports Center) hired 10 people by means of the same agency.

Case study: Employment in the public enterprise „Posta Crne Gore“

In August 2016, a month and a half before the parliamentary elections in Montenegro, a state-owned company *Posta Crne Gore* (Montenegro Post) signed 74 temporary employment contracts through an employment agency *Dekra*.⁶⁷

⁶¹ Overview of the number of employees in local government bodies and public institutions and companies founded by the Municipality of 31 December 2015, the official response of the Ministry of Finance to NGO MANS, 04 October 2016.

⁶² Information on indexes of financial situation of local government, March 2010.

⁶³ Information on public finances and number of employees at the local level, session of the Government of Montenegro, 4. December 2014. Link: http://www.gov.me/sjednice_vlade/92.

⁶⁴ Report on Public debt of Montenegro on 31 December 2015. Link: http://www.gov.me/ResourceManager/FileDownload.aspx?rid=243003&rType=2&file=2_162_23_06_2016.pdf

⁶⁵ Transfer of Employment Agreement No. 1320, 2 April 2015.

⁶⁶ Annex to Transfer of Employment Agreement (No. 030/15), 11 March 2016, 30 March 2016, 29 April 2016 and 10 May 2016.

All contracts were signed for a period of 30 days for those engagements that are part of the regular activities of the employees in the postal company, such as postmen, couriers, operators, postal operators, cleaning staff. Since regular activities were in question, the Post was obliged to publicly advertise those vacancies, as it is in accordance with the Labor Law. However, it did not do it, but it hired an agency for temporary employment, thus completely avoiding public advertising procedures.

Posta Crne Gore concluded most temporary employment contracts in Podgorica, where it hired 23 employees. In Bar it concluded 14 contracts, in Budva ten, in Herceg Novi six, in Tivat five, four in each Niksic and Kotor, three in Danilovgrad, two in Berane and one in each Rozaje, Pljevlja and Pluzine.

Municipality	No. of employed
Podgorica	23
Bar	14
Budva	10
Herceg Novi	6
Tivat	5
Niksic	4
Kotor	4
Danilovgrad	3
Berane	2
Rozaje	1
Pljevlja	1
Pluzine	1

Table 2: Number of employed in Montenegro in August 2016 per municipality

2.2. Subsidized pre-electoral employment in the private sector

During the election campaign, the Government of Montenegro launched several projects for the allocation of state aid to the private sector that enabled new employment.

2.2.1. Employment on the basis of Decree on Fostering Direct Investments

At the session held on 27 July 2016, or 16 days after the parliamentary elections in Montenegro were called, the Government of Montenegro rendered a decision which approved the disbursement of nearly €2 million, aimed at fostering direct investment and employment, for six companies.⁶⁸ Payment of one third of this money was planned in the election year 2016, and the approved projects include the employment of 286 persons. Of these, 157 people will be employed by the end of 2016, which is 54 percent of total projected employment in three years, which is the duration of the projects approved.

Of the six companies selected, at least two are owned by prominent members of the ruling Democratic Party of Socialists (DPS). Those companies are „Meso-promet“ from Bijelo Polje and "Comp-Commerce" from Niksic, which are owned by a member of the Executive Committee of DPS Hilmija Franca⁶⁹ and a member of the Municipal Committee of DPS in Niksic Ranko Jovovic⁷⁰ respectively.

⁶⁷ Fixed-term contracts submitted to NGO MANS based on the Decision of Poste Crne Gore AD Podgorica No. 0500-10110/5, 3 October 2016.

⁶⁸ Announcement of the Secretariat for Development Projects of the Government of Montenegro published on 29 July 2016, link: (<http://www.srp.gov.me/vijesti/163810/Vlada-Crne-Gore-donijela-Odluku-o-dodjeli-sredstava-za-podsticanje-direktnih-investicija.html>).

⁶⁹ List of members of the Executive Committee of DPS, link: <http://www.dps.me/nasa-partija/glavni-odbor>.

⁷⁰ List of members of the Municipal Committee of DPS in Niksic, link: <http://www.dps.me/opstine/niksic/optinski-odbor>.

Podnosilac prijave	Vrijednost investicije (u eurima)	Broj novoza-poslenih lica	Dinamika zapošljavanja		
			2016	2017	2018
„Milkraft Leche“ d.o.o. Bijelo Polje	7.067.900	88	39	30	19
„Meso-promet“ d.o.o. Bijelo Polje	1.505.535	70	70	-	-
„Comp – Comerc“ d.o.o. Nikšić	1.100.000	50	10	12	28
„Hemomont“ d.o.o. Podgorica	2.101.830	30	5	10	15
„Dima Engineering“ d.o.o. Podgorica	7.460.150	23	23	-	-
„Bekom CO“ d.o.o. Bijelo Polje	1.195.923	25	10	15	-
Ukupno	20.431.338	286	157	67	62

Figure 32: Information of Government of Montenegro on activities related to advertisement for participation in the procedure of allocation of funds to promote direct investments, 27 July 2016

"Meso-promet" has been allocated €560,000. By the end of 2016, the company should be paid €187,000, and it should employ 70 persons in the meat industry by then. "Comp-Commerce" has been allocated €350,000 for the reconstruction of the hotel "Onogost" in Nikšić. The company should employ the total of 50 persons, ten of whom should be employed in 2016. By the end of the same year, it should be paid €116,000.

The other four companies, "Milkraft Leche", "Hemomont", "Dima Engineering" and "Become Co", should receive a total of €1.1 million in the three-year period, of which €366,000 will be paid by the end of 2016, the year of election. The companies have committed to hiring 77 people.⁷¹

2.2.2. Additional state aid programs of the government

During the pre-election campaign, the Government of Montenegro activated two projects of financial support to entrepreneurs and small and medium enterprises, which were related to streamlining operations and increasing employment by improving innovation. The total amount of the state aid earmarked for projects initiated during the election period was **€130,000**.

The first project for which the public competition was open on 12 August 2016, or a month after the elections, envisaged the provision of state aid to entrepreneurs, micro, small and medium enterprises in the process of modernization of the industry, for which the allocated budget was €100,000.⁷²

Ministarstvo ekonomije u saradnji sa Investiciono-razvojnim fondom A.D. raspisuje Javni poziv za učešće u

PILOT PROGRAMU PODRŠKE ZA MODERNIZACIJU INDUSTRIJE

Cilj Pilot Programa je jačanje konkurentnosti privrednih subjekata, unaprijeđenje poslovanja, produktivnosti i profitabilnosti kroz investicije u opremu.

Korisnici kredita i bespovratnih sredstava mogu biti privredna društva i preduzetnici u avim oblicima organizovanja koje predviđa Zakon o privrednim društvima, koji od Poreske uprave obezbijede potvrdu da uredno izmiruju svoje poreske obaveze i posluju u oblasti prerađivačke industrije (proizvodnja prehrambenih proizvoda, tekstilna, drvna, farmaceutska i metalna industrija, ostale prerađivačke djelatnosti).

Sredstva opredijeljena Programom namijenjena su za sufinansiranje dijela opravdanih troškova nabavke opreme, i to za nabavku:

- nove proizvodne opreme i/ili mašina;
- polovna proizvodna oprema i/ili mašina, ne starije od pet godina i
- novih djelova, specijalizovanih alata za mašine ili drugih kapitalnih dobara koja će se iskoristiti kako bi se stavile u pogon neiskorištene mašine

Finansijski okvir: Program obuhvata sufinansiranje opravdanih troškova nabavke opreme do 20% za preduzetnike, mikro i mala privredna društva, odnosno do 10 % za srednja privredna društva, bez poreza na dodatu vrijednost (PDV). Preostala potrebna sredstava do 70% za mala privredna društva odnosno do 60% za srednja privredna društva (u ukupnom iznosu), u skladu sa pravilima državne pomoći, obezbjeđuju se kroz kreditni aranžman sa Investiciono-razvojnim fondom Crne Gore (IRF), po sledećim uslovima:

- kamatna stopa 3-5% na godišnjem nivou
- period otplate do 12 godina (uključujući grejs period)
- grejs period do 4 godine
- naknada 0,5 do 1%, u zavisnosti od visine potrebnih sredstava.

Ukupani Budžet opredijeljen za realizaciju Pilot programa podrške za modernizaciju industrije je 100.000,00€.

Figure 33: Public invitation for participation in Pilot Program of Support to Modernization of Industry, Ministry of Economy in cooperation with Investment and Development Fund, 11 March 2016

⁷¹ Information on activities related to the Public call for participation in the process of allocation of funds for fostering direct investments 02/2-45/7 dated 11 March 2016, prepared for the purpose of a session of the Government of Montenegro on 27 July 2016.

⁷² Public call for participation in the Pilot Program of Support to the Modernization of Industry, published on the website of the Ministry of Economy on 12 August 2016, link: <http://www.mek.gov.me/vijesti/164074/Saopštenje-Raspisan-Javni-poziv-za-modernizaciju-industrije-100-000-eura.html>.

The Ministry of Economy and the Investment and Development Fund prepared the state aid program in May 2016, but it officially started in August, when the election campaign had already begun.⁷³ The opening of the competition for funds was preceded by the conclusion of the Protocol on Cooperation between the Ministry of Economy and the Investment and Development Fund at the beginning of August.⁷⁴ The amounts of state aid were from five to 20 thousand.

The Ministry of Economy announced the competition for the second project at the beginning of September 2016, and then closed in early October, only ten days before the parliamentary elections. The project concerned the improvement of innovation in the manufacturing industry, for which €30,000 was budgeted, while a single company could have been awarded a maximum of €2,500.⁷⁵ This project was also prepared in May 2016⁷⁶ and launched in June, when the allocation of funds was granted to a single company, after which the Ministry of Economy relaunched the competition.⁷⁷

2.3. Construction of local infrastructure

Local infrastructure works are one of the most common mechanisms for which it is determined to be used in election periods for achieving political advantage and influencing the will of voters, which is particularly conspicuous in the north of the country, which is a very underdeveloped area. During this pre-election campaign, there were citizens who publicly offered their votes in exchange for road construction.

Before the October parliamentary elections, the Ministry of Sustainable Development significantly increased the expenditures for the local infrastructure, the Ministry of Agriculture and the Directorate of Road Transport increased costs for these purposes, while seven Montenegrin municipalities recorded a multiple increase of these costs only during the election campaign.

2.3.1. Increased expenditures of Ministry of Sustainable Development for local infrastructure

During the three pre-election months, i.e. from mid-July to mid-October 2016, the **Ministry of Sustainable Development spent approximately €4.5 million for building local infrastructure and facilities⁷⁸**, which is nearly 60 percent more than it was allocated for this purpose in the previous quarter.

⁷³ Decision of the Commission for the State Aid Control on Compliance of the Pilot Program for Support to the Modernization of Industry with the Law on State Aid Control No 01-37/1, 20 May 2016.

⁷⁴ Conclusion of the Government of Montenegro No 08-1624/2, 5 August 2016.

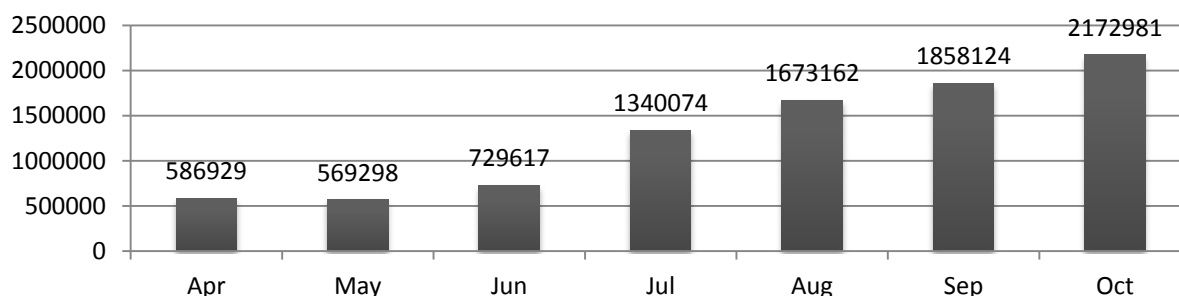
⁷⁵ Public call for application of small and medium-sized enterprises in the area of processing industry for participation in the Program for Improvement of Innovation in Small and Medium-Sized Companies for 2016, published on the website of the Ministry of Economy on 5 September 2016, link: <http://www.mek.gov.me/vijesti/164586/Saopstenje-Raspisan-Javni-poziv-za-ucescu-u-Programu-za-unapredenje-inovativnosti-u-MSP.html>.

⁷⁶ Decision of the Commission for the State Aid Control on Compliance of the Project of Financial Support to Small and Medium-Sized Enterprises in the Area of Processing Industry No 01-32/1, 20 May 2016.

⁷⁷ Public call for application of small and medium-sized enterprises in the area of processing industry for participation in the Program for Improvement of Innovation in Small and Medium-Sized Companies for 2016, published on the website of the Ministry of Economy on 25 June 2016, link: <http://www.mek.gov.me/vijesti/162467/Saopstenje-Raspisan-Javni-poziv-za-ucescu-u-Programu-za-unapredenje-inovativnosti-u-MSP.html>.

⁷⁸ Statements of account of the Ministry of Sustainable Development and Tourism are published on its website, link <http://www.mrt.gov.me/rubrike/spi/spi-inovacija/137510/Analiticke-kartice-Ministarstva-odrzivog-razvoja-i-turizma-i-Direkcije-javnih-radova.html>.

According to the official data, from 12 July 2016 when the parliamentary elections were called until the end of July, the Ministry of Sustainable Development spent approximately €600,000 for the local infrastructure and buildings, whereas in August it set aside €1.6 million, in September €1.8 million, and by 16 October, when the elections were held, another €460,000. Immediately after the parliamentary elections were finished, i.e. by the end of October, an additional €1.6 million was spent, which is the total of €6 million right before and immediately after the election. Official data indicate that it was mainly construction or reconstruction of local roads, town squares and roads, construction of riverwalks, as well as the construction of buildings.



Graph 13: Expenditure of Ministry of Sustainable Development for local infrastructure in 2016, per month

At the same time, the official data show that the Ministry of Sustainable Development's total budget earmarked for this purpose in the three and a half months preceding the announcement of the parliamentary elections amounted to €2.6 million.⁷⁹ So in April 2016, a sum of €586,000 was spent, in May €570,000, June €730,000, and until 12 July – an additional sum of €737,000. MANS has no information how much the Ministry spent in the first three months of 2016 for construction of the local infrastructure and facilities.⁸⁰

In the election year of 2016, the estimated capital budget for modernization of local roads and urban roads was €300,000 higher than budget allocated in 2015, which was a non-election year.

Modernization of local roads from the capital budget in the election year is carried out in the municipalities Gusinje, Andrijevica, Plav, Rozaje, Mojkovac, Savnik, Danilovgrad and Pluzine, as well as in the old royal capital Cetinje. Urban roads were reconstructed in Pljevlja, Zabljak, Plav, while the construction of water supply system in Rozaje and rehabilitation of municipal solid waste landfills in Beranselo in the Municipality of Berane, where waste disposal has been a long-standing problem of the local population, was funded from the capital budget.

2.3.2. Ministry of Transport and pre-election roadway resurfacing

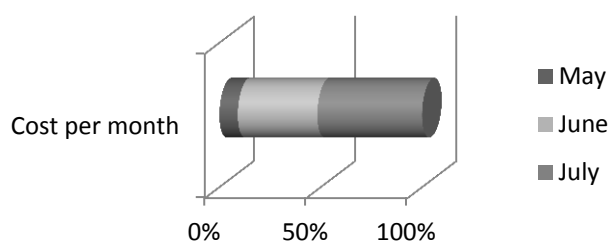
The Transport Directorate, which is under the Ministry of Transport, is in charge of the implementation of the capital budget for construction and reconstruction of regional roads and highways. In addition, the Directorate provides the funds for the investment asphalt resurfacing, which is a project that is being implemented in the so-called five sections which are territorially marked, i.e. Podgorica, Niksic, Pljevlja, Berane and Kotor.⁸¹

⁷⁹ Source of the data is the SAP system, which is kept electronically, and it refers to the total spending of the State Treasury of the Ministry of Finance; NGO MANS received this data from the Ministry of Finance on the basis of the Law on Free Access to Information.

⁸⁰ NGO MANS requested information from the Ministry of Finance's SAP system for January, February and March 2016, but they were not submitted in the required form, so MANS filed a complaint to the Agency for Protection of Personal Data and Free Access to Information and in November 2016 the legal process was in progress.

⁸¹ Link: <http://www.dzscg.com/index.html>.

According to the official data of the Transport Directorate⁸², **most of the payment requests related to the investment asphalt resurfacing were submitted in July 2016, the month of the election campaign**, as well as in the two previous months when calling parliamentary elections was expected. In the first four months of 2016 there were no such payments requests.



Graph 14: Requests for payment for asphaltting

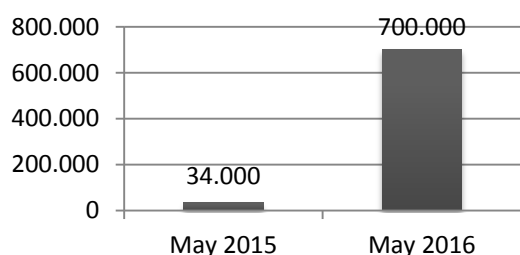
Thus, in May 2016 the reported sum allocated for these purposes was €181,000, specifically for the roads in Niksic⁸³, a month later a sum totaling €783,000 for the roads in Podgorica⁸⁴ and in July about a million.⁸⁵ From the figures related to July, about €358,000 was earmarked for resurfacing the roads in Berane, 353,000 for Pljevlja, €179,000 for Kotor, €108,000 for Podgorica, and €28,000 for Niksic.⁸⁶

In August, September and the first part of October 2016, there were no such payments requests.⁸⁷

2.3.3. Ministry of Agriculture spent half of the annual budget in one month

In May 2016, on the eve of the entry of representatives of the opposition into the Government of Electoral Trust, the Ministry of Agriculture transferred almost €700,000 to municipalities and municipal districts for local infrastructure, or half of the estimated budget for this purpose in 2016, i.e. 20 times more than it was spent in the same period last year.⁸⁸

In 2016, the Ministry of Agriculture allocated the budget of nearly €1.4 million for the local infrastructure for two programs - water management and rural development. Petar Ivanovic, the former Minister of Agriculture, before leaving the government, in only one month, channeled nearly half of the money, mainly to the municipalities and municipal districts. The municipalities and municipal districts can use these funds for building water supply systems, clearing, grubbing and filling roads, purchasing rainwater tanks, etc.



Graph 15: Expenditure of Ministry of Agriculture for local infrastructure

Comparative data for 2015 show that in May last year, which was a non-election year, the Ministry of Agriculture spent about €35,000 for the local infrastructure, which means that in the same period of the election year a twentyfold increase was recorded.

In May 2016, the municipalities received around €520,000 from the Ministry of Agriculture, but most went to those

⁸² Payment requests of the Transport Directorate to the State Treasury in May 2016 approved to a non-governmental organization MANS No. 16/90509; Payment requests of the Transport Directorate to the State Treasury in June 2016 approved to a non-governmental organization MANS No. 16/93448-93462; Payment requests of the Transport Directorate to the State Treasury in July 2016 approved to a non-governmental organization MANS No. 16/95362.

⁸³ The exact amount is €181,577.

⁸⁴ The exact amount is €783,132.

⁸⁵ The exact amount is €1,030,329.

⁸⁶ The exact amounts are €358,887, €353,862, €179,914, €108,904 and €28,762.

⁸⁷ Decisions of the Transport Directorate to NGO MANS on the basis of the Law on Free Access to Information No. 16/98985, 16/102206 and 16/103852.

⁸⁸ Source of the data is the SAP system, which is kept electronically, and it refers to the total spending of the State Treasury of the Ministry of Finance; NGO MANS received this data from the Ministry of Finance on the basis of the Law on Free Access to Information.

local governments where the ruling party was in power. Thus, Niksic received €65,000, Podgorica €55,000, Danilovgrad €55,000, Mojkovac €45,000, Savnik €40,000, Cetinje and Petnjica €35,000, each. The Municipality of Zabljak received €33,500, Rozaje €30,000, Pljevlja and Pluzine each received €25,000, Andrijevica and Bijelo Polje €20,000 each, and Plav and Bar each received €10,000, Tivat €5,000, whereas the Municipality of Berane, where the ruling party is not in power, received only €2,000.

The Ministry of Agriculture provided funds to the municipal districts, so the municipal districts Krusevice and Prijevor in the Municipality of Herceg Novi were each awarded €25,000. Two other municipal districts in Herceg Novi - Kumbor and Baosici - received the sum of €5,000 each from the Ministry, while a total of €10,000 thousand was set aside for the municipal district Kaludra in Berane. The municipal district Mrtvo duboko in Kolasin was granted €4,000 in May and the same sum was granted to the municipal district Kalace in Rozaje. In addition, Podgorica-based Vodovod i kanalizacija d.o.o. (Water Supply and Sewerage Company) received around €55,000, but certain primary schools also received grants totaling several thousand euros.

However, the Ministry of Agriculture's 2015 budget allocated for the local infrastructure amounted to €1.2 million. However, right before the end of the year, the Ministry redirected half a million to the municipalities and municipal districts.

In practice, this meant that the municipalities could report these funds in 2016 budgets as "transferred funds" from the previous year, and then use them for construction works in the election year.

2.3.4. Expenditure of local governments for infrastructure

Seven Montenegrin municipalities, in which almost 60 percent of the electorate of Montenegro votes, during the three election months invested in local infrastructure three times more than in any month in the first semester of the current year.

MANS monitored spending for infrastructure works in the ten largest municipalities, of which we requested information on the basis of the Law on Free Access to Information on a monthly basis.⁸⁹

The Municipalities of Podgorica, Herceg Novi, Kotor, Tivat, Pljevlja and Cetinje⁹⁰ spent around €6.3 million for the local construction works in the pre-election period⁹¹, as opposed to €4.5 million⁹², which was the sum spent in the first two quarters of this year.

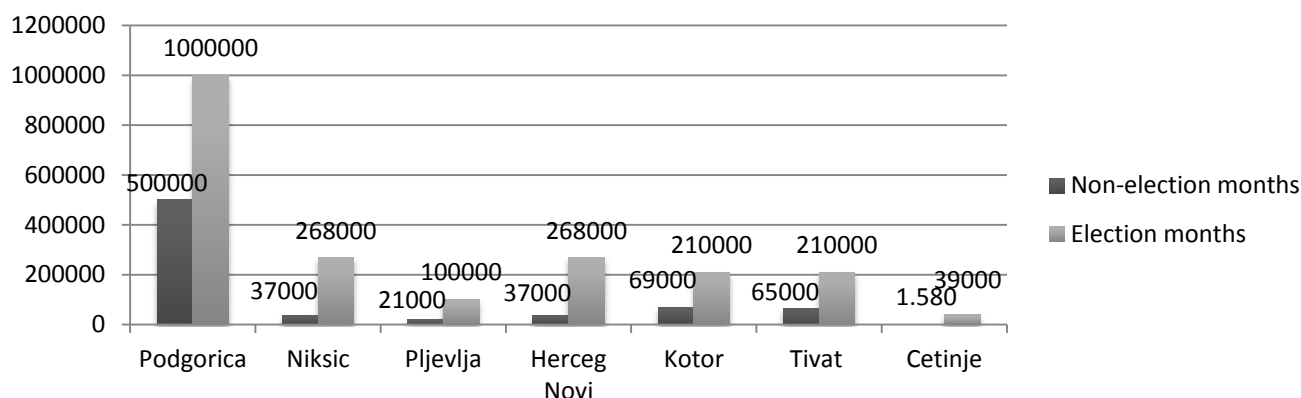
⁸⁹ Spending was monitored in the following municipalities: Podgorica, Niksic, Pljevlja, Kotor, Herceg Novi, Budva, Bar, Cetinje, Berane, Mojkovac; Rozaje and Bijelo Polje, which are considered larger municipalities in Montenegro, did not deliver the data in the requested form.

⁹⁰ 528,817 voters were eligible to vote in the parliamentary elections, out of which 309,566 were voters from these municipalities, which is 58.5 percent of the total electorate, <http://www.mup.gov.me/vijesti/165813/Numericki-tabelarni-prikaz-podataka-o-promjenama-u-BS-7-10-2016.html>.

⁹¹ The exact amount is €6,346,818; source of the data are statements of accounts of the Capital Podgorica, <http://www.podgorica.me/informacije-u-skladu-sa-zakonom-o-finansiranju-politickih-subjekata-i-izbornih-kampanja>; Municipality of Herceg Novi: <http://www.hercegnovi.me/sr/2016/2016-07-19-06-39-37>; Municipality of Niksic: <http://niksic.me/parlamentarni-izbori-2016/>; Municipality of Kotor: <http://kotor.me/me/izbori-2016>; Municipality of Tivat: http://opstinativat.com/index.php?option=com_content&view=article&id=2699:finansijski-izvjestaji-parlamentarni-izbori-2016&catid=9&Itemid=101&lang=me; Municipality of Pljevlja: <http://www.pljevlja.me/navigacija.php?naziv=Parlamentarni-izbori-2016--godine&IDSP=2366>; Municipality of the royal capital Cetinje: <http://www.cetinje.me/index.php/me/dokumenta/izvjestaji-zakon>.

⁹² The exact amount is €4,557,617; source of the data are statements of accounts for the first six and a half months of 2016, which MANS collected on the basis of the Law on Free Access to Information; Decisions of the Secretariat for Finance of the Capital Podgorica numbers 16/83462-83469, 16/85126-85135, 16/87987-87996, 16/90407-90416, 16/93731 -9374016/95316-95325; Decisions of the Secretariat for Finance, Tourism and Economic Development of the Municipality of Herceg Novi, numbers 16/89409- 89419, 16/89440-89450, 16/89481-89491, 16/89527-89537, 16/90828-90838, 16/94094 -94105, 16/95377-95388; Decisions of the Secretariat for Finance and

The Capital Podgorica spent €3.27 million in the election period for the local infrastructure or, on average, about a million per month. In six and a half non-election months the Capital spent half a million, **so the expenditures were doubled during the election campaign.**



Graph 16: Comparison of average monthly expenditures in non-election and election parts of the year

The **Municipality of Niksic** spent €780,000 in the three election months, or an average of €260,000 a month. At the same time, the official figures show that in the first half of 2016 the Municipality set aside around €37,000 a month for local works, which means that the expenditure increased **sevenfold**.

The **Municipality of Pljevlja** spent €307,000 in the three election months or 100,000 per month, while it averaged €21,000 a month. Therefore, the increase in the monthly average during the election period was **fivefold**.

It is interesting that the coastal municipalities, which suspend work during the season, spent significantly more money for the construction of local infrastructure in that period than in the course of preparation for the season.

Municipality of **Herceg Novi** spent €804,000 during the election period for the local infrastructure, or an average of €268,000 per month, while in the first six months this year it spent €240,000 or €37,000 per month, which means that the expenditure **increased sevenfold during the pre-election campaign.**

In the election period, the **Municipality of Kotor** spent averagely €210,000 per month and in three months spent a sum of €630,000, unlike the non-election period when it used to spend averagely €69,000 per month and for six months spent €450,000, thus increasing the sum **threefold**.

Furthermore, the **Municipality of Tivat** earmarked €630,000 for the local infrastructure, which is averagely €210,000 per month, **three times more** compared with non-election period, when it was spending €65,000 on a monthly basis.

Entrepreneurship Development of the Municipality of Niksic numbers 16/83420-83433, 16/85112-85123, 16/87948-87959, 16/90,533-90544, 16/93715-93726, 16/94928 -94990; Decisions of the Secretariat for Local Revenue, Budget and Finance of the Municipality of Kotor No. 16/89333-89346, 16/89347-89360, 16/89361-89374, 16/89375-89388, 16/91028-91041, 16/ 94039-94053, 16/95186-95200; Decisions of the Secretariat of Finance and Economic Development of the Municipality of Tivat numbers 16/82451-82459, 16/82467-82468, 16/82479-82487, 16/82903-82911, 16/82912-82923, 16/85029- 85040, 16/90446-90457, 16/93696-93707, 16/94859-94867, 16/95277-95283; Decisions of the Secretariat for Finance of the Municipality of Pljevlja No. 16/86448-86459, 16/86508-86519, 16/86631-86642, 16/88044-88055, 16/91073- 91089, 16/93866-93877, 16/94939-94951; Decisions of the Secretariat for Finance and Enterprise Development of Cetinje No. 16/88854-88866, 16/88749-88761, 16/88922-88934, 16/88948-88960, 16/91043-91055, 16/94069-94081 and 16/95389-95401.

Finally, the **Municipality of Cetinje** spent €9,500 or €1,500 a month, whereas in the election period it spent €118,000 or €39,000 a month. That means that this type of expenditure increase **26 times**.

Case study: Money diverted for works in Podgorica

Mayor of Podgorica Slavoljub Stijepovic, during the election campaign, amended the Budget of the Capital for 2016 and increased funds earmarked for the local infrastructure in Tuzi by €345,000.

First, on 29 August, Stijepovic adopted a special conclusion⁹³ and increased funds for the local infrastructure in Tuzi by €180,000, of which €140,000 was earmarked for the rehabilitation of local roads and the remaining €40,000 for the construction and reconstruction of public lighting.

Less than a month later, on 22 September 2016, Stijepovic adopted a new conclusion⁹⁴ and allocated an additional sum of €165,000 for the City District Tuzi. Thus, an amount of €150,000 was allocated for reconstruction and rehabilitation of roads in the area of Tuzi, and €15,000 for the construction and reconstruction of public lighting in the area. The funds were diverted from the expenditures for capital projects in the Capital that were not implemented as planned.

Na osnovu člana 46 Zakona o budžetu i fiskalnoj odgovornosti („Službeni list CG“, br. 20/14 i 56/14) i člana 74 Statuta Glavnog grada („Službeni list RCG – opštinski propisi“ br. 28/06 i „Službeni list CG – opštinski propisi“ br. 39/10 i 18/12) Gradonačelnik Glavnog grada Podgorice, donosi –

ZAKLJUČAK

U Posebnom dijelu Odluke o Budžetu Glavnog grada Podgorice za 2016. godinu („Službeni list CG – opštinski propisi“, br. 49/15) vrši se preusmjeravanje sredstava po pojedinim namjenama u okviru potrošačke jedinice Sekretarijat za finansije:

- u okviru pozicije „Izdaci za građevinske objekte“ (ek.klasa 4413) – investicija „Sportska dvorana u Tuzima“ smanjuje se za 110.000,00 €, tako da ova pozicija iznosi 4.896.000,00 €;
- u okviru pozicije „Investiciono održavanje“ (ek.klasa 4416) – investicija „Izgradnja i adaptacija objekata kulture za potrebe MZ Karabuško polje i Milješ“ smanjuje se za 70.000,00 €, tako da ova pozicija iznosi 1.253.000,00 €;

za iznos smanjenih pozicija, vrši se povećanje visine sredstava na:

- na poziciji „Izdaci za lokalnu infrastrukturu“ (ek.klasa 4412) za investicije: „Rekonstrukcija i sanacija saobraćajnica na području GO Tuzi“ u iznosu od 140.000,00 € i „Izgradnja i rekonstrukcija javne rasvjete na području GO Tuzi“ u iznosu od 40.000,00 €, tako da ova pozicija iznosi 14.430.000,00 €.

Za realizaciju ovog Zaključka nadležan je Sekretarijat za finansije Glavnog grada.

Broj: 01-031/16-6255
Podgorica, 29.08.2016. godine

GRADONAČELNIK,
Slavoljub Stijepović

Figure 34: Conclusion of Mayor of Podgorica on diverting funds, August 2016

Na osnovu člana 46 Zakona o budžetu i fiskalnoj odgovornosti („Službeni list CG“, br. 20/14 i 56/14) i člana 74 Statuta Glavnog grada („Službeni list RCG – opštinski propisi“ br. 28/06 i „Službeni list CG – opštinski propisi“ br. 39/10 i 18/12) Gradonačelnik Glavnog grada Podgorice, donosi –

ZAKLJUČAK

U Posebnom dijelu Odluke o Budžetu Glavnog grada Podgorice za 2016. godinu („Službeni list CG – opštinski propisi“, br. 49/15) u okviru potrošačke jedinice Sekretarijat za finansije na poziciji „Izdaci za lokalnu infrastrukturu“ (ek.klasa 4412) izvrši se preusmjeravanje dijela sredstava sa stavke „Izgradnja pješačkog mosta na rijeci Cijevnoj kod Dinoše“ iznos od 165.000,00 € na stavku „rekonstrukciju i sanaciju saobraćajnica na području GO Tuzi“ u iznosu od 150.000,00 € i „izgradnju i rekonstrukciju javne rasvjete na području GO Tuzi“ u iznosu od 15.000,00 €.

Za realizaciju ovog Zaključka nadležan je Sekretarijat za finansije Glavnog grada.

Broj: 01-031/16-6889
Podgorica, 22.09.2016. godine

GRADONAČELNIK,
Slavoljub Stijepović

Figure 35: Conclusion of Mayor of Podgorica on diverting funds, September 2016

Case study: Military of Montenegro cleared land for road construction

During the pre-election campaign, the Military of Montenegro took part in infrastructure works on the territory of the Capital. In July 2016, the Ministry of Defense signed two business and technical cooperation agreements with the Capital Podgorica related to the expansion and reconstruction of several roads in the inaccessible area of Podgorica.⁹⁵

Through these agreements the Military bound itself to expand and reconstruct several roads, free of charge, by using its own manpower and machinery, as well as clear shrubs on the local roads. The

⁹³ Conclusion of Mayor of Capital Podgorica No. 01-031/16-6255, 29 August 2016, approved to NGO MANS by Decision No. 16/99055.

⁹⁴ Conclusion of Mayor of Capital Podgorica No. 01-031/16-6889, 22 September 2016, approved to NGO MANS by Decision No. 16/102082.

⁹⁵ Business and Technical Cooperation Agreements No. 7875-988/1 dated 11 July 2016 and No. 8597-1092/1 dated 29 July 2016 approved by the Ministry of Defense to NGO MANS by Decision No. 16/95679.

agreements state that the objective of the military engagement is hands-on training of its members for the future tasks in war and peacetime, and support to the civilian population.

The Capital committed to providing the fuel needed for the operation of the machinery.

Case study: Citizens offered votes in exchange for „asphalt“

On the eve of parliamentary elections, the media published several articles in which citizens claimed that streets were being rehabilitated only to the voters of the ruling party, and that citizens had offered votes in exchange "for asphalt".

Thus, a resident of a suburban settlement in the municipality of Niksic, during the election campaign, promised in public to provide 30 votes to that political group which "brings asphalt" to their homes.⁹⁶

Locals in the suburbs of Podgorica,⁹⁷ Kolasin⁹⁸ and Gusinje⁹⁹ have claimed that the roads in some areas are only paved for the voters of the ruling party. Residents of Golubovci in the Municipality of Podgorica also claimed that the city government only paved streets occupied by the voters of the ruling party.¹⁰⁰

2.4. One-off payments and loans

Official data show that costs for one-off benefits to the poorest groups - socially vulnerable people, laid-off workers and farmers – increase manifold before and immediately after the election. On the eve of the election, interest rates to companies and farmers from the Investment and Development Fund, the operation of which is shrouded in secrecy, were reduced.

Alleged log of a prominent representative of the ruling party, which was published in the media during the pre-election period, shows that just one-off cash payments and loans, in addition to employment, were the key mechanisms of vote buying at the local level.

2.4.1. Electricity subsidies for the socially vulnerable

The Ministry of Economy paid nearly the entire annual budget planned for electricity subsidies just before the entry of the opposition representatives into the Government of Electoral Trust, the revised budget doubled that figure right after the election.

In the election year, the government projected a sum of €2.1 million¹⁰¹ for electricity subsidies for the socially vulnerable. After the parliamentary elections, the revised budget¹⁰² doubled that figure, so by the end of 2016 a total of €4.5 million will be paid for this purpose.

⁹⁶ Article of the daily "Vijesti", "30 votes to that who paves the road", 31 August 2016, <http://www.vijesti.me/vijesti/ko-asfaltira-put-dobija-30-glasova-901791>.

⁹⁷ Article of the daily "Dan", "Asphalt over asphalt for DPS voters", 11 October 2016, www.dan.co.me/?nivo=3&rubrika=Podgoricom&datum=2016-10-11&clanak=567959&naslov=Asfalt%20preko%20asfalta%20za%20glasa%E8e%20DPS-a.

⁹⁸ Article of the daily "Vijesti", "Agreement between the director of "Putevi" and the locals: €20,000 to be invested in Lijeva Rijeka", 7 September 2016, <http://www.vijesti.me/vijesti/dogovor-direktore-puteva-i-mjestana-u-lijevu-rijeku-ulazu-20000-eura-902663>.

⁹⁹ Article of the daily "Dan", "Paving roads to reliable voters", 3 October 2016, www.dan.co.me/?nivo=3&rubrika=Regioni&clanak=566741&datum=2016-10-03&naslov=Asfaltiraju%20dosigurnih%20glasa%E8a.

¹⁰⁰ "Dan", "Migo to come and soil his shoes", 30 August 2016, www.dan.co.me/?nivo=3&rubrika=Podgoricom&clanak=562213&datum=2016-08-30&naslov=Migo%20da%20do%20F0e%20daisprlja%20cipele.

According to the official data of the Ministry of Economy¹⁰³ nearly the entire sum, i.e. almost €2 million¹⁰⁴ was paid out in late April and early May 2016, just before the entry of the opposition representatives into the Government of Electoral Trust.

The Draft Law amending the Budget Law of Montenegro,¹⁰⁵ which the Ministry of Finance, led by an opposition candidate, prepared in early July 2016, did not foresee increase of subsidies for electricity for the socially vulnerable. In November, however, the government established a different Draft amending the Budget Law for 2016,¹⁰⁶ which was adopted at the end of the same month,¹⁰⁷ increasing the subsidies for electricity by additional €2.5 million.

Rebalans 07/2016.

	418	Subvencije	2.130.000,00
0490	4181	Subvencije za proizvodnju i pružanje usluga	2.130.000,00
	419	Ostali izdaci	103.705,00

Rebalans 11/2016.

	418	Subvencije	4.632.862,61
0490	4181	Subvencije za proizvodnju i pružanje usluga	4.632.862,61
	419	Ostali izdaci	103.705,00

Figure 36: Excerpt from proposed revised budget of July 2016 and adopted revision of November 2016

According to the official data, the number of the socially vulnerable beneficiaries of the subsidies for electricity in the first ten months of the election year of 2016 increased to 1,200.¹⁰⁸

Specifically, in January 2016, there were 18,782 registered beneficiaries, while by the end of August, the number increased to 19,982.¹⁰⁹

¹⁰¹ Law on Budget of Montenegro for 2016, Official Gazette of Montenegro 79/15; link:

<http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag={8AF90021-7610-4C09-89EC-7C232F5177C1}>.

¹⁰² Draft law amending the Law on Budget of Montenegro; link: <http://www.skupstina.me/zakoni/web/dokumenta/zakoni-i-drugi-akti/3/1276-8323-33-16-5.pdf>.

¹⁰³ Ministry of Economy's budget for subsidies aimed at production and providing of services to the Program: Development of Energy, Mining and Economy, approved to the non-governmental organization MANS by the Decision of the Ministry of Economy on 17 May 2016 under number 16/87363-87364.

¹⁰⁴ Exact sum is €1,991,430.

¹⁰⁵ Draft law amending the Law on Budget of Montenegro for 2016, No. 03-10729/1, 4 July 2016.

¹⁰⁶ Proposal for the Law on Amendments to the Budget Law of Montenegro; link:

<http://www.skupstina.me/zakoni/web/dokumenta/zakoni-i-drugi-akti/3/1276-8323-33-16-5.pdf>

¹⁰⁷ The Parliament of Montenegro adopted the Proposal for the Law on Amendments to the Budget Law of Montenegro at the session held on 25 November 2016, link: <http://www.skupstina.me/zakoni/web/dokumenta/zakoni-i-drugi-akti/3/1276-8356-.pdf>

¹⁰⁸ Decision of the Ministry of Labor and Social Welfare to the NGO MANS, No. 16/99074, 9 November 2016.

¹⁰⁹ Until the end of November 2016, on the basis of the Law on Free Access to Information, MANS did not get the data on the number of beneficiaries for September of the same year.

Case study: Suspicious social assistance in the Municipality of Bar

During the election campaign, the Center for Social Welfare paid a 50-euro financial assistance to 47 persons at the request of the Municipality of Bar, although the amounts of social benefits depend on specific requirements of beneficiaries. The Center did not provide detailed information a month and a half after submitting the request.

Right before announcing the parliamentary elections in Montenegro, the Municipality of Bar approved payment of equal amounts of €50 to 47 socially vulnerable persons.

At the end of June 2016, on the basis on the information on making one-time cash payments, which the Center for Social Welfare delivered to the Ministry of Labor and Social Welfare,¹¹⁰ the Municipality of Bar submitted a request for making one-time cash payments to 47 persons in the amount of €50, which is a total of € 2,350.

This payment was approved, and **in July 2016 a month which marked the beginning of the election campaign, the Center for Social Welfare began paying the social assistance.**¹¹¹

However, it is unclear why the Municipality of Bar asked for paying social assistance through the Center for Social Welfare, given that it has its Secretariat for Social Welfare which has its own budget and also pays cash benefits to socially vulnerable citizens. In addition, the amounts of cash benefits depend on each specific requirement of beneficiaries, and it is more than obvious why each payment amounted to €50.

On 19 October,¹¹² Based on the Law on Free Access to Information, MANS requested the Center for Social Welfare from Bar to submit all decisions on the granted aid, but by the end of November 2016, the required information was not delivered.

2.4.2. Increase funds for severance payments

Immediately after the election, the revised budget doubled the amount provided for the payment of workers' severances during 2016 and is now almost three times higher than in the previous, non-election year.

In the election of 2016, originally planned amount was €3.3 million¹¹³ severance payments, as opposed to the non-election 2015, when the sum allocated was a million less.¹¹⁴

When the end of May 2016, the Government of Electoral Trust¹¹⁵ was elected, an opposition candidate became the Minister of Finance. In early July 2016, the Ministry of Finance prepared the Draft Law amending the Law on Budget of Montenegro for 2016.¹¹⁶ The draft revised budget did not alter the amount of severance payments.

¹¹⁰ Information on making one-time cash payments, No. 0101-3403, 10 October 2016.

¹¹¹ Link: www.csrcg.me/izvještaj_analitičke_kartice/pomoći

¹¹² Requests of NGO MANS towards the Center for Social Welfare Bar, No. 16/102544-102563, 16/102565-102570, 16/102571-102590.

¹¹³ Law on Budget of Montenegro for 2016, Official Gazette of Montenegro No. 79/15; link: <http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag={8AF90021-7610-4C09-89EC-7C232F5177C1}>.

¹¹⁴ Law on Budget of Montenegro for 2015, Official Gazette of Montenegro No. 59/14; link: <http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag={D7C0D146-D625-4317-8B50-A018AD08AD04}>.

¹¹⁵ Link: <http://www.skupstina.me/zakoni/web/dokumenta/zakoni-i-drugi-akti/1076/1129-7289-23-3-16-1.pdf>

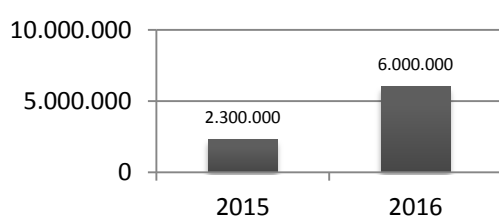
¹¹⁶ Draft Law amending the Law on Budget of Montenegro for 2016, No. 03-10729/1, 4 July 2016.

However, immediately after the parliamentary election, the Parliament was delivered a different draft law amending to the budget for 2016,¹¹⁷ which increased the sum of severance payments from €3.3 million to **six million**. By the end of November, it was not known whether the workers' started receiving the severances on the basis of the budget revision.

Rebalans 07/2016.			
	419	Ostali izdaci	10.151,00
1091	4191	Izdaci po osnovu isplate ugovora o djelu	4.200,00
1091	4192	Izdaci po osnovu troškova sudskih postupaka	500,00
1091	4193	Izrada i održavanje softvera	2.000,00
1091	4194	Osiguranje	451,00
1091	4199	Ostalo	3.000,00
	42	Transferi za socijalnu zaštitu	3.300.000,00
	422	Sredstva za tehnološke viškove	3.300.000,00
1091	4222	Otpremnine za tehnološke viškove	3.300.000,00
	44	Kapitalni izdaci	3.000,00
	441	Kapitalni izdaci	3.000,00
1091	4415	Izdaci za opremu	3.000,00

Rebalans 11/2016.			
	419	Ostali izdaci	10.151,00
1091	4191	Izdaci po osnovu isplate ugovora o djelu	4.200,00
1091	4192	Izdaci po osnovu troškova sudskih postupaka	500,00
1091	4193	Izrada i održavanje softvera	2.000,00
1091	4194	Osiguranje	451,00
1091	4199	Ostalo	3.000,00
	42	Transferi za socijalnu zaštitu	6.058.032,00
	422	Sredstva za tehnološke viškove	6.058.032,00
1091	4222	Otpremnine za tehnološke viškove	6.058.032,00
	44	Kapitalni izdaci	3.000,00
	441	Kapitalni izdaci	3.000,00
1091	4415	Izdaci za opremu	3.000,00

Figure 37: Excerpts from proposed revised budget of July 2016 and adopted revised budget of November 2016



Graph 17: Budget for severance payments in 2015 and 2016

So, in 2016, the total amount of severances for employees is two and a half times higher than in the previous year.

Severances of nearly €2,000 are paid to those employees whose companies stopped working by 2009. The "Tape Recording" affair¹¹⁸ has revealed that severance payments is one of the important mechanisms that the ruling party has used in previous election cycles to influence voters' decisions.

2.4.3. Increased subsidies to farmers

The Ministry of Agriculture paid five times more subsidies to agricultural producers in the pre-election period than in the non-election period of the same year.

In the three election month, the Ministry paid a little over €2 million,¹¹⁹ as opposed to the previous quarter, when it gave only €400,000¹²⁰ for the same purpose.

In July, €417,000 was paid, in August - €331,000 and in September €1.3 million. In the first part of October, or until the date of the parliamentary election, held on 16 October, an additional sum of €48,000 was paid.¹²¹

According to official data from the State Treasury, the Ministry of Agriculture paid nearly €400,000 of subsidies to farmers in April and May, while there were no payments made in June.¹²²

¹¹⁷ Draft Law amending the Law on Budget of Montenegro; link: <http://www.skupstina.me/zakoni/web/dokumenta/zakoni-i-drugi-akti/3/1276-8323-33-16-5.pdf>.

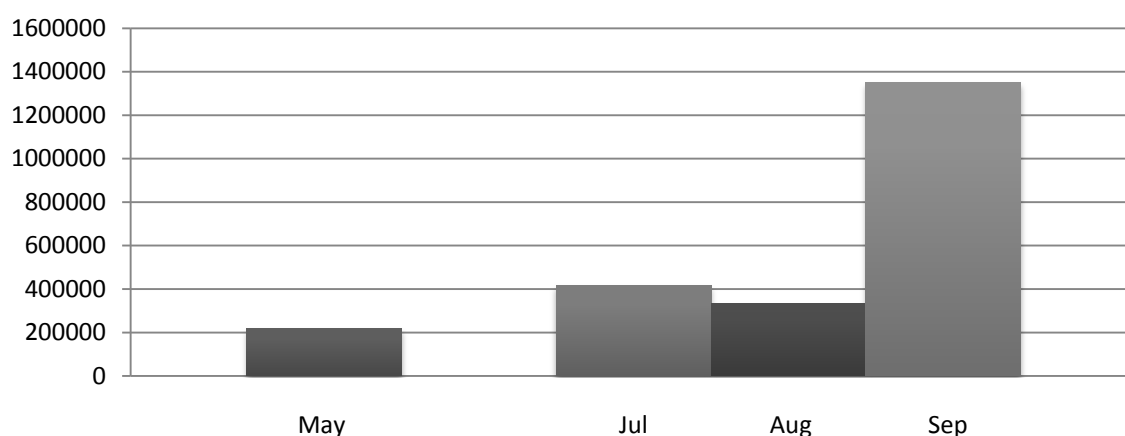
¹¹⁸ "Tape Recording" affair was initiated in early 2013 and refers to transcripts from the sessions of the highest bodies of the ruling DPS party held on the eve of the parliamentary elections of 2012. The highest officials of the DPS exposed on that occasion some of the mechanisms that the ruling party used in pre-election periods, such as the payment of social welfare, severance payments for employees, loans or employment.

¹¹⁹ Expenditure of the Ministry of Agriculture and Rural Development for July, August and September 2016 for subsidies for the production of the program Agriculture and Fisheries, which on the basis of the Law on Free Access to Information which was submitted to NGO MANS under numbers 16/95410, 16/98970 and 16/102134.

¹²⁰ Source of the data is the SAP system, which is kept electronically, and it refers to the total spending of the State Treasury of the Ministry of Finance; NGO MANS received this data from the Ministry of Finance on the basis of the Law on Free Access to Information.

¹²¹ Statements of account of the State Treasury; link: http://www.mif.gov.me/rubrike/analiticke_kartice_i_putni_nalozi/analiticke_kartice/

¹²² MANS does not possess data on how much money was paid in the first three months, as the State Treasury documentation was not delivered in the requested form for that period. Therefore, it is not possible to determine what sum was allocated.



Graph 18: Payments of Ministry of Agriculture for subsidies to agriculture producers

Comparative data from 2015,¹²³ in which there were no elections, show that €1.8 million was paid in July, August and September that year for subsidies to farmers. Subsidies are paid according to the agricultural budget, which the government adopts at the beginning of each year, and serve to promote the development of agriculture in the country.

2.4.4. Interest rates of state loans lowered before elections

On the eve of parliamentary elections, the Investment and Development Fund reduced interest rates and fees for loan processing, especially for projects implemented in less developed municipalities.

In September 2016, a month ahead of the parliamentary elections, the IDF reduced the interest rate from 4.5 percent to 4 percent for projects in agriculture. According to data from the website of this state institution, around €3.6 million was paid to 112 beneficiaries¹²⁴ on the grounds of loans to agricultural producers. However, it is not possible to determine how much of that amount was paid in the three election months because the IDF does not display information on the dates and months in which the loans were granted.

On the eve of the elections, the Investment and Development Fund (IDF) also changed its earlier decision on crediting 23 support programs for 2016,¹²⁵ by correcting credit terms for as many as 11 programs.¹²⁶

These changes reduced the interest rate for the infrastructure, restaurants, hotels and wood-processing projects from five to 4.5 percent. The interest rate for the same projects implemented in the north and less developed municipalities (Cetinje, Niksic and Ulcinj) was further reduced by 0.5 percent.

When it comes to loan processing fee, it was reduced to 0.6 percent, compared to the beginning of 2016, when it stood at 0.75 percent.

¹²³ Source of the data is the SAP system, which is kept electronically, and it refers to the total spending of the State Treasury of the Ministry of Finance for 2015.

¹²⁴ Link: http://www.irfcg.me/images/documents/DokumentaDesniMeni/Dokumenta2016/odbreni_kr-14.11.2016_.pdf.

¹²⁵ Decision on Adoption of Programs of Financial Support of Investment and Development Fund of Montenegro for 2016 (Official Gazette No. 076/15, 28 December 2015), link: <http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag={7E116ACD-4B9C-4159-A66C-A6EA6AB998C7}>.

¹²⁶ Decision on Adoption of Programs of Financial Support of Investment and Development Fund of Montenegro for 2016, (Official Gazette No. 58/2016, 7 September 2016), link: <http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag={5BE3B3FD-729D-4FAD-A03D-A38303FB5186}>.

Program of financial support	Financial conditions at the beginning of 2016	Financial conditions in September 2016
Crediting of infrastructure projects and crediting projects in the area of environmental protection and energy efficiency	Interest rate 5 percent; Lowered interest rate for direct loans in the north and less developed municipalities by one percent; Fee for direct loans of €1.5 million to €3 million 0.75 percent;	Interest rate 4.5 percent; Lowered interest rate for direct loans in the north and less developed municipalities by 0.5 percent; Fee for direct loans of €1.5 million to €3 million 0.6 percent;

Table 3: Conditions for loan at the beginning of 2016 and a month before elections

2.5.5. "Journal" case

The content of the alleged diary of a prominent representative of the ruling party shows that employment, one-off cash payments and loans the key mechanisms of vote buying at the local level.

A few days before the parliamentary elections, the daily "Dan" published excerpts from an alleged journal of a prominent member of the ruling Democratic Party of Socialists, the head of the Municipality of Gusinje Anela Cekic. The journal reveals some of the instruments of buying citizens' votes during the election campaign, such as employment, cash payments or providing loans.¹²⁷ The DPS official did not react in the media with regard to the excerpts from the journal.

The diary contains the names of the Democratic Party of Socialists who should allegedly contact employees of the Montenegro Post and Tax Administration in order to facilitate employment of the party supporter. In addition, the journal points out that it is necessary to contact the owners of bookmakers, retail stores and pastry shops, so that they could talk to their employees, while schools will the schools will strictly employ along the party line. The journal contains the names of those persons as well.

In the alleged journal, Cekic mention that one of the local inhabitants should get a heifer from the Ministry of Agriculture, with the attached decision that he has been entered in the agricultural registry of the Ministry. The diary further states that the Ministry paid €20,000.

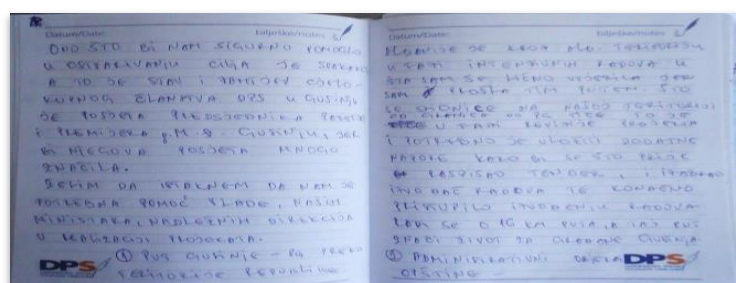


Figure 38: Copy of the alleged journal of Anela Cekic, head of the Municipality of Gusinje

According to excerpts from the journal, Gusinje should be visited by ministers of the ruling party in order to promise money for agricultural projects. It is specified that it is necessary to pave a part of the local roads and along the river Grncar. In addition, it is mentioned that it is necessary to speed up the activities on selection of the contractor that would construct the section of the road Podgorica-Gusinje, 16 kilometers long, which is of "vital importance for the citizens of Gusinje."

¹²⁷ Article in the daily "Dan", "Employ strictly along party lines", 12 October 2016, <http://www.vijesti.me/vijesti/zaposljava-strogo-partijski-studente-placati-30-eura-na-kosovu-pritiskajte-preko-ambasade-907155>.

The journal also provides the list of people living abroad and have the right to vote in Gusinje and who should come to Montenegro right before the election. According to the journal, voters from the diaspora were paid €250 each to come to vote, with the exception of voters from Slovenia, who were supposed to get €200.

Figure 39: List of students from the alleged journal of A. Cekic

Among the documents, there is a list of 43 students from Gusinje. The list contains the places of studies, as well as the amount of €30, which will be paid as travel expenses to each who comes to support the ruling party.

Furthermore, the journal states that the Association of Pensioners in Gusinje has 250 members, of whom 90 percent of the votes should be provide. According to the projection, to achieve that, postal voting should be enabled for 50 percent of them.

3. ACCESS TO INFORMATION OF FINANCING POLITICAL PARTIES

Most of the political parties were not ready to publish all information on the election campaign financing, making it impossible to check the information given in their official reports. Therefore, neither sources of funding, nor the costs of the campaign can be realistically considered. The Agency for Prevention of Corruption contributed further to reducing the transparency of financing political parties by failing not publish any data on party financing that it had in its possession.

3.1. Legal framework

Political entities can be financed from public and private funds.¹²⁸ Law on Financing Political Parties and Electoral Campaigns envisages the **total budget** for campaign financing to be 0.25% of the current budget. These funds are allocated so that 20% of this amount is allocated in equal amounts to all political entities which electoral lists have been confirmed, while the remaining 80% of the funds is allocated after the election, based on the number of seats won.¹²⁹

The maximum amount that a political entity can collect from **private sources** for the purpose of the campaign is thirtyfold the amount the state allocated after the confirmation of the electoral list¹³⁰. The total value of individual **contributions** paid by a natural entity may not exceed €2,000, or €10,000 by legal entities.¹³¹ Contributions are also considered to be non-monetary grants which value is calculated at market prices, including provision of any goods or services at a discount.

Political entities shall not receive any kind of material, financial or in-kind contributions from: other countries, companies and legal entities outside the territory of Montenegro, private individuals and entrepreneurs who are not entitled to vote in Montenegro, anonymous donors, public institutions, legal entities and business organizations in which the state has shares, trade unions, religious groups and organizations, non-governmental organizations, casinos, bookmakers and other organizers of games of chance.¹³² Persons convicted of criminal acts with the elements of corruption or organized crime may

¹²⁸ Law on Financing of Political Entities and Electoral Campaigns, Article 3.

¹²⁹ Ibid, Article 14.

¹³⁰ Ibid, Article 17.

¹³¹ Ibid, Article 21.

¹³² Ibid, Article 24.

not finance political entities. Such persons are prohibited from conducting public campaigns on behalf/or for the needs of political entities.¹³³ Political entities may not receive contributions from legal entities, business organizations and entrepreneurs including related legal and natural entities that under a contract with competent authorities carried out activities in the public interest or have concluded contracts in a public procurement procedure, two years before the election.

Every political entity shall open a **separate bank account**, via which all payments shall be made and only for the purpose of the campaign.¹³⁴ During the election campaign, every political entity that participates in the election shall submit to the Agency for Prevention of Corruption a report on the contributions on a 15-day basis, which will then be published on the Agency's website.¹³⁵ Each political entity shall prepare a report on the origin, amount and structure funds from public and private sources which are collected and spent for the purpose of the election campaign, and shall submit it to the Agency including supporting documentation, within 30 days from the election day. Agency shall publish these reports on its website.¹³⁶

3.2. Official data on income and expenditure of political parties

According to the official reports of the parliamentary parties, the overall costs of their campaigns amounted to €3.68 million, whereas a bigger share of that money was spent on advertising in the media, billboards and printed material. The available data do not facilitate public control of costs and revenues of the political parties, because many of the important pieces of information are lacking.

After the completion of the election all parliamentary political parties and coalitions submitted reports on the election campaign financing to the Agency for Prevention of Corruption (ASK). This document analyzes the data on income and expenditure of the political parties that received parliamentary status. Joint reports were submitted by the Democratic Party of Socialists (DPS) and the Liberal Party (LP), which formed the coalition *Safe step*; New Serbian Democracy (NOVA), Movement for Changes (PZP) and the Democratic People's Party (DNP), as the coalition *Democratic Front*; Democratic Union of Albanians (DUA), Albanian Alternative (AA) and FORCA as the coalition *Albanians decisively*; and Socialist People's Party (SNP), DEMOS and Civic Movement URA (*the Key Coalition*). Other parties which are included in this study are the Democratic Montenegro, Social Democratic Party (SDP), Social Democrats Montenegro (SDCG), Croatian Civic Initiative (HGI) and the Bosniak Party (BS) submitted individual reports.

¹³³ Ibid.

¹³⁴ Ibid, Article 22.

¹³⁵ Ibid, Article 42.

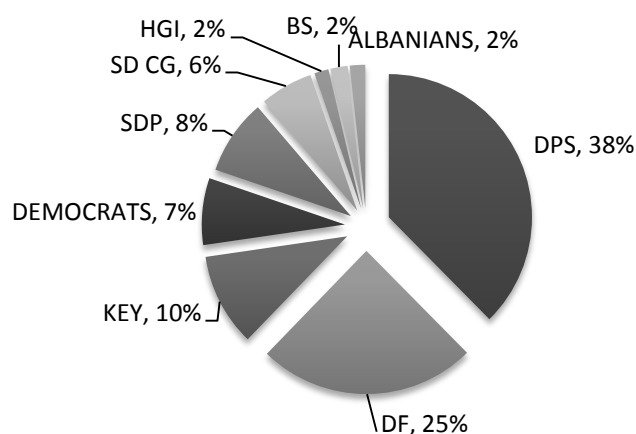
¹³⁶ Ibid, Article 39.

3.2.1. Official information on election campaign costs

The total cost of the campaigns of all political parties amounted to €3.68 million, according to the official reports submitted to the Agency.

The two major political parties, DPS and DF, incurred almost two-thirds of the total cost of the campaign. The ruling DPS reported the largest sum of as much as €1.38 million, whereas DF reported 0.9 million.

The parties earmarked the most money for advertising in the print and electronic media, then for commercials, billboards and material printing. About two-thirds of the total funds for the campaign was spent for these purposes.



Graph 19: Share of the party in the total costs of the campaign (according to official figures)

The table below contains information on the costs of the parties, presented by categories.

	Media buy	Commercials, billboards and material printing	Promotion costs	Public opinion poll	Cost of members of polling station committees	Transport costs	Other costs	Total
DPS	€ 536,895	€ 468,818	€ 279,817	€ 21,315	€ 52,713	€ 24,655	€ 1,691	€ 1,385,901
DF	€ 496,368	€ 242,234	€ 52,046	€ -	€ 23,310	€ 2,440	€ 31,359	€ 907,757
KEY	€ 242,345	€ 105,068	€ 25,093	€ -	€ -	€ 12,752	€ 610	€ 385,864
DEMOCRATS	€ 120,822	€ 115,348	€ 8,333	€ -	€ 1,500	€ 13,851	€ 18,252	€ 278,105
SDP	€ 158,731	€ 74,396	€ 31,330	€ 8,019	€ 8,035	€ 6,751	€ 25,913	€ 313,175
SD CG	€ 83,977	€ 92,855	€ 31,262	€ -	€ -	€ 11,000	€ 974	€ 220,067
HGI	€ 3,498	€ 41,865	€ 962	€ -	€ 2,630	€ 2,239	€ 7,977	€ 59,171
BS	€ 6,664	€ 27,077	€ 5,401	€ -	€ 8,575	€ 15,000	€ 9,079	€ 71,796
ALBANIANS	€ 4,760	€ 22,087	€ 15,027	€ 9,110	€ 1,280	€ 9,764	€ 1,772	€ 63,800

Table 4: Official information on individual parties' costs of pre-election campaign

Published reports contain only the total amounts paid per individual items such as printing promotional material, media buying, etc. In most cases the data presented in reports show no information about suppliers, and in particular do not have information on the amounts of provided materials, billboards or advertising space, so as to be further analyzed.

For example, the Democratic Party of Socialists paid a quarter (€357,000) of its total budget for the election campaign into the accounts of only two broadcasters TV Pink Montenegro and Prva TV, but there is no data on the time slots allocated to the DPS for the money.

On the other hand, the DF earmarked nearly 160,000 for the media buy in the newspapers and on TV *Vijesti*, as well as 37,500 for advertising in the daily "Dan". An additional sum of €217,000 was paid to the company *New Focus Communications* which business is purchase of advertising, but from the

information in the report it cannot be concluded in which media and what was the duration of advertisements. It is interesting that the same company provided services worth €157,000 to the coalition *the Key*.

Renting and printing billboards was one of the single largest items in the political parties' budgets but based on the data from the report it was not possible to determine the number of billboards rented by the individual parties, and neither the name a supplier in some cases.

When it comes to companies that rent billboards, most of the parties opted for two companies - *Montenegro Metropolis Media* and *Monte Pano*. Unlike the others, DF decided to hire a Danilovgrad-based company "Djokovic", dealing in wholesale, in the ownership of DF official.¹³⁷

According to the official reports, the DF paid €116,250 for the services of the said company, which, along with the media buy through advertising agencies was the largest individual invoice in their campaign.

On the other hand, the DPS had the highest costs for renting and printing billboards spending over €167,000 for this purpose but without specifying the supplier.

When it comes to printing promotional materials (T-shirts, caps, flyers, posters, tarpaulins, flags, pads, pendants, lighters and the like), the reports at best states what type of printed material is in question, but in general there is no data on the quantity of printing material.

The DPS set aside as much as €279,817 **for organizing election rallies**, which is more than all other parties together. In addition to the overall figure, DPS's report stated costs of single conventions in each city, without breaking down the costs. According to the report, the cheapest election rally was organized in Bar and cost €238, whereas the most expensive one was organized in Podgorica for €78,867.

It is interesting that, according to the official report, the Grand Coalition the Key and the Social Democrats were the only political entities that did not report the costs of engaging their **activists in the election commissions**.

3.2.2. Official information on sources of funding election campaigns

Official reports of the parliamentary parties show that the ruling parties were predominantly funded through donations from private individuals and from their own resources, whereas the opposition parties conducted campaigns through loans and the expected budget funds. However, there is not sufficient information necessary to analyze the real sources of the election financing.

Data on the election campaign financing submitted by the parties to the Agency for Prevention of Corruption show that there were no donations made by legal entities, but in most cases the parties financed their campaigns from the state budget, through donations from private individuals, loans, but also from its own resources.

The table provides an overview of the data from the reports of the political parties, i.e. an overview of income in a campaign for each party and sources of funding, as well as the comparison between total revenues and officially reported campaign spending.

¹³⁷ Velimir Djokovic is a member of the Main Board and Executive Board of the New Serbian Democracy, <http://www.vijesti.me/vijesti/dokovic-neistine-i-podvale-rtcg-perfidna-montaza-u-emisji-okvir-856875>, <http://www.pretraga.cps.me:8083/Home/PrikaziSlog/17>.

	State budget	Municipal budgets	Donations/ private individuals	Party's resources	Loans	Total assets	Campaign costs	Balance of funds and costs
DPS	€ 22,703	€ -	€ 680,025	€ 686,130	€ -	€ 1,388,858	€ 1,385,901	€ 2,957
DF	€ 22,702	€ -	€ 10,275	€ 30,000	€ -	€ 62,977	€ 907,757	€ (844,780)
KEY	€ 22,702	€ -	€ -	€ 84,000	€ -	€ 106,702	€ 385,864	€ (279,162)
DEMOCRATS	€ 22,702	€ 1,819	€ 2,290	€ 2,700	€ -	€ 28,881	€ 278,105	€ (249,224)
SDP	€ 22,702	€ -	€ 4,500	€ -	€ 210,000	€ 237,202	€ 313,175	€ (75,973)
SD CG	€ 60,820	€ -	€ 34,927	€ -	€ 125,000	€ 220,747	€ 220,067	€ 680
HGI	€ 22,702	€ -	€ -	€ 40,000	€ -	€ 62,702	€ 59,171	€ 3,531
BS	€ 22,702	€ 32	€ 5,500	€ 25,000	€ -	€ 53,234	€ 71,796	€ (18,562)
ALBANIANS	€ 22,702	€ -	€ -	€ 15,000	€ -	€ 37,702	€ 63,800	€ (26,098)

Table 5: Official sources of campaign financing and comparison with official costs

The DPS received the largest amount of **donations from private individuals**, as much as €680,000, which covered half of their election campaign. Other political parties and coalitions received considerably smaller donations of this kind, while the Key, HGI and "Albanians decisively" did not receive any donations from private individuals.

MANS has not been able to analyze the private individuals' donations as the data that political parties submitted to the Agency did not contain unique master citizen numbers of individual donors. In this way, it was impossible to determine with certainty the identity of an individual, and therefore it was impossible to determine if that individual was subject to the restrictions prescribed by the Law on Financing Political Parties. In other words, if there were among the donors such individuals who were convicted of criminal acts with elements of corruption or organized crime or individuals associated with legal persons who on the basis of the contract with the competent authorities carried out activities in the public interest or concluded a contract in a public procurement procedure, two years before the election.

Unique master citizens numbers of the persons who made donations to the political parties were removed from the records in 2011 after the DPS submitted a list of donors to the State Election Commission according to which about two thousand people paid €654,000 in 2010, whereas some of the persons mentioned in the report publicly denied that they had donated the money, reminding that their names and data were misused.¹³⁸

According to the reports, all parties, except for the SDP and the SD, **used their own funds, collected before the campaign**, to cover the costs of the campaign. The DPS used its own resources to cover more than half the total cost of the pre-election campaign. Still, the report which was submitted to the Agency did not comprise the information on the sources of these funds, whether they were donations, membership fees, budget funds or funds from other sources and whether they meet the limitations prescribed for campaign financing.¹³⁹

Only two parties financed their campaigns through **loans** - the Social Democratic Party and the Social Democrats of Montenegro. The official data show that the ruling party and its coalition partners covered expenses with revenues, with the exception of the Bosniak Party and the coalition of Albanian parties.

¹³⁸ <http://www.vijesti.me/vijesti/drzavna-izborna-komisija-povukla-spisak-donatora-dps-a-sa-sajta-21318>

¹³⁹ For example, restrictions on the maximum amount of funds that can be paid by an individual for the purpose of campaign financing, or other restrictions pertaining to private companies that do business with the state, persons convicted of corruption, etc.

However, the reports do not make a clear distinction between the calculated and paid funds, so from them it can be concluded that all the opposition parties ran up debts on account of the expected budget funds. However, the question is what was paid and what was not, or who guaranteed for payment of expenses worth hundreds of thousands of euros.

Neither the Agency for Prevention of Corruption, nor the parties published invoices and contracts with suppliers on the basis of which the spending could be analyzed, including the documents which confirmed giving grants and bank statements in order to assess the funds available to the parties and the dynamics of paying specific expenses. Therefore it was not possible to realistically examine neither revenues nor expenses of the political parties.

A more in-depth control of the election campaigns' costs had to be carried out by the Agency for Prevention of Corruption, which determined that all political entities, except for the DF, met that the conditions for disbursement of the budget funds proportionate to the number of seats in the Parliament. On the other hand, the Agency informed the Ministry of Finance that it was necessary to make a temporary suspension of transferring the DF's budget funds until the completion of misdemeanor procedures which were launched against the coalition.

As the reason for launching the procedures and "freezing" the budget funds, the Agency stated that the DF failed to provide the complete documentation, i.e. that revenues and expenditures were not transparently shown in the report. At the same time, the Agency stated that it submitted the DF's entire documentation to the Prosecutor's Office for further action.¹⁴⁰ These decisions are not available at the Agency's website.

3.3. Access to data on contracts, invoices and bank statements of parties

Most parliamentary parties keep key information on campaign financing hidden. Neither invoices nor contracts are available, so the data about suppliers and quantities is missing, it is not known which payments have been made, and which delayed, donations to the parties cannot be checked, nor loans, including sources of their own funds. Only Democrats of Montenegro and Croatian Civic Initiative published all contracts and invoices related to the cost of the election campaign, the Democratic Front published few pieces of the data, as well as FORCA, while the DPS, Key, SDP, SD and BS concealed the information. The Agency for Prevention of Corruption contributed further to reducing the transparency of financing political parties by failing to publish all the data on party financing that it had in its possession.

On the basis of the Law on Free Access to Information, MANS requested from all political parties to submit the information about their revenues and expenditures. Namely, all the parliamentary parties that participated in the elections are mostly financed from public funds and therefore are obliged to observe the Law on Free Access to Information.¹⁴¹ On the other hand, non-parliamentary parties have no obligation to publish information in accordance with this Law, until they receive funds from the state budget to finance the election campaign, which was conducted after the conclusion of this report.

¹⁴⁰ <http://www.antikorupcija.me/me/kontrola-politickih-subjekata-izbornih-kampanja/aktuelnosti/saop%C5%A1tenje-za-medije-2016-11-24/>

¹⁴¹ "Public authority shall mean a state authority (legislative, executive, judicial, administrative), local self-government authority, local administration authority, institution, company and any other legal person founded or co-founded by the state or in majority ownership of the state or local self-government, legal person mainly financed from public resources, as well as a natural person, entrepreneur or legal person having public responsibilities or managing public funds" (Article 9 of the Law on Free Access to Information).

All political entities which received parliamentary status in the election assumed the obligation in the meantime to adhere to the Law on Free Access to Information.

3.3.1. Access to contracts and invoices

MANS requested from political parties and coalitions, on the basis of the Law on Free Access to Information, information on the cost of advertising in the print and electronic media, renting street billboards, printing informational and promotional materials, advertising on social networks, making promotional videos and leasing venues for holding political gatherings. This documentation is necessary to, for example, determine the exact price at which the party paid ad space or other services and a variety of materials, and whether they were allowed discounts by certain media or suppliers, which would then have to be considered a donation and reported as income.

Cost	Submitted information	Partially submitted information	Information not submitted	
Advertising in the print and electronic media	HGI DEMOKRATE	DF FORCA-DUA-AA	DPS SD BS	KLJUČ SDP
Consulting services and preparation of promotional videos				
Printing and renting billboards				
Printing informational and promotional materials		-		DF KLJUČ SDP
Advertising on social networks				
Leasing venues for holding political gatherings				

Table 6: Overview of published information on political parties expenditures

The HGI is the only party which provided the information about their spending before the election, and after the elections the Democrats followed their example. The Democratic Front delivered only a small part of the data on the costs relating to the media advertising, making video clips and renting billboards. Albanian parties submitted only part of the information on the renting billboards and printing advertising materials. Other parties, including DPS, Key, SDP, SDCG and BS kept all the information on spending secret.

Political parties submitted their reports on campaign expenditure to the Agency for Prevention of Corruption. However, these reports contain only the total amounts paid for individual items, and usually do not contain the information about suppliers, quantities, and duration the media buying, which are necessary to determine whether reports actually reflect the real costs of a campaign.

When the data received from the parties are compared with the information from the website of the Agency, as shown in the table below, it is clear that **only a small part of the total official expenditures of the campaigns can be adequately analyzed.**

Political party	Published invoices and contracts	Costs from parties' reports	Differences
Democratic Party of Socialists	€ -	€ 1,385,901.00	€ (1,385,901.00)
Democratic Front	€ 173,322.00	€ 907,757.00	€ (734,435.00)
Grand Coalition the Key	€ -	€ 385,858.00	€ (385,855.00)
Democratic Montenegro	€ 212,818.00	€ 278,105.00	€ (65,297.00)
Social Democratic Party of Montenegro	€ -	€ 313,175.00	€ (313,175.00)
Social Democrats of Montenegro	€ -	€ 220,067.00	€ (220,067.00)
Croatian Civic Initiative	€ 33,216.00	€ 59,171.00	€ (25,955.00)
Bosniak Party	€ -	€ 71,796.00	€ (71,796.00)
Albanians decisively	€ 21,847.00	€ 63,800.00	€ (41,952.00)

Table 7: Published invoices and contracts compared to costs from parties' reports

At the end of October Council of the Agency pledged director of this institution to publish all the information that they had acquired while controlling the financing of the election campaign, but at the beginning of December this information was still not published. MANS has asked the Agency to submit all the bills and contracts that the institution collected from political parties during conducting control, on the basis of the Law on Free Access to Information. The legal deadline for a response has expired but the Agency has not yet published the data in question.

3.3.2. Access to bank statements

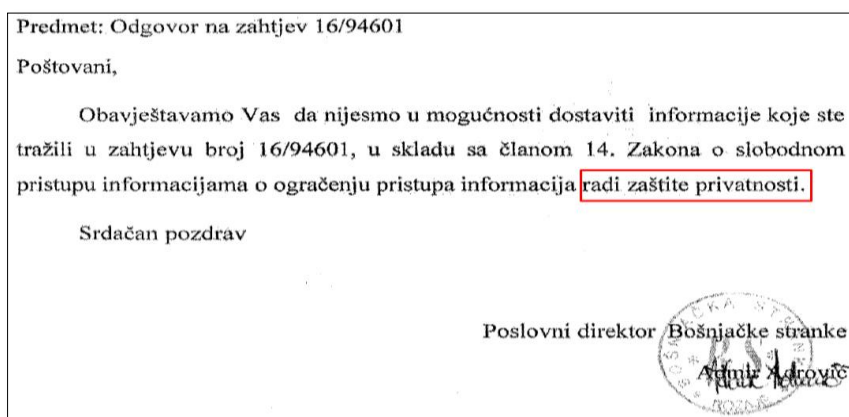
Most of the political parties have provided access to information on their revenues and expenditures, i.e. bank statements.

On the basis of the Law on Free Access to Information MANS required that all political parties submit all bank statements for the period from 1 January to 30 June 2016. The Croatian Civic Initiative, Democratic People's Party, Positive Montenegro and Albanian Alternative, responded to the request while the Socialist People's Party submitted the documents from which it has not been possible to determine precisely where the party's money went. NOVA and the Democratic Party of Socialists submitted this information after the campaign and election ended.

All other parties turned a blind eye to this request for information, while the URA informed that at that time the party still did not have the bank account.

The response of the Bosniak party is particularly interesting since it stated that the required bank statements could not be delivered due to alleged "protection of privacy".

MANS demanded all political parties submit information on special bank account for the purpose of financing campaigns, which is a legal obligation of all parties. This information was provided by the Croatian Civic Initiative, FORCA, NOVA, Democrats and URA.



MANS requested the parties submit all bank accounts after the announcement of the parliamentary election, for four periods (1 July - 1 September, 1-15 September, 15-30 September and 1-10 October).

Croatian Civic Initiative, Albanian Alternative and URA submitted their bank statements. DPS and Bosniak Party submitted only data for July and August, after the campaign and election were finished. SNP and LP submitted data on bank transactions only for the second part of the election campaign, while Demos (Key) submitted data only for the first part of the campaign. NOVA submitted all the data other than the data on the end of the campaign. FORCA submitted a part of the data about the end of the campaign, and other parties (SDP, PZP, DNP and SD) did not submit any bank statements after the election was announced.

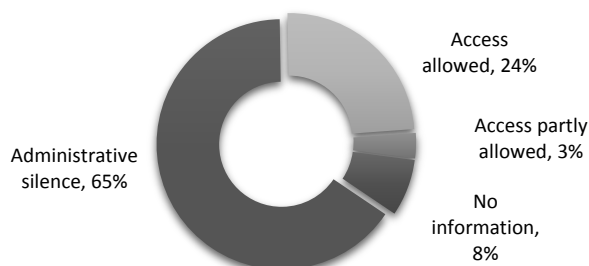
	Jul- Sept	1-15 Sept	15-30 Sept	1-10 Oct
DPS	+	-	-	-
NOVA (DF)	+	+	+	-
PZP (DF)	-	-	-	-
DNP (DF)	-	-	-	-
DEMOS (Ključ)	+	+	-	-
SNP (Ključ)	-	-	+/-	+
URA (Ključ)	-	+	+	+
Demokrate	+	+	-	+
LP	-	-	+	+
SDP	-	-	-	-
SD	-	-	-	-
HGI	+	+	+	+
BS	+	-	-	-
AA	+	+	+	+
FORCA	-	-	-	+/-

Table 8: Review of Publishing Data on Bank Accounts
(+ submitted, +/-partly submitted, - not submitted)

3.3.3. Legal proceedings against political parties

MANS submitted 245 requests to the political parties that were related to the election campaign financing, one in four pieces of information has been published, and most of the requests remained without a response. MANS submitted 203 complaints and 15 complaints, and decisions have been adopted only in few cases, each time in favor of the transparency.

The political parties received 245 requests for information aimed at monitoring the election campaign financing.



Graph 20: Review of political parties' responses to requests for information on campaign financing

Every fourth request for information has been responded to, whereas in 3 percent of cases access to information has been provided only partially. In 8 percent of cases the political parties have refused the access to information, because they have not had the requested information.

A total of 203 complaints have been submitted, of which 9 complaints have been lodged due to illegality of acts submitted by the political entities, while the rest of the complaints have been filed due to the administrative silence.

The Administrative Court has received a total of 15 complaints against the Agency for Protection of Personal Data and Free Access to Information due to the Agency's failure to act upon the complaints. The administrative silence has been significant, and the political parties, on average, ignored every other request. Complaints and lawsuits have not been filed against the parties that have not had a parliamentary status, nor the obligation to publish information in accordance with the Law on Free Access to Information.

II PART: Electoral Register

INTRODUCTION

Despite numerous activities aimed at improving the accuracy and timeliness of the electoral register, the electoral register for the parliamentary election held in October 2016 contained a large number of disputed voters.

In the parliamentary election, 528,817 voters were eligible to vote. Analysis of the electoral register shows that at least 15 percent of the voters is still controversial due to failure to meet the conditions on having a two-year period of residence in Montenegro. Besides, during overseeing the electoral register MANS has come across a number of illegal and problematic activities the Ministry of Interior has been undertaking in adopting decisions regarding the citizenship and residence of foreigners.

Data from the electoral register shows that polling stations have been changed for every fourth voter, although their place of residence has not been changed compared to the previous election, which were held at the national level.

A large number of deceased voters are still on the electoral register, as well as thousands of so-called instant voters who have been registered or removed right before the election in order to gain or lose the right to vote only in one election cycle. There are examples of voters who were born in Montenegro more than 100 years ago, and only recently have been registered on the electoral register for the first time.

Based on the MANS' s initiative at least 2,000 voters who have been registered twice are removed from the electoral register, as well as deceased voters, and voters who have failed to meet the requirement of residing in Montenegro for a period of two years.

Nevertheless, MANS has failed to check tens of thousands of cases due to numerous obstructions of the Ministry of Interior's administration, which limited MANS's efforts to clean up the electoral register to a great extent. MANS has tried to get to the data on possible irregularities on the electoral register in a number of ways, but tens of thousands of pages of documents on the basis of which the disputed voters were registered remained secret which was not revealed before closing the electoral register, so all these individuals had the right to vote on the election day election.

In the final, the Minister of Interior of Montenegro did not sign the decision on closing the electoral register, but the document was still a basis for voting at the election.

Practice has shown that further improvement of the legal framework in order to create a clear basis for removing the voters who do not have residence in Montenegro is needed, as well as carrying out continuous control by the NGO sector, and increased responsibility of persons in charge of maintaining the electoral register.

On-site control and cleaning up the electoral register should start as soon as possible, as to create in timely manner conditions for holding the next election.

1. LEGAL FRAMEWORK

1.1. Keeping and Control of Electoral Register

The Constitution of Montenegro stipulates the following conditions to be met so as to be entitled to vote:

- **Montenegrin citizenship and 18 years of age**, and
- at least **two years of residence** in Montenegro.¹⁴²

In addition to these two constitutionally determined conditions, the Law on Election of Councilors and Members of Parliament lays down that in order to gain the right to vote an individual must be **capable for work**.¹⁴³

Only individuals who meet these requirements, pursuant to the Law on Electoral Registers, may be registered on the electoral roll.

The parliamentary election held on 16 October 2016 was organized for the first time in accordance with the new Law on Electoral Registers.¹⁴⁴ According to the Law, the Ministry of Interior (MoI) is responsible for keeping and accuracy of the electoral register. Before this Law entered into force, local governments with vaguely defined responsibilities were in charge of keeping electoral registers and the Ministry for Information Society and Telecommunications was in charge of consolidating individual voters' lists in the Central Voting Register.

Under the new Law, the electoral register is an electronic collection of personal data of Montenegrin citizens who have the right to vote.¹⁴⁵ Citizens of Montenegro who are eligible to vote are registered on the electoral register, and after adopting the decision to call the elections persons who acquire the right to vote on the election day at the latest are also registered, in their registered place of residence.¹⁴⁶

The new Law has allowed overseeing the electoral register to a greater extent by the non-governmental organizations accredited to monitor the electoral process by the State Electoral Commission. Local NGOs interested in monitoring the elections will submit the request to the State Electoral Commission, which within 48 hours of receiving the request issues official authorization or a decision refusing the authorization.¹⁴⁷ Earlier, the right to oversee the electoral register was reserved solely for the parliamentary parties and submitters of electoral lists.

From calling the election until the announcement of the election results electoral registers are submitted in electronic form to the accredited NGOs, and the Interior Ministry is obliged to "facilitate the access to the electoral register by electronic means, as well as to the changes that have been made to it."¹⁴⁸

¹⁴² Constitution of Montenegro, Official Gazette of Montenegro 07/01 and 38/13, Article 45, paragraph 1.

¹⁴³ Law on Election of Councilors and MPs, Official Gazette of the Republic of Montenegro 4/98, 05/98, 17/98 14/00, 18/00, 09/01, (FRY) 09/01, 41/02, 46/02, 45/04, 48/06, 56/06, 46/11, 14/14 and 47/14, Article 11, paragraph 1.

¹⁴⁴ Amendments to the Law were adopted on 17 February 2014, and began to apply on 1 November 2014. According to the newly adopted Law, the Ministry of Interior took over keeping the electoral register from the local governments and the Ministry for Information Society and Telecommunications (MIST), which were previously responsible for maintaining the accuracy and keeping electoral registers up-to-date.

¹⁴⁵ Law on Electoral Registers Official Gazette of Montenegro 10/14 and 20/15, Article 2, paragraph 1.

¹⁴⁶ Ibid, Article 9, paragraph 1.

¹⁴⁷ Law on Election of Councilors and MPs, Article 111 b, paragraph 1.

¹⁴⁸ Law on Electoral Registers, Article 22, paragraph 1.

In addition, the Law provides for controlling data from other relevant registers,¹⁴⁹ i.e. the Ministry of Interior is obliged to submit to the accredited NGO " the data affecting the accuracy of the electoral register and keeping the electoral register up-to-date, within 48 hours of receiving the request." ¹⁵⁰

Under the new Law, accredited NGOs have the right to submit initiatives for inspection of the electoral register to the Ministry of Interior who is obliged to act upon them and inform the submitter on it within 96 hours, i.e. four days.

Thus, the new Law allows active overseeing of the electoral register by the non-governmental sector, but numerous examples given further in this report show **that many legal mechanisms remain just a dead letter in 2016 parliamentary election**, because of obstructions, exceeding deadlines and inappropriate activities of the Ministry of Interior.

1.2. Criminal offenses relating to the Electoral Register

The Criminal Code of Montenegro defines violating the right to vote and compiling inaccurate electoral registers as criminal offenses.

The crime of violating the right to vote envisages that "Anyone who with intention to prevent another person in exercising the voting right he/she is entitled to, unlawfully fails to register that person in voters' register or removes his/her name from that register or in any other unlawful manner prevents or sabotage voting, shall be fined or sentenced to imprisonment up to one year."¹⁵¹ The same penalty will be imposed on "anyone who unlawfully registers in voters' register another person so as to enable him/her to cast a vote, or enables him/her to cast a vote in any other unlawful way if he/she is not entitled to such a right."¹⁵²

On the other hand, for **compiling an inaccurate electoral register** the Criminal Code lays down that "when a person intending to influence the results of an election or a referendum compiles an inaccurate voters' list, he/she shall be fined or sentenced to imprisonment up to three years."¹⁵³

Furthermore, the latest amendments to the Law on the Special State Prosecutor's Office, which are tied to the final completion of all proceedings instituted due to the election scheduled for 16 October 2016,¹⁵⁴ stipulate that the Special State Prosecutor's Office prosecute crimes of violations of electoral rights laid down in Chapter sixteen of the Criminal Code of Montenegro, which include the two offenses relating to electoral registers.¹⁵⁵

¹⁴⁹ e.g. Registers of Montenegrin Nationals, places of residence, deceased, etc.

¹⁵⁰ Law on Electoral Registers, Article 25, paragraph 1.

¹⁵¹ Criminal Code of Montenegro, Official Gazette of the Republic of Montenegro 70/03, 13/04, 47/06, and Official Gazette of Montenegro 40/08, 25/10, 32/11, 64/11, 40/13, 56/13, Article 185, paragraph 1.

¹⁵² Ibid, Article 185, paragraph 2.

¹⁵³ Ibid, Article 188.

¹⁵⁴ Law on Amendments to the Law on the Special State Prosecutor's Office, Official Gazette of Montenegro 53/16, Article 2.

¹⁵⁵ Law on the Special State Prosecutor's Office, Official Gazette of Montenegro 10/15 and 53/16, Article 3, paragraph 1, item 6.

2. SOURCES OF IRREGULARITIES ON THE ELECTORAL REGISTER

In 2016 parliamentary election 528,817 voters were registered on the electoral register. MANS analyses show that the status 80,000 voters is at issue or 15 percent of the electoral register.

Key sources of irregularities on the electoral register relate to registration of persons who do not have citizenship or a two-year residence period in Montenegro, deceased voters on the electoral register, registering and removing a large number of voters without adequate supporting documentation.

2.1. Voters without residence

Based on analysis of the electoral register MANS has found that it contains persons who do not have a two-year residence in Montenegro.

A) Diaspora in the Electoral Register

A rough estimate of the scope of the problem is provided in the comparison of the data from the electoral register with the information from the electoral register which, with relevant correction, shows that **Montenegro has almost 70,000 voters who probably do not have a two-year period of residence in the country, so they should not be in the voters' list.**

According to the Statistical Office of Montenegro (Monstat) according to the 2011 census, Montenegro had 620,029 citizens. At the time of the census approximately 522,000 persons were older than 13 years of age, i.e. they reached the voting age in 2016.

At the same time, according to the census data, Montenegro had 571,130 citizens. Assuming that the ratio of adults and minors is same as in the general population, we obtain the result that the number of adult citizens is 480 thousand at most. If that number is further corrected for the average number of the deceased, which according to Monstat annually reaches six thousand, the data obtained shows that at least 29,000 adult citizens died from 2011 census to the parliamentary election. Thus, the number of living adult citizens in Montenegro dropped to around 457,000.

According to data from the relevant institutions on the number of persons who from the consensus to the parliamentary election gained or lost the right to vote on the basis of obtaining or losing the nationality, the final number of adult citizens cannot exceed 460,000. However, 528,817 citizens were registered on the electoral register. Calculation shows that there is a difference of 68,817 registered voters who were not on the voters' list, nor were they registered in the census and for whom is debatable whether they meet the requirement relating a two-year residence.

However, the state bodies have not carried out any activities to determine how many Montenegrin citizens had registered place of residence, but do not live in Montenegro for the last two or more years before the election. Consequently, these persons should not have a registered place of residence, i.e. should not be registered on the electoral register. This is the reason why there are still many voters on the electoral register who exercise their right to vote abroad. It turned out that electoral registers contain even those persons who unquestionably have the right to vote in other countries. Such is an example of a Swedish politician who is still on Montenegro's electoral register.

Thus, for example, Ilija Batljan is still on the voters' lists, a prominent Swedish politician who left Montenegro back in the 90s of the last century.

Although MANS has been pointing to the fact that this Swedish citizen and politician left Montenegro a couple of decades, and that he exercises all his rights in another country, including the right to vote, the Ministry of Interior has failed to remove him from the electoral register, stating that it has been out of the scope of its competences.



Batljan is now vice president of the housing company Rikshem, formerly Dombrom. He left politics in 2011 after a year as councilor for the opposition on the Stockholm County Council. He was a municipal councilor in Nynäshamn between 2005 and 2009, but also made an impression outside local government circles, as a possible party leader for instance. And in the autumn of 2009, he was ranked fifteenth – and first among politicians – in Veckans Affärer magazine's list of "101 Super Talents."

That was sixteen years after he first came to Sweden. Born in Montenegro, he and his wife left the former Yugoslavia in 1993 due to the war. The year after the family arrived in Sweden, Batljan was a student at Stockholm University, where he studied economics.

"It took a few months to acquire adequate Swedish skills and upper secondary qualifications. I worked hard and I'm proud of that. Studying at the university gave me a great deal and helped me put down roots in Sweden very quickly."

Figure 40: Data on Ilija Batljan¹⁵⁶

B) Foreigners who acquired the citizenship, but failed to get the residence

Based on the MANS's initiative, the Interior Ministry abolished its own, illegal decisions and removed about 550 persons who acquired the citizenship less than two years ago from the voters' list. Nevertheless, the Special Prosecutor's Office has still not acted on MANS's complaints about the criminal offense of compiling the inaccurate voters' list.

According to the Law on Registers of Permanent and Temporary Residence, which entered into force on 22 August 2015, only Montenegrin citizens can have the right of residence.¹⁵⁷ After the Foreigners Law entered into force of on 1 April 2015,¹⁵⁸ persons who do not have Montenegrin citizenship, cannot have residence in Montenegro.

MANS has requested information from the Interior Ministry on the number of persons who received Montenegrin citizenship in the last two years that are on the electoral register. Namely, as a condition for the right to vote is at least two years of residence in Montenegro after acquiring Montenegrin citizenship, it is clear that persons who have acquired citizenship after this date could not have a two-year period of residence in the country. The Ministry of Interior submitted a list containing the data for 1,263 of such persons.

CRNA GORA
MINISTARSTVO UNUTRAŠNJIH POSLOVA
Služba za informacione tehnologije
Broj: 02-08/16-44574
Podgorica, 01.08.2016. godine

MINISTRU UNUTRAŠNJIH POSLOVA
Goranu Daniloviću

Predmet: Dostava podataka

Poštovani, shodno Vašem usmenom zahtjevu da Vam dostavimo spisak lica koja su upisana u registar crnogorskih državljanina nakon 16.10.2014 a upisana su odnosno bila su upisana u birački spisak dostavljamo tražene podatke.

Na CD se dostavlja fajl drzavljan_i_biraci.xls su podaci za 1263 lica.

Prilog:
- CD

NACELNIK
Nataša Starović-Knežević
Nataša Starović-Knežević

Figure 41: Letter from the former Head of the Department of Information Technology with a list containing names of persons who have been registered in the register of Montenegrin nationals after 16 October 2014

¹⁵⁶ MANS Local Elections 2014: Implementation of the electoral law, Podgorica, 2014, p. 61.

¹⁵⁷ Law on Registers of Permanent and Temporary Residence, Article 2, paragraph 1.

¹⁵⁸ Foreigners Law, Official Gazette of Montenegro 56/14, 28/15 and 16/16.

In early September MANS submitted an initiative for overseeing the electoral register of the Ministry of Interior, requesting these persons be removed from the voters' list before the parliamentary elections.

The law stipulates that the Ministry of the Interior is obliged to respond to a submitted initiative within 48 hours of its submission, still the Ministry failed to provide MANS with any response within the specified time. Therefore, MANS sent an urgent letter to the Ministry on 6 September 2016,¹⁵⁹ but even after that the Ministry of Interior did not oversee the electoral register.

ON 14 September MANS filed a complaint with the Administrative Court, which on 19 September 2016, delivered a judgment in favor of MANS ordering the Ministry to act on the initiative and submit the minutes on overseeing in these cases to within 24 hours of receiving the judgment.

Only after the judgment was delivered, did the Ministry of Interior start to submit the minutes on performed inspection, although again with considerable delay.

The Ministry of Interior abolished old, illegal decisions on residence to which MANS point, after which it brought new lawful decisions.

On the basis of new lawful decisions, **554 persons were removed from the electoral register.**

For the remaining 709 individuals the Ministry of Ministry claimed that they had legally registered place of residence, although they got it as foreigners because they had acquired it before the new Foreigners Law entered into force in 2015.

However, this reasoning of the Ministry of Interior is contrary to both, current and former Law on Registers of Permanent and Temporary Residence which has been in force since 2008, since the old law did not stipulate that foreigners can have permanent residence in Montenegro, but for them there was a special, different category of "established residence"¹⁶⁰

UPRAVNI SUD CRNE GORE
U. broj 2772/2016

U IME NARODA

Upravni sud Crne Gore, u vijeću sastavljenom od sudija, Gordane Pot, kao predsjednika vijeća, Dragana Đuretića i Ane Perović - Vojinović, kao članova vijeća, uz učešće službenika Suda Zorke Miličić, kao zapisničara, rješavajući upravni spor po tužbi Mreže za afirmaciju nevladinih organizacija – MANS, iz Podgorice, protiv Ministarstva unutrašnjih poslova - Podgorica, zbog nepostupanja po inicijativi od 02.09.2016. godine, na nejavnoj sjednici održanoj dana 19.09.2016. godine, donio je

PRESUDU

Tužba se usvaja.
Nalaže se Ministarstvu unutrašnjih poslova, da odmah, a najkasnije u roku od 24 časa, od dana prijema presude postupi po inicijativi tužioca od 02.09.2016. godine i dostavi mu akte iz člana 31 stav 8 Zakona o biračkim spisovima.

Figure 42: Administrative Court's Judgment, 19 September 2016

Crna Gora
Ministarstvo unutrašnjih poslova
Direktorat za upravne unutrašnje poslove
03 Broj: UPII206/16 – 480/374
Podgorica, 27.09.2016. godine

Ministarstvo unutrašnjih poslova, Direktorat za upravne unutrašnje poslove na osnovu člana 16 Zakona o državnoj upravi („Sl. list RCG“, broj 38/03, i „Sl. list CG“, br. 22/08, 54/16) kao drugostepeni organ, rješavajući po službenoj dužnosti, na osnovu člana 257 stav 2 i člana 258 stav 2 Zakona o opštem upravnom postupku („Sl. list RCG“, broj 60/03, i „Sl. list CG“, broj 32/11) a u vezi člana 141 stav 1 i člana 144 Zakona o strancima („Sl. list CG“, br. 56/14, 28/15 i 16/16) i Zakona o registrima prebivališta i boravišta („Sl. list CG“, broj 46/15) donosi,

RJEŠENJE

Ukinaju se rješenja za utvrđivanje prebivališta, za sljedeća lica:

-Područne jedinice Bar:
Čalović Ljubica, broj:18-UPI-206 16/7989/2 od 17.04.2015.godine;

-Filijale Kotor:
Miljenović Ilinka, broj:23-UPI-206 16/9784/2 od 02.09.2016.godine.

Proizvedene pravne posljedice ukinutih rješenja se ne poništavaju, ali se sprečava dalje proizvodjenje pravnih posljedica tih rješenja.

Figure 43: Copy of the Ministry of Interior's decision on abolishing residence

¹⁵⁹ Law on Electoral Registers, Article 31, paragraph 7.

¹⁶⁰ Former Law on Registers of Permanent and Temporary Residence, Official Gazette of Montenegro 13/08, 41/10, 40/11 and 56/14, Article 5, paragraph 1, item 5.

C) Ministry of Interior has been Applying Wrong Law for Six Years

Rulings the Ministry of Interior submitted to MANS in the cases described in the previous chapter show that this body **has been applying the former law when issuing permanent residence permits to foreigners for six years, although the Law has been amended three times.**

Moreover, through analysis of the documents that affect the voters' lists, which relate to the registration of residence, MANS noted that the Ministry of Interior had been adopting rulings on residence for some years past in accordance with the former, invalid law from 2008. Law on Registers of Temporary and Permanent Residence has been amended three times since 2008, in 2010, 2011 and 2014, and in mid-2015 completely new law was adopted.

The amendments to the former law did not encroach on the rights in the area of permanent residence, but other parts of the law were changed, such as misdemeanor policy, temporary residence issues and the like, whereas the new Law made significant changes in the entire field, including the rights and procedures relating to the permanent residence.¹⁶¹

MUP has failed to record these amendments, but continued to adopt decisions in accordance with the invalid law from 2008.

Crna Gora
MINISTARSTVO UNUTRAŠNJIH POSLOVA
Podružna jedinica za upravne unutrašnje poslove Podgorica
Broj: 09-UP1-206-16/41926/2
13.04.2016. godine

Podružna jedinica za upravne unutrašnje poslove Podgorica rješavajući po prijavi za utvrđivanje prebivališta BOGAVAC GORDANA, na osnovu člana 196 stav 1 Zakona o opštem upravnom postupku ("Službeni list Republike Crne Gore", br. 60/03 i 32/11) i čl. 13 i 16 Zakona o registrima prebivališta i boravišta ("Službeni list Crne Gore", broj 13/08), d o n o s i

RJEŠENJE

UTVRBUJE se da BOGAVAC GORDANA, iz Podgorice, ima prebivalište u Podgorici, od 30.07.2004. godine.

O b r a z l o ž e n j e

Podružna jedinica za upravne unutrašnje poslove Podgorica, pokrenula je postupak za utvrđivanje prebivališta, radi dopune evidencije prebivališta za BOGAVAC GORDANA, jer lice: nije nastanjeno u mjestu ili na adresi naznačenoj u prijavi ili je nastanjeno u Crnoj Gori, a nije podnijelo prijavu prebivališta.

Članom 13 Zakona o registrima prebivališta i boravišta, propisano je da lice podnosi prijavu, odjavu i promjenu prebivališta u mjestu u kojem se prijavljuje prebivalište, a članom 16 citiranog Zakona da se prebivalište utvrđuje: u mjestu i na adresi na kojoj je lice nastanjeno; ili prema mjestu boravišta; prebivalište bračnog druga; upisa u matičnu knjigu rođenih ili registar crnogorskih državljana; sjedištu organa ili organizacije gdje koristi materijalno obezbjeđenje, a licu mlađem od 18 godina života prebivalište se utvrđuje prema prebivalištu njegovih roditelja, ili staratelja.

Rješavajući ovu upravnu stvar, utvrđeno je da BOGAVAC GORDANA, nastanjen-a u Podgorici, od 30.07.2004. godine, pa mu-joj se utvrđuje prebivalište na adresi gdje je, pa se u tom smislu dopunjava evidencija prebivališta.

Na osnovu izloženog, a shodno članu 196 stav 1 Zakona o opštem upravnom postupku i čl. 13 i 16 Zakona o registrima prebivališta i boravišta, riješeno je kao u dispozitivu.

Uputstvo o pravnom sredstvu.

Protiv ovog rješenja, može se izjaviti žalba Ministarstvu unutrašnjih poslova, u roku od 15 dana od dana njegovog dostavljanja. Žalba se predaje neposredno podružnoj jedinici-filijali ili šalje preporučeno putem pošte i oslobođena je plaćanja administrativne takse, shodno članu 14 stav 1 tačka 15 Zakona o administrativnim taksama (-> Službeni list Crne Gore<<, br. 55/03, 46/04, 81/05, 02/06, 22/08, 77/08, 03/09, 40/10, 20/11 i 26/11).


Milanka Baković

Figure 44: Copy of an illegal decision on determining permanent residence from 13 April 2016

Therefore, all 1,200 persons registered on the electoral register received **unlawful decisions on permanent residence**, whereas they received citizenship in the previous two years.

Moreover, such decisions on permanent residence were adopted **for thousands of others who received the decisions of permanent residence in the last six years**, from mid-2010, when the new law came into force,¹⁶² until September 2016, when MANS uncovered this irregularity.

MANS has never received the information on the total number persons to whom the Ministry of Interior delivered these decision on permanent residence, although MANS requested it on several occasions.¹⁶³

Due to the fact that these persons' temporary residence was determined illegally, they are not supposed to have the right to vote in the parliamentary election.

¹⁶¹ For example, under the new law, foreigners, unlike earlier, cannot register "established residence" but they have the status of foreigners with permanent residence. More information is given in the previous chapter on persons who have acquired citizenship but failed to get permanent residence.

¹⁶² The Law on Amendments to the Law on Registers of Permanent and Temporary Residence entered into force on 30 July 2010. Later, the Law on Registers of Permanent and Temporary Residence was amended twice (in 2011 and 2014), and in 2015 a completely new law on registries and residences was adopted.

¹⁶³ Information has been sought through the coordination body in which MANS's representative participated.

2.2. Voters without Citizenship

After examining the documentation of the Ministry of Interior MANS has noted that certain voters who have been registered on the electoral register exercised their right to vote, although they acquired Montenegrin citizenship after the election day. In this way, persons who are not Montenegrin citizens, contrary to the Constitution, were eligible to vote.

For example, by examining the book of electors for the presidential election in 2013 MANS has found that two people voted in this election, and only after that they acquired Montenegrin citizenship. MANS indicated before to such cases, in early 2016, immediately before the local election in Tivat.

Thus, C.J. achieved the right to vote in the presidential election at a polling station PI Ljubica Popovic V. J. "Palcica" (S-Š and the letter P) in Podgorica. Namely, the decision on granting Montenegrin citizenship this person was adopted on 18 September 2015, i.e. two and a half years after the presidential election.

A similar example is the case of V.A. who exercised her electoral right in the same election at a polling station PI primary school "Milan Vukotic" Golubovci – regional unit Botun. The Ministry of the Interior adopted a decision on her admission to the citizenship of Montenegro on 22 July 2015.

Crna Gora
Vlada Crne Gore
MINISTARSTVO UNUTRAŠNJIH POSLOVA
Broj: 83-UP/15-09-2015, godine
PODGORICA, 18.09.2015. godine

Ministarstvo unutrašnjih poslova Crne Gore, na osnovu člana 27 Zakona o crnogorskom državljanstvu („Službeni list CG“, br. 13/08, 40/10, 28/11, 46/11 i 20/14), i člana 196 stav državljanstvu („Službeni list CG“, br. 13/08, 40/10, 28/11, 46/11 i 20/14), i člana 196 stav 1 Zakona o opštem upravnom postupku („Službeni list RCG“, broj 69/03 i 32/11), rešavajući zahtjev za prijem u crnogorsko državljanstvo koji je podnio/la JELENA CIROVIC, donosi

RJEŠENJE

Prima se u crnogorsko državljanstvo JELENA CIROVIC, matični broj [REDACTED], rođena 21.09.1985. godine, opština rođenja PODGORICA, CRNA GORA, otac SREČKO, majka MILANKA, rođena AJKOVIĆ.

Upis podataka u registar crnogorskih državljana izvršio se danom prijema ovog rješenja.

O b r a z l o ž e n j e

GLAVNI GRAD PODGORICA - 195-C, JPU LJUBICA POPOVIĆ V. J. "PALČICA" (S-Š i slovo P)

RB	PREZIME I IME	DATUM I Mjesto ROĐENJA	DRŽ. VLJA- NSTVO	ADRESA STANOVANJA	Datum prijma u crnogorsko državljanstvo	Matični broj ili broj lične karte	Polupis
466	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	16.02.1983	[REDACTED]	[REDACTED]
467	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	12.08.1983	[REDACTED]	[REDACTED]
468	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
469	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
470	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
471	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
472	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
473	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
474	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	14.05.1984	[REDACTED]	[REDACTED]
475	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	07.05.1989	[REDACTED]	[REDACTED]
476	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	14.11.1990	[REDACTED]	[REDACTED]
477	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	24.10.1981	[REDACTED]	[REDACTED]
478	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	24.02.1987	[REDACTED]	[REDACTED]
479	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
480	CIROVIC JELENA	21.09.1985 PODGORICA	CG	LUČKA 11/A	21.09.1985	[REDACTED]	[REDACTED]
481	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	17.01.1989	[REDACTED]	[REDACTED]
482	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
483	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
484	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	18.02.1991	[REDACTED]	[REDACTED]
485	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	31.10.1982	[REDACTED]	[REDACTED]
486	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	03.08.2003	[REDACTED]	[REDACTED]
487	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	02.12.1998	[REDACTED]	[REDACTED]
488	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	07.04.2001	[REDACTED]	[REDACTED]
489	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
490	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	22.08.2000	[REDACTED]	[REDACTED]
491	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	27.04.1993	[REDACTED]	[REDACTED]
492	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
493	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	27.07.1998	[REDACTED]	[REDACTED]
494	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
495	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	13.03.1987	[REDACTED]	[REDACTED]

PRESJEDNIČKI IZBORI 07.04.2013.

Strana: 17

Figure 45: Example – Decision on Admission to the Citizenship for C.J. and Extract from the Register of Electors for the Polling Station PI Ljubica Popović V.J. "Palcica" (S-Š and letter P)

Note: Citizen's personal data is blurred

For these cases MANS filed a complaint to the Special State Prosecutor's Office against the persons responsible for compiling inaccurate voting lists, but MANS has not received a response from the prosecution if they acted upon this complaint.

There is a suspicion that a much larger number of people have been registered on the voters' list although they do not have Montenegrin citizenship, i.e. a decision on citizenship has been adopted only upon registration.

In April 2016, MANS filed a complaint against several unidentified perpetrators on suspicion of having committed several crimes, including compiling the inaccurate electoral register. MANS filed the complaint charging the said persons with criminal offenses for having registered at least 208 persons on the voters' list thus making them eligible to vote, although they did not have Montenegrin citizenship. So far, there is no information if the prosecution has acted upon this complaint.

2.3. Voters without legal capacity

Acting upon the complaints received from citizens MANS has found that in the previous election certain persons voted illegally, because they were previously deprived of legal capacity by the court.

Namely, the Law provides that "a voter who has reached 18 years of age, has legal capacity and residence in Montenegro for at least two years before the election day has the right to elect and be elected."¹⁶⁴ Consequently, persons deprived of legal capacity should not have the right to vote.

By checking the voters list and book of electors in 2012 parliamentary election, as well as in 2014 local election in Podgorica, MANS found that **L.K.**, born on 26 August 1948, illegally voted in 2014 local election, and who was deprived of legal capacity at the end of 2013 based on the decision of the Basic Court in Podgorica. At the time of the vote, the place of residence of the person in question was "Dusici BB" in Podgorica, and he/she voted at the polling station "Dom omladine Sukuruc" in Tuzi, Podgorica. In this case, there is a suspicion that the vote of this person was abused.

Specifically, the through the access to the extracts from the election register at this polling station for the previous presidential election and local election which was held later, it was found that the signatures of this person are completely different in the two election cycles.

So, not only did someone illegally granted **L.K.** the right to vote in the local election in Podgorica, but there is suspicion that since LK does not have legal capacity the same person voted instead of him/her.

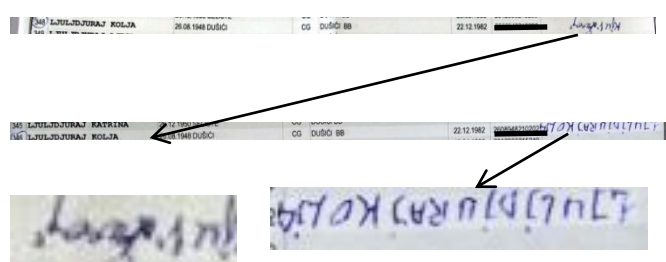


Figure 46: Scanned Extracts from the Register of Electors for 2013 Presidential Elections and 2014 Local Election in Podgorica 2014

Note: Blurred personal information of citizens

MANS has proved that **R. I.** born 11 November 1980 in Podgorica, illegally voted in 2014 local election in Podgorica, because at the end of 2013 she was deprived of her legal capacity by the decision of the Basic Court in Podgorica.

Moreover, MANS found that **B.M.** who was deprived of her legal capacity back in 2006 by the decision of the Basic Court in Bar voted in 2012 parliamentary election. B. M. was born on 27 September 1952 in Zrenjanin, Serbia, whereas her permanent residence address at the time the election was "Tesla 12" in Bar and she voted at the polling station "Pribojsko odmaraliste Sutomore," as evidenced by the signed extract at the polling station in the parliamentary election. A similar example is the case of **K.D.**, born on 1 May 1955 in Bar, who illegally voted in 2012 parliamentary election, although at the end of 2010 he was deprived of his legal capacity by the decision of the Basic Court in Bar.

MANS filed complaints to the Special Prosecutor's Office for fight against corruption and organized crime against unknown persons from the municipalities of Bar and Podgorica.

MANS has asked the prosecutor to determine to which extent the voting right was abused in these cases, and to identify other potential cases of abuse. So far, MANS has not received any feedback from the prosecution.

¹⁶⁴ Law on Election of Councilors and Members of Parliament, Article 11, paragraph 1.

2.4. Deceased Persons

In previous elections MANS also indicated that persons who passed away long ago were registered in the voters' lists, but competent authorities repeatedly denied it.

However, after the entry into force of the new Law on Electoral Registers, the Interior Ministry found that about 2,700 persons who died long ago were registered in the voters' list.¹⁶⁵

After the Interior Ministry removed the deceased from the electoral register, MANS conducted an analysis and found that the voters who had died before the election were still on the voters' list.

Using random sampling, and by examining documents and death notices published in the daily press in 2012, 2015, as well as from the beginning of August 2016, MANS has identified 49 persons who died years before the election, and still were on the electoral register.

Thus, among others, a voter S.S. from Bar, born 7 August 1930, who died in 2012, was still on the voters' list in Bar, had registered permanent residence address "Sotonici BB" and the right to vote at the polling station (PS) "Omladinski dom Sotonici".

Similarly, his fellow citizen, B. D., born on 7 August 1927, who also died in 2012, with a permanent residence address at "Ratacka BB" and the right to vote at the polling station "Osnovna skola Kec - Sutomore".

VRHOVNO DRŽAVNO TUŽILAŠTVO CRNE GORE
SPECIJALNO DRŽAVNO TUŽILAŠTVO
PODGORICA

N.V.O. "MANS"
Broj 25/2016
Podgorica, 13. 10. 2016. god

n/r Specijalnom tužiocu za suzbijanje organizovanog kriminala, korupcije, terorizma i ratnih zločina

Na osnovu člana 255. stav 1., a u skladu sa članom 256. stav 1. Zakonika o krivičnom postupku i članom 3. Zakona o specijalnom državnom tužilaštvu, podnosim:

KRIVIČNU PRIJAVU

Protiv: NN izvršilaca, službenih lica Ministarstva unutrašnjih poslova, Opštine Bar, Opštine Berane, Opštine Bijelo Polje, Opštine Budva, Opštine Cetinje, Opštine Kotor, Opštine Mojkovac, Opštine Nikšić, Opštine Plužine, Glavnog grada Podgorice i Opštine Šavnik.

- zbog osnovane sumnje da su izvršili krivično djelo sastavljanje netačnih biračkih spiskova iz člana 188. u vezi sa članom 49. stav 1. Krivičnog zakonika Crne Gore

Figure 47: Complaint filed on 13 October 2016

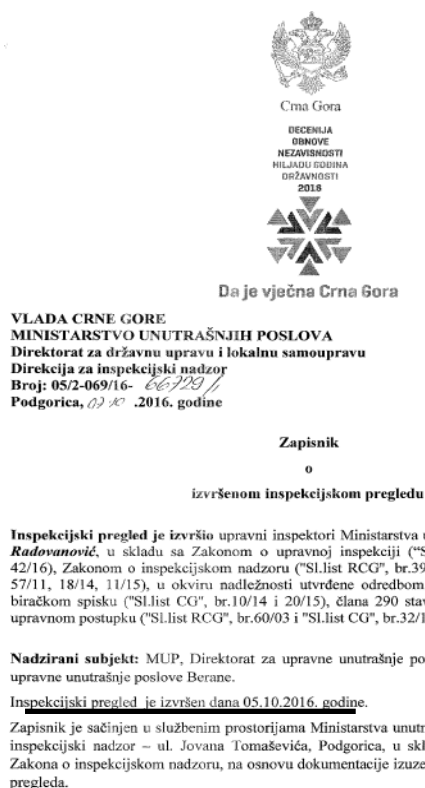
Following MANS' initiative, the Ministry of Interior removed 37 persons from the electoral register by the time electoral register was closed, and informed MANS that the process was still underway for three persons, while there were no records that other nine persons died.

Irregularities were evident in the first set minutes adopted according to these initiatives, which were delivered to MANS on 7 October 2016. In fact, the minutes say that the persons over whom the inspection supervision was carried out were not registered on the electoral register, i.e. there are no any irregularities.

However, through access to the electronic database of the Ministry of Interior, to which MANS had access until the closure of the polling stations, MANS found that these persons were on the voters' list, but that they were removed immediately after the initiative was submitted.

¹⁶⁵ This information was officially stated at the session of the Interim Parliamentary Committee for monitoring the application of the laws and regulations of importance for building trust in the electoral process. M. M, *They are not Vampires MUP Brought to Life Three Thousand of "the Deceased"*, CDM, Podgorica, 23 August 2016. More information on <http://www.cdm.me/politika/simovic-dps-vam-stalno-kriv-sto-glasaju-mrtvi-brisite-sve-do-zadnjega> (last visited on 3 November 2016)

In the minutes of the inspection supervision it was indicated that the inspection was carried out on 5 October 2016. At the same time, the administrative inspector, who acted in this case, referred to the documents that were made the day after the inspection was carried out, on 6 October 2016, in the evidence used to determine the admissibility of the initiative.



Predmet nadzora:

-Provjera navoda iz inicijative NVO MANS broj:23051/10 od 03.10.2016. godine, koja inicijativa je u Ministarstvu unutrašnjih poslova evidentirana pod brojem:05-069/16-65689/1 od 03.10.2016. godine.

U inicijativi NVO MANS se u bitnom navodi da je analizom biračkog spiska Crne Gore utvrđeno da se u istom nalaze 49 preminulih građana, tj. da se i dalje nalaze upisani u birački spisak (Područna jedinica za upravne unutrašnje poslove Berane- 5 lica).

UTVRĐENO ČINJENIČNO STANJE

U postupku inspeksijskog nadzora koji postupak je pokrenut i vođen po službenoj dužnosti, upravni inspektor je izvršio uvid u dokumentaciju i evidencije koje se odnose na predmet inspeksijskog nadzora, i utvrdio sledeće:

1.Borislav Vučeljić- JMBG 2001942270015- umrlo lice- dokaz: Izvod iz matičnog registra umrlih broj:25-UPJ-204/16/14897 od 05.10.2016.godine. Imenovani nije evidentiran u biračkom spisku.

2.Borislav Pajković- JMBG 2802945270019- umrlo lice- dokaz: Izvod iz matičnog registra umrlih broj:25-UPJ-204/16/14969 od 06.10.2016.godine. Imenovani nije evidentiran u biračkom spisku.

3.Milivoje Veljić- JMBG 2502962270010- umrlo lice- dokaz: Izvod iz matičnog registra umrlih broj:25-UPJ-204/16/14857 od 04.10.2016.godine. Imenovani nije evidentiran u biračkom spisku.

4.Manojlo Maslar- JMBG 2009990270028- umrlo lice- dokaz: Izvod iz matičnog registra umrlih broj:25-UPJ-204/16/14881 od 05.10.2016.godine. Imenovani nije evidentiran u biračkom spisku.

5.Nikola Mitrović- JMBG 2703990270013- umrlo lice- dokaz: Izvod iz matičnog registra umrlih broj:25-UPJ-204/16/14989 od 06.10.2016.godine. Imenovani nije evidentiran u biračkom spisku.

6.Radmila Vulević- JMBG 2511963275015- umrlo lice- dokaz: Izvod iz matičnog registra umrlih broj:25-UPJ-204/16/14929 od 05.10.2016.godine. Imenovana nije evidentirana u biračkom spisku.

Figure 48: Copy of the Minutes of the Inspection Supervision Carried Out on 5 October 2016

In October 2016, MANS filed a complaint to the Special State Prosecutor's Office against several unknown persons for the crime of compiling inaccurate voters' list.

Until the completion of this report the Special Prosecutor has not provided any information on acting on this complaint, nor, according to the publicly available information, anyone has been prosecuted for this offense.

2.5. Duplicate Voters

On the eve of 2016 parliamentary elections the Ministry of Interior removed at least 1,419 duplicate voters from the electoral register which MANS had reported previously,¹⁶⁶ for which the Ministry of Interior claimed that were not disputable. MANS reached this number by comparing the list of duplicate voters from the presidential election, which MANS reported to the Ministry of Interior, with the electoral register and found that all these persons were removed from the electoral register.

¹⁶⁶ Before 2013 presidential election, as well as the local election, NGOs did not have the right to submit an initiative for inspection supervision, but MANS through presidential candidates and political parties requested the Ministry of Interior to investigate thousands of controversial registrations on the electoral register.

The Interior Ministry responded to the initiatives submitted earlier that electoral register contained no irregularities, and therefore no measures for removing duplicate voters from the electoral register were taken.

PREDMET: OBAVJEŠTENJE PODNOSIOCU INICIJATIVE

Povodom inicijativa za pokretanje postupka inspeksijskog nadzora, broj 05-069/14-23683/1 od 13.05.2014.godine, broj 05-069/14-23684/1 od 13.05.2014.godine i broj 05-069/14-23685/1 od 13.05.2014.godine, kojim ste od Ministarstva unutrašnjih poslova – Direkcije za inspeksijski nadzor zatražili, da izvrši kontrolu primjene odredaba Zakona o biračkim spiskovima, u pogledu promjena tačnosti podataka i drugih radnji potrebnih za održavanje tačnosti i ažurnosti biračkog spiska, odnosno promjena u biračkom spisku koje obuhvataju upis, brisanje, izmjene, dopune, i ispravke podataka, u skladu sa odredbom člana 13 stav 1 tačka 1 Zakona o inspeksijskom nadzoru ("Sl.list RCG" br.39/03 i "Sl.list CG", br.76/09, 57/11), obavještavamo Vas o sljedećem:
Nakon razmatranja Vaše inicijative, ista je prihvaćena i pokrenut je postupak inspeksijskog nadzora po službenoj dužnosti u odnosu na primjenu odredaba Zakona o biračkim spiskovima.

U postupku inspeksijskog nadzora, nakon utvrđenog činjeničnog stanja i izvedenih dokaza, upravna inspekcija nije utvrdila nepravilnosti iz svoje nadležnosti.

A circular official stamp of the Ministry of Interior of Montenegro is visible on the left. To its right, the text "UPRAVNI INSEKTOR" is printed above a handwritten signature. Below the signature, the name "Miodija Pantović" is printed.

Figure 49: Facsimile Copy of a Notification of the Ministry of Interior

One duplicate voters case was the case of two voters with the initials **P.S.**, who were born on the same day, with a permanent residence address at Vaso Raickovic 18 in Podgorica, whereas both of them were born in Cetinje. Following the submission of MANS's initiative, the Ministry of Interior removed one voter from the electoral register.

The same happens in case of two **T.S.**, born in Berane, with an address in Donja Gorica bb. Both were registered on the electoral register as voters eligible to vote in the PI "Ljubica Popovic" and the preschool institution "Bajka" D. Gorica (N-S).

Similarly, two persons with the same initials **S.A.** were registered on the electoral register, both with the permanent residence in Karabusko polje in Podgorica, and were entitled to vote at the polling station factory "Plasal" (owned by E. Skrijelj) Karabusko polje. One S.A. was removed from the electoral register. Moreover, two **R. I.** from Niksic were registered on the electoral register, one of whom lives in Ulica 79 bb and the other in Ulica 79 4, whereas both were able to exercise their right to vote at the polling station "Skolski centar". One R.I. was removed from the voters' list.

Identical thing happened in case of voters with the initials **R.M.** from Bar and **Z.L.** from Podgorica. Two R.M. had permanent residence address at Ratac and were entitled to vote at the polling station primary school "Kekec" Sutomore (M-S), while the two voters with the initials Z.L. had a registered place of residence at Avnoj bb, and the right to vote at the polling station primary school "Oktoih" (A-J). Before the parliamentary election one R.M. and one Z.L. were removed from the electoral register.

The Ministry of Interior removed several duplicate voters that MANS pointed out to during the access to the voters' list in October 2016. In fact, immediately after the representatives of MANS noticed duplicate voters on the spot, officers of the Ministry of Interior informed representatives of branches that these persons assigned double unique master citizen number, after which these persons were completely removed from the system of the Ministry of Interior, i.e. from the electoral register.

One of such cases is the case of **K.E.**, from Rozaje, with the permanent residence address at Lucice bb and the right to vote at the polling station "Lucice".

Such are the cases of **A.A.** from Podgorica, residing at Proleterska 73 and who is eligible to vote at the polling station primary school "Bozidar Vukovic Podgoricanin", as well as **A.M.** from Bar, with a permanent residential address at Suvi potok bb. She was registered at the polling station "Pribojsko odmaraliste - Sutomore".

2.6. Instant voters

By analyzing the voters' list for 2016 parliamentary elections and the voters' lists from the previous election MANS identified a large group of voters who were registered on the voters' list just for one election, after which they were removed and have never been registered again.

Furthermore, MANS have identified numerous cases of voters who were removed from the electoral register right before certain elections, whereas in the elections that preceded and came after the said elections they were eligible to vote, so it is suspected that this was aimed at deliberately preventing certain persons to vote.

A) Newly Registered Senior Voters

In the period after 2013 presidential election to 2016 parliamentary election, a total of 38,870 voters acquired the right to vote, of which 3,621 voters were older than 40 years of age and were born in Montenegro.

So, none of these persons were eligible to vote in the last three election cycles at the state level - the parliamentary elections in 2009 and 2012, as well as 2013 presidential election, but are only now for the first time registered on the voters' list.

The fact that among these persons are those who are in their late years, some of them are even older than 100 years, shows that highly suspicious cases are in question.

For example, **J.S.**, who was born in Kotor in 1905, and who is 111 years old, has been registered on the electoral register for the first time, and currently has a registered permanent residence in Budva, at "Polje bb" and exercises her right to vote at the polling station "Touristicko naselje Slovenska Plaza".

A similar example is the case of **K.V.** who was born in Kotor in 1914, currently residing in Herceg Novi, at "Klinci bb" and who is entitled to vote at the polling station "Lustica 1", and **R.Z.** born in Plav in 1915, with a current permanent residence in Budva, at "Dositejeva 43" exercising her voting right at the polling station "BSP Center".

In the previous election there were extreme examples of newly-registered voters, as well. Such is the case of **B. R.** from Berane, who was in the presidential election for the first time registered on the

voters' list in Berane, "BM Bujanje" and at the time registration on the electoral register she had been dead for almost three decades, i.e. she died in 1985. A similar example is the case of **K. J.** from Danilovgrad, who was registered on the voters' list in the municipality for the first time more than 20 years after her death, and the case of **S. B.** from the same city, who died in 1992.

For all documented examples of newly registered - deceased voters MANS have filed complaints to the Special Prosecutor. In addition, MANS requested from the Special Prosecutor to investigate each individual case of such voters and to determine the final extent of abuse and impact on the electoral result, but until the completion of this report the prosecution has not provided any information on acting on this complaint

B) Young Voters Removed from the Electoral Register

About 4,100 persons younger than 40 years were removed from the electoral register in the period from 2013 presidential election until the closure of the electoral register in 2016 parliamentary election.

However, due to obstruction of the administration of the Ministry of Interior which has often failed to submit the required information, MANS has not been able to determine the number of voters from the total number of voters who were removed from the electoral register contrary to the law.¹⁶⁷

On the other hand, MANS has found that in the previous period voters have been removed from the electoral register with no grounds, and thus prevented from voting. Namely, the voters were removed from the register just before one of the elections, whereas before and after that election they had the right to vote. Information on the number of voters who were denied their right to vote on the eve of various elections are given in the following table.

Number of voters whose status has been changing	2009 Parliamentary election	2012 Parliamentary election	2013 Parliamentary election	2016 Parliamentary election
3.121	Eligible to vote	Eligible to vote	Not eligible to vote	Eligible to vote
111	Eligible to vote	Not eligible to vote	Not eligible to vote	Eligible to vote
537	Eligible to vote	Not eligible to vote	Eligible to vote	Eligible to vote
744	Not eligible to vote	Eligible to vote	Eligible to vote	Not eligible to vote
54	Eligible to vote	Not eligible to vote	Eligible to vote	Not eligible to vote
617	Not eligible to vote	Not eligible to vote	Eligible to vote	Not eligible to vote
1.521	Not eligible to vote	Eligible to vote	Not eligible to vote	Not eligible to vote

Table 9: Manipulating voters list through registering and removing voters

Among other things, the table shows that before 2013 presidential election as many as 3,121 voters who had the right to vote in the parliamentary elections held in 2009 and 2012 were removed from the electoral register only to be reregistered on the electoral register for this election.

A similar example is the case of 537 voters, who had the right to vote in 2009, after which they were removed from the voters' list for 2012 parliamentary election and then reregistered for 2013 presidential election, and for 2016 parliamentary elections as well.

¹⁶⁷ More information is provided in a separate chapter Problems in the Analysis and Cleaning up of the Electoral Register.

It is interesting that 744 voters, who did not have the right to vote in 2009, gained this right in 2012 and 2013, after which they were removed from the electoral register for 2016 parliamentary elections.

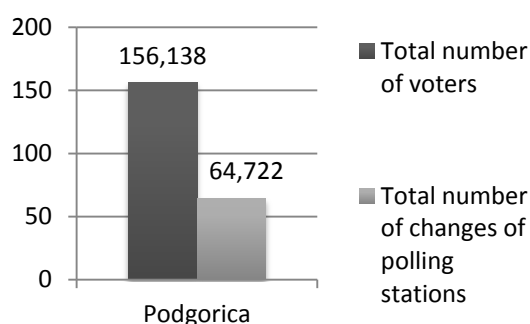
Particularly interesting categories are voters who were eligible to vote only in 2013 presidential election, whereas they were not on the electoral register before that, nor in this year's parliamentary elections - 617 of them, and 1,521 voters who were eligible to vote only in 2012 parliamentary elections, but had no this right in elections preceding or following this one.

2.7. Changing Polling Stations

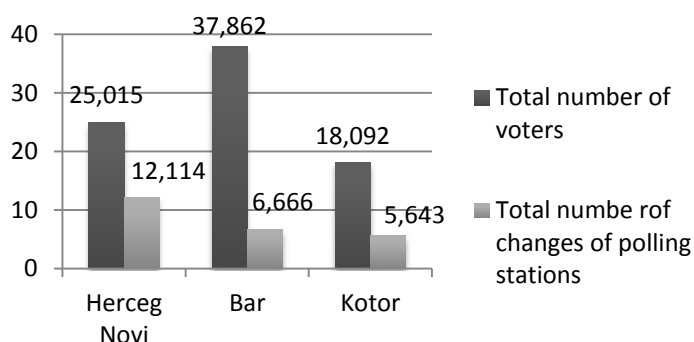
Over 120,000 voters or a quarter of all registered voters was transferred to another polling station, although they did not change permanent residence address compared to the last national elections in 2013. In practice this prevented many voters from exercising the right to vote, if they had failed to get information about the change of the polling station.

Every third voter in Podgorica voted at different polling station than in the presidential elections, i.e. polling stations were changed for nearly 65,000 citizens. Another dramatic example is the case of the municipality of Herceg Novi, where the polling station was changed for over 12,000 voters, i.e. for every other citizen eligible to vote.

In Bar, polling stations were changed for over six thousand and six hundred voters, or every fifth voter, whereas in Kotor and Cetinje polling stations were changed for every third voter.



Graph 21: Number of changes of polling stations in Podgorica in relation to the total number of voters



Graph 22: Other municipalities with the largest number of changes of polling stations in relation to the total number of voters

Based on the complains of citizens, MANS is a sample found that there is a number of voters whose addresses have been changed, and therefore the polling stations, although the Ministry of Interior has no adequate documentation on the basis of which these changes have been made.

Thus, for example, addresses and polling stations of over 120 voters residing in Podgorica districts Blok V in and Konik were moved to Bjelasicka ulica, which is located in the district Zagoric in another part of the city, which is many kilometers away from their previous districts and polling stations.

Examination of the documentation that is available in the Ministry of Interior shows that there is a request for a change of address for only a few voters, while the act of the head administrator of *the Capital* Podgorica which contains the table with the names of several streets and places in Podgorica is specified as a legal basis for changing addresses. However, neither the act nor the table contain addresses of voters who changed the polling stations, so it cannot serve as the basis for the change.



Ona je vjerna Crna Gora

22. 6. 2016

Crna Gora
Glavni grad - Podgorica
Glavni administrator
 Broj: 01-02-034/16-1003/1
 Podgorica, 20.06.2016.godine

MINISTARSTVO UNUTRAŠNJIH POSLOVA CRNE GORE
 DIREKTORAT ZA DRŽAVNU UPRAVU I LOKALNU SAMOUPRAVU
 n/r g. Dragani Ranitović, generalnoj direkciji

PODGORICA

Shodno Vašem aktu, broj 05-206/16-37649/1 od 15.06.2016.godine, kojim ste dostavili tabelu sa adresama koje je potrebno provjeriti (lijeva kolona tabele), obavještavam Vas da se navedene adrese podudaraju sa novim nazivima adresa datim u desnoj koloni priložene tabele.

S poštovanjem,

GLAVNI ADMINISTRATOR,
 Goran Petrović

Naziv adrese	Novi naziv adrese
BARAKE KAP DAJBABA	DAJBABE
BARAKE KAP-A	DAJBABE
DAHNA	DAJBABE
DAJBABSKA GORA	DAJBABE
GORICA C	ATINSKA
IZBJEGLIČKO NASELJE-KONIK BB	ČAMILA SIJARIĆA
KOMANSKI MOST	NIKŠIČKA
LAMELA - STARI AERODROM	BORE STANKOVIĆA
LAMELA 2-A-4	BULEVAR PERA ČETKOVIĆA
NASELJE KAP-A	DAJBABE
NORMAL	BULEVAR PERA ČETKOVIĆA
ST.AERODROM	
RUSKE KULE	ĐOKA MIRAŠEVIĆA
ST.AER.LAMELA	BORE STANKOVIĆA
STARA ZLATICA-LAKAT	MIHAILA M. IVANOVIĆA
STARI AERODROM-LAMELA	BORE STANKOVIĆA
STARI AEROGRAOM ZGRADA NORMAL	BULEVAR PERA ČETKOVIĆA

Figure 50: Act of the Head Administrator of the Capital Podgorica
 No. 01-02-034/16-934

PART III: OVERSIGHT OVER LAW ENFORCEMENT AND PROSECUTION

INTRODUCTION

This part of the report contains an analysis of key aspects of the work of institutions responsible for overseeing and enforcing election laws. The analysis shows that these institutions essentially deepened distrust in the electoral process because they adopted political decisions, avoided law enforcement and new competencies, as well as restricted public access to information.

Specific examples given in Part III show that the **State Electoral Commission** made political decisions and deepened distrust in the electoral process. This institution did not exercise serious control of the electoral register and restrict the public's access to the information about their work.

The presented data shows that by the time the electoral register was closed, **the Ministry of Interior** failed to submit tens of thousands of pages of documents to MANS on the basis of which the questionable voters were registered, and in many cases the submitted documentation was not complete. MANS has tried to obtain the data on possible irregularities through the coordination body established by the Ministry itself, but has not had much success with it.

This part of the report contains evidence that the **Agency for Prevention of Corruption** is not prepared to investigate suspicions of possible political corruption cases which are published and collect evidence ex officio. The interpretation of this institution that it cannot oversee whether in the pre-election period state funds are used as envisaged, nor deal with the content of the documents that the institutions publish, has been documented. Court judgments which show that the applicants of initiatives are not eligible to appeal the decisions of the Agency in second instance, which prevents the control of the legality of work of this institution.

Part III focuses on the role of the **Interim Parliamentary Committee** for monitoring the application of the laws and regulations of importance for building trust in the electoral process. Information about the work of this body shows that from its establishment until holding elections, the Committee did not oversee spending state funds by the institutions during election campaigns.

Amendments to the law adopted on the eve of this election, prosecution of criminal offenses against electoral rights has been assigned to **the Special Prosecutor's Office for fight against corruption and organized crime against**, but the documents given in the report show that this has not led to more effective and transparent prosecution of these cases. The Special Prosecutor's Office found a loophole in the law amendments, so just as before, the basic prosecutors continued to deal with those criminal offenses, who, as previously, failed to achieve any results. MANS submitted 156 complaints against certain persons on suspicion of committing criminal offenses against electoral rights. The prosecutors dismissed 20 cases and the information on the remaining cases has not been delivered even a month and a half after lodging the complaints. The prosecution's decisions published in this part of the report show that this body dismissed cases only on the basis of suspects' statements who denied that they had committed crimes.

On the election day, **the Agency for Electronic Communications and Postal Services** completely blocked communication via application Viber and WhatsApp for over two hours, which violated the basic human rights of citizens to freedom of expression, so this report documents this case.

1. STATE ELECTION COMMISSION

The State Election Commission adopted political decisions and deepened distrust in the electoral process, failed to oversee the electoral register and restricted the public's access to information about their work.

1.1 Legal framework for Work of State Election Commission

The State Election Commission (SEC) has two compositions - permanent and extended.¹⁶⁸ Permanent or "regular" members are the president and 10 members appointed by the Parliament after its establishment for a period of four years.¹⁶⁹ The president and member from among representatives of civil society, NGOs and universities are elected in the Parliament, through a public contest. Parliamentary parties propose the remaining nine members, four from the members of the ruling majority, four from the opposition and one from the largest minority party. A representative of the opposition performs the function of the Secretary.

Extended composition of the SEC is established only for the purposes of elections at the state level, when number of members of the institution, in addition to regular members is expanded by one representative from each electoral lists participating in the elections. Extending the SEC is based on the conclusion of this institution, whereas candidates proposed by confirmed electoral lists are included. Extended composition of the SEC starts its work 20 days before elections and is operational until declaring final results of the elections. During this period, members of the extended composition have the same rights and obligations as permanent members. Extended composition of the SEC for 2016 Parliamentary elections consisted of 28 members - 11 permanent members and 17 representatives of electoral lists.

According to **the Law on Election of Councilors and MPs**,¹⁷⁰ SEC oversees the legality of the elections and uniform application of the provisions of the law, monitors and delivers opinions regarding the application, coordinates the work of municipal election commissions, giving them instructions and supervising their work. SEC establishes uniform standards for election material, determines forms for conducting election activities, assesses whether electoral list are submitted in accordance with the law and make decisions on their proclamation. SEC publishes number of voters, identifies and publishes results of elections and number of mandates of each electoral list, submits reports to the Parliament on the results of election of MPs and filling seats of MPs.

SEC monitors the implementation of **the Law on Electoral Registers** and tracks changes in the electoral register.¹⁷¹ SEC has a right to access all electronic registers and other records that contain information relevant to keeping the electoral register, as well as a right of access to official documents on the basis of which changes in the electoral register are made. SEC is in charge of bringing the need of eliminating determined irregularities in keeping the electoral register to attention of the Ministry of Interior, and it delivers opinions and ensures the uniform application of the provisions of the Law.

The law stipulates that **the work of the SEC is transparent.**¹⁷² According to SEC's Rules of Procedure the transparency of the work is ensured through disclosure of the data on its website, publishing information and holding press conferences.¹⁷³ SEC has an obligation to on its website publish all documents and data relevant for conducting elections, as well as the interim and final voting results.¹⁷⁴

¹⁶⁸ Law on Election of Councilors and Members of Parliament, Article 18.

¹⁶⁹ Ibid, Article 19.

¹⁷⁰ Ibid, Article 32.

¹⁷¹ Law on Electoral Registers.

¹⁷² Law on Election of Councilors and Members of Parliament, Article 22.

¹⁷³ Rules of Procedure of the State Election Commission, Article 18.

¹⁷⁴ Ibid, Article 32.

1.2. Key Disadvantages of By-Laws for Conducting Elections

SEC's by-laws regulate in more detail electoral activities than the Law on Election of Councilors and MPs. MANS established a working group, consisting of representatives of most political parties and non-governmental organizations dealing with electoral issues, which has analyzed the bylaws of the SEC.¹⁷⁵ MANS has organized consultations with all municipal electoral commissions (MECs) and defined a proposal of 39 amendments, and 10 long-term recommendations, as well, which were submitted to the SEC for examination. SEC has never examined the working group's proposals, and the by-laws had numerous shortcomings.

A key disadvantage of the by-laws is in the fact that **there is no procedure for considering complaints about violations of the electoral law**, although this is the only mechanism for protection of legality of elections, and the time limits for deciding on complaints are tight.

Therefore, so far, deciding on complaints has been based on political interests instead of the law, which undermines public confidence in elections.

The existing by-laws do not prescribe **a procedure in the event of a malfunction of an electronic voter identification device** – who is to be informed about it, who provides technical assistance and repair the device and how much time is required for it.

In addition, they do not lay down **that statistical report from an electronic identification device** is to be printed so as all relevant data can be compared when evaluating the legality of the vote at a polling station.

Furthermore, the by-laws **do not clearly define the possibility of voting for persons who do not have a photograph in the system of the Ministry of Interior** when closing the electoral register, the right to vote by secret ballot of persons with disabilities has not been precisely determined, nor the obligations in the area of accessibility of polling stations.

Regulations **do not defined any obligations of the members of the polling station committee to inform the competent bodies** if at the polling station or near they notice persons keeping records of voters, i.e. **keeping illegal parallel records of voters**.

The by-laws do not define a procedure in case **the president of the polling station committee refuses to enter the remark of a member of the polling station committee in the Record of the polling station committee**, at the time the remark is made, what is his/her legal right. The by-laws do not precisely stipulate **procedures for determining conflict of interest of members of the electoral bodies**.

There is no **any procedure according to which an accredited observer could complain if the polling station committee denies him/her the right to observe** the entire electoral process, or a segment thereof, such as postal voting or counting of the votes.

¹⁷⁵ The working group was composed of representatives of majority of parliamentary political entities in Montenegro, from the government and opposition, as well as non-governmental organizations dealing with electoral issues from different angles. The working group consisted of: Srdjan Miljanic (Democratic Party of Socialists), Spasoje Kovacevic Sladjana Zivkovic (Socialist People's Party), Savo Sofranac (DEMOS), Vladimir Jokic (Democratic Montenegro), Miodrag Radovic (Social Democratic Party), Aleksandar Jovicevic (Social Democrats of Montenegro), Zagorka Pavicevic and Jelena Milicevic (Positive Montenegro), Haris Mekic (Bosniak Party), Luka Rakcevic (United Reform Action), Zdravko Soc (Liberal Party), Hasim Resulbegu (FORCA), Marash Dedvukaj (Albanian Alternative), Milica Kovacevic (Center for Democratic Transition), Dubravka Popovic (Center for Monitoring and Research), Ana Vujosevic (Center for Civic Education), Ivana Bogdanovic (AYDM) and Vuk Maras (MANS).

The by-laws do not precisely stipulate a legal obligation of transparency of work of the SEC, and observers have no access to election materials, including records, for further analysis.

1.3. Decision-making of the State Election Commission

The State Election Commission has adopted political decisions and deepened distrust in the electoral process.

1.3.1. Biometric ID cards

On the eve of the parliamentary election, it was discovered that Montenegrin ID cards are not biometric, and the umbrella electoral law lays down that voters may be identified only on the basis of such documents. This issue was resolved when the SEC adopted a political opinion, which further dented the confidence in the electoral process.

During the introduction of the AFIS system, which was supposed to serve as the main mechanism for identifying duplicate voters, or persons who have the same fingerprints in the system of the Ministry of Interior, the experts of the French company that delivered this system confirmed that the identity cards of Montenegrin citizens are not biometric because they do not contain any biometric component.

Jusuf Kalamperovic, the Interior Minister, who held this office in 2007 when a new system for making ID cards was purchased, confirmed that ID cards were not biometric.¹⁷⁶ The Ministry of the Interior, however, deluded the public for years. For years, this institution called for citizens to obtain a new "biometric" identity card. The last such campaign was conducted in April 2016.¹⁷⁷



Figure 51: Material of the Ministry of Interior regarding the "biometric" identity card

Entering biometric data in the electronic form in person's ID card serves primarily as protection against forgery of the document.¹⁷⁸

Confirmation that new identity cards are not biometric called into question the regularity and legality of the election, since the Law clearly stipulates that the identification of voters is made solely on the basis of biometric documents: "A voter gives his/her first and last name to the polling station committee, and proves his/her identity by a biometric card or passport."¹⁷⁹

However, through the votes of the ruling coalition the SEC adopted the opinion that voters can prove their identity by using identity cards that do not contain biometric data.¹⁸⁰

¹⁷⁶ Darvin Muric, *Jusuf Kalamperovic knew that there were no biometrics*, Vijesti, Podgorica. More information is available at: www.vijesti.me/vijesti/i-jusuf-kalamperovic-znao-da-nema-biometrije-901297 (last visited on 5 November 2016).

¹⁷⁷ More information about obtaining "biometric" identity cards is available on the website of the Ministry of Interior: http://www.mup.gov.me/rubrike/biometrijska_licna_karta/ (last visited on 5 November 2016).

¹⁷⁸ More information is available in the document of the National Science and Technology Council, within the Office of the President of the United States, *The National Biometrics Challenge*, Washington, USA, September 2011: http://biometrics.gov/Documents/BiometricsChallenge2011_protected.pdf (last visited on 1 December 2016).

¹⁷⁹ Law on Election of Councilors and Members of Parliament, Article 80 paragraph 1.

¹⁸⁰ Decision of the State Election Commission No. 485 of 6 September 2016.

This decision was criticized by the opposition that left the SEC's session during the decision making process.¹⁸¹

On the public's request to publish the tender documentation on producing ID cards, to determine who was responsible that they are not biometric, the Ministry of Interior responded that these documents were not in its possession.¹⁸²

1.3.2. Announcing Election Results

Political decision making of the State Election Commission culminated at the session at which they the final results of the election were to be announced, which further weakened confidence in the electoral process.

A proclamation of results was decided by the expanded composition of the SEC, which consisted of 28 members.¹⁸³ Therefore, a majority of votes, or 15 votes, was needed to declare results.

However, the extended composition of the SEC was divided into two blocks, both of which had 14 votes.

The first block backed the ruling Democratic Party of Socialists and their position that the election result were to be declared were supported by the president of the SEC and a member of the SEC representing a non-governmental organization, who had been elected through the public competition. The position of opposition members was that the election result was not supposed to be declared.

One of the members of the SEC from the ruling coalition, representing a coalition of the Albanian parties, immediately prior to the session notified by an official letter that was allegedly made by a representative of the opposition coalition of the Albanian parties that it decided to withdraw its representative from the SEC.

Thus, the total number of members would be decreased by one, and thus the necessary number of votes to declare the results would also decrease by one, which would make the declaration of the election result possible.

However, a representative of the opposition Albanian coalition showed up at the session of the SEC, saying it never withdrew its member, but a counterfeit letter was submitted to the SEC that he had never signed nor submitted.¹⁸⁴

After that, the president of the SEC set a several-hour break. Just before midnight, the president continued the session, after the representative of the said opposition coalition of the Albanian parties, who had never attended sessions before, appeared at the session. She cast a missing vote in favor of declaring the final results of the election.

¹⁸¹ Mila Radulovic, *SEC solved the problem of ID cards without opposition: Decided as DPS wished*, News, Podgorica. www.vijesti.me/vijesti/dik-bez-opozicije-rijesio-problem-licnih-karata-presjekao-po-volji-dps-a-902558.

¹⁸² Marko Misić, *Danilovic sought documents on the disputed tender, Ministry of the Interior responded they did not have them*, Vijesti, Podgorica. More information is available at: <http://www.vijesti.me/tv/danilovic-trazio-papire-o-spornom-tenderu-iz-mup-a-kazu-da-ih-nemaju-902146> (last visit 5 November 2016).

¹⁸³ 11 permanent members of the SEC and 17 additional members, who are representatives of 17 confirmed electoral lists that took part in the election.

¹⁸⁴ Daily "Vijesti", *SEC declared the election result, scandal at the session*, Podgorica, 30 October 2016. More information is available at: <http://www.vijesti.me/izbori2016/dik-proglasio-rezultate-izbora-skandal-na-sjednici-909557> (last visited 1 December 2016).

All opposition members of the SEC left the session before the vote, and publicly expressed doubts that the election results were declared with corrupt activities.¹⁸⁵

Due to all that was going on at the session of the SEC at which the final result of the election was declared, MANS filed a complaint to the Special Prosecutor on 31 October 2016, but until the completion of this report the Special Prosecutor has not given any feedback, nor are there any publicly available information on acting on this complaint.

1.4. Overseeing Electoral Register

Data show that the State Election Commission failed to implement the new obligations under the Law on Electoral Registers and properly oversee the electoral register. The SEC had no access to the electoral register for months, nor did it seek any data on registered voters for months.

The Ministry of Interior (MOI) established a new electoral register at the end of January 2015, and only ten months later, in November, the SEC requested the Ministry of Interior to grant the SEC access to the electoral register's database, so as to begin to exercise control over the register.

Even after gaining access to the database of the Ministry of the Interior, the control over the electoral register remained in a state of deadlock. From November 2015 to July 2016, the SEC did not report a single disputed voter case on any ground to the Ministry of Interior.¹⁸⁶

On the eve of the local election in Tivat, in April 2016, the SEC did not forward any information to the Ministry of Interior about possible irregularities on the voters' list nor requested the Ministry of Interior to carry out inspection supervision over the voters' list in relation to any disputable voters.

Only after MANS pointed out on several occasions that the SEC did not exercise control over the electoral register, this institution at the end of August 2016 addressed the Ministry of Interior and requested additional information on a certain number of voters registered on the electoral register.¹⁸⁷ Since then, the SEC has not addressed the Ministry of Interior concerning this issue.

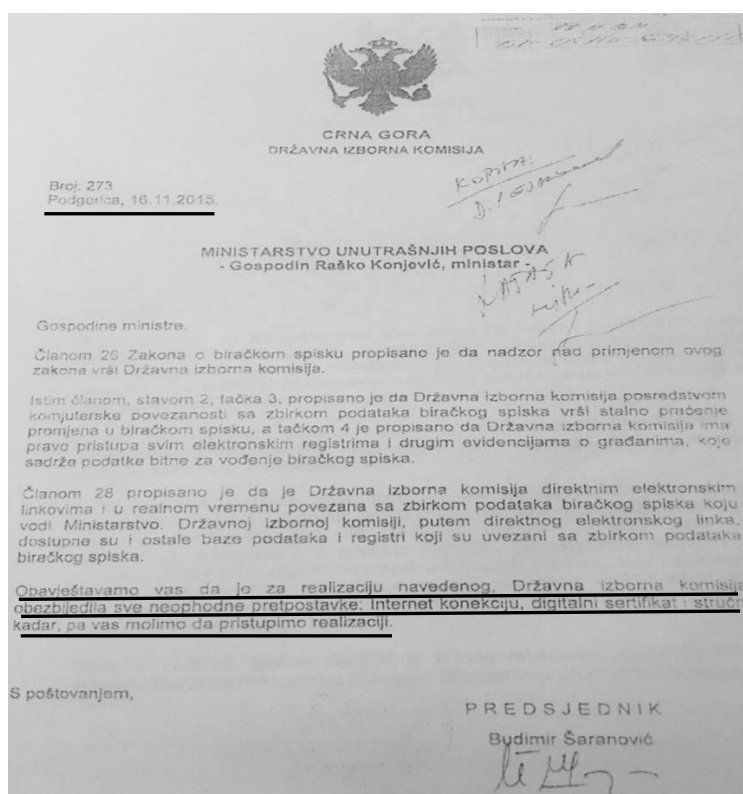


Figure 52: Official letter by which the SEC requests from the Ministry of Interior to provide connection to the electoral register, 16 November 2015

¹⁸⁵ Daily "Vijesti", DF: *Thief gang DPS plans to set up an open dictatorship*, Podgorica, 30 October 2016. More information is available at: <http://www.vijesti.me/izbori2016/df-lopovska-banda-dps-namjerava-da-uvede-otvorenu-diktaturu-909610> (last visited on 1 December 2016).

¹⁸⁶ Information given by the Minister of Interior Goran Danilovic at the meeting of the Ministry of Interior's Coordinating Body for monitoring the implementation of the electoral process, 27 July 2016.

¹⁸⁷ Information was made public at the session of the Interim Committee of the Parliament of Montenegro for monitoring the application of the electoral legislation, on 25 August 2016.

In early August MANS requested from the SEC to submit all reports and other documents on the control of the electoral register that this institution produced since compiling the electoral register.

As MANS did not get the required documentation within the legal deadline, in late August 2016, it filed a complaint, and later an appeal with the Administrative Court. The court decided in favor of MANS, but until the conclusion of this report, the SEC has not provided the requested information.

1.5. Transparency of work

The media is not allowed to attend sessions of the State Election Commission, and this institution makes great efforts to keep the information about its work hidden, which has to be public in accordance with the law.

Although there is no a valid legal act which stipulates that sessions of the State Election Commission are closed to the public, the practice has shown that all sessions of this body have been held without the media.

Ahead of deciding on biometric ID cards, a member of the SEC representing the NGO Center for Monitoring and Research proposed that the session should have been open to the media, which was refused by the majority of members from the ruling coalition.

The SEC's website is not well-organized, there are no elementary technical possibilities for its use and "it does not contain basic information concerning its work and the electoral process, nor the information it is obliged to publish under the Law on Free Access to Information."¹⁸⁸

MANS filed 40 requests to the SEC, on the basis of the Law on Free Access to Information. In 56% of cases the requested documents were delivered, every third request remained without a response, and in about nine percent cases the institution indicated that it did not have the required information.

MANS has submitted 13 appeals, and so far eight decisions have been adopted according to which all the appeals have been upheld. MANS filed four complaints with the Administrative Court, but the judgment is still awaited.

The SEC has failed to provide any of the requested pieces of information, even though it has been more than three months since the submission of the request. Thus, the SEC has hidden minutes of its meetings from the public, as well as information on the activities of the president and other members of the SEC, and information on the control of the voters' list and many other pieces of information.

The SEC has tried to limit access of the accredited observers representing the local NGOs, although the Law on Election of Councilors and MPs guarantees the right to monitor the entire electoral process and the work of the election administration.

Specifically, when granting official authorization to three local NGOs, which were accredited to monitor the electoral process,¹⁸⁹ the SEC de facto banned observers from monitoring certain parts of the electoral process including: signature verification and confirming electoral lists, printing, downloading

¹⁸⁸ CDT, *SEC urgently to improve transparency*, Podgorica, 21 June 2016. More information <https://www.cdtmn.org/2016/06/21/dik-hitno-da-unaprijedi-transparentnost/>

¹⁸⁹ Network for Affirmation of NGO Sector (MANS), Center for Democratic Transition (CDT) and the Center for Research and Monitoring (CEMI).

and distributing election materials, training of the election administration and monitoring important election activities in MECs, particularly in the election night.

Lica koja prate rad organa za sprovođenje izbora dužni su da identifikacionu karticu nose na vidnom mjestu, poštuju red na biračkom mjestu i da ne ometaju rad organa za sprovođenje izbora.

Rad organa za sprovođenje izbora (Državne izborne komisije, opštinske izborne komisije i biračkog odbora) može pratiti samo jedno lice-predstavnik domaće nevladine organizacije koja je dobila službeno ovlašćenje za posmatranje izbora.

Lice koje prati rad organa za sprovođenje izbora ne može učestvovati u radu organa, niti na bilo koji način ometati rad organa za sprovođenje izbora.

Lice koje prati rad izbornih komisija može prisustvovati samo sjednicama komisije.

Figure 53: Initial official authorization for monitoring the election granted to the representatives of MANS by the State Election Commission on 18 July 2016

Only after a public appeal to all three accredited NGOs and the intervention of the Interim Committee of the Parliament for monitoring the application of the election legislation, the SEC changed its official competencies and submitted new ones to MANS, according to which, this time, we had the right to monitor all phases and aspects of the electoral process.

Lica koja prate rad organa za sprovođenje izbora dužni su da identifikacionu karticu nose na vidnom mjestu, poštuju red na biračkom mjestu i da ne ometaju rad organa za sprovođenje izbora.

Rad organa za sprovođenje izbora (Državne izborne komisije, opštinske izborne komisije i biračkog odbora) može pratiti samo jedno lice-predstavnik domaće nevladine organizacije koja je dobila službeno ovlašćenje za posmatranje izbora. Državna izborna komisija će opštinskim izbornim komisijama i biračkim odborima dostaviti instrukcije u vezi sa načinom praćenja izbora od strane mobilnih (višečlanih) timova domaćih nevladinih organizacija.

Lice koje prati rad organa za sprovođenje izbora ne može učestvovati u radu organa, niti na bilo koji način ometati rad organa za sprovođenje izbora.

Lice koje prati rad izbornih komisija može prisustvovati sjednicama komisije i drugim radnjama od značaja za sprovođenje izbora.

Figure 54: Revised official authorization for observing the election granted to the representatives of MANS by the State Election Commission on 1 August 2016

2. AGENCY FOR PREVENTION OF CORRUPTION

MANS has filed nearly 2,300 complaints to the Agency for Prevention of Corruption against institutions that failed to proactively published information on expenditures, or that spent more than planned, as well as in cases of unreported employment and information on the cases of the Agency published in the media.

The agency argues that it has no right to control whether the funds were used in accordance with purposes in the pre-election period, nor to deal with the content and form of documents proactively published by the institutions, so it has rejected the vast majority of our initiatives.

At the same time, the agency has shown that it is not ready to investigate suspected political corruption revealed in the public nor to collect evidence ex officio.

The Administrative and the Supreme Court found that initiative applicants have no right to take the Agency's decisions to second instance, which prevents the control of the legality of the institution.

This means that the whole process of control of political party financing initiatives by NGOs and citizens can be stopped by the Agency Director, without the possibility of reviewing his decisions. This is particularly problematic when taking into consideration that the media, NGOs and citizens reported cases of political corruption by officials and activists of the ruling party, and that the Director of the Agency is closely related with the current prime minister and vice president of the party.

2.1. Types of initiatives towards Agency

2.1.1. Initiative on the ground of failure to publish data

During the monitoring of disclosure of election spending of 107 institutions and entities whose founder or majority owner is the state or a municipality, **MANS filed nearly 2,300 complaints to the Agency**. The Agency is obliged, in accordance with the Law on Financing of Political Entities and Election Campaigns, to control the institutions that have an obligation to proactively publish data on budget expenditure. Most of the complaints were filed on the grounds of incomplete documentation that the institutions published on their websites.

When it comes to the statements of account of state and local budget beneficiaries, applications were filed because the institutions left out information about the basis on which they had disbursed funds, when the payments had been made, even who made the payment, in cases when several institutions operate within a ministry.

When it comes to travel authorizations, complaints were made on the grounds of the lack of information on fuel consumption and mileage logs, in case that the institution published such documents.

Concerning the Treasury statements, budgetary reserves and welfare payments, the complaints were filed these documents lacked the purpose of payment or the name of the supplier.

2.1.2. Initiatives on the grounds of excessive expenditure of institutions

MANS submitted nine initiatives with the Agency for Prevention of Corruption due to multimillion excessive spending in the pre-election period.

According to the Law on Financing of Political Entities and Electoral Campaigns, state and local budget units, apart from the State Election Commission and municipal election commissions, **are not allowed to have monthly expenditures higher than the average** monthly expenditure over the six months from the date of the announcement of elections until the election day.¹⁹⁰

¹⁹⁰ Article 28 of the Law on Financing of Political Entities and Election Campaigns; the prohibition does not apply only in a state of emergency, link: http://www.antikorupcija.me/media/documents/zakon_o_finansiranju_politickih_subjekata_i_izbornih_kampanja.pdf

The same law stipulates that a responsible person in the state or the local authority that spend more than allowed will be fined from €200 to €2,000.¹⁹¹

Due to the excessive expenditure for the construction of local infrastructure in the pre-election period, which was noted with the Ministry of Sustainable Development and Tourism and seven municipalities,¹⁹² MANS filed nine initiatives with the Agency.

The first initiative was filed at the end of September 2016 due to excessive expenditure of the Ministry in the first two months of the election campaign.¹⁹³ It was noted that the funds disbursed in July and August were increased,¹⁹⁴ mostly for local infrastructure and buildings.¹⁹⁵

The Ministry is in the first two months of the election campaign for the average monthly expenditure was spent by 1.1 million euros, as opposed to the non-elected months when consumption was about 650 thousand euros.

In the first two months of the election campaign, the Ministry spent €1.1 million a month on average for this purpose, while the expenditure was around €650,000 in non-electoral months.

At the beginning of October 2016, the Agency sent a letter requesting the correction of the initiative by submitting concrete evidence,¹⁹⁶ although, according to the Law on Financing of Political Entities, the Ministry had published the data on their website and they were publicly available.

We supplement the complaint in due time,¹⁹⁷ but the Agency rejected it at the beginning of November, stating that there had been no evidence the Ministry had acted contrary to the legal provisions.¹⁹⁸

In mid-November 2016, MANS filed a complaint with the Administrative Court against the decision of the Agency.¹⁹⁹

After we got new documentation on the expenditure of the Ministry for the entire election period, we found that **a total of €4.5 million²⁰⁰ had been spent during that period, which was 60 percent more than in the previous quarter.**²⁰¹ Therefore, we submitted **a new initiative²⁰²** to the Agency.

Based on the documents collected for the entire election period, at the end of November 2016, we filed **seven more initiatives** on the grounds of excessive spending of the budget for local works in the

¹⁹¹ Article 55 of the Law on Financing of Political Entities and Election Campaigns; link:

http://www.antikorupcija.me/media/documents/zakon_o_finansiranju_politickih_subjekata_i_izbornih_kampanja.pdf

¹⁹² Podgorica, Niksic, Pljevlja, Herceg Novi, Kotor, Tivat and Cetinje.

¹⁹³ Initiative of NGO MANS, 21 September 2016.

¹⁹⁴ Statements of account of the Ministry of Sustainable Development and Tourism published on their website, link: <http://www.mrt.gov.me/rubrike/spi/spi-iovina/137510/Analiticke-kartice-Ministarstva-odrzivog-razvoja-i-turizma-i-Direkcije-javnih-radova.html>;

¹⁹⁵ Investigation text of NGO MANS and the daily „Dan“: „2.3 million to municipalities before election“, 16 September 2016.

¹⁹⁶ Letter of the Agency for Prevention of Corruption of Montenegro No. 02-02-2539/7406, 5 October 2016.

¹⁹⁷ Complaint of NGO MANS, 13 October 2016.

¹⁹⁸ Conclusion of the Agency for Prevention of Corruption of Montenegro No. 02-02-2539/9550, 2 November 2016.

¹⁹⁹ Complained with the Administrative Court of Montenegro, 17 November 2016.

²⁰⁰ Statements of account of the Ministry of Sustainable Development and Tourism published on their website, link: <http://www.mrt.gov.me/rubrike/spi/spi-iovina/137510/Analiticke-kartice-Ministarstva-odrzivog-razvoja-i-turizma-i-Direkcije-javnih-radova.html>.

²⁰¹ Source of the data is the SAP system, which is kept electronically, and it refers to the total spending of the State Treasury of the Ministry of Finance in April, May, June and July 2016; NGO MANS received this data from the Ministry of Finance on the basis of the Law on Free Access to Information.

²⁰² Initiative with the Agency for Prevention of Corruption of Montenegro, 30 November 2016.

municipalities of Podgorica, Nikšić, Pljevlja, Herceg Novi, Tivat, Kotor and Cetinje, because we found that their expenses had been higher than permitted.²⁰³

By the time this report was made, the Agency did not act upon these initiatives.

2.1.3. Initiatives related to unreported employment

On the basis of the Law on Free Access to Information, MANS obtained the information on employment in certain state agencies that were not reported to the Agency, in accordance to the Law on Financing of Political Entities.

Based on these documents, MANS submitted over 40 complaints, which included nearly a hundred signed contracts that had not been submitted to the Agency.

The Agency responded to 20 complaints. In 13 cases it rejected them, mainly stating that the engagement of persons on the basis of a service contract was not considered employment provided for in article 33 of the law, and therefore does not fall under the obligations, prohibitions and restrictions prescribed by this law.

Po pitanju prijava u kojima navodite da javna preduzeća Kulturni centar Bar i Komunalne djelatnosti Bar nisu ispunila obaveze koje su propisane članom 33 Zakona o finansiranju političkih subjekata i izbornih kampanja, budući da nisu dostavila Agenciji odluku o zapošljavanju sa kompletnom pratećom dokumentacijom, obavještavamo vas da se angažovanje lica na osnovu ugovora o djelu *ne smatra* zapošljavanjem predviđenim ovim članom Zakona, pa samim tim i *ne potpada* pod obaveze, zabrane i ograničenja propisane članom 33 Zakona o finansiranju političkih subjekata i izbornih kampanja.

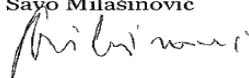
Figure 55: Response of Agency for Prevention of Corruption to MANS's complaints related to unreported employment of the Cultural Center Bar and Utility Services Bar (no. of complaints 2525 and 2526)

For seven of the complaints filed, the Agency informed us that, in the particular cases, it would submit to the competent court the request to initiate misdemeanor proceedings in accordance with provisions of the Law on Financing of Political Entities and Election Campaigns, because they had not fulfilled the obligations stipulated in Article 33.

Imajući u vidu sve naprijed navedeno, kao i to da se podnijete prijave odnose na sumnju o postojanju povrede ovog Zakona od strane Sekretarijata za lokalnu samoupravu i Sekretarijata za privredu i finansije Opštine Budva i Parking servis Budva d.o.o., Agencija je stala da u konkretnom predmetu ne postoje elementi prekršajne odgovornosti u skladu sa Zakonom o finansiranju političkih subjekata i izbornih kampanja, dok Parking servis Budva d.o.o. DOO. "Vodovod i kanalizacija" Budva i Narodna biblioteka Budva nijesu ispunili obaveze koje su propisane članom 33 Zakona o finansiranju političkih subjekata i izbornih kampanja, zbog čega će Agencija podnijeti zahtjev za pokretanje prekršajnog postupka.

Obradila: MN

Kontrolisao:
Pomoćnik direktora
dr Sayo Milašinović



DIREKTOR
Sreten Radonjić



Figure 56: Response of Agency for Prevention of Corruption to MANS's complaints related to unreported employment of the Parking Service Budva, Water and Sewerage Budva and National Library Budva

²⁰³ Initiative with the Agency for Prevention of Corruption of Montenegro, 30 November 2016.

2.1.4. Initiatives based on the media information

The agency proved not ready to collect evidence of possible political corruption ex officio.

MANS submitted to the Agency a total of 41 initiatives based on articles published in the media outlining doubts about the possible political corruption.

MANS submitted to the Agency an initiative to act in relation to the cases that had been reported by the media, such as the journal of Anela Cekic,²⁰⁴ lists of citizens in the diaspora whom the ruling party reportedly paid for their trip to Montenegro to vote.²⁰⁵

The articles were mainly related to citizens' claims that streets in the villages or urban neighborhoods were paved for the voters of the ruling party, or that the voters of the party were given firewood, but also due to an intensive field campaign of government officials and state and local institutions in the pre-election period.²⁰⁶ Namely, at the time of the election campaign, they extensively toured the locations where infrastructure works were carried out or inaugurated the start of certain projects.

The Agency for the Prevention of Corruption requested the amendment of initiatives, and after it was done, rejected the most of them in short time with identical explanation that they were incomplete and that they were lacking evidence.²⁰⁷

Such action in relation to the submitted initiatives only proved that the Agency for Prevention of Corruption had no intention on performing the supervision that had been entrusted by the law, although it was obliged to assess all the allegations in the submitted complaints and take measures to obtain the necessary evidence.

MANS filed a lawsuit with the Administrative Court of Montenegro against decisions of the Agency in November 2016. Until the conclusion of the report, no judgment has been made.²⁰⁸

2.2. Agency decisions and court rulings

The agency rejected 1,895 initiatives, after having taken the position that it had no right to control whether the funds had been spent accordingly in the pre-election period and that it had no legal basis to deal with the content and form of documents that the institutions had been proactively publishing. The Administrative and the Supreme Court found that initiative applicants have no right to take the Agency's decisions to second instance, which prevents the control of the legality of the institution. In 30 cases, the Agency informed that it would file requests for initiating misdemeanor proceedings²⁰⁹ with a competent court and in accordance with provisions of the Law on Financing of Political Entities.

The Agency took the position that it did not control whether parties bound by the law used budget funds in accordance with the purposes and that it was the responsibility of other institutions. Also, the

²⁰⁴ Case was published in the daily „Dan“.

²⁰⁵ Link: <http://bosnjaci.net/prilog.php?pid=60206>.

²⁰⁶ Complaints were filed in September, October and November of 2016.

²⁰⁷ In October and November 2016, the Agency for Prevention of Corruption dismissed 35 initiatives of NGO MANS, while it requested correction of 41 initiatives.

²⁰⁸ In November 2016, NGO MANS filed 35 lawsuits with the Administrative Court of Montenegro.

²⁰⁹ Misdemeanors in question: Parking service Budva, Water and Sewerage of Budva, National Library of Budva, Cistoca DOO Pljevlja, Budget and Finance Secretariat of Ulcinj, Local Government Secretariat of Andrijevisa, Water Management, Agency for Construction and Development of Herceg Novi, Parking service of Herceg Novi and Water and Sewerage of Herceg Novi.

Agency stated that it did not address the content and form of statements of account and travel authorizations, claiming that it had no legal basis.

Sadržaj i forma analitičke kartice nisu propisani zakonom niti podzakonskim aktom u Crnoj Gori, niti u naučnoj teoriji koja obrađuje ovu problematiku. Zakon o finansiranju političkih subjekata i izbornih kampanja nije predvidio mogućnost Agenciji ili drugom licu da propisuje sadržaj i formu analitičkih kartica obveznika Zakona. Agencija nema zakonsko uporište da propiše sadržaj analitičke kartice za organe vlasti u periodu izborne kampanje jer, između ostalog, i nema nadležnosti za sprovođenje finansijske kontrole nad organom vlasti.

Član 32 istog Zakona propisuje zabranu javnim funkcionerima korišćenja službenih automobila u periodu izborne kampanje, osim u slučajevima službene potrebe. Ova zabrana se ne odnosi na javne funkcionere koji imaju status štice ličnosti, dok je stavom 3 istog člana propisano da su svi državni organi, organi državne uprave, organi lokalne samouprave, organi lokalne uprave, javna preduzeća, javne ustanove, državni fondovi, privredna društva čiji je osnivač i/ili većinski ili djelimični vlasnik država ili jedinica lokalne samouprave dužni da na svojoj internet stranici objavljuju sedmodnevno sve izdate putne naloge za upravljanje službenim vozilima od dana raspisivanja do dana održavanja izbora. Agencija ne kontroliše da li su obveznici Zakona popunili sve predviđene pozicije obrasca putnog naloga kao što su količina goriva, maziva, motornog ulja i slično, već da li je došlo do povrede člana Zakona koji zabranjuje javnim funkcionerima korišćenje službenih automobila u periodu izborne kampanje, osim u slučajevima službene potrebe.

Članom 55 stav 1 tačka 18 i 22 istog Zakona propisano je da će se novčanom kaznom od 200 eura do 2.000 eura kazniti za prekršaj odgovorno lice u državnom organu, organu državne uprave, organu lokalne samouprave, organu lokalne uprave, javnom preduzeću, javnoj ustanovi, državnom fondu i privrednom društvu čiji je osnivač i/ili većinski ili djelimični vlasnik država ili jedinica lokalne samouprave, ako od dana raspisivanja do dana održavanja izbora, kao i mjesec nakon održavanja izbora, **sedmodnevno** na svojoj internet stranici ne objavljuju **analitičke kartice** sa svih računa koje imaju u svom posjedu i ne dostavljaju ih Privremenom odboru, kao i ne objavljuju sedmodnevno na internet stranici **sve izdate putne naloge** za upravljanje službenim vozilima od dana raspisivanja do dana održavanja izbora.

U skladu sa nadležnostima koje ima, Agencija za sprječavanje korupcije je konstatovala da je:

Poreska uprava ispunila Zakonom propisane obaveze za vrijeme izborne kampanje i objavila analitičke kartice i izdate putne naloge u skladu sa Zakonom o finansiranju političkih subjekata i izbornih kampanja.

Kako Zakonom o finansiranju političkih subjekata i izbornih kampanja nije propisana detaljna sadržina: koje sve podatke mora da sadrži analitička kartica i putni nalog, to se Agencija nije upuštala u utvrđivanje tačnosti objavljenih podataka, kako je to podnosilac u prijavama tražio.

Cilj i svrha sprovođenja Zakona je transparentna upotreba javnih resursa u toku izborne kampanje i sprovođenje upravnog postupka i izricanje mjera upozorenja isključivo političkom subjektu (čl. 48 Zakona o finansiranju političkih subjekata i izbornih kampanja) kao i pokretanje prekršajnog postupka protiv pravnog lica, političkog subjekta, odgovornog lica u organu državne uprave, ukoliko postoje elementi prekršajne odgovornosti.

Imajući u vidu sve naprijed navedeno, kao i to da se podnijete prijave odnose na sumnju o postojanju povrede ovog Zakona od strane Poreske uprave kao državnog organa, Agencija je stava da u konkretnom predmetu ne postoje elementi prekršajne odgovornosti u skladu sa Zakonom o finansiranju političkih subjekata i izbornih kampanja.

Obradila: MS

Kontrolisao:
Pomoćnik direktora
dr Savo Milišević

DIREKTOR
Bretan Radonjić

Figure 57: Excerpt from the letter of Agency for Prevention of Corruption
No. 02-02-2539/5383, 16 September 2016.

Transparency, as one of the segments of legality, implies that public resources are used in accordance with their purpose, what the Agency consistently refused to control.

In addition, the goal and purpose of implementation of the law cannot only be a transparent use of public resources during election campaigns, but also their active control, due to the fact that transparency does not simultaneously preclude illegality.

Starting from the practice established in previous elections and the legally defined right observe elections observe the legality of work of the election administration, MANS filed 1,342 complaints with the Administrative Court of Montenegro in order to evaluate the legality of actions of the Agency.

Specifically, during the previous elections, MANS challenged before the Administrative Court the decision of the State Election Commission, which was then responsible to act according to the filed complaints.

However, in this election, the Administrative Court differs from earlier taken position, stating that MANS cannot be a party in these proceedings and that it had no right to question the decisions of the

Agency and file complaints to the Administrative Court, without questioning the legality of the conduct of the Agency.

In contrast to this attitude, the Administrative Court has earlier adopted a number of decisions on the merits, in accordance with MANS's complaints in the cases of the same kind.²¹⁰ A significant number of these complaints were adopted and decisions of the defendant annulled. A number of those decisions of the Administrative Court passed the verification before the Supreme Court of Montenegro and neither that Court challenged the right of MANS to file complaints of this kind. The Administrative Court did not give reasons or any explanation as to why it had changed the position previously taken on several occasions.

Until the conclusion of this report, the Administrative Court ruled in 47 cases, rejecting all complaints was rejected on the grounds that MANS, as the applicant, does not have the status of a party in these proceedings without engaging in the justification of our statements.

For this reason, we submitted to the Supreme Court of Montenegro a request to reconsider this view of the Administrative Court. However, **the Supreme Court of Montenegro rejected the request of MANS, confirming thus the taken position of the Administrative Court** that MANS, as an observer of the electoral process, did not have the right to initiate proceedings against the Agency. Neither this Court gave reasons and justification for the change in the previous paragraph.

The head of the Administrative Court is a former senior official of the executive,²¹¹ and her appointment last year reinforces doubts about the political influence on the courts. The current president of the Administrative Court has been elected without having been a judge, amongst other candidates, who had been judges for many years. Her appointment was made on 3 March 2015, exactly 17 days before the law according to which she did not meet the prescribed requirements to be elected president of the court, entered into force.²¹²

²¹⁰ Rulings of the Administrative Court No. 1142/2014, 1143/2014, 1144/2014, 1146/2014, 1148/2014 1149/2014, 1150/2014, 1151/2014, 1152/2014, 1153/2014, 1154/2014, 1155/2014, 1156/2014, 1157/2014, 1158/2014, 1159/2014, 1160/2014, 1162/2014, 1163/2014, 1164/2014, 1165/2014, 1166/2014.

²¹¹ The president of the Administrative Court had never performed judicial function before resuming the duty. Before the election, she was assisting the then minister of justice and today's prime minister Dusko Markovic.

²¹² On 20 March 2015, the Law on the Judicial Council and Judges entered into force. The law requires the President of the Administrative Court to have at least 12 years of legal experience, of which at least 5 years of judicial or prosecutorial function. According to the previously applicable law, the President of the Administrative Court was required to have a working experience of 10 years without the requirement related to years of service in the judiciary or prosecution.

3. MINISTRY OF INTERIOR

In the analysis and control of the electoral roll, MANS faced with many obstructions by the administration of the Ministry of Interior (Mol). We tried to acquire the information on possible irregularities through the Coordination Body that the Mol formed, but without much success.

We were briefly granted access to the database of the Ministry of Interior, which enabled more efficient analyses. However, the Mol administration soon afterwards decided to deny further access and stated that, according to the law, we could only get copies of the requested documents.

Until the conclusion of the electoral register, the Mol administration did not provided us with dozens of thousands of pages of documents based on which questionable voters had been registered, while many times the submitted documentation was not complete.

3.1. Coordination body

In order to enhance the accuracy of the electoral register, upon his arrival at the head of the Ministry of Internal Affairs, the minister from the ranks of the opposition, Goran Danilovic,²¹³ formed a Coordination Body for Monitoring the Implementation of the Electoral Process. This body, in addition to the Minister and officials of the Ministry of Interior, was composed of representatives of three parties²¹⁴ and representatives of three non-governmental organizations.²¹⁵

The Coordination Body began its work in July 2016. At its meetings, the information that was supposed to have been provided by the Mol's IT department were requested and analyzed. Although all members of the coordination body, under the Law on the Electoral Register, have the right to access data from the electoral register, the Mol department repeatedly failed to provide the information on the pretext that as members of this body they had no right to access the requested data.

After a process that lasted several months, the Minister suspended the Head of the IT Department at the end of September 2016, after which a new acting director was appointed. However, most of the data that the department should have provided earlier, was never submitted to the members of the Coordination Body.

At the end of July 2016, the Minister announced that the members of the Coordinating Body would be provided a separate room for direct access to all the information in possession of the Ministry of Interior that affected the accuracy of the electoral register. **However, only in late September, eight days before the conclusion of the electoral register, conditions for the members of the coordination body to get direct insight into the electoral register were finally met.** Yet, due to the extremely short time before the conclusion of the electoral register, it was not possible to carry out a more detailed inspection of a large number of voters at this point.

²¹³ Minister Danilovic was appointed by the Parliament of Montenegro on 18 May 2016, as a minister from the ranks of the opposition. Appointment of the opposition minister is a part of an agreement between the ruling party and a part of the opposition parties to establish the Government of Electoral Trust, which would increase the trust in regularity of the election.

²¹⁴ Socialist People's Party (SNP), Social Democratic Party (SDP) and Demos.

²¹⁵ Center for Democratic Transition (CDT), Center for Monitoring and Research (CeMI) and Network for Affirmation of Non-Governmental Sector (MANS).

3.2. Prohibition of inspection

After the initial analysis of the electoral register, MANS requested the Mol to submit data for several thousand citizens, in order to inspect whether those persons had been legally registered as voters and whether certain persons had been deleted from the electoral register in accordance with the law.

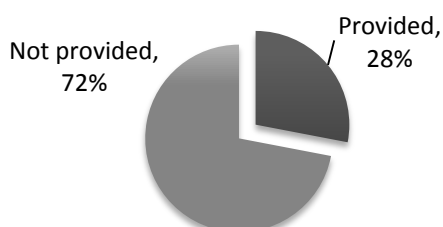
Bearing in mind that the process of delivering the required documentation was slow, and that the Mol officials complained that they could not meet the legal requirement in accordance with the deadlines laid down by the law, MANS accepted the Mol's proposal that some of MANS's representatives inspect the documents in the premises of the Ministry of Interior, because it was a more effective solution.

However, after only a few days of inspection, during which we discovered a number of irregularities in the electoral register, the Ministry of Interior forbade us to access the data in this way and ordered that the documentation be submitted only in printed form. Such a decision was justified with a provision of the law under which it is stated that the said right could only be granted to the authorized representative of a parliamentary party and verified electoral lists, while non-governmental organizations could be provided with adequate copies of the documents.²¹⁶

After that, MANS continued submitting requests for documentation, while the Mol usually failed to provide the information, or provided incomplete or unnecessary information. As expected, classification and analysis of all those documents was taking an extremely long time, both to the Mol administration and MANS, so the process of cleaning the electoral register was much slower than in the case of direct access to the Mol's database.

3.3. Failure to provide information

The law stipulates that the Ministry is due to provide a non-governmental organization which has been issued the authorization to monitor the elections, at their request, with the data that affect the accuracy of the electoral register, within 48 hours from receiving such request. However, despite this, the Ministry of Interior provided late answers, while the large number of requests, which concerned more than 20,000 voters, did not get the answer.



Graph 23: Mol's responses to submitted requests for data for 28,806 voters

Primarily, from the time the parliamentary elections were called until the conclusion of the electoral register, MANS submitted requests for documents for 28,806 voters.

From these, the Mol has never provided complete information for more than a half, or for 20,737 voters.

For example, at the MANS's request for information on persons who had been for the first time registered in the electoral list, as well as persons who had changed address, the Mol submitted only the data related to the registration of voters in the register of citizens, while the rest of the documentation related to the residence of these persons was not delivered at the time of creation this report. Therefore, MANS could not complete the analysis of all the cases for which it is believed that in some way could have been controversial.

MANS requested the Mol to provide the list of foreigners with permanent residence in Montenegro, as well as the list of all voters with ID card and passport numbers, but there was no answer to this request.

²¹⁶ Law on Electoral Register, Article 24.

4. INTERIM COMMITTEE OF PARLIAMENT OF MONTENEGRO

From its establishment to the elections, the Interim Committee of the Parliament to monitor the implementation of laws and other regulations of importance for building trust in the electoral process has not exercised any control over the spending of state funds by the institutions during the election campaign.

4.1. Composition and competences of the Interim Committee of the Parliament

The interim Committee was appointed by the Parliament of Montenegro on 28 July 2016 on the basis of previously adopted decision on the establishment of the committee for monitoring the implementation of laws and other regulations of importance for building trust in the electoral process.²¹⁷ Although, according to the Decision on Education, the Committee has 14 members, seven from both the government and the opposition, in practice, it had 12 members, seven of which were from the ruling coalition and five from the opposition.²¹⁸ The Committee was co-chaired by one representative of the government and one of the opposition.²¹⁹

The Law on Financing of Political Parties and Election Campaigns provides that the Interim Committee, as well as the Agency for Prevention of Corruption, submit every seven days all statements of account of state and local budget beneficiaries, all data on welfare payments, statements of account of state and local budget reserves, statements from state and local treasuries, as well as travel authorizations for the use of official vehicles, in order to exercise parliamentary oversight of misuse of public funds for party purposes.

4.2. Activities of Interim Committee

This parliamentary working body never even defined the manner in which it would control the statements of account, statements of the treasury, information on welfare payments and other information that the institutions submitted every seven or fifteen during the electoral process.

Therefore, the Interim Committee has never held any session related to overseeing the expenditure of the institutions and verifying abuses, nor analyzed any of the large number of documents that the institutions submitted.

Since the announcement of the parliamentary elections, on 11 July, until the day of election 16 October 2016, the Committee held seven meetings. The first session was constituting, where the co-chairmen of the Interim Committee were selected.

Five sessions were devoted to the implementation of the Law on Register of Electors and the Law on Election of Councilors and Members of Parliament, and meetings with representatives of relevant institutions - the Ministry of Interior and the SEC, in order to ensure full implementation of the legally defined deadlines.

²¹⁷ Decision on Education of Committee was rendered on 31 July 2015, and amended on 13 October 2016.

²¹⁸ Committee members from the government were Milutin Simovic (DPS), Miodrag Vukovic (DPS), Predrag Sekulic (DPS), Mevludin Nuhodzic (DPS), Suljo Mustafic (BS), Zorica Martinovic (PCG) and Ljerka Dragicevic (HGI), and from the opposition Draginja Vuksanovic (SDP), Dritan Abazovic and Milos Konatar (GP URA), Neven Gosovic (DCG) and Zoran Miljanic (Demos). Due to a boycott of the Parliament, two seats that belonged to the largest opposition party – Democratic Front, remained empty.

²¹⁹ Milutin Simovic (DPS) on behalf of the government and Draginja Vuksanovic (SDP) on behalf of the opposition.

Only one session was dedicated to the work of the Agency for Prevention of Corruption and the activities it undertakes in order to detect misuse of public funds for electoral purposes.

The Committee requested all the three supervised institutions – the State Election Commission, the Ministry of Interior and the Agency for Prevention of Corruption – to submit action plans with a list of obligations which they were obliged to carry out before the elections, as well as the deadlines. The institutions submitted those action plans submitted, after which the Committee conducted a discussion with their representatives and talked about all the measures proposed in those documents.

The Committee paid far more attention to the voters' lists and the law on election of councilors and MPs, so it requested the Ministry of Interior and the State Election Commission to submit reports on the fulfillment of measures from the action plans that had been previously submitted by institutions. After that, in the presence of representatives of these institutions, the Committee evaluated the reports, in order to ensure the fulfillment of all obligations on time.

On the other hand, the Board of the Agency for Prevention of Corruption did not request any report on implementation of the obligations of the institution and its results in order to prevent misuse of public resources for party purposes, nor did it further discuss the work of these institutions after an initial meeting at which the Action Plan of the Agency was discussed.

5. SPECIAL PROSECUTOR FOR CORRUPTION AND ORGANISED CRIME

With the amendments to the law adopted before the elections, the prosecution of criminal offenses against electoral rights has been transferred to the Special Prosecutor for Corruption and Organized Crime, but this has not led to more effective and transparent prosecution of these cases.

The Prosecution circumvented the amendments to the law, so that basic prosecutors continued to deal with these cases, without any results, as earlier.

MANS has filed 156 criminal charges on suspicion of commission of offenses against the electoral rights, prosecutors have dismissed 20 cases, while there is no information about other cases even month and a half after filing the charges. The prosecution dismissed all cases based solely on statements of suspects who denied that they had committed crimes.

5.1. Legal Framework

The Law on the Special State Prosecutor (SSP) has been amended before these elections by extending jurisdiction of the SSP to prosecution of offenders against the electoral rights. The draft amending the law stated that with the Agreement of the governing parties and the opposition on creating conditions for fair and free elections, especially bearing in mind the degree of social danger of these crimes, the Special State Prosecutor's Office took over a jurisdiction for prosecution of these crimes.

Therefore, determining the jurisdiction of the Special State Prosecutor's Office for these crimes should have provided a more professional and more efficient prosecution. Application of the law was limited to the final completion of proceedings initiated in relation to the October elections.²²⁰

²²⁰ Article 2 of the Law amending the Law on Special State Prosecution.

Chapter 16 of the Criminal Code of Montenegro (CC) prescribes criminal offenses against electoral rights:

- violation of right to be elected (article 184 of the CC),
- violation of voting right (article 185 of the CC),
- violation of exercising free will when voting (article 186 of the CC),
- abuse of the right to vote (article 187 of the CC),
- composing inaccurate voters' list (article 188 of the CC),
- obstructing elections (article 189 of the CC),
- obstructing the monitoring of voting (article 190 of the CC),
- violating the secrecy of voting (article 191 of the CC),
- falsifying the results of voting (article 192 of the CC) and
- destroying documentation on voting (article 193 of the CC).

Furthermore, the Criminal Code prescribes criminal offense under Article 193a, which, for obscure reasons, does not have a title in the Code, where the perpetrator is an official who uses or allows the use of state property for the presentation of electoral lists.

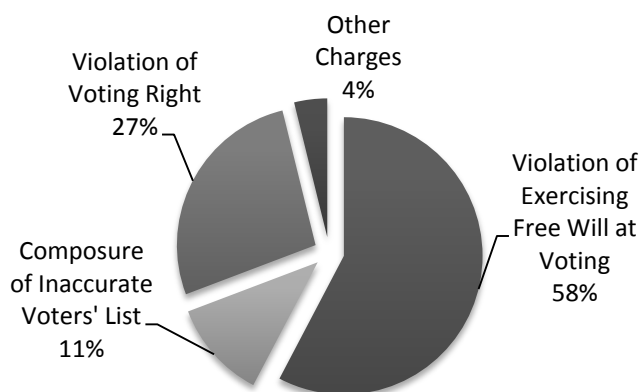
Finally, the Article 194 of the Criminal Code stipulates serious offenses against the electoral rights for which severe punishment is prescribed if there is a serious consequence due to a certain crime.²²¹

5.2. Overview of criminal charges filed

During the election campaign, as well as on the election day, MANS filed a total of **156 criminal charges** to the Special Public Prosecutor for Corruption in Organized Crime (SSP) on suspicion of commission of criminal offenses against electoral rights.

The largest number of charges filed to the SSP was related to the violation of exercising free will at voting. MANS has submitted 90 charges for this offence.

A significant number of criminal charges were filed for **violation of voting right** or preventing citizens to vote, 42 charges in total.



Graph 24: Structure of criminal charges

Due to **composure of inaccurate voters' list** and abuse of this document, 18 criminal charges were filed. Two criminal charges were filed on suspicion of **buying ID cards**.

Two criminal charges were filed on suspicion of abuse of official vehicles, while two criminal charges were filed for illegal employment in the pre-election period.

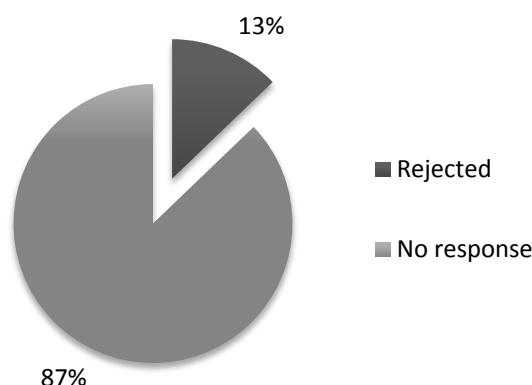
MANS also filed six charges pertaining to obstruction the monitoring of voting, abuse of the right to vote, obstruction of elections and possible falsifying the results of voting.

²²¹ Disturbance of public peace and order and imperilment of property the value of which exceeds €20,000, lives of a number of people are brought into danger, a person has suffered a serious physical injury or material damage exceeding the amount of €40,000 was sustained, death of one or more persons occurred.

Majority of criminal charges, besides the information about a possible crime, also contained information on possible perpetrators, photos or videos, contacts of witnesses and other evidence.

Until the conclusion of this report, we received an answer from the office of the SSP that a total of **20 criminal charges** MANS had filed had been processed and that they had all been **dismissed**.

A month and a half after the election, we still have no information whether the Special Prosecutor has done anything in almost 90 percent of cases. This is particularly problematic given that MANS submitted 117 charges, which were related to the crimes of violation of freedom of preference of citizens on election day.



Graph 25: Responses of the Special Prosecutor on MANS' criminal charges

5.3. Prosecution acting on criminal charges

5.3.1. Overview of responses to charges

All 20 decision adopted by the prosecution upon MANS' charges were identical - the Prosecutor's Office dismissed charges with the conclusion that there were no grounds for initiating criminal proceedings against any person for any criminal offense.

Most of the Prosecution's responses were extremely vague, did not contain any explanation of what activities had been taken during the inquest and on what basis they specifically concluded that there were no grounds for initiating criminal proceedings. The prosecution provided us with the decision on dismissing criminal charges only in several cases.

In accordance with article 271 of the Criminal Procedure Code, the state prosecutor dismisses a criminal charge by a reasoned decision and informs the informant about dismissal of criminal charge and his/her right to file a complaint against the decision on dismissal of criminal charge.

Also, according to the same article, the state prosecutor may independently or with the police assistance summon the informant and other persons to provide additional information, especially if the offender is unknown.²²²

²²² Articles 271 of CPC prescribes the following:

(1) The State Prosecutor shall, **by a reasoned decision**, dismiss a criminal charge if it arises from the charge that the act in question does not constitute a criminal offence or a criminal offence prosecuted by virtue of office, if the statutory limitation has come to effect, or if the offence is subject to amnesty or pardon, or if there are other circumstances disqualifying the prosecution.

(2) The act on the dismissal of a criminal charge shall be delivered to the informant, to the injured party, compliant to Article 59 of the present Code, as well as to suspect of criminal charge, if s/he requires it. The injured party and **the informant shall be instructed in the act about the right to file a complaint against the decision on dismissal of criminal charges**.

(3) If, based on the contents of the criminal charge, the State Prosecutor is unable to establish whether the allegations in the charge are probable, or if the facts from the charge are insufficient to issue either an order of investigation or decision on the dismissal of charge, and **particularly if the offender is unknown, the State Prosecutor shall, either personally or through other authorities, gather necessary information. For that purpose the State Prosecutor may summon the informant, the person subject to criminal charge, and other persons whom s/he assesses able to provide information relevant to deciding on the charge. If the State Prosecutor is unable to do it by himself/herself, s/he shall request the police authorities to obtain necessary information and take**

Thus, the cited provision requires the prosecutor to adopt a reasoned decision on dismissal of criminal charges, which is submitted to the informant due to his/her right to lodge a complaint against the decision. By not adopting or delivering the decision to the informant, he/she is in fact being denied the right to lodge a complaint against the decision.

In addition, in each case where they have rejected charges against certain persons, prosecutors failed to invite the informant or any other person, other than suspect, in order to collect information.

In cases where the perpetrator is unknown, prosecutors not only failed to invite the informant or other person to collect information, but instead gave MANS unlawful legal advice to file charges against a particular person.

5.3.2. Circumventing the Amendments to the Law on Special State Prosecution

The Special State Prosecution has actually circumvented the recent amendments to the Law, which prescribe that procedures under criminal charges related to the elections are within its competence, by shifting these cases to prosecutors from Basic Prosecution Offices. Law was amended to provide more efficient and professional prosecution of charges for these crimes by special prosecutor's office, because the basic prosecutors did not have any results in the prosecution of these crimes in the previous period.

In August this year, amendments to the Law on Special State Prosecution²²³ came into force, prescribing that the Special State Prosecutor's Office is responsible for the prosecution of criminal offenses against electoral rights in relation to the October parliamentary elections.

However, prosecutors of the Special State Prosecutor's Office did not act upon charges for these crimes once again.

The prosecutors from the lower - Basic State Prosecutor's Offices, were transferred to the Special Prosecutor's Office²²⁴ and exclusively they acted upon criminal charges related to the elections, as can be seen from each response that we have been delivered to us so far, specifying the actual position of the Prosecutor and that he has been sent to work in the Special Prosecutor's Office.

other measures in order to discover the criminal offence and its perpetrator, in compliance with Articles 257, 258 and 259 of the present Code.

(4) Aimed at clarification of specific issues subject to an expert opinion, arising on the occasion of deciding on a criminal charge, the State Prosecutor may ask for relevant explanations from professionals in the field.

(5) The State Prosecutor may at any time require information from the police regarding the measures taken. The police shall respond to the State Prosecutor without any delay.

(6) If, even after the undertaking of the actions from paragraphs 3, 4 and 5 of this Article, there are some of the circumstances from paragraph 1 of this Article or if there is no reasonable suspicion that a suspect has committed a criminal offence which is prosecuted by virtue of office, the State Prosecutor shall dismiss the charge.

(7) When gathering or giving information, the State Prosecutor and other state authorities, companies and other legal persons shall act with due caution, ensuring that no harm be inflicted on the honor and reputation of the person who is subject to the information.

²²³ Law Amending the Law on Special State Prosecution is published in the "Official Gazette of Montenegro" No. 53/2016, 11 August 2016, which came in force on 19 August 2016, and is being implemented until the final completion of all proceedings initiated in relation to the elections scheduled for 16 October 2016.

²²⁴ Pursuant to the Article 24 of the Law on the Special State Prosecutor's Office, the Prosecutorial Council may, at the request of the Special Prosecutor, transfer a state prosecutor to the Special Prosecutor's Office for a limited time to perform urgent tasks or due to increased workload or to act in a particular case.



SPECIJALNO DRŽAVNO TUŽILAŠTVO
Kir-S 468/16
Nikšić, 08.11.2016. godine

NVO MREŽA ZA AFIRMACIJU NEVLADINOG SEKTORA - MANS

PODGORICA
Ulica Dalmatinska br.188

Povodom Vaše krivične prijave broj 68 od 16.10.2016. godine podnijete protiv u Nikšiću, zbog krivičnog djela povreda prava glasanja iz čl.185 st.2 u vezi st.1 Krivičnog zakonika, obavješćavamo Vas da ovaj tužilac nakon završenog izviđanja nije našao zakonskog osnova za pokretanje krivičnog postupka protiv bilo kojeg lica za krivično djelo na koje se goni po službenoj dužnosti.

Ukoliko niste zadovoljni odlukom ovog tužioca, imate pravo da podnesete krivičnu prijavu protiv određenog lica za koje smatrate da je odgovorno za određeno krivično djelo.

DRŽAVNI TUŽILAC U ODT-NIKŠIĆ,
Upućen na rad u Specijalno državno tužilaštvo



CRNA GORA
SPECIJALNO DRŽAVNO TUŽILAŠTVO
Kir-S. br. 446/2016
Herceg Novi, 08. novembar 2016. godine.

NVO "MREŽA ZA AFIRMACIJU NEVLADINOG SEKTORA"

PODGORICA
ul. "Dalmatinska" br.188.

Specijalnom državnom tužilaštvu ste dostavili krivičnu prijavu br. 204 od 16.10.2016. godine protiv č. 48 Herceg Novi, zbog osnovane sumnje da su izvršili krivično djelo povreda prava glasanja iz čl. 185. st. 2. KZ CG.

S tim u vezi, obavješćavamo Vas da su po ovoj prijavi prikupljena potrebna obavještenja i da je utvrđeno je da ne postoji osnov sumnje da je od strane 1. Herceg Novi izvršeno krivično djelo povreda prava glasanja iz čl. 185. st. 2. KZ CG, kao ni bilo koje drugo krivično djelo za koje se goni po službenoj dužnosti.

DRŽAVNI TUŽILAC U ODT HERCEG NOVI
UPUĆEN U SPECIJALNO DRŽAVNO TUŽILAŠTVO
Rade Stijević



CRNA GORA
SPECIJALNO DRŽAVNO TUŽILAŠTVO
KTR-S.br.500/16
Podgorica, 04.11.2016. godina

MREŽA ZA AFIRMACIJU NEVLADINOG SEKTORA - MANS

PODGORICA
Ul. Dalmatinska br.188

Povodom Vaše krivične prijave broj 416 od 16.10.2016. godine, koja je podnijeta Specijalnom državnom tužilaštvu, protiv i, obavješćavam Vas da je ovaj tužilac nakon sprovedenih dokaznih radnji ocijenio da nema osnovane sumnje da je prijavljeni izvršio krivično djelo iz grupe krivičnih djela protiv izbornih prava građana, niti drugo krivično djelo za koje se goni po službenoj dužnosti.

DRŽAVNA TUŽITELJKA
U OSNOVNOM DRŽAVNOM TUŽILAŠTVU
U BIJELOM POLJU
upućena u
SPECIJALNO DRŽAVNO TUŽILAŠTVO
Katarina Kljajević



Images 58, 59 and 60: Responses of the Special Prosecution upon criminal charges filed

5.3.3. (No) Investigations

Both the prosecution and the police failed to take actions for which they have been authorized by the law, and, instead, they have just been taking statements from the suspects, who have denied the crimes. The prosecution based its decision on such information, without carrying out further activities to verify information gathered from suspects and even without speaking to the potential injured parties.

The Criminal Procedure Code enumerates 13 actions that the police may undertake upon criminal charges on its own initiative or at the request of the Prosecutor, or if there are grounds for suspicion that a criminal offense should be prosecuted *ex officio*.²²⁵

Thus, the police may invite citizens to collect information during the inquest,²²⁶ while a state prosecutor may interrogate the suspect and witnesses.²²⁷

All responses from the prosecution referring to violation of exercising free will at voting²²⁸ for the benefit of the ruling party state that the police has taken only one concrete action: collected information from the suspect and based the conclusion that the crime was not committed on the statement of the person who denied criminal offence.

²²⁵ According to the article 257 paragraph 2 of the CCP, the police authorities may seek information from citizens, apply polygraph testing, conduct voice analysis, perform anti-terrorist raid, restrict movement to certain persons in a certain area for a relevant period, publicly offer a reward with the view of collecting information, carry out a necessary inspection of the means of transportation, passengers and luggage; undertake necessary measures related to the establishment of the identity of persons and the sameness of items, take a DNA sample for analysis, issue a wanted notice for a person or warrant for seizure of items which are subject to a search, inspect, in the presence of the authorized person, facilities and premises of state authorities, companies, other legal persons and entrepreneurs, have insight in their documentation and seize it where needed, and take other necessary measures and actions in compliance with this Code. Records or an official annotation shall be made on the facts and circumstances established in the course of individual actions, which may be of importance for the criminal proceedings, as well as on discovered or seized items. The police may also make audio or audiovisual recordings of the execution of certain actions from this paragraph, in which case such recordings shall be enclosed with the record or the official annotation thereon.

²²⁶ Article 259 of the CCP.

²²⁷ Articles 261 and 262 of the CCP.

²²⁸ Article 186 of the Criminal Code of Montenegro.

The responses also contain the notice that the police conducted operational testing in the field, but do not specify any concrete action taken by the police in accordance with its statutory powers.

The State prosecutors' decisions should not be based on the letters of the police in which they state a lack of operational knowledge, without any data on specific investigative actions conducted.

None of these responses contain indication what actions the prosecution took or asked the police to take to verify the statements of these persons. Instead, they have used the suspect's statement that he/she did not committed criminal offenses as a key reason to dismiss the criminal charges.

Case study: Same prosecutor dismissed charges for Podgorica based on the testimony of suspects

The same prosecutor, sent from the Basic State Prosecutor's Office in Podgorica to the Special State Prosecutor's Office, acted upon all criminal charges filed by MANS on suspicion of committing criminal offenses in the territory of Podgorica.

In cases where prosecutor adopted a decision on dismissal of criminal charges, they were dismissed with almost identical reasoning that information had been collected from the suspect, through the Police Administration, stating that he/she had not committed a crime, that the police informed the prosecutor about operational testing carried out and that there is no information that would lead to suspicion that the suspect committed acts specified in criminal charges.

There are no indications which other actions the police took or whether the state prosecutor asked the police to take any other action in addition to interviews with suspect in any of these cases.



CRNA GORA
SPECIJALNO DRŽAVNO TUŽILAŠTVO
Kt S br. 319/16
Podgorica, 03. novembar 2016. godine
MT/MT

Na osnovu čl.271 st.6 ZKP-a, donosim

RJEŠENJE

ODBACUJEM krivičnu prijavu NVO MANS broj 19 od 16.10.2016. godine, podnesenu protiv Gorana Jankovića, načelnika Komunalne policije, u Glavnom gradu Podgorica, zbog krivičnog djela povreda slobode opredjeljenja pri glasanju iz čl.186 st.1 Krivičnog zakonika Crne Gore i krivičnog djela posluga iz čl.421 Krivičnog zakonika Crne Gore, jer ne postoji osnovana sumnja da je izvršio prijavljena krivična djela, niti bilo koje drugo krivično djelo za koje se goni po službenoj dužnosti.

Obrazloženje

Nevedenom krivičnom prijavom predstavljeno je u bitnom da Goran Janković, kao načelnik Komunalne policije u Podgorici, koristi službeno vozilo bez registarskih oznaka, marke „Toyota Land Cruiser“, kako bi ljepio plakate Demokratske partije socijalista, da je u svoju kancelariju pozivao ljude na razgovor i vršio pritisak na njih da glasaju za DPS i da se sumnja da je kupovao lične karte. Prijavom je dalje predstavljeno da je isti obilazio mještane u naselju Park šuma Zagorič i prijetio im da će im srušiti kuće koje su izgrađene bez dozvole, ako na izborima ne budu glasali za DPS.

U cilju provjere činjeničnih navoda krivične prijave, preko Uprve policije, Sektora kriminalističke policije-Specijalnog policijskog odjeljenja, pribavljeno je obavještenje od [redacted] kao i izjašnjenje o rezultatima provjera navoda krivične prijave izvršenim od strane policije.

Iz obavještenja prikupljenog od [redacted] proizilazi u bitnom da je član Demokratske partije socijalista i obavlja dužnost načelnika Komunalne policije-Pogorica, da sve razgovore sa zaposlenima obavlja sa ciljem povećanja efikasnosti rada, a svoji politički stav nikada nije ni pokušao da nametne drugom. Takođe, proizilazi da nije nikoga novčano donirao ili davao besplatno gorivo, da se nije bavio kupovinom ličnih karata, a pogotovo nije ljeplio plakate DPS-a po gradu. Prijavljeni u svojoj izjavi konačno navodi da vozilo „Toyota“ ima na raspolaganju kao načelnik Komunalne policije, da je na istom uređno postavljena prednja registarska oznaka, dok je na vozilu nema zadnje registarske oznake, da koristi za potrebe službe, te da nikada nije obilazio građane u naselju Park šuma Zagorič i da nije na bilo koji način na iste uticao da glasaju za DPS, a pri tome problematika nelegalne gradnje, nije u nadležnosti Komunalne policije.

Iz dopisa Uprave policije Sektora kriminalističke policije-Specijalnog policijskog odjeljenja broj 47/10-052/16-69921 od 20.10.2016.godine, proizilazi u bitnom da su izvršene operativne provjere na terenu, te da saznanja policije ne ukazuju na sumnju da je prijavljeni Goran Janković preduzimao radnje na koje se ukazuje u krivičnoj prijavi.

Cijeneći sadržinu prikupljenih dokaza i dovodeći ih u vezu sa navodima krivične prijave, nalazim da su isti u potpunosti neosnovani i da ne postoji ni jedan dokaz koji bi ukazivao na



CRNA GORA
SPECIJALNO DRŽAVNO TUŽILAŠTVO
Kt S br. 322/16
Podgorica, 03. novembar 2016. godine
MT/MT

Na osnovu čl.271 st.6 ZKP-a, donosim

RJEŠENJE

ODBACUJEM krivičnu prijavu NVO MANS broj 74 od 16.10.2016. godine, podnesenu protiv Ilić Borisa, zbog krivičnog djela povreda slobode opredjeljenja pri glasanju iz čl.186 st.1 Krivičnog zakonika Crne Gore, jer ne postoje osnovi sumnje da je izvršio prijavljeno krivično djelo, niti bilo koje drugo krivično djelo za koje se goni po službenoj dužnosti.

Obrazloženje

Nevedenom krivičnom prijavom predstavljeno je u bitnom da [redacted] otkupljuje lične karte od građana u korist Demokratske partije socijalista Crne Gore, te da na taj način utiče na njihovu slobodu opredjeljenja pri glasanju.

U cilju provjere činjeničnih navoda krivične prijave, preko Uprve policije, Sektora kriminalističke policije-Specijalnog policijskog odjeljenja, pribavljeno je obavještenje od [redacted] kao i izjašnjenje o rezultatima provjera navoda krivične prijave izvršenim od strane policije.

Iz obavještenja prikupljenog od Ilić Borisa proizilazi u bitnom da je isti vlasnik servisa [redacted] te da se kao član Demokratske partije socijalista nikada nije bavio kupovinom ličnih karata građana da bi tako uticao njihovu izbornu volju i na to kako će vršiti svoje biračko pravo.

Iz dopisa Uprave policije Sektora kriminalističke policije-Specijalnog policijskog odjeljenja broj 47/10-240/16-70369/1 od 24.10.2016.godine, proizilazi u bitnom da su izvršene operativne provjere na terenu, te da saznanja policije ne ukazuju na sumnju da je prijavljeni preduzimao radnje na koje se ukazuje u krivičnoj prijavi, odnosno da je otkupljivao lične karte za potrebe političke partije.

Cijeneći sadržinu prikupljenih dokaza i dovodeći ih u vezu sa navodima krivične prijave, nalazim da ne postoji ni jedan dokaz koji bi ukazivao na osnovu sumnje da je osumnjičeni izvršio krivično djelo koje mu se stavlja na teret, niti bilo koje drugo krivično djelo za koje se goni po službenoj dužnosti. Naime, krivično djelo povreda slobode opredjeljenja pri glasanju iz čl.186 st.1 Krivičnog zakonika Crne Gore,

osnovanu sumnju da je osumnjičeni () otkupljivao lične karte od građana ili preduzimao bilo koju drugu radnju kojom bi uticao na formiranje odluke drugih da li će glasati na parlamentarnim izborima koji su održani 16. oktobra 2016. godine i za koga. Naime, na prikupljenim podacima u dosadašnjem toku izviđanja nijesu potvrđeni navodi krivične prijave da je prijavljeni uticao na zaposlene u Komunalnoj policiji i građane u naselju Park šuma u Zagorju, kako i na koji način da vrše svoje biračko pravo. Krivično djelo povreda slobode referenduma vrši ili ne vrši pravo glasanja, da glasa za ili protiv određenog kandidata, izborne liste odnosno predloga. U konkretnom slučaju ne postoji nijedan dokaz koji bi ukazivao na to da je Goran Janković preduzeo bilo koju radnju koja bi predstavljala radnju izvršenja krivičnog djela koje mu je stavljenao na teret, niti postoji bilo koji dokaz koji bi ukazivao na sumnju da je svojim radnjama povrijedio izbornu pravu bilo određenog lica. Osim toga cijeni su i navodi krivične prijave u dijelu koji se odnosi na krivično djelo posluha iz čl.421 Krivičnog zakonika Crne Gore, pa je, a imajući u vidu naprijed utvrđeno činjenično stanje ocijenjeno da ne postoji ni jedan materijalni ili personalni dokaz koji bi upućivao na sumnju da je prijavljeni neovlašteno koristio službeno vozilo, imajući u vidu da je isti kao načelnik Komunalne policije imao ovlaštenje da upotrebljava sporno vozilo, a nijedan dokaz ne može potkrijepiti navode prijave da je vozilo korišćeno izvan službenih potreba. S tim u vezi, krivičnu prijavu je valjalo odbaciti.

DRŽAVNI TUŽILAC U OSNOVNOJ DRŽAVNOJ
TUŽILAŠTVU U PODGORICI UPUĆEN NA RAD U
SPECIJALNO DRŽAVNO TUŽILAŠTVU
Miroslav Turković

Image 61: Decision of the Special State Prosecution
Kt.S no. 319/16 from 3 November 2016

činj onaj ko silom ili prijetnjom ili na bilo koji drugo protivpravan način utiče na drugog da na izborima ili referendumu vrši ili ne vrši pravo glasanja, da glasa za ili protiv određenog kandidata, izborne liste odnosno predloga. Dokazi prikupljeni u toku izviđanja nijesu potvrdili osnovanost sumnje da je prijavljeni otkupljivao lične karte od građana ili preduzimao bilo koju drugu radnju kojom bi uticalo na formiranje odluke drugih da li će i za koga glasati na parlamentarnim izborima koji su održani 16. oktobra 2016. godine, odnosno da je preduzeo bilo koju radnju izvršenja krivičnog djela za koje je prijavljen. Osim toga, krivično djelo koje se osumnjičenom stavlja na teret je krivično djelo koje nužno podrazumijeva postojanje tačno određenog pasivnog subjekta, odnosno lica čije je pravo povrijeđeno usljed inkriminiranih radnji. Kako je osumnjičeni osporio sve navode krivične prijave, a polazeći od informacije sadržane u dopisu Uprave policije Sektora kriminalističke policije-Specijalnog policijskog odjeljenja broj 47/10-240/16-70369/1 od 24.10.2016. godine, da se ni operativnim radom nije došlo do činjenica koje bi ukazivale na osnovanost navoda krivične prijave, cijeni da ne postoji ni jedan dokaz koji bi upućivao na zaključak o identitetu lica na čije je izbornu pravu osumnjičeni uticao prijavljenim radnjama, a što je bitno obilježje bica krivičnog djela koje mu je stavljenao na teret. S tim u vezi, krivičnu prijavu je valjalo odbaciti.

DRŽAVNI TUŽILAC U OSNOVNOJ DRŽAVNOJ
TUŽILAŠTVU U PODGORICI UPUĆEN NA RAD U
SPECIJALNO DRŽAVNO TUŽILAŠTVU
Miroslav Turković

Image 62: : Decision of the Special State Prosecution
Kt.S no. 322/16 from 3 November 2016

Case study: Injured relevant and irrelevant

State prosecutors have dismissed criminal charges on the grounds that there is no evidence of the identity of the person whose electoral rights have been violated. At the same time, in cases where injured parties are known or can be clearly identified, the prosecution dismissed charges solely on the grounds of statements of the suspects, without attempting to collect information from the injured persons.

The prosecutor dismissed criminal charges²²⁹ against two persons reported to have illegally influenced the electoral will of citizens in settlement Ponari, asking them to vote for the ruling party and promising them each 50 euros in exchange. In the statement of reasons the state prosecutor stated that this crime necessarily implies the existence of the **particular passive subject or victim, or a person whose rights have been violated**. The state prosecutor stated that there was no evidence that would point to a conclusion on the identity of person whose electoral rights have been affected by the suspect and therefore dismisses the charges.

Prosecutor took Identical position when he dismissed criminal charges against a businessman from Podgorica, who was reported of purchasing citizens' ID cards in favor of the ruling DPS²³⁰.

The same prosecutor also dismissed criminal charge²³¹ against the head of the Communal Police of the Capital Podgorica, who had been reported of influencing specific persons: employees in that institution to vote for the DPS, as well as residents of the settlement Park Suma Zagoric, who possess illegally built facilities.

The prosecutor determined passive entities or persons whose electoral rights have been affected, but did not take any action to verify the contents of the charge.

Namely, the prosecutor concluded that the suspect had not made pressure on employees of the Communal Police and residents of the settlement Park Suma Zagoric on the basis of information provided by the suspect, but did not collect information from any of the injured parties, nor did he request the police to do so.

²²⁹ Decision Kt S no.331/16 from 14 November 2016.

²³⁰ Kt S no. 322/16.

²³¹ Decision Kt S no.319/16 from 3 November 2016.

Therefore, it seems that the public prosecutor does not have the will to legally examine these cases, because sometimes the criminal charges have been dismissed on the grounds that there is no evidence of the identity of the person whose electoral rights have been influenced by the suspect, and in cases where there is an evidence and when it is known or can be determined who these persons are, he has dismissed charges solely on the basis of allegations of the suspect, without attempting to collect information and statement from any other person.

Also, the informant is not obliged to provide information about the injured persons, because no such information has to be known to the suspect. In cases where such data do not exist, the prosecution and the police should take actions to determine whether there are such persons and to determine their identity. This is important due to the fact that it is not easy to reach persons – injured parties who are also willing to testify in these cases.

6. OTHER INSTITUTIONS

6.1. Agency for Electronic Communications and Postal Services

On the election day, the Agency for Electronic Communications and Postal Services imposed a complete blockage of communication via applications Viber and WhatsApp for longer than two hours, which violated the basic human rights of citizens to freedom of expression.

The Agency "prepared the ground" for switching off communication services, having in mind that it had addressed operators twice before the elections, for the first time in mid-September, and for the second time just three days before the elections.

On the election day, for the first time in history, the Agency ordered all mobile operators in Montenegro to exclude the possibility of communication through the Viber and WhatsApp applications. Operators immediately acted upon this order and terminated communication through these services around 5 p.m.

The Agency justified the blockage of applications to all users with a reasoning that a number of users had received a message of political content claiming that the ruling party had been buying votes from an unknown number. The Agency stated that operators were required to implement this measure in accordance with the Law on Electronic Communications, which stipulates that the communication for direct marketing purposes is allowed only with the prior consent of the user.²³²

After the public reacted, the Agency ordered the operators to re-enable communication via these applications. Operators removed the blockage and from 7 p.m. it was possible to use these applications. The communication blockade lasted over two hours.

Director of the Viber Company for Central Eastern Europe said that "the decision on termination of Viber, no matter that was justified by preventing the impact of the aforementioned content, was not conducted in accordance with procedures and protocols that are commonly used in such situations."²³³

He also stated that the Viber commented at that time had been an exception, if not even a precedent²³⁴.

Problems of unwanted messages (spam) are usually solved in communication between institutions and Viber, which may exclude sending such messages without having to switch off the entire service. After releasing this information in public, the director of the Agency announced that it would not terminate access to the entire service due to similar problems.²³⁵

Needless to say, the application Viber is extremely popular in Montenegro and during the election day it was used by citizens for reporting cases of possible corruption and election irregularities.

Weeks before the election day, MANS promoted Viber as a safer method for reporting political corruption, while the NGO Center for Democratic Transition opened a special forum for discussion about elections and reporting violations of the laws and procedures in cooperation with Viber.²³⁶

²³² Due to abuse AECP: Temporarily terminate Viber and WhatsApp, 16 October 2016, <http://www.rtcg.me/vijesti/drustvo/144628/ekip-privremeno-iskljuciti-viber-i-whatsapp.html>.

²³³ Precedent for Viber and Montenegro, 18 October 2016, <http://portalanalitika.me/clanak/247579/presedan-za-viber-i-za-crnu-goru>.

²³⁴ Ibid.

²³⁵ Ibid.

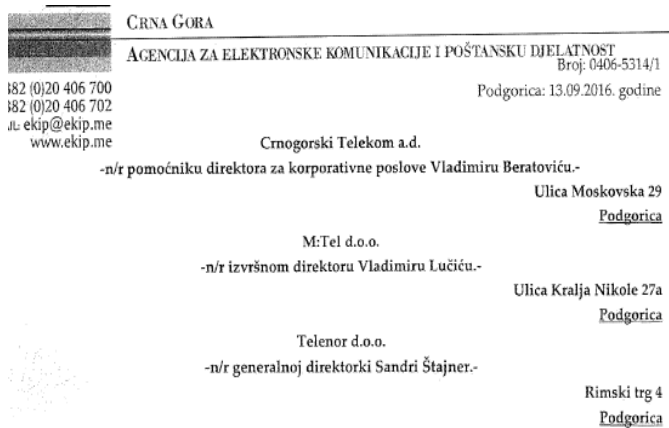
²³⁶ CDT Project: About Election in Montenegro via Viber public chat, 18 September 2016, <http://www.rtcg.me/vijesti/politika/141633/o-izborima-u-cg-preko-viber-javnog-ceta.html>.

6.1.1. Agency's Decision on Termination of Communication Services

In mid-September, the Agency addressed the operators for the first time and informed them about the unwanted SMS messages citizens reported to them and asked for urgent prevention of unwanted communications.

Exactly a month later, three days before the elections, the Agency once again addressed the operators with a letter stating that "there is a realistic assessment that some of the participants in the upcoming election could abuse SMS messages for advertisement without the consent of users, as well as for disruption of the electoral process."

The Agency once again ordered the operators to take appropriate measures to prevent unwanted communications and warned that it would take punitive measures in case of non-compliance with the order.



Poštovani,

Korisnici elektronskih komunikacionih usluga prijavili su Agenciji da primaju neželjene marketinške SMS poruke od nepoznatog pošiljaoca predstavljenog kao „do“ i „DF“. Prema navodima korisnika oni nijesu dali saglasnost za primanje takvih poruka. U vezi sa navedenim obavještavamo vas o slijedećem.

Članom 178 stav 1 Zakona o elektronskim komunikacijama upotreba automatskih govornih uređaja, bez ljudskog posredovanja (pozivni automati), faks aparata ili elektronske pošte, uključujući SMS ili MMS za pozive prema korisniku, radi direktnog marketinga, dozvoljena je samo uz prethodno pribavljenu saglasnost korisnika. Kako korisnici koji su se obratili Agenciji nijesu dali saglasnost navedenim pošiljaocima za primanje marketinških poruka smatramo da je prekršena navedena odredba Zakona o elektronskim komunikacijama.

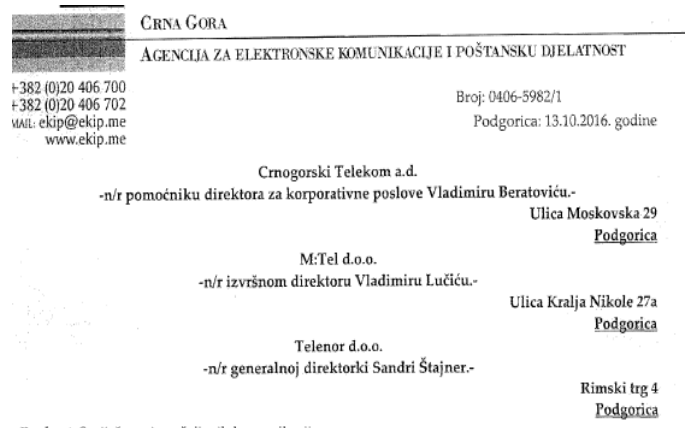
Imajući u vidu da su poslatim porukama prekršene odredbe Zakona o elektronskim komunikacijama, a u cilju zaštite korisnika elektronskih komunikacija, potrebno je da hitno preduzmete odgovarajuće mjere za sprječavanje neželjenih komunikacija u skladu sa Zakonom o elektronskim komunikacijama.

S poštovanjem,

Izvršni direktor

Zoran Sekulić

Image 63: Letter of the Agency for Electronic Communications and Postal Services to Operators no. 0406-5314/1 from 13 September 2016



Poštovani,

Članom 178 stav 1 Zakona o elektronskim komunikacijama propisano je da je upotreba automatskih govornih uređaja, bez ljudskog posredovanja (pozivni automati), faks aparata ili elektronske pošte, uključujući SMS ili MMS za pozive prema korisniku, radi direktnog marketinga, dozvoljena samo uz prethodno pribavljenu saglasnost korisnika.

Postoje realne procjene da bi pojedini učesnici na predstojećim izborima mogli da zloupotrijebe slanje SMS poruka u reklamne svrhe bez saglasnosti korisnika, kao i za narušavanje izbornog procesa. Imajući ovo u vidu potrebno je da preduzmete odgovarajuće mjere za sprječavanje neželjenih komunikacija u skladu sa Zakonom o elektronskim komunikacijama. Skrećemo pažnju da će u slučaju nepoštovanja Zakona o elektronskim komunikacijama Agencija preduzeti odgovarajuće zakonom propisane kaznene mjere.

Obaveza sprječavanja neželjenih komunikacija prema korisnicima odnosi se na sve pošiljaoce. Agencija je, opreznosti radi, provjerom utvrdila da nadležni državni organi, uključujući i Vladu Crne Gore, ne planiraju da operatorima upućuju zahtjeve za slanjem masovnih SMS poruka korisnicima.

S poštovanjem,

Izvršni direktor

Zoran Sekulić

Image 64: Letter of the Agency for Electronic Communications and Postal Services to Operators no. 0406-5982/1 from 13 October 2016

In the letter sent to operators on the election day, the Agency stated that "Since unsolicited communications in the course of today are identified as communication via Viber, WhatsApp and other similar means of communication, the Agency orders termination of possibility of using these applications on time, until the Agency issues an order to suspend such a prohibition."

The Agency submitted a second letter to operators on the election day stating that "it assessed that reasons for termination of communication have stopped..."

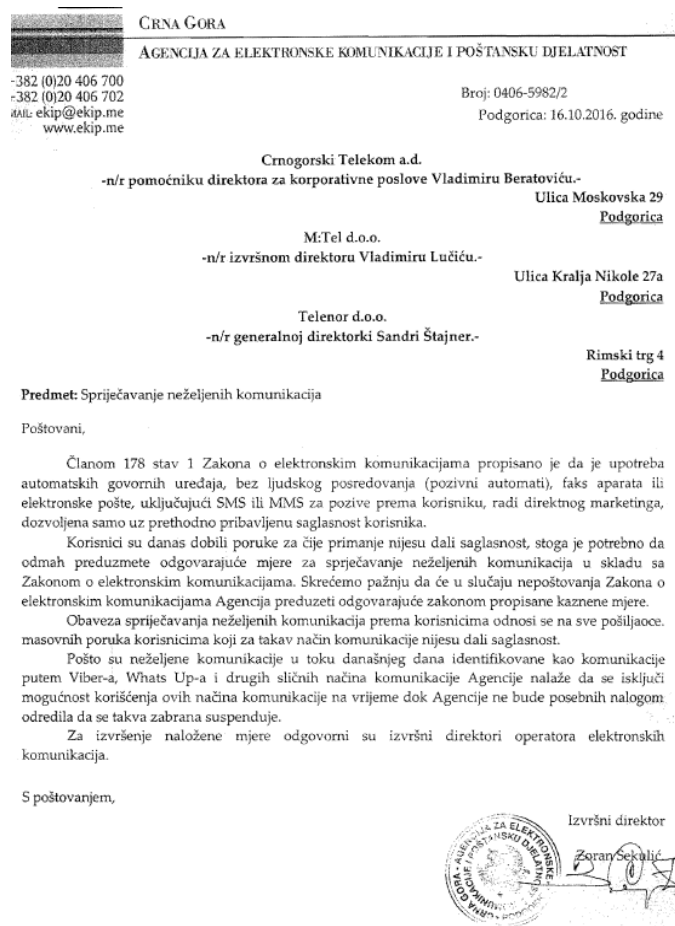


Image 65: Letter of the Agency for Electronic Communications and Postal Services to Operators no. 0406-5982/2 from 16 October 2016

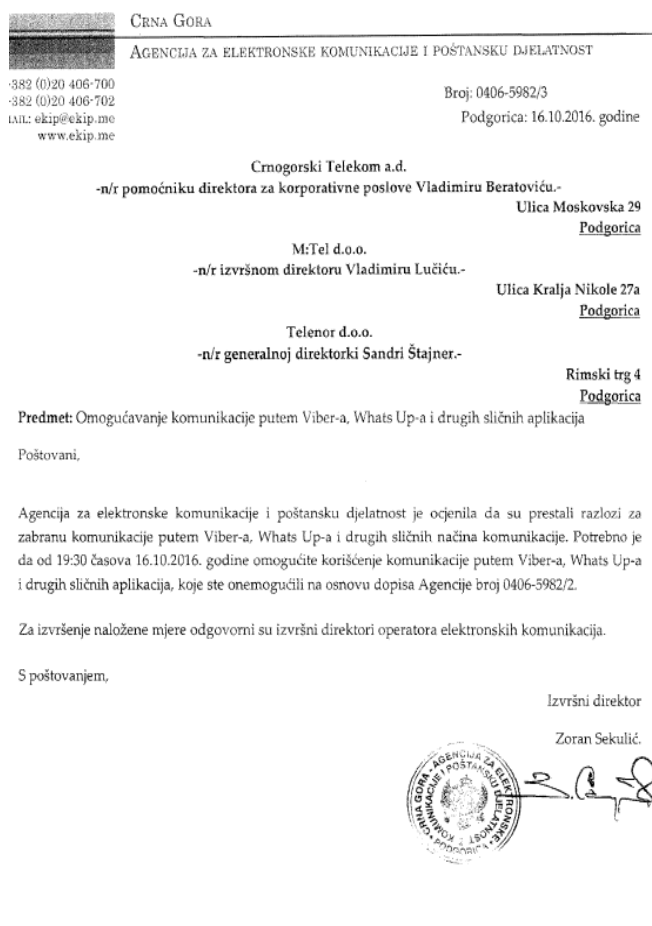


Image 66: Letter of the Agency for Electronic Communications and Postal Services to Operators no. 0406-5982/3 from 16 October 2016

6.1.2. Legal Grounds for Decisions of the Agency

The Agency stated that the legal basis for termination of Viber and WhatsApp was found in Article 145 of the Law on Electronic Communications, which gives the Agency the right to turn off internet or services in case of malicious or fraudulent messages if it finds that it is "justified in cases of fraud or abuse."²³⁷

However, such legal provision is contrary to the Constitution of Montenegro, which prescribes that only a competent court may prevent dissemination of information and ideas through public media for

²³⁷ Article 145 of the Law on Electronic Communications ("Official Gazette of Montenegro " no. 46/2010, 53/2011 and 6/2013).

reasons that are narrowly defined by the Constitution.²³⁸ NGO Human Rights Action submitted an initiative for review of constitutionality of this article of the Law.²³⁹

The Agency's unilateral decision to block the communication to all users of Viber and WhatsApp was obviously not necessary in a democratic society, and was not proportionate to the objective - to prevent the communication of political messages in order to protect the honor and reputation of the ruling political party.

Such conduct of the Agency is contrary to the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Court of Human Rights, which guarantees the right of the public to receive information, according to which constraints, including the right to receive information, can be imposed only if they are clearly defined by the law and if the quality of that law is satisfactory.²⁴⁰ The right to freedom of expression, which is an integral part of the freedom to receive information and ideas, is threatened by blocking internet site, if implementation of this measure prevents other users from accessing the information.²⁴¹

In addition, the Agency's activity was contrary to Article 19 of the International Covenant on Civil and Political Rights.²⁴²

²³⁸ Article 50 of the Constitution of Montenegro stipulates that there shall be no censorship in Montenegro and that only the competent court may prevent dissemination of information and ideas via the public media only if so required in order to prevent invitation to forcible destruction of the order defined by the Constitution; preservation of territorial integrity of Montenegro; prevention of propagating war or incitement to violence or performance of criminal offences; prevention of propagating racial, national and religious hatred or discrimination.

²³⁹ HRA submitted initiative to the Constitutional Court for termination of internet, 8 November 2016, <http://cdm.me/drustvo/hra-podnijela-inicijativu-ustavnom-sudu-zbog-iskljucivanja-interneta/>.

²⁴⁰ Ahmet Yildirim against Turkey, case no. 3111/10, 2012, paragraph 59.

²⁴¹ Ahmet Yildirim against Turkey, case no. 3111/10, 2012, paragraph 55.

²⁴² Committee on Human Rights competent for interpretation of the International Covenant on Civil and Political Rights, adopted a General commentary no. 34. about article 19 of the International Covenant on Civil and Political Rights, in which the item 4 stipulates: "Any restrictions on the operation of websites, blogs or any other internet-based, electronic or other such information dissemination system, including systems to support such communication, such as internet service providers or search engines, are only permissible to the extent that they are compatible with paragraph 3. Permissible restrictions generally should be content-specific; generic bans on the operation of certain sites and systems are not compatible with paragraph 3. It is also inconsistent with paragraph 3 to prohibit a site or an information dissemination system from publishing material solely on the basis that it may be critical of the government or the political social system espoused by the government." (UN Human Rights Committee (HRC), General comment no.34, Article 19, Freedoms of opinion and expression, 12 September 2011, CCRP/C/GC/34)."

Annex 1 – Overview of institutions whose proactive disclosure of analytical cards was monitored by MANS

Legend:

Mark ✓ - institutions published data

Blank space – institutions did not publish data

ANALYTICAL CARDS									
Institution	First analytical card (a week after the announcement of elections)			Last analytical card (a month after the election day)			Data on the number of analytical cards that institutions were obliged to publish (for each week, if at least they had small expenditure) compared to the number of analytical cards published with complete information		
	Budgetary unit	Supplier	Purpose	Budgetary unit	Supplier	Purpose	Number of analytical cards that institutions were obliged to publish, i.e. number of weeks in which institution had at least one expenditure	Number of complete analytical cards published	
<i>Tobacco Agency</i>	✓	✓	✓	✓	✓	✓	3	3	
<i>National Security Agency</i>	✓	✓		✓	✓	✓	18	18	
<i>Agency for Prevention of Corruption</i>	✓	✓		✓	✓	✓	15	15	
<i>Directorate of Public Works</i>	✓	✓		✓	✓		9	9	
<i>Directorate for Development of Small and Medium Enterprise</i>	✓	✓		✓	✓		14	4	
<i>Transport Directorate</i>		✓			✓		14	6	
<i>Railway Directorate</i>	✓	✓		✓	✓	✓	16	6	
<i>State Election Commission</i>	✓	✓		✓	✓		12	0	
<i>Veterinary Directorate</i>	✓	✓	✓	✓	✓	✓	13	13	
<i>Labor Fund of Montenegro</i>	✓	✓		✓	✓	✓	15	15	
<i>Pension and Disability Insurance Fund of Montenegro</i>	✓	✓	✓	✓	✓	✓	18	18	
<i>Health Insurance Fund of Montenegro</i>	✓	✓		✓	✓	✓	18	18	
<i>Secretariat-General of the Government of Montenegro</i>	✓	✓		✓	✓	✓	18	18	
<i>Ministry of Economy</i>	✓	✓		✓	✓	✓	18	6	
<i>Ministry of Finance</i>	✓	✓		✓	✓	✓	18	18	
<i>Ministry of Culture</i>	✓	✓		✓	✓	✓	17	9	
<i>Ministry of Science</i>	✓	✓		✓	✓	✓	15	15	
<i>Ministry of Defense</i>	✓	✓		✓	✓	✓	18	18	

Ministry of Sustainable Development and Tourism		✓					✓		✓		18		0
Ministry of Agriculture and Rural Development	✓	✓					✓		✓		18		13
Ministry of Justice	✓	✓	✓	✓			✓		✓		18		18
Ministry of Education	✓	✓	✓	✓			✓		✓		18		14
Ministry of Labor and Social Welfare	✓	✓	✓	✓			✓		✓		16		9
Ministry of Transport and Maritime Affairs		✓	✓				✓		✓		18		18
Ministry of the Interior		✓	✓				✓		✓		18		0
Ministry for Information Society and Telecommunications	✓						✓				18		0
Ministry of Human and Minority Rights	✓	✓	✓				✓		✓		14		6
Ministry of Health	✓	✓	✓				✓		✓		15		14
Ministry of Foreign Affairs and European Integration		✓	✓				✓		✓		18		0
Department of Public Revenues	✓	✓	✓				✓		✓		14		14
Secretariat for Development Projects	✓	✓					✓		✓		16		16
Parliament of Montenegro	✓	✓	✓				✓		✓		16		16
Judicial Council	✓	✓	✓				✓		✓		18		18
Prosecutorial Council	✓	✓	✓				✓		✓		16		8
Supreme State Prosecution of Montenegro	✓	✓	✓				✓		✓		18		12
Customs Administration	✓	✓	✓				✓		✓		15		15
Administration for Diaspora		✓	✓				✓		✓		17		17
Games of Chance Administration	✓	✓	✓				✓		✓		14		14
Property Administration	✓	✓	✓				✓		✓		17		11
Inspection Directorate	✓	✓	✓				✓		✓		17		17
Human Resources Administration	✓	✓	✓				✓		✓		17		12
Directorate for Youth and Sports	✓	✓	✓				✓		✓		14		0
Real Estate Administration	✓	✓	✓				✓		✓		15		15
Water Directorate	✓	✓	✓	✓			✓		✓		6		5
Administration for Care of Refugees	✓	✓	✓				✓		✓		12		3
Forest Administration	✓	✓	✓				✓		✓		16		12
Administration for Prevention of Money Laundering and Terrorism Financing	✓	✓	✓				✓		✓		14		14
Constitutional Court	✓	✓	✓				✓		✓		14		0
Institute for Execution of Criminal Sanctions	✓	✓	✓				✓		✓		15		13
Statistical Office	✓	✓	✓				✓		✓		18		18
Employment Agency	✓	✓	✓				✓		✓		18		18
Bureau for Education Services	✓	✓	✓				✓		✓		15		15
University of Montenegro	✓	✓	✓	✓			✓		✓		14		14
Center for Social Work for the Capital Podgorica and municipalities within the Capital Golubovci and Tuzi	✓						✓		✓		18		18

Center for Social Work for Municipalities of Niksic, Pluzine and Savnik	✓			✓	✓	✓	✓	17	17
Center for Social Work for Municipalities of Pljevlja and Zabljak	✓			✓	✓	✓	✓	18	18
Center for Social Work for Municipality of Bijelo Polje	✓	✓	✓	✓	✓	✓	✓	16	8
Center for Social Work for Municipalities of Berane, Andrijevica and Petnjica	✓			✓	✓	✓	✓	16	16
Center for Social Work for Municipalities of Bar and Ulcinj	✓			✓	✓	✓	✓	18	18
Center for Social Work for Municipalities of Kotor, Tivat and Budva	✓	✓		✓	✓	✓	✓	18	0
Center for Social Work for Municipality of Rozaje	✓	✓	✓	✓	✓	✓	✓	17	17
Center for Social Work for Municipalities of Plav and Gusinje	✓	✓	✓	✓	✓	✓	✓	12	0
Center for Social Work for Municipality of Herceg-Novi	✓	✓	✓	✓	✓	✓	✓	16	16
Center for Social Work for Old Royal Capital Cetinje	✓	✓	✓	✓	✓	✓	✓	17	17
Center for Social Work for Municipality of Danilovgrad	✓	✓	✓	✓	✓	✓	✓	5	5
Center for Social Work for Municipalities of Majkovac i Kolasin	✓	✓	✓	✓	✓	✓	✓	4	4
Capital Podgorica	✓	✓	✓	✓	✓	✓	✓	18	12
Municipality of Niksic	✓	✓	✓	✓	✓	✓	✓	18	18
Municipality of Bijelo Polje	✓	✓	✓	✓	✓	✓	✓	18	9
Municipality of Pluzine	✓	✓	✓	✓	✓	✓	✓	18	18
Municipality of Pljevlja	✓	✓	✓	✓	✓	✓	✓	18	18
Municipality of Zabljak				✓			✓	18	15
Municipality of Savnik	✓	✓	✓	✓	✓	✓	✓	18	17
Municipality of Budva	✓	✓	✓	✓	✓	✓	✓	17	17
Municipality of Kotor	✓	✓	✓	✓	✓	✓	✓	18	18
Municipality of Tivat	✓	✓	✓	✓	✓	✓	✓	18	17
Municipality of Bar	✓	✓	✓	✓	✓	✓	✓	18	18
Municipality of Berane	✓	✓	✓	✓	✓	✓	✓	18	18
Municipality of Kolasin	✓	✓	✓	✓	✓	✓	✓	18	18
Municipality of Mojkovac	✓	✓	✓	✓	✓	✓	✓	18	18
Old Royal Capital Cetinje	✓	✓	✓	✓	✓	✓	✓	18	18
Municipality of Plav	✓	✓	✓	✓	✓	✓	✓	18	18
Municipality of Petnjica	✓	✓	✓	✓	✓	✓	✓	18	17
Municipality of Danilovgrad					✓	✓		18	0
Municipality of Andrijevica	✓	✓	✓	✓	✓	✓	✓	18	18
Municipality of Rozaje	✓	✓	✓	✓	✓	✓	✓	15	14
Municipality of Herceg-Novi	✓	✓	✓	✓	✓	✓	✓	18	18
Municipality of Gusinje		✓	✓	✓		✓	✓	8	0
Municipality of Ulcinj		✓	✓	✓	✓	✓	✓	18	13

Annex 2 – Overview of institutions whose proactive disclosure of travel authorizations were monitored by MANS

Legend:

Mark **✓** - institutions published data for each travel authorization in that week

Mark **x** – institutions published partial data for travel authorization in that week

Blank space – institutions did not publish data

TRAVEL AUTHORIZATIONS								
Institution	First travel authorizations (a week after the announcement of elections)			Last travel authorizations (week in which the elections were conducted)				Number of complete travel authorizations
	First page	Movement of vehicle	Fuel consumption	First page	Movement of vehicle	Fuel consumption	Number of periods for which there were authorizations	
<i>Tobacco Agency</i>							0	0
<i>National Security Agencyⁱⁱⁱ</i>								
<i>Agency for Prevention of Corruption</i>	✓	✓		✓	✓		14	4
<i>Directorate of Public Works</i>	✓	✓		✓	✓		14	12
<i>Directorate for Development of Small and Medium</i>	✓	✓		✓	✓		3	0
<i>Transport Directorate</i>	✓			✓			14	0
<i>Railway Directorate</i>	✓			✓	✓		14	0
<i>State Election Commission</i>	✓	✓		✓	✓		12	0
<i>Veterinary Directorate</i>	✓			✓	✓	✓	14	14
<i>Labor Fund of Montenegro</i>	✓	✓		✓	x	x	14	9
<i>Pension and Disability Insurance Fund of Montenegro</i>	✓	✓		✓	✓		14	0
<i>Health Insurance Fund of Montenegro</i>	✓			✓	✓	✓	9	9
<i>Secretariat-General of the Government of Montenegro</i>	✓			✓	✓	✓	14	11
<i>Ministry of Economy</i>	✓			✓			11	0
<i>Ministry of Finance</i>	✓			✓	✓		13	0
<i>Ministry of Culture</i>	✓			✓	✓	✓	14	14
<i>Ministry of Science</i>	✓			✓	✓	✓	13	13
<i>Ministry of Defense</i>	✓	✓		✓	✓	✓	14	14

Ministry of Sustainable Development and Tourism	✓			✓	✓	x	14	0
Ministry of Agriculture and Rural Development	✓			✓	✓	✓	14	5
Ministry of Justice	✓		✓	✓	✓	✓	14	14
Ministry of Education	✓			✓	✓		13	0
Ministry of Labor and Social Welfare	✓			✓	✓		14	1
Ministry of Transport and Maritime Affairs	✓			✓	x	x	14	0
Ministry of the Interior	✓			✓	✓	x	14	0
Ministry for Information Society and Telecommunications	✓		✓	✓	✓		14	0
Ministry of Human and Minority Rights	✓			✓	✓		11	4
Ministry of Health	✓			✓	✓	✓	13	12
Ministry of Foreign Affairs and European Integration	✓			✓	✓	x	14	0
Department of Public Revenues	✓		✓	✓	✓	x	14	2
Secretariat for Development Projects	✓			✓	✓		12	5
Parliament of Montenegro	✓			✓	✓	✓	6	6
Judicial Council	✓		✓	✓	✓		12	0
Prosecutorial Council	✓			✓	✓	x	14	12
Supreme State Prosecution of Montenegro	✓			✓	✓	x	14	12
Customs Administration	✓			✓	✓	x	14	7
Administration for Diaspora	✓			✓	✓	x	14	0
Games of Chance Administration	✓			✓			13	7
Property Administration	✓			✓	✓		14	0
Inspection Directorate	✓		✓	✓	✓		14	0
Human Resources Administration	✓			✓	✓	✓	13	3
Directorate for Youth and Sports	✓		✓	✓	✓		2	0
Real Estate Administration	✓			✓			14	7
Water Directorate	✓			✓	✓	✓	12	6
Administration for Care of Refugees	✓			✓	✓	x	14	1
Forest Administration				✓	✓	x	13	0
Administration for Prevention of Money Laundering and	✓			✓	✓		12	12
Constitutional Court	✓			✓			9	0
Institute for Execution of Criminal Sanctions	✓		x	✓	✓	x	14	0
Statistical Office	✓			✓	✓	✓	10	10
Employment Agency	✓		x	✓	✓	✓	13	13
Bureau for Education Services	✓		✓	✓	✓		7	6
University of Montenegro	✓		✓	✓	✓	✓	8	7

Center for Social Work for the Capital Podgorica and municipalities within the Capital Golubovci and Tuzi	✓	✓		✓	✓	✓	✓	✓	14	9
Center for Social Work for Municipalities of Niksic, Pluzine and Savnik	✓	✓	✓	✓	✓	✓	✓	✓	14	6
Center for Social Work for Municipalities of Pljevlja and	✓								13	7
Center for Social Work for Municipality of Bijelo Polje	✓								14	6
Center for Social Work for Municipalities of Berane, Andrijevica and Petnjica	✓								14	5
Center for Social Work for Municipalities of Bar and Ulcinj	✓	✓		✓					14	14
Center for Social Work for Municipalities of Kotor, Tivat and Budva	✓							✓	14	0
Center for Social Work for Municipality of Rozaje	✓	✓		✓				✓	13	11
Center for Social Work for Municipalities of Plav and	✓								13	1
Center for Social Work for Municipality of Herceg-Novi	✓	✓		✓				✓	14	13
Center for Social Work for Old Royal Capital Cetinje	✓	✓	✓	✓					13	12
Center for Social Work for Municipality of Danilovgrad	✓	✓		✓				✓	14	12
Center for Social Work for Municipalities of Mojkovac and Kolasin	✓								13	3
Capital Podgorica	✓								14	0
Municipality of Niksic	✓	✓	✓	✓	✓	✓	✓	✓	13	0
Municipality of Bijelo Polje	✓	✓							14	0
Municipality of Pluzine	✓	✓	✓	✓					13	0
Municipality of Pljevlja	✓	✓	✓	✓					14	14
Municipality of Zabljak	✓	✓	✓	✓					14	14
Municipality of Savnik	✓	✓	✓	✓	✓			✓	14	14
Municipality of Budva	✓	✓	✓	✓					14	14
Municipality of Kotor	✓	✓	✓	✓	✓			✓	13	2
Municipality of Tivat	✓	✓	✓	✓					14	0
Municipality of Bar	✓								14	0
Municipality of Berane	✓	✓	✓	✓				✓	14	13
Municipality of Kolasin	✓	✓	✓	✓	✓			✓	14	14
Municipality of Mojkovac	✓	✓	✓	✓					13	13
Old Royal Capital Cetinje	✓	✓	✓	✓	✓				14	0
Municipality of Plav	✓	✓							10	0
Municipality of Petnjica	✓	✓	✓	✓					11	11

Municipality of Danilovgrad		✓		✓					✓					14	0
Municipality of Andrijevica		✓							✓					14	0
Municipality of Rozaje		✓		✓					✓					12	0
Municipality of Herceg-Novi		✓		✓					✓					14	12
Municipality of Gusinje		✓		✓					✓					8	0
Municipality of Ulcinj		✓							✓					14	9
Plantaze		✓		✓					✓					14	0
Montenegro Airlines		✓		✓					✓					14	0
Montenegro Airports		✓		✓					✓					13	0
Monteput		✓		✓					✓					14	0
Elektroprivreda CG		✓		✓					✓					14	0
Crnogorski elektroprenosni sistem		✓							✓					14	0
Post of Montenegro		✓		✓					✓					14	0
Railway Transport of Montenegro		✓		✓					✓					14	0
Railway Infrastructure		✓		✓			✓		✓					13	4
Agency for Construction and Development of Podgorica		✓		✓		✓			✓		✓			14	14
Agency for Construction and Development of Herceg Novi		✓		✓					✓		✓			8	1
Parking service Nikšić ^{iv}															
Parking service Bijelo Polje ^v														1	1
Parking service Berane														0	0
Parking service Podgorica		✓							✓		✓			14	2
Parking service Herceg- Novi ⁱⁱ														12	3
Parking service Budva		✓		✓					✓		✓		✓	14	14

From 11 periods

ii From 13 periods.

iii Following institution declared travel orders a secret.

^{iv} This company does not have a website and submitted information through the free access to information that there were no travel orders for five periods, while we do not have information for the rest. Following institution declared travel orders a secret.

^v This company does not have a website and it submitted response through the free access to information for one period. This company does not have a website and submitted information through the free access to information that there were

^{vi} This company does not have a website and it submitted response through the free access to information for one period.