



Report on the financing of 2022 local elections



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SPENDING OF PUBLIC FUNDS, INSTITUTIONAL ADVANTAGE, CONTROL AND SUPERVISION

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INTRODUCTION

The aim of this report is to provide a clearer picture of compliance with legal restrictions on the use of public funds in the pre-election period, in order to reduce the possibility of unlawful influence on voters. [1]

This document analyses the spending of state bodies and institutions of the Capital City during the campaign for local elections held on October 23, 2022, in 14 municipalities. [2]

We collected comparative data on the spending of those institutions in the previous period through the Law on Free Access to Information, while during the election campaign, the institutions had to proactively publish information on their expenses. Based on that, we determined which reporting entities to the law spent more than the average in the six-month period before the elections, which is the legal limit on spending in the pre-election campaign.

Our work was further complicated by the fact that the six-month average included the spending of institutions from the period of two governments that had ministries with different competencies. [3] In order to determine the average, we analysed the budget and the rebalance, which specified the allocation of funds in accordance with changes in competence.

This report also presents data on employment and operations of the largest **companies** owned by the state and the Capital City, as well as numerous challenges that we encountered while accessing information. A special chapter is devoted to the use of institutional advantage by public officials during the election campaign.

Second part of the report analyses the practices of the Agency for Prevention of Corruption which is in charge of supervision over the implementation of the Law on Financing of Political Entities and Election Campaigns. Concrete cases and decisions of that institution that cause serious issues in practice are presented.

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[1] The matter of financing of the election campaigns by political parties and the analysis of their expenses will be analysed in a separate report.
[2] Elections were held in Podgorica, Bar, Bijelo Polje, Pljevlja, Rožaje, Budva, Danilovgrad, Zeta, Tivat, Plav, Kolašin, Zabljak, Plužine and Savnik.
[3] For example, the Ministry of Finance and Social Welfare was within one Government, and then the competences of that institution were separated into two Ministries.

ABSTRACT

During the pre-election campaign, in order to influence the voters, all political parties used public funds to a lesser or greater extent, both at the state and local level, as well as the public office held by their representatives. A precedent was also recorded, i.e. during the election campaign, a rebalance of the state budget was adopted with multi-million spending increases that could be misused for political purposes.

The bad practice of increased spending during the pre-election campaign by numerous state and institutions of the Capital City continued, specifically for social allowance and other aid payments to natural persons, employment and infrastructure construction.

The new government continued to allocate funds from the budget reserve in the eve of the elections without any criteria. Their staff in state-owned companies hired new employees throughout the year, mostly through temporary employment contracts or employment agencies. Those companies also hid data that were available to the public in earlier election cycles, such as the names of employees or the amounts of their wages.

All parties used the institutional advantage, took credit for the increase in wages and social allowances, as well as the implementation of infrastructure projects, and their officials actively participated in the campaign. One political movement participated in the elections under the name of the previously implemented economic reforms, which were strongly promoted with funds from the budget.

Once again, numerous violations of the law were not registered by the competent Agency for Prevention of Corruption, whose decisions reduced the transparency of election campaign financing, narrowed the application of the law and limited public control of its work.

During the pre-election campaign, that institution checked compliance with the legal restrictions on spending for a negligible number of reporting entities, and declared secret the information about the proceedings it had initiated due to violations of the law.

Thanks to the Agency's restrictive interpretations, data on state budget spending were published with a long delay, the application of spending restrictions was narrowed to only one month, while institutions whose competences were changed in the last six months were exempt from the obligation to comply with legal restrictions. The Agency acted upon initiatives with a great delay, which rendered its preventive role senseless, and it did not make decisions on numerous cases even more than a month after the elections were held.

A. Spending of public funds and institutional advantage

In the eve of these local elections, a thus far unprecedented practice of adopting the Budget Rebalance during the election campaign took place, with hidden multi-million spending increases that could be misused for political purposes.

The practice from the rule of the previous government to increase precisely those expenses that can be used to influence the voters, continued in the course of the election campaign.

Despite legal restrictions, several state institutions significantly increased spending during the election campaign. Aid payments from the budget reserve continued, allocated without criteria, while there was an increase in expenses of short-term employment, subsidies to natural and legal persons, as well as the construction of local infrastructure.

During all three months of the election campaign, several authorities and public institutions of the Capital City increased their spending. There was an increase in expenses for net wages and other benefits, construction of local infrastructure, maintenance of facilities, as well as promotion and advertising. The Capital City also allocated aid from the budget reserve, but these funds were significantly lower than at the state level.

In the election year, the largest state-owned companies hired employees at an increased rate, and it was mostly about short-term employment through temporary employment contracts or with the mediation of employment agencies.

Many companies owned by the state and the Capital City did not respond to our employment requests or refused to publish employee contracts on the grounds that they were protecting their right to privacy. Some first published the requested information, and then changed their practice, and started to delete the names of the persons with whom they entered into contracts. Certain companies hid the salary amounts from the contracts they published.

Second-instance body decided in only a few cases and with a long delay, but confirmed that the names of employees must be available to the public, as well as that the internal act of the company cannot be the basis for restricting access to information. Companies owned by the state and the Capital City did not comply with those decisions and did not make new decisions or change the basis on which they prohibited access to data - instead of referring to business secret, they claimed that they were not reporting entities to the law.

The functionary campaign was present at all levels, and there were also new forms of using the officials' position for election purposes. Government members actively participated in the election campaign, and all parties took credit for the implementation of infrastructure projects and promised new ones in many municipalities where local elections were held. Many parties promoted increases in allocations for citizens in their promotional materials, the adoption of which they participated in the Parliament, and one political movement entered the elections under the name of the previously implemented economic reform, which was strongly promoted with citizens' funds.

A.1. State level

During the pre-election campaign, budgetary spending units are prohibited from monthly spending higher than the average monthly spending in the period of six months from the day of calling of the elections. [4] This prohibition is prescribed by Article 38, Paragraph 1 of the Law on Financing Political Entities and Election Campaigns, while Paragraph 4 of the same Article stipulates that monthly spending higher than the average monthly spending in the last six months of the previous year shall be prohibited for state institutions for social and child protection and for state and local authorities competent for agriculture.

The restriction on the spending of budgetary funds before the elections was introduced as a response to the widespread practice during the election campaign, where certain state institutions use budget funds on various grounds in order to influence the freedom of choice of voters.

Local elections were called in the spring, then postponed, and finally called again on August 2. This means that from August 3, during September, until the day of the elections, October 23, budget users were not allowed to spend more than the average amount in the period from February to the end of July 2022.

The Law on Financing of Political Entities and Election Campaigns prescribes misdemeanour penalties for non-compliance with the legal limit on the use of state funds during the election campaign. Article 68 of this law prescribes a fine ranging from 200 to 2,000 euros for the responsible person in a state body in which the excess of average monthly expenditure is registered.

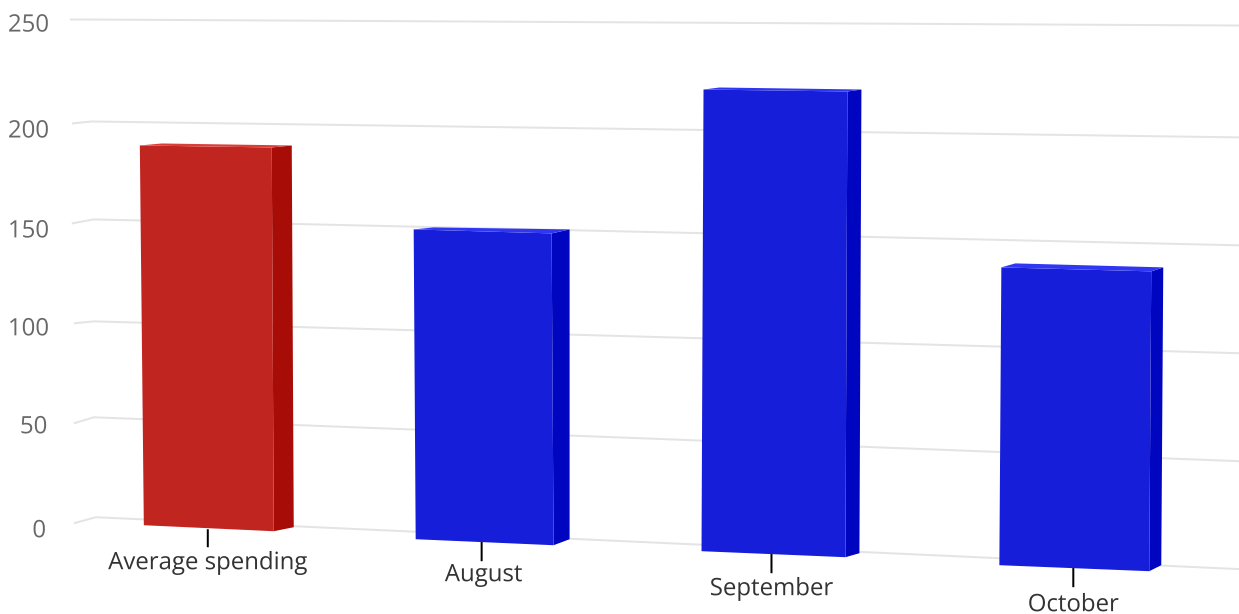
The law also obliges institutions to proactively publish data on their spending during the election campaign, and the Ministry of Finance to publish information on transactions from the state budget. Based on that information, as well as the collected data on spending in the six-month period before the election, we analysed the spending of budget users in the election campaign.

[4] Law on Financing of Political Entities and Election Campaigns ("Official Gazette of Montenegro", No. 3/2020 and 38/2020), Article 38, paragraph 1: State and local budgetary spending units, except for the State Election Commission and the municipal election commissions, shall be prohibited from monthly spending higher than the average monthly spending in the previous six months from the day of calling of the elections until the day of holding of the elections, except in cases of emergency, in accordance with the Law.

A.1.1. Increases in the spending of budget users in the election campaign

According to the available data, the average monthly spending of all budget users in the period of six months before the calling of the elections amounted to around 190 million euros. A total of 150 million euros was spent in August, 220 million euros was spent in September, while less than 140 million euros was spent from the state budget in October.

Total available budgetary spending during the election campaign compared to the average in the period of six months before the elections



These data do not include 347 transactions that were declared secret and were realized from August 3 to October 23. While in August and October 121 transaction each were hidden from the public, in September, there were 105 secret transactions. The supplier, amount or type of expense is unknown for these transactions, and they related to spending by the Ministry of Defence (229 transactions), the National Security Agency (105), the Ministry of the Interior (9) and the Ministry of Economic Development and Tourism (4).

In addition, it is not possible to determine from the published data which institutions spent around half a million euros during the election campaign, i.e. around 120 thousand in August, around 145 thousand in September and around 35 thousand in October. [5]

[5] From the data published by the Ministry of Finance for these transactions, it is not possible to determine which budget users are in question because their names are not listed.

A.1.1.1. Increases in spending in August

In August, 20 state institutions violated the limit on the use of budget funds during the election campaign. Of that number, one spent more than a million euros more than allowed, three spent from 500 thousand to one million over the legal limit, seven institutions had expenses higher than allowed by 100 to 500 thousand euros, one increased spending by more than 50 thousand euros, and eight institutions exceeded the limit by 10 to 50 thousand euros.

Data on institutions with the largest overrun in August are presented in the table below.

Name of the budget user	Average spending	Spending in August	Increase in spending
Employment Agency of Montenegro	4,039,565	5,165,866	1,126,300
Ministry of Labour and Social Welfare	11,699,123	12,598,707	899,584
Pension and Disability Insurance Fund	37,571,995	38,357,018	785,023
Ministry of the Interior	6,752,864	7,286,683	533,818
Nature and Environment Protection Agency of Montenegro	198,568	563,614	365,046
Institute for the Execution of Criminal Sanctions	791,987	1,126,888	334,901
Ministry of Culture and Media	1,133,437	1,464,450	331,014
Railway Directorate	1,580,182	1,874,934	294,752
Ministry of Defence	3,399,584	3,599,974	200,390

Table 1: Data on institutions with the largest overrun in August 2022.

The Employment Agency of Montenegro (ZZZCG) takes the lead among the institutions by spending 1.1 million euros more in August than the six-month average spending of that state institution. Average monthly spending of this institution was around four million euros, while in August, the Agency paid around one million more from its account, i.e. 5.16 million euros. The largest part of the increase related to other transfers to natural persons, where the Agency paid as much as 781 thousand euros in August, which is 329 thousand more than the monthly spending of ZZZCG from this budget item.

During August, **the Ministry of the Interior** spent as much as 500,000 euros more than the monthly average, and the largest increase in spending in the month of calling of the local elections was on the item of net earnings. Thus, in August, the MoI paid net wages in the amount of 4.3 million euros, which is nearly 380 thousand euros more than the legally defined six-month average prior to calling of the elections.

Nature and Environment Protection Agency of Montenegro exceeded the monthly average by 365 thousand euros, and the largest overrun within the budget of this institution was recorded from the budget item - consulting services, studies and projects.

The Institute for the Execution of Criminal Sanctions also recorded an increase of 334,000 euros, while in August, **the Ministry of Culture and Media** paid 331,000 more than the monthly average. This ministry records the largest overrun from the monthly spending average when it comes to transfers to natural persons and transfers to municipalities.

During August, **the Ministry of Defence** spent 200,000 more than the monthly average, and the biggest overrun was recorded in transfers to natural persons and one-off social allowance.

In August, **the Parliament of Montenegro** exceeded the average monthly spending by around 100 thousand euros, as did **the Administration for Food Safety, Veterinary and Phytosanitary Affairs**, which exceeded the legal limit by 117 thousand euros.

Out of state institutions that violated the limit on the use of state funds, MANS also recorded **the Institute of Education** (around 40,000 euros), **the State Archives of Montenegro** (around 28,000 euros), and **the Prosecutor's Council** (around 28,000 euros).

During August, certain institutions spent significantly more funds for some types of expenses than in the previous period:

- The Revenue and Customs Administration paid out 170,000 euros based on **temporary employment contracts**, which is over 100,000 more than the average.
- The Institute for the Execution of Criminal Sanctions paid out nearly 80,000 euros for **temporary employment contracts**, although their average monthly expenses for these purposes amounted to around 50,000 euros.
- The Ministry of the Interior paid out over 100,000 euros for **temporary employment contracts**, and before the elections, they spent 70,000 euros per month on average. In the same month, this institution spent nearly 190 thousand euros for **official trips**, of which 150 thousand was paid for official trips within the country, which is almost three times more than the monthly average in the period before the calling of the elections.
- In August, the Ministry of Foreign Affairs paid out nearly 140,000 euros for **temporary employment contracts**. Their average monthly spending for these purposes before the calling of the elections was around 126 thousand euros.

A.1.1.2. Increases in spending in September

In September, more than a half, i.e. as many as 45 budget users, had a spending higher than prescribed. Of these, eight budget users had a spending that was over one million euros higher than the legally prescribed maximum, and three had an increase of between 500 thousand and one million euros. In September, six state institutions spent from 100 to 500 thousand euros more than allowed by the law, three exceeded the limit by 50 to 100 thousand, and eight of them spent from 10 to 50 thousand more than they were allowed to. The remaining 17 institutions violated the legal maximum by less than 10 and more than one thousand euros.

The table shows data on the institutions with largest overrun in September.

Name of the budget user	Average spending	Spending in September	Increase in spending
Ministry of Education	17,931,903	30,869,791	12,937,889
Ministry of Finance	37,899,155	44,074,851	6,175,696
Public Works Administration	3,444,004	7,010,788	3,566,783
Ministry of Labour and Social Welfare	11,699,123	14,972,942	3,273,818
Health Insurance Fund	30,048,617	32,279,191	2,230,574
Railway Directorate	1,580,182	3,397,541	1,817,359
Ministry of Agriculture, Forestry and Water Management	2,964,559	4,487,507	1,522,948
Judicial Council	2,337,160	3,595,563	1,258,404
Employment Agency	4,039,565	4,900,697	861,131

Table 2: Data on institutions with the largest overrun in September 2022.

In September, there was an increase in spending of several state institutions for temporary employment contracts, consulting services, aid and subsidies, construction of local infrastructure, official trips and fuel:

- In September, the expenses on the basis of **temporary employment contracts** were nearly 300 thousand euros higher than the six-month average, and 1.3 million euros was spent for these purposes in September alone. The Revenue and Customs Administration spent nearly 170,000 euros on temporary employment contracts in September alone, which is over 100,000 more than the monthly average. In September, the Ministry of the Interior and the Institute for the Execution of Criminal Sanctions each spent over 30,000 euros more than the average in the six-month period before the elections. The expenses of the temporary employment contract increased by 20 thousand euros at the Ministry of Ecology, Spatial Planning and Urbanism and the Forestry Administration.

- **Subsidies** of the Ministry of Agriculture, Forestry and Water Management increased by nearly 1.3 million euros compared to the average, as well as those of the Employment Agency by nearly 900 thousand euros.
- Expenses for **local infrastructure** increased by nearly two million euros, which were spent from the budget of the Public Works Administration.
- The costs of **consulting services** of the Ministry of Agriculture, Forestry and Water Management doubled compared to the average, and in September, they amounted to over 400 thousand euros.
- The expenses of **business trips** in September amounted to over 600 thousand euros, and they are nearly 250 thousand euros higher than the six-month average. The biggest difference in spending has the Cabinet of the Prime Minister, which spent over 60,000 euros for official trips in September, which is 50,000 more than the average in the previous six months. The trips of the Ministry of the Interior increased by over 40 thousand euros, the Ministry of Foreign Affairs by nearly 30 thousand and the Ministry of Defence by around 20 thousand.
- Total expenses for **fuel** increased by around 90 thousand euros compared to the average. The Ministry of Defence took the lead in this, spending nearly 80,000 euros more than the average in September.

A.1.1.3. Increases in spending in October

In October, the month when the elections were held, 30 institutions spent more than the legal limit. Of that number, six institutions spent over a million euros more than the limit, nine increased their expenses by 100 to 500 thousand euros, five increased their spending by 50 to 100 thousand, and ten institutions had higher expenses by 10 to 50 thousand euros from average before calling the elections.

Data on institutions with the largest overrun in October are given in the table.

Name of the budget user	Average spending	Spending in October	Increase in spending
Pension and Disability Insurance Fund	37,571,995	53,926,175	16,354,181
Health Insurance Fund	30,048,617	41,556,010	11,507,393
Ministry of Labour and Social Welfare	11,699,123	14,725,912	3,026,788
Ministry of Agriculture, Forestry and Water Management	2,964,559	5,731,455	2,766,896
Ministry of Public Administration	689,435	2,467,549	1,778,114
Public Works Administration	3,444,004	4,481,299	1,037,294
Ministry of Defence	3,399,584	3,716,175	316,591
Nature and Environment Protection Agency of Montenegro	198,568	461,523	262,955
Ministry of Ecology, Spatial Planning and Urbanism	756,788	981,551	224,764
Employment Agency	4,039,565	4,263,115	223,550

Table 3: Data on institutions with the largest spending overrun in October 2022.

During October, the expenses of ***the Pension and Disability Insurance Fund*** increased by over 16 million euros, mainly due to the increase in old-age pensions by around 8.4 million, family pensions by around 5.3 million and disability pensions by over 3 million euros.

The expenses of ***the Health Insurance Fund*** were higher than the average by over 11.5 million, which were mainly spent on increased transfers for health care, i.e. mostly for payments to Montefarm and private pharmacies.

The expenses of ***the Ministry of Labour and Social Welfare*** were higher in October by about three million euros than the average, of which 1.7 million refer to payments based on other rights in the field of social protection, nearly 750 thousand more for disability-related financial support, over 400 thousand for expenses on construction facilities, while transfers to municipalities are over 200,000 higher.

Three days before the elections, 125,000 euros was paid from the budget of the Ministry of Labour and Social Welfare to the account of the Union of Employees in Social and Child Protection System. In September, 15 thousand euros was paid to the Union, and for the first eight months of that year, a total of less than nine thousand euros.

In October, ***the Ministry of Agriculture, Forestry and Water Management*** spent nearly 2.8 million euros more than the average due to increased payments of subsidies for production.

The Ministry of Public Administration spent nearly 1.8 million euros more than allowed due to higher costs of equipment purchasing, and developing and maintaining software.

The Public Works Administration had an increase in spending by around one million euros, the expenses for local infrastructure and funds paid for expropriation increased.

The Ministry of Defence had an increase in spending by over 300,000 euros, due to the increase in net earnings and fuel expenses.

Nature and Environment Protection Agency of Montenegro increased payments for expenses for land development by nearly 180 thousand euros, and consulting services by about 135 thousand euros compared to the average spending before the elections.

The Ministry of Ecology, Spatial Planning and Urbanism had a total increase in spending by around 225 thousand euros, but it saved on some items, while the expenses of consulting services were higher by nearly 400 thousand than the six-month average.

The example of ***the Employment Agency*** is similar, which had a total increase in spending over the legal limit of around 225 thousand euros, and paid out 350 thousand more for subsidies to employers for employing persons with disabilities than the average amount allocated for those purposes.

In October, there was an increase in spending of institutions on interns, student loans, temporary employment contracts, as well as official trips:

- The Ministry of Education increased payments for **the personal income of interns** by nearly two million euros. That institution paid out nearly 700 thousand euros more for student loans.
- Based on **the temporary employment contracts**, the Institute for the Execution of Criminal Sanctions paid out nearly 40 thousand euros more than the average, and the Ministry of the Interior around 30 thousand more than it spent for those purposes before the elections.
- For **official trips**, the Ministry of the Interior spent around 70 thousand euros more than the average, the President of Montenegro around 55 thousand more, and the Ministry of Finance around 20 thousand euros more than the average spending before the elections.

A.1.2. Aid payments from the budget reserve

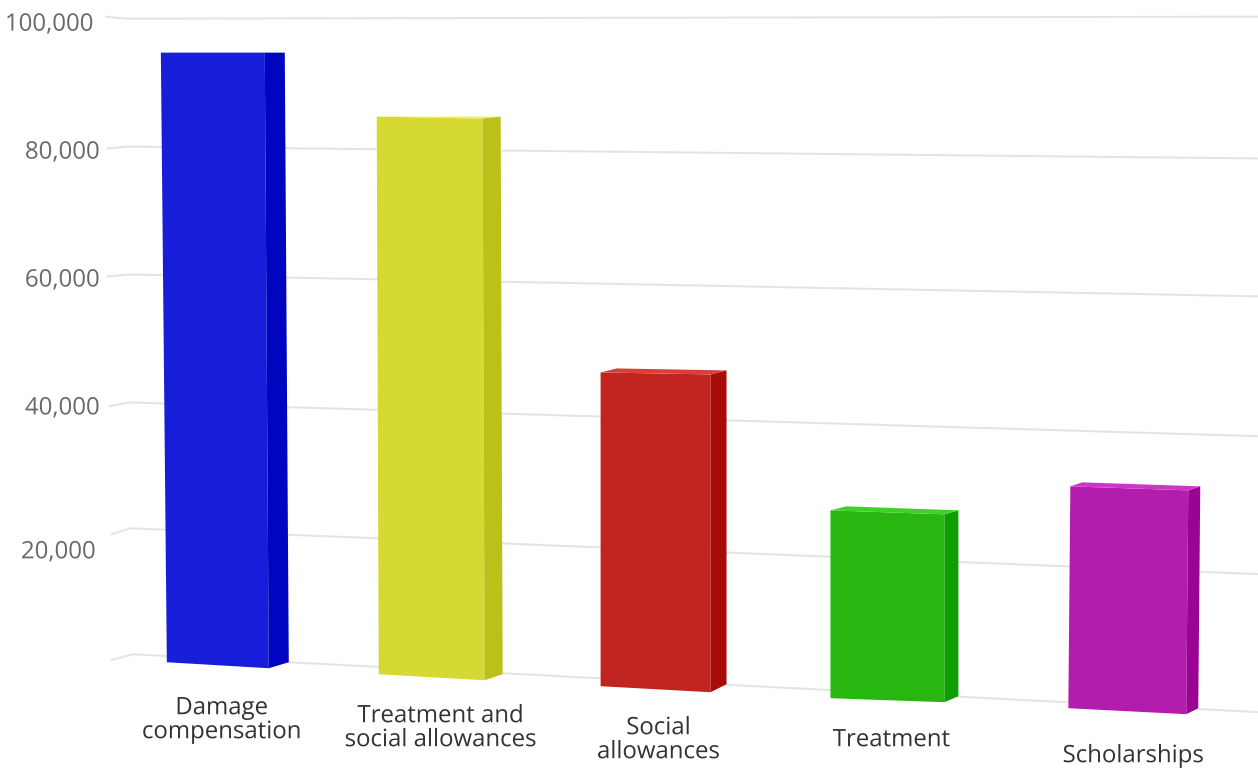
During the election campaign, the Government Commission allocated aid from the budget reserve to natural persons without any criteria, thus continuing the bad practice of its predecessors. In a month and a half, from September 12 to October 23, nearly 300 thousand euros was paid from the budget reserve for 500 people.

Period	Amount of aid paid to natural persons	Number of persons to whom aid was paid
September 12 - 18	59,000	117
September 19 - 25	70,900	159
September 26 – October 2	9,100	27
October 3 - 9	No payments	-
October 10 - 16	102,064	161
October 17 - 23	46,791	36
Total	287,855	500

Table 4: Overview of aid payments to natural persons during the pre-election campaign, by weeks, Source: Decisions on the allocation of funds from the website of the Agency for Prevention of Corruption

Those funds were paid for damage compensation caused by extreme weather, i.e. as an aid for treatment, overcoming a difficult financial situation and schooling. Individual aid amounts ranged from 300 to 1,000 euros, and their allocation was not decided by the institutions dealing with those areas, such as the ministries responsible for social welfare, health and education, whose procedures are defined by laws and other regulations.

Types of payments to natural persons from the budget reserve in the pre-election period



Instead, the allocation of these aids was decided by the Government Commission on the allocation of a part of budget reserve funds. Its chairman is Ervin Ibrahimović, Deputy Prime Minister for Regional Development and Minister of Capital Investments, and his deputy is Aleksandar Damjanović, Minister of Finance.

That Commission made decisions on the basis of the Rulebook on closer criteria for the use of current and permanent budget reserve funds, which was adopted by the Government back in 2009. Apart from the amount that can be given to an individual natural person, the Rulebook does not define any criteria on the basis of which decisions are made on the allocation of funds or the rejection of citizens' requests.

This is exactly how numerous misuses of the budget reserve for social allowances were carried out in the past in the pre-election period. Namely, that Rulebook enables the circumvention of a number of laws and regulations, based on which institutions assess whether a citizen needs help, and instead, the decision is made by politicians without any criteria. Because of such practices, the law prohibits budget reserve funds from being used to pay aid to natural persons in election years, but that provision has been suspended due to the ongoing decision on COVID epidemic.

During the adoption of the Budget Rebalance [6], it was stipulated that there would be no allocation of aid and budget reserves until the end of the year. Only allocation of funds to natural persons in case of natural disasters is allowed.

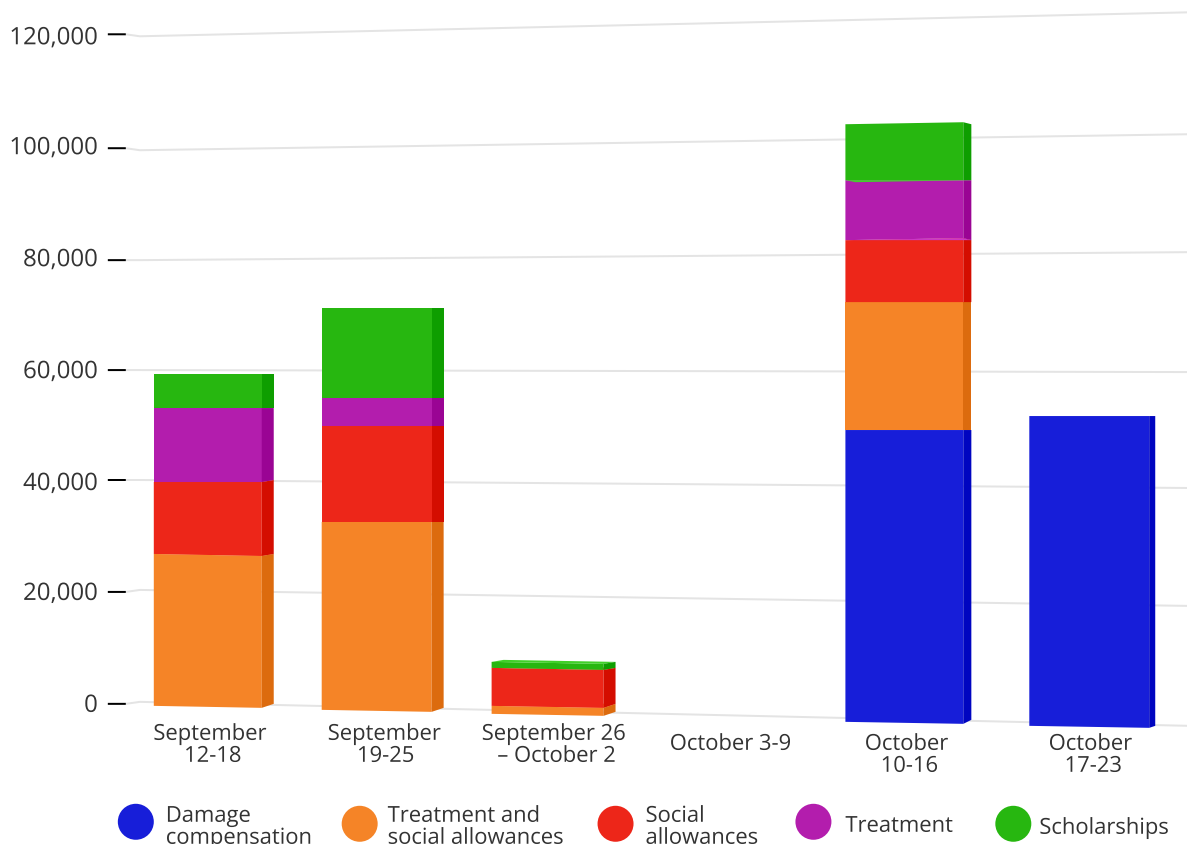
Just one day before the Budget Rebalance came into effect, and thus the ban on the payment of aid from the budget reserve, on October 10, 2022, the Government of Montenegro paid over 50,000 Euros in aid to 113 persons.

After the rebalance came into effect, payments based on natural disasters began, thus, nearly 100,000 euros was paid out of the budget reserve for 84 people.

The allocation of these funds was carried out based on the decisions of the Damage Assessment Commission headed by Zoran Miljanić, Minister without Portfolio, in charge of the fight against corruption. Part of the Commission's decisions, which is available on the website of the Agency for Prevention of Corruption, shows that they were passed back in July, but that the payment was made only after the calling of local elections, i.e. during the pre-election campaign.

It is interesting that in the previous, non-election year, 2021, there were no payments from the budget reserve based on natural disasters.

Payments from the budget reserve in the pre-election period, by weeks and types



Most of the funds allocated from the budget reserve were paid to citizens from the municipalities where the elections were held, and it is not known from which towns a significant number of recipients come.

[6] More detailed information in chapter A.1.3. Budget Rebalance.

Municipality / types of payments	Damage compensation	Treatment and social allowances	Social allowances	Scholarships	Treatment	TOTAL
UNKNOWN	46,791	5,800	19,800	6,900	1,800	81,091
Podgorica	1,282	30,700	11,200	14,900	11,700	69,782
Tuzi	42,401				500	42,901
Rožaje		22,600	5,600	5,000	1,200	34,400
Nikšić	2,933	3,600	2,000	600	1,200	10,333
Tivat		7,000	1,600		1,400	10,000
Bar		4,200	1,600	500	3,400	9,700
Bijelo Polje		1,600		1,000	2,700	5,300
Danilovgrad	2,123	1,500	600		700	4,923
Berane		2,400	400	2,100		4,900
Mojkovac		500	1,900		400	2,800
Plav		1,000	300	700	700	2,700
Cetinje	150	400	600	1,000		2,150
Budva		500	500		500	1,500
Pljevlja		1,000	300			1,300
Ulcinj	500	700				1,200
Kotor		900	300			1,200
Kolašin		600				600
Plužine			400			400
Andrijevica	375					375
Herceg Novi			300			300

Table 5: Payments to natural persons from the budget reserve in the pre-election period by municipalities from which they come and types of payments

Note: Decisions on the allocation of funds that are published on the website of the Agency for Prevention of Corruption were used for the analysis, and not data on payments from the budget, because they also contain information about the towns from which the citizens who receive the funds come from. However, a comparison of data on payments from the budget and decisions from the Agency's website does not show too many differences.

A.1.3. Budget Rebalance

It was for the first time that during the pre-election campaign, the Government proposed and the Parliament adopted the Budget Rebalance on September 29, 2022. **Increase of spending of around 16 million euros that could have an impact on voters in the pre-election campaign for local elections was hidden in the Budget Rebalance.**

The Government proposed the Budget Rebalance with the explanation that it would correct the effects of the *Evropa sad* programme. MANS analysed the Budget Rebalance proposal and found that additional employment is foreseen, worth over 2.7 million euros, payments to natural and legal persons of 4.5 million, as well as an increase in the budget reserve by nearly nine million euros, for which no explanation is given in the description of the rebalance.

There was no explanation in the budget rebalance for the increase in expenses which during the election campaign **increased the number of employed or engaged persons in the total amount of over 2.7 million euros**, i.e. net earnings of nearly 900 thousand euros, temporary employment contracts of over 700 thousand euros, other fees of around 600 thousand euros, as well as consulting services of over 500,000 euros.

Namely, **based on reallocation within their budgets, there has been an increase in net earnings in several bodies, and there is no explanation for these changes in the budget rebalance. Those institutions include the Revenue and Customs Administration**, where net earnings increased by nearly 300 thousand euros, **the Ministry of Ecology, Spatial Planning and Urbanism** with an increase of over 160 thousand, **the Ministry of the Interior** with over 150 thousand, and **the Forestry Administration** with higher net earnings of 100 thousand euros.

There is a similar practice with temporary employment contracts, where the explanation of the budget rebalance does not show that the institutions reallocate their budgets and increase these expenses during the election campaign. Thus, **the Ministry of Finance allocated over € 240,000 higher payments for temporary employment contracts than in the current budget, the Institute for the Execution of Criminal Sanctions over 120,000 euros higher, and the Ministry of Ecology, Spatial Planning and Urbanism over 73,000 euros higher payments.** They are followed by the Ministry of Defence with an increase of over 52 thousand euros, the Ministry of Capital Investments and the Cabinet of the President of Montenegro with 50 thousand euros each, the Ministry of the Interior with 40 thousand euros, the Cabinet of the Prime Minister and the Secretariat-General of the Government of Montenegro with around 15 thousand euros each.

In addition, without any explanation, **additional 487,000 euros was provided for other fees in the Ministry of Finance, additional 46,000 euros in the Ministry of Economic Development and Tourism, and 20,000 euros in the Ministry of the Interior.**

The budget rebalance does not contain explanation for the increase in consulting services at the Directorate for Traffic of over 500 thousand euros i.e. 15% in relation to the current budget of that institution. The budget of **the Ministry of Defence for other transfers to natural persons increased by nearly 250 thousand euros**, and no explanation was given for this in the budget rebalance. This increase occurred on the basis of reallocation within the institution's budget, but that increased this budget item by more than 20% compared to the current budget.

Only a short explanation was given in the budget rebalance for the significant increase in the budget of some institutions, although during the election campaign, subsidies to legal and natural persons significantly increase in this way.

Thus, **the Employment Agency requested an increase of three million euros from the budget rebalance for subsidies** to employers who employ persons with disabilities, i.e. by nearly 30%. In the explanation, it was stated that during the election campaign, these funds should be increased "due to the constant growth of requests for subsidies".

By the budget rebalance, **the Ministry of Agriculture, Forestry and Water Management increased the subsidies for production and providing of services by 1.5 million euros**. In the explanation, it is stated that these funds are intended for the purchase of machinery and cattle in order to increase milk production, as well as "for the development of chicken meat production".

According to the budget rebalance proposal, during the election campaign, the budget reserve increased by a third, and no explanation was given for the increase of nearly nine million euros.

This proposal increased the current budget reserve by 18.2 million euros, i.e. from 67 to 85 million euros. In the explanation, it is stated that seven million refers to the providing of missing funds for the needs of the Health Insurance Fund, and 2.5 million to the strengthening of the security information infrastructure". However, in the budget rebalance proposal, there was **no explanation for the remaining increase in the budget reserve of 8.7 million euros**.

In the final version, the current budget reserve was increased by 32 million euros, from 67.4 to 99.9 million euros.

We emphasize that funds from the budget reserve can be used for payments to natural persons, even though it is an election year, because the decision on the COVID epidemic is in force, otherwise such practice would be prohibited by law.

Amendment to the Budget Rebalance

The Parliament adopted an amendment to the Rebalance, which limits the possibility of paying aid to natural persons from the budget reserve. Article 18a of the Rebalance allows only payments based on court judgments, as well as damages caused by natural disasters:

„Payment of funds from the current budget reserve cannot be made to natural persons, except for payments based on court judgments and payments in the case of natural disasters, in accordance with the act of the Commission for Assessment of Damages from Natural Disasters.“

A.2. Local level

A.2.1. Increases in spending of the budget users - Capital City

The ban on spending above the limit (six-month average) prescribed by the Law on Financing of Political Entities and Election Campaigns also applied to the beneficiaries of local self-government budgets.

This restriction was introduced in the law as a response to a widespread practice of certain state institutions using budget funds in order to gain an advantage for a certain political party on the ground during the election campaign, as well as to influence the free will of voters.

Monitoring of the Capital City's budget spending identified overruns by several authorities and public institutions of the Capital City during all three months of the pre-election campaign (August, September and October), while the analysis conducted by MANS shows that the largest overruns related to increased **payments of net wages and other fees, construction of local infrastructure, maintenance of facilities and costs of promotion and advertising.**

INSTITUTION	6-month average	August		September		October	
		Spending	Difference	Spending	Difference	Spending	Difference
Office in charge of carrying out the executive function of the Mayor	57,216.76	50,531.63	-6,685.13	56,168.67	-1,048.09	86,234.22	29,017.46
Civil Bureau	27,817.37	57,023.95	29,206.59	18,526.99	-9,290.38	20,541.33	-7,276.07
Service of the Assembly	71,555.93	77,316.52	5,760.59	77,053.78	5,497.85	78,531.04	6,975.11
Finance Secretariat	6,617,455.28	3,552,494.03	-3,064,961.25	3,688,840.14	-2,928,615.14	6,978,540.74	361,085.46
Secretariat for Support to the Business Community	34,576.75	36,401.33	1,824.59	48,316.03	13,739.29	50,367.22	15,790.48
Secretariat for the Support to Agriculture	23,012.22	18,250.99	-4,761.23	25,354.98	2,342.76	19,834.40	-3,177.82
Secretariat for Social Welfare	121,354.84	122,396.16	1,041.32	96,008.74	-25,346.10	149,734.90	28,380.06
PI Day Care Centre for Children and Youth with intellectual and developmental disabilities	11,848.95	10,775.99	-1,075.96	10,875.20	-973.75	14,186.78	2,337.84
PI for Child Care Children's Alliance ("Dječji savez")	17,463.81	41,091.30	23,627.49	18,203.27	739.46	21,748.82	4,285.01

INSTITUTION	6-month average	August		September		October	
		Spending	Difference	Spending	Difference	Spending	Difference
Secretariat for Culture and Sports	277,055.67	145,924.20	-131,081.47	103,450.55	-173,555.12	865,288.29	588,282.62
PI Kakaricka gora	52,426.76	52,196.08	-230.67	62,442.53	10,015.78	64,620.09	12,193.34
PI Museums and Galleries	50,178.13	40,914.76	-9,263.37	47,096.66	-3,081.47	56,664.25	6,486.12
PI Library "Radosav Ljumović"	46,696.65	40,277.66	-6,148.98	49,596.97	2,900.33	40,175.70	-6,520.95
PI City Theatre	111,400.21	99,983.73	-11,416.48	118,131.90	6,731.69	97,616.63	-13,783.58
Secretariat for Local Self-Government	52,139.00	53,938.10	1,799.10	51,469.08	-669.92	55,551.37	3,412.37
Secretariat for Communal Affairs	28,434.43	44,257.62	15,823.19	40,134.51	11,708.08	32,367.60	3,933.17
Secretariat for Transport	53,132.07	32,253.49	-20,878.58	22,729.46	-30,402.61	71,982.88	18,850.81
Communal Inspection	68,065.91	65,761.65	-2,304.26	74,428.30	6,362.39	50,400.14	809.53
Common Affairs Service	187,129.30	184,138.59	-2,990.71	239,859.61	52,730.31	206,082.47	18,953.18
Property Directorate	23,369.22	40,689.50	17,320.28	20,154.42	-3,214.80	60,256.84	36,887.62
Administration for the Protection of Property and Legal Interests of the Capital City	11,378.13	13,838.88	2,460.75	16,600.89	5,222.76	16,237.64	4,859.52
Information System Service	37,262.65	24,202.42	-13,060.23	43,677.34	6,414.69	41,007.18	3,744.53
Protection and Rescue Service	122,616.11	155,459.98	32,847.87	138,360.09	15,743.98	130,727.85	8,111.74

Table 6: Overview of overruns by the authorities and public institutions of the Capital City individually for all three months of the pre-election campaign

A.2.1.1. Increases in spending in August

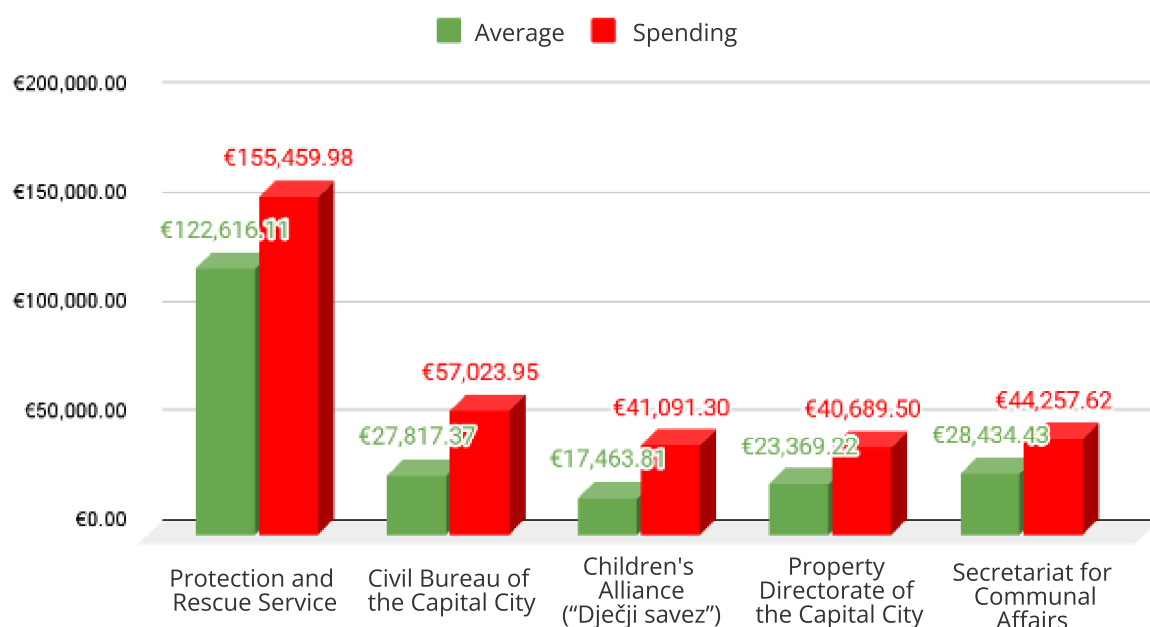
During the month of August, when the pre-election campaign officially began, several authorities and public institutions of the Capital City exceeded the limit on the use of budget funds, i.e. the six-month average of spending before the calling of the elections.

The biggest budget overrun in August had **the Protection and Rescue Service**, which exceeded the monthly average of €122,616.11 by nearly €33,000. The analysis of the analytical cards of the budget of the Capital City shows that this overrun was related to the increase in the payment of regular salaries of employees in this city institution. **Civil Bureau of the Capital City** exceeded the monthly average by around 29 thousand euros, and the analysis shows that most of that money was spent on renting a stage for various events and making a promotional film about the results of the city administration in its last term.

Exceeding the monthly average spending in August was also done by **the Public Institution Child Care Children's Alliance ("Dječji savez")** in the amount of around 23 thousand euros. The data from the analytical cards show that most of that money was spent on purchase of materials for the restaurant's kitchen. **Property Directorate of the Capital City** exceeded the monthly average by around 17 thousand euros, which was additionally allocated for geodetic services. **The Secretariat for Communal Affairs** spent nearly 16,000 euros more than the average, most of which was allocated for water supply in rural areas.

Other institutions that had minor budget overruns during the election campaign in August include **the Service of the Assembly** (€5,760), **the Administration for the Protection of Property and Legal Interests of the Capital City** (€2,460.75), **the Secretariat for Support to the Business Community** (€1,824.59), **the Secretariat for Local Self-Government** (€1,799.10) and **the Secretariat for Social Welfare** (€1,041.32).

Overruns in August 2022



A.2.1.2. Increases in spending in September

Spending above the six-month average prescribed by the Law on the Financing of Political Entities and Election Campaigns continued in September. The largest budget overruns in Podgorica had **the Common Affairs Service**, in the amount of more than 52 thousand euros, which is more than a quarter of the average monthly spending of this authority. The largest part of that money was paid to the municipal company Housing Agency, based on ongoing maintenance of facilities.

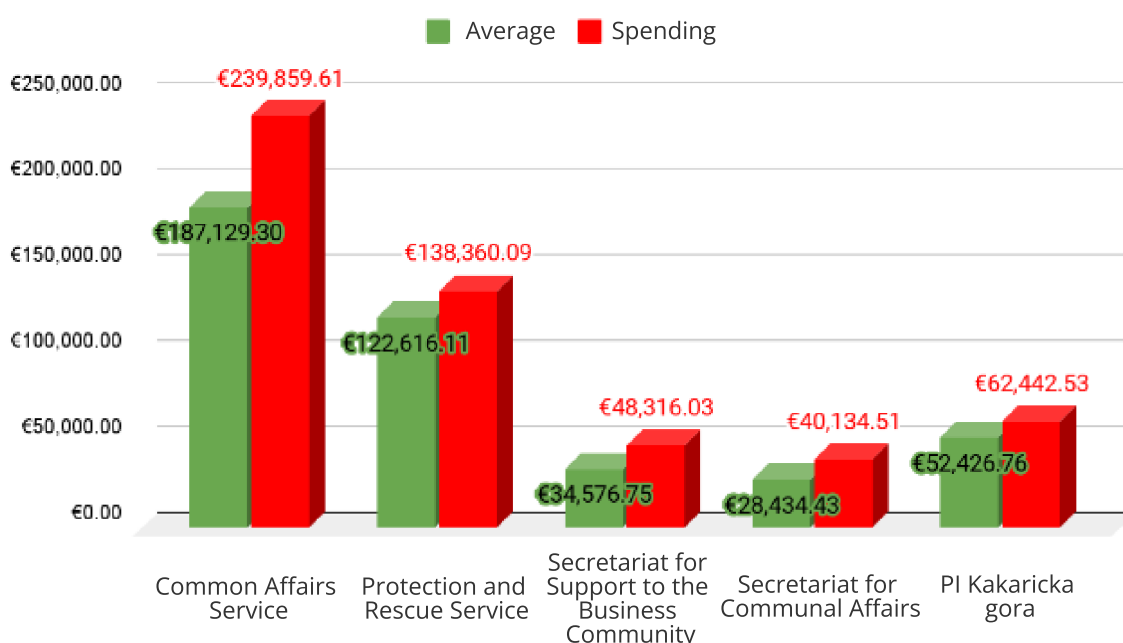
The Protection and Rescue Service also spent more than the allowed average in September, thus, it was exceeded by nearly 16 thousand euros. As during the month of August, this amount was spent on higher salary payments for employees in September as well.

In September, **the Secretariat for Support to the Business Community** spent close to 14,000 euros more, i.e. almost half of the average monthly spending, and most of that money was paid out as support for start-ups. **The Secretariat for Communal Affairs** also exceeded the average for a third of the monthly spending, paying an additional €11,700 in September. The largest part of that money went for water supply of the rural areas of the Capital City.

Public Institution for Accommodation, Rehabilitation and Resocialization of Users of Psychoactive Substances (Kakaricka gora) exceeded the monthly average by ten thousand euros, i.e., one fifth of the monthly budget. Most of that money was spent on temporary employment contracts and increased payments of regular wages.

Other institutions that had minor budget overruns during the election campaign in September include **PI "City Theatre"** (€6,731.69), **Information System Service** (€6,414.69), **Communal Inspection** (€6,363.39), **Service of the Assembly** (€5,497.85), **Administration for the Protection of Property and Legal Interests of the Capital City** (€5,222.76), **PI Library "Radosav Ljumović"** (€2,900.33), **Secretariat for the Support to Agriculture** (€2,342.76) and **PI Child Care Children's Alliance ("Dječji savez")** (€739.46).

Overruns in September 2022



A.2.1.3. Increases in spending in October

Monitoring of the spending of the Capital City budget showed that certain authorities and institutions spent more than the legally prescribed six-month average even during the month of October, at the end of the campaign for local elections.

The biggest overrun in October was recorded by **the Secretariat for Culture and Sports**, in the amount of nearly 590 thousand euros. Analysis of analytical cards of the Capital City's treasury for October shows significant allocations to sports organizations founded by the Capital City, namely to the "Budućnost-Voli" basketball club (500,000 euros) and the "Budućnost" football club (200,000 euros), as well as several smaller allocations to local football clubs (a total of 66,000 euros).

The Secretariat for Finance also had a significant overrun, spending 361,000 euros more than the six-month average in October. The spending data analysed by MANS show that the overrun is predominantly caused by payments made by this Secretariat to companies and public institutions owned by the Capital City.

Recipient	Amount
LLC Radio Television Podgorica	179,000 €
LLC City Sanitation (Čistoća)	150,000 €
PE Greenery (Zelenilo)	105,000 €
LLC Agency for construction and development of Podgorica	96,000 €
LLC Communal services	85,500 €
LLC Sports Facilities	83,300 €
LLC Housing Agency	60,000 €

Table 7: Overview of the amount of payments to companies and institutions the Capital City

All these transactions were realized on the last day of October 2022, and for none of them is there a description of the account, i.e. the purpose of the payment.

An overrun of nearly 37,000 euros was also recorded by **the Property Directorate** from Podgorica, and the data from the analytical cards show that more than the average was spent due to more payments for property evaluation, for which nearly 40,000 euros was allocated.

During October, **the Office in charge of carrying out the executive function of the Mayor** exceeded the monthly spending limit by 29 thousand euros, the largest part of which (27.6 thousand euros) related to subsidies for the purchase of bicycles and scooters, which the Capital City paid out in two days, on October 11 and 17, just a few days before the local elections. Payments were made in October, although the call [7] for applications for subsidies was announced at the beginning of August (ended on August 19).

During August, **the Secretariat for Social Welfare** also spent more than the legal limit, around 28 thousand euros. The largest part of that amount (around 13.5 thousand euros) was spent as a one-off financial aid for the purchase of school supplies for the first graders from Podgorica (35 euros per child). The competition to grant the aid was announced at the beginning of July and lasted until August 15. At the same time, monthly expenses of the meal centre during October increased by around 10 thousand euros.

[7] <https://podgorica.me/vijesti/2772> .

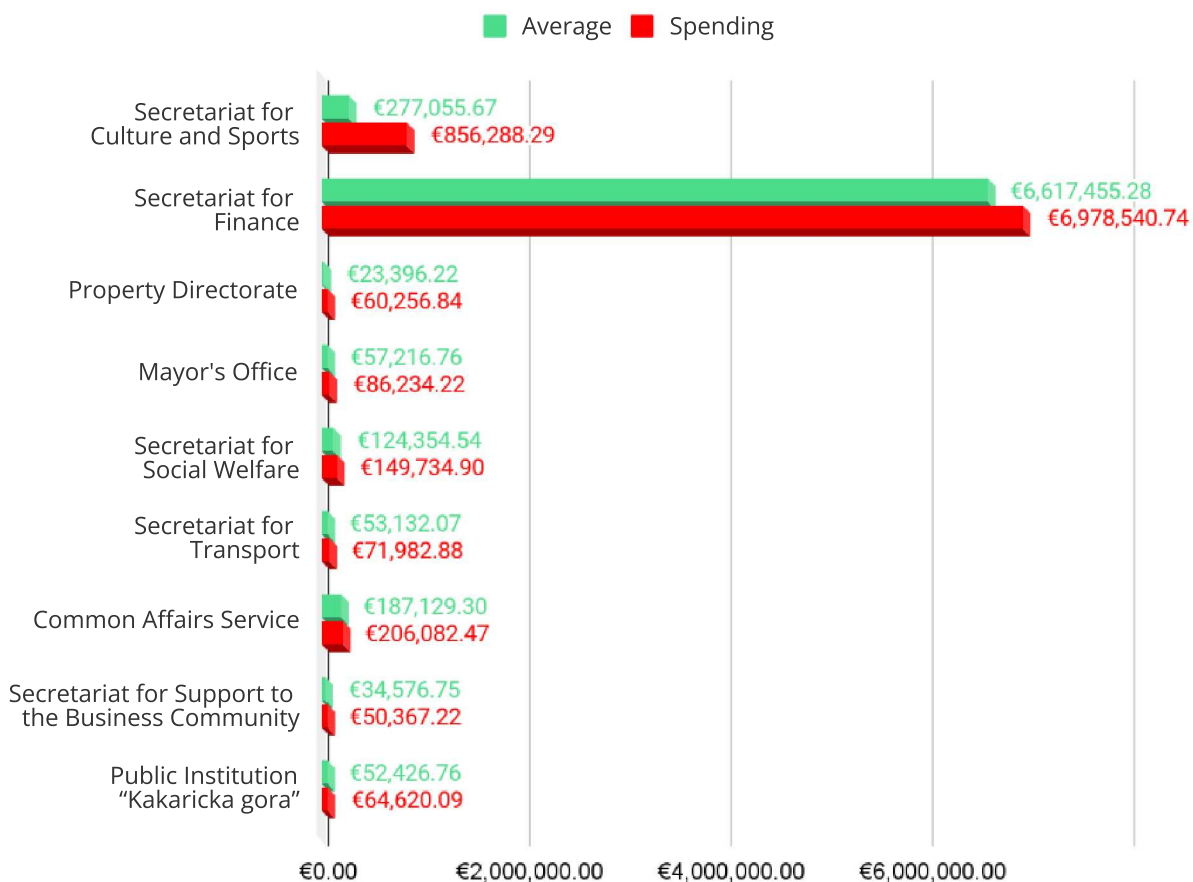
An overrun of close to 19,000 euros was achieved by **the Secretariat for Transport** during October. The analysis of spending data shows that at the beginning of that month, the Secretariat paid the amount of 44.5 thousand euros, which dominantly contributed to breaking the monthly limit.

In October, **Common Affairs Service** spent nearly 19,000 more than the monthly limit, which was mostly caused by payments for hiring physical labour (over 11,000 euros).

The Secretariat for Support to the Business Community exceeded the monthly spending limit by around 16,000 euros, and the largest part of that went to the payment of subsidies to support entrepreneurs in Podgorica (14,200 euros).

Public Institution for Accommodation, Rehabilitation and Resocialization of Users of Psychoactive Substances (Kakaricka gora) exceeded the monthly spending limit by around 12 thousand euros, and like last month, the largest part of that amount was spent on regular wages and temporary employment contracts.

Overruns in October 2022



Other institutions that had minor budget overruns during the election campaign in October include **the Protection and Rescue Service** (€8,111.74), **the Service of the Assembly** (€6,975.11), **PI "Museums and Galleries"** (€6,486.12), **Administration for the Protection of Property and Legal Interests of the Capital City** (€4,859.51), **PI for Child Care Children's Alliance ("Dječji savez")** (€4,285.01), **Secretariat for Communal Affairs** (€3,933.17), **Information System Service** (€3,744.53), **Secretariat for Local Self-Government** (€3,412.37) and **PI Day Care Centre for Children and Youth with intellectual and developmental disabilities** (€2,337.84).

A.2.2. Aid payments from the budget reserve of the Capital City

Analytical cards of the Capital City show that in the period from June to the holding of the elections on October 23, 49,300 euros was paid from the budget reserve. Payments were made on the basis of the conclusions made by the Mayor of Podgorica, referring to the municipal Decision on milder criteria for the use of current and permanent reserves (Official Gazette of Montenegro - Municipal regulations, number 23/19). [8]

Similar to the regulation that defines the spending of the budget reserve at the state level, municipal regulation also does not contain clear and transparent criteria for the allocation of the budget reserve at the local level. Instead, the procedure for submitting a request, the types of aid (improvement of the financial situation, assistance with treatment and education, payment of compensation for damage caused by natural disasters) and the amount that can be determined as an aid to natural persons are prescribed, but not the criteria on the basis of which makes the final decision on the payment of aid is adopted.

This Decision defines that requests for aid shall be submitted by interested citizens directly to the Mayor's Office, which, after the opinion of the Commission for the allocation of aid that it previously formed, makes conclusions about who will be awarded the aid. Apart from the data on the amount of funds approved, the Mayor's conclusions do not contain any explanation on the basis of which they were made.

The data analysed by MANS show that in this way, financial aid was paid to a total of 304 persons, and that the payments ranged from 100 to 500 euros.

Period	Amount of aid	Number of persons
June 2022	14,950 €	83
July 2022	8,750 €	56
August 2022	12,000 €	79
September 2022	7,700 €	48
(1-23) October 2022	5,900 €	38

Table 8: Overview of the number of persons and the amount of aid paid, by month

The Law on Financing of Political Entities and Election Campaigns clearly prohibits the payment of social allowances from the budget reserve, except in special cases that include epidemics of communicable diseases. It is precisely this possibility that the Capital City is referring to, justifying the payment of social allowances by the fact that the decision to declare the coronavirus epidemic in Montenegro is still in force.

[8] https://podgorica.me/storage/4270/5ebe46eca95cd_Odluka-o-blizim-kriterijumima-za-koriscenje-TBR-i-SBR.pdf .

A.3. Companies owned by the State and the Capital City

A.3.1. Employment

Employment in the state administration before the elections is a mechanism that political parties have regularly used to win the votes of citizens. The Tape Recorder ("Snimak") affair from 2012 showed in detail the mechanisms of influence on voters, which is why the Law on Financing of Political Entities and Election Campaigns foresees restrictions on employment in the pre-election period.

Article 44 of this law stipulates that "in the period from the day of calling until the day of holding of the elections, in exceptional cases for reasons of ensuring smooth and regular functioning of state bodies, state administration bodies, local self-government bodies, local administration bodies, public companies, public institutions and state funds, and based on a decision of the competent body of these entities, persons may be employed for a fixed-term as well as hired under a temporary service contract, only if it has been planned by the act on systematization and job descriptions."

However, this restriction does not apply to employment in companies which are majority-owned by the state, and therefore, there is no obligation to submit employment data to the competent Agency for Prevention of Corruption (APC), as is the case with other reporting entities to the Law Financing of Political Entities and Election Campaigns. The lack of basic information and control of employment in state-owned companies opens a huge space for misuses and unlawful influence on the freely expressed will of the voters.

After the parliamentary elections in 2020, the new majority in the legislative and executive power began with an accelerated replacement of management and other staff in state-owned companies, with the explanation that it was the long-awaited depoliticisation of management in state-owned companies, which denied the previously ruling parties the opportunity to continue to strengthen their voting base through employment.

However, the new political majority replaced the political staff of the previous government with its own management staff, which contributed to the widespread perception among the public that, despite the formally conducted competitions, recruitment was actually continued with the aim of influencing the voters.

Prior to local elections held at the end of October 2022, MANS analysed employment in state-owned companies. Bearing in mind that state companies neither proactively publish data on new employees, nor are they submitted to APC, MANS collected employment data using the Law on Free Access to Information.

In order to get a clearer picture of whether political parties are using their newly appointed staff in state-owned companies in order to win votes through employment, MANS sent requests for free access to information to the largest state-owned companies, i.e. those that have the capacity to absorb a large number of new employees.

The analysis of employment in the election year included the following companies: "Montefarm", "Plantaže", "Montenegrin Electric Enterprise (EPCG)", "EPCG-Solar-Gradnja", "Montenegrin Electricity Distribution System - CEDIS", "Electric Transmission System of Montenegro - CGES", "Coal Mine", "Airports of Montenegro", "Port of Bar", "Railway Transport of Montenegro", "Railway Infrastructure of Montenegro", "Montenegro Post", "Monteput", "Public Enterprise for Coastal Zone Management of Montenegro", "Barska plovidba" and "Marina Bar".

On the basis of the Law on Free Access to Information, the mentioned companies were asked to provide information on all categories of employment from the beginning of 2022 until October, when the elections were held, including permanent and fixed-term employment contracts, temporary employment contracts and contracts of performing temporary and periodical jobs, as well as data on the employment of persons through employment mediation agencies.

A certain part of the companies completely ignored requests for free access to information, while others, contrary to the law, hid certain parts of the information. **The data that were submitted show that the largest state-owned companies employed at an increased rate during the election year, and that in the majority of cases, it is about short-term employment through temporary employment contracts or with the mediation of employment agencies.**

From the beginning of 2022, ending with October, the month in which the elections were held, **"Montenegro Post"** employed 253 persons who were hired exclusively through employment mediation agencies and temporary employment contracts. According to the data submitted to MANS, the largest Montenegrin port **"Port of Bar"** has employed 184 people since the beginning of the year, predominantly through employment mediation agencies, while at the same time it concluded 22 permanent employment contracts.

In the same time period, **"Montenegrin Electricity Distribution System - CEDIS"** employed 182 people. The largest number of new employees were hired through employment mediation agencies, while the rest were hired through temporary employment contracts. In the observed period, CEDIS also concluded 23 permanent employment contracts.

State-owned company **"Monteput"** employed 145 people from the beginning of the year until the elections, mainly on a fixed-term employment contract lasting several months. In the same period, "Monteput" employed 17 people through permanent employment contracts. In the same time period, **the State Health Institution Pharmacies of Montenegro - "Montefarm"** employed 129 persons, most of whom were employed through temporary employment contracts and with the mediation of employment agencies.

Since the beginning of the year, **the Railway Infrastructure of Montenegro** has employed 108 people, most of them on fixed-term contracts. **Public Enterprise for Coastal Zone Management** employed 52 people, mostly through temporary employment contracts and with the mediation of employment agencies.

Other companies that were included in the analysis employed a smaller number of people, while employment data was hidden by **"Airports of Montenegro", "Coal Mine", "Montenegrin Electric Enterprise EPCG"** and **"Electric Transmission System of Montenegro-CGES"**. The company **"EPCG-Solar-Gradnja"** submitted data on the number of concluded contracts since the beginning of the year (557 contracts), but refused to submit copies of them citing privacy protection. However, in the Information on the operations of companies in the energy sector [9] which was presented at the 27th session of the Government of Montenegro, it is stated that by the beginning of September 2022, 552 people was employed in this company.

[9] Document of the Government of Montenegro: <https://www.gov.me/dokumenta/2657e04e-848c-40cc-be89-fc8ae9f0e283>.

Total number of newly employed persons in the pre-election period does not include data from companies that refused to provide data during the analysis.

Company	Number of new employees (January-October 2022)
Montenegro Post	253
Port of Bar	184
CEDIS	182
Monteput	145
Montefarm	129
Railway Infrastructure of Montenegro	108
PE for Coastal Zone Management	52
Other companies	64
EPCG-Solar-Gradnja	552
Total	1669

Table 9: Overview of the largest number of employees in state-owned companies

A.3.2. Hiding of employment data

In order to analyse employment in state-owned companies in the pre-election period, by using the Law on Free Access to Information, MANS sent requests to the largest state-owned companies related to various forms of employment on a monthly bases. [10]

"Plantaze" and **"Airports of Montenegro"** did not respond to any of the sent requests for information.

"Montenegrin Electric Enterprise" (EPCG) responded to only one request and denied access to new employment contracts in June 2022, with the explanation that it protected the privacy of employees, while for other months, it ignored the submitted requests.

EPCG's answer from September 20, 2022 at the request of NGO MANS

ELEKTROPRIVREDA CRNE GORE AD NIKŠIĆ
IZVRŠNI DIREKTOR
 Broj: 10-00-352413
 Nikšić, 20.09.2022. godine.

Na osnovu člana 43 Ustava Crne Gore („Sl.List CG br.1/2007 i br. 38/2013-1“), člana 30 Zakona o slobodnom pristupu informacijama („Sl.list CG“ br.44/12 i 30/17), člana 18 Zakona o upravnom postupku („Sl.list CG“ br. 56/14, 20/15, 40/16 i 37/17), člana 9 Zakona o zaštiti podataka o ličnosti („Sl.List CG br.79/2008, br. 70/2009, br. 44/2012 i br.22/17“), člana 90 Statuta Elektroprivrede Crne Gore AD Nikšić, a shodno Vodiču za pristup informacija u posjedu Elektroprivrede Crne Gore AD Nikšić, postupajući po Rješenju Agencije za zaštitu ličnih podataka i slobodan pristup informacijama br. UP II 07-30-5563-2/21 od 01.09.2022.g, a u vezi sa Zahtjevom za slobodan pristup informacijama podnijet od strane NVO Mreža za afirmaciju nevladinog sektora-Mans br. 140691 od 26.07.2022.. godine, **d o n o s i m**

R J E Š E N J E

Odbija se Zahtjev za slobodan pristup informacijama br.140691 od 26.07.2022.godine, podnijet od strane NVO Mreža za afirmaciju nevladinog sektora-Mans.

O b r a z l o ž e n j e

NVO Mreža za afirmaciju nevladinog sektora-Mans obratila se Elektroprivredi Crne Gore AD Nikšić Zahtjevom br. 140691 od 26.07.2022.godine. Predmetnim zahtjevom podnosilac od Elektroprivrede Crne Gore AD Nikšić traži dostavljanje informacije:

"svih ugovora na određeno ili neodređeno vrijeme zaključenih u periodu 01.juna 2022.godine do 30.juna 2022.godine uključujući ugovore o radu, ugovore o djelu, ugovore o privremenim i povremenim poslovima, ugovore o dopunskom radu, konsultantske ugovore (potpisane sa fizičkim licima) kao i važeće ugovore zaključene sa Agencijom za privremeno ustupanje zaposlenih."

Rješavajući po predmetnom zahtjevu za pristup informaciji, Elektroprivreda Crne Gore AD Nikšić sprovela je upravni postupak i utvrdila sve odlučne činjenice i okolnosti koje su od značaja za odlučivanje.

Članom 14 stav 1 tačka 1 Zakona o slobodnom pristupu informacijama („Sl.List CG br.44/12 i 30/2017“) utvrđeno je da organ vlasti može ograničiti pristup informaciji ili dijelu informacije, ako je to u interesu zaštite privatnosti od objelodanjivanja podataka predviđenih zakonom kojim se uređuje zaštita podataka o ličnosti.

[10] We requested data on all types of employment contracts that were concluded in the period from the beginning of the year until the holding of local elections in October 2022, including fixed-term and permanent employment contracts (with annexes), contracts concluded with the mediation of employment agencies, temporary employment contracts (with annexes), contract of performing temporary and periodical jobs, contracts concluded through the training program of the Employment Agency, contracts on additional work, as well as consulting contracts.

Bearing in mind that EPCG misapplied the Law, we filed a complaint with the Agency for Personal Data Protection and Free Access to Information, but despite the expired legal deadline, by the time this report was concluded, the decision had not yet been made.

EPCG's daughter company, "**EPCG-Solar-Gradnja**" provided us with data on new employees at the beginning, but soon they started to delete the names of employees and provide only total data. **Montenegrin Electric Transmission System** also changed its practice and referred to the protection of personal data when it deleted the names of employees that it had published at the beginning of the year.

In this case, a decision was made on one appeal while the others are still pending, even though the legal deadlines have expired.

In that case, it was established that **the names of the persons who were hired must be published**, and only information related to the private life of those persons, such as the personal identity number, residential address or bank account number, is hidden from the public.

Despite such decision, Montenegrin Electric Transmission System did not issue a new decision, even though the legal deadline of 20 days had expired.

Savjet Agencije je mišljenja da u konkretnoj upravno pravnoj stvari, budući da su zahtjevom tražene informacije koje se odnose na Ugovore o djelu, čije isplate su vršene iz budžeta Crne Gore, nema mjesta zaštiti imena lica koja se nalaze u predmetnim ugovorima. S tim u vezi prvostepeni organ je dužan dostaviti predmetne ugovore sa imenima i prezimenima, budući da su to informacije koje se tiču konsultantskih usluga koja ta lica pružaju a koja su za navedene usluge plaćena od strane prvostepenog organa koji je privredno društvo u državnom vlasništvu.

Sa druge strane, u slučaju da predmetna informacija sadrži lične podatke koji su u vezi sa njihovim privatnim životom npr. matične brojeve, adrese stanovanja, brojeve žiro računa banke, ukazujemo da se ovi podaci moraju anonimizirati, kako se ne bi narušila privatnost i pravo na zaštitu ličnih podataka u smislu člana 2, člana 4 i člana 9 Zakona o zaštiti podataka o ličnosti.

Savjet Agencije je utvrdio da je žalba osnovana, pa je ista usvojena, a prvostepeni organ je dužan da u ponovnom postupku u roku od 20 dana od dana prijema rješenja donese novo rješenje u kojem će otkloniti nepravilnosti na koje mu je ukazano ovim rješenjem.

Sa iznjetih razloga, shodno članu 38 Zakona o slobodnom pristupu informacijama i člana 126 stav 7 Zakona o upravnom postupku, odlučeno je kao u izreci.

Pravna pouka: Protiv ovog Rješenja može se pokrenuti Upravni spor u roku od 20 dana od dana prijema rješenja podnošenjem tužbe Upravnom sudu Crne Gore.

Predmet obradio: Nikola Mrdak – Pravni savjetnik - kontrolor u Odsjeku za slobodan pristup informacijama _____

SAVJET AGENCIJE
Predsjednik, mr. Zeljko Rutović



Decision of the Agency for Personal Data Protection and Free Access to Information, dated September 22, 2022. which annulled the Decision of the Montenegrin Electric Transmission System

Pljevlja Coal Mine, which has been fully owned by the state since the end of 2018, refused requests for free access to information, declaring all types of contracts it has concluded with new employees since the beginning of this year as **business secret**. In their response to MANS, the company's management referred to the internal document of the Rulebook on Business Secrets even though they were obliged to implement the Law on Free Access to Information.

Out of ten decisions, two were annulled upon our appeals, and the procedure for the others is still ongoing. It was found that we were unjustifiably denied access to information, because the Coal Mine did not refer to any article of the Law on Free Access to Information, and access to data can be restricted "only if the business secret is in accordance with the law, not by an internal by-law". In the appeal decisions, it is stated that the Coal Mine is indisputably reporting entity to the Law because the State has the majority stake in it.

zahtjevu za pristup informaciji ili ponovnu upotrebu informacija, osim iz člana 22 ovog zakona, organ vlasti odlučuje rješenjem, kojim dozvoljava pristup traženoj informaciji, odnosno ponovnu upotrebu informacija ili njenom dijelu ili zahtjev odbija. Takođe, članom 18 Zakona o upravnom postupku propisano je da o pravu, obavezi ili pravnom interesu stranke u upravnoj stvari javno pravni organ odlučuje rješenjem. Prvog stepeni organ se prilikom odbijanja predmetnog zahtjeva u obrazloženju osporenog akta nije pozvao ni na jedan član Zakona o slobodnom pristupu informacijama, a koji mu je jedino mogao poslužiti kao osnov za odbijanje pristupa traženoj informaciji. Član 1 Zakon o slobodnom pristupu informacijama propisuje da pravo na pristup informacijama u posjedu organa vlasti ostvaruje se na način i po postupku propisanim ovim zakonom. Dakle značaj odredbe člana 1 Zakona je da se njome isključuje mogućnost propisivanja ograničenja pristupa informacijama drugim zakonima i opštim aktima. Ističemo da je Rudnik uglja a.d. Pljevlja privredni subjekt u kojem Država Crna Gora ima većinski paket akcija, te je nesporno da je prvostepeni organ obaveznik Zakona o slobodnom pristupu. Prvog stepeni organ u aktu se neosnovano pozvao na Pravilnik o poslovnoj tajni, obzirom da se informacija može ograničiti iz razloga poslovne tajne samo ako je poslovna tajna u skladu sa zakonom, a ne internim podzakonskim aktom.

Shodno prednje navedenom Savjet Agencije je cijeneći navode žalbe utvrdio da je žalba osnovana, pa je ista usvojena, a prvostepeni organ je dužan da u ponovnom postupku u roku od 20 dana od prijema rješenja da pravilno primijeni odredbe Zakona o slobodnom pristupu informacijama kao i Zakona o upravnom postupku.

Na osnovu člana 126 stav 7 Zakona o upravnom postupku poništeno je prvostepeno rješenje, a predmet se zbog prirode upravne stvari dostavlja na ponovni postupak prvostepenom organu.

Savjet Agencije je cijenio i ostale navode iz žalbe, pa je našao da nijesu od uticaja za drugačije rješavanje u ovoj pravnoj stvari.

Sa iznjetih razloga, shodno članu 38 Zakona o slobodnom pristupu informacijama i člana 126 stav 7 Zakona o opštem upravnom postupku, odlučeno je kao u izreci.

Pravna pouka: Protiv ovog Rješenja može se pokrenuti Upravni spor u roku od 20 dana od dana prijema rješenja podnošenjem tužbe Upravnom sudu Crne Gore.

Predmet obradila: Dalfina Žurić - Pravni savjetnik - kontrolor u Odsjeku za slobodan pristup informacijama A Z.


SAVJET AGENCIJE
Predsjednik, mr. Željko Rutović

Decision of the Agency for Personal Data Protection and Free Access to Information, dated 13.10.2022. upon the appeal against the act of the Coal Mine

However, the Coal Mine again rejected our requests and found that it was not a reporting entity to the Law, although this was clearly established by the decisions upon our appeals.

NVO MANS
Ul. Dalmatinska 188
81000, Podgorica
Crna Gora

Naš znak 021-6947/1
Datum: 03.06.2022.

PREDMET: Odgovor na zahtjev za slobodan pristup informacijama br. 139794, kod nas zaveden pod brojem 03/1-6634/1 od 31.05.2022. god.

Poštovani,

Dana 31.05.2022. smo zaprimili vaš Zahtjev za slobodan pristup informacijama br. 139794, kod nas zaveden pod brojem 03/1-6634/1 od 31.05.2022. god.

Kako u skladu sa Pravilnikom o poslovnoj tajni, tražene informacije predstavljaju poslovnu tajnu, u ovom momentu vam tražene informacije ne možemo dostaviti. Budući da se dokumenta i podaci koji predstavljaju poslovnu tajnu, mogu koristiti izvan Društva isključivo po odobrenju Odbora direktora, isti ćemo prosljediti Odboru na razmatranje, a vas povratno informisati.

S poštovanjem,

Dostaviti:

1 x naslovu

1 x 02/1

1 x 03/1

1 x a/a

Izvršni direktor



Milan Lekić

RUDNIK UGLJA A.D. PLJEVLJA CRPS br. 41000000 PIB: 020200000 www.rupj.me e-mail: rudnik@rupj.me

NVO MANS

Dalmatinska 188
81000, Podgorica
Crna Gora

Naš znak 021-11807/1
Datum: 15.09.2022.

PREDMET: Odgovor na Zahtjev za slobodan pristup informaciji br. 139794 od 31.05.2022. godine.

Poštovani,

Zahtjevom za slobodan pristup informacijama br. 139794 od 31.05.2022. godine tražene su kopije svih vrsta ugovora u period od 01.04.2022 do 30.04.2022. godine. Ovom prilikom vas obavještavamo da nijesu ispunjeni zakonski uslovi za postupanje po predmetnom zahtjevu, te se isti nije mogao uzeti u razmatranje.

Naime, Zakonom o slobodnom pristupu informacijama regulisano je pravo na slobodan pristup informacijama u posjedu organa vlasti, te je članom 9 stav 1 tačka 1 Zakona propisano ko se smatra organom vlasti, odnosno da su to: državni organ (zakonodavni, izvršni, sudski, upravni), organ lokalne samouprave, organ lokalne uprave, ustanova, privredno društvo i drugo pravno lice čiji je osnivač, suosnivač ili većinski vlasnik država ili lokalna samouprava, pravno lice čiji se rad većim dijelom finansira iz javnih prihoda, kao i fizičko lice, preduzetnik ili pravno lice koje vrši javno ovlaštenje ili upravlja javnim fondom.

U smislu citirane zakonske odredbe, a imajući u vidu činjenicu da je Rudnik uglja AD Pljevlja, kao jednočlano akcionarsko društvo, u 100% vlasništvu Elektroprivrede Crne Gore AD Nikšić, a ne Države Crne Gore, smatramo da ne postoji zakonska obaveza Rudnika uglja AD Pljevlja za postupanje po predmetnom zahtjevu.

Takođe, nesporno je da Rudnik uglja AD Pljevlja ne vrši javna ovlaštenja, niti se finansira iz javnih prihoda, niti je organ vlasti, da bi u navedenom smislu, primjenom člana 1 Zakon o upravnom postupku Crne Gore, kao "javnopravni organ" (Član 1 Zakona određuje ko se smatra javnopravnim organom a to su: državni organi, organi državne uprave, organi lokalne samouprave, organi lokalne uprave, ustanove i drugi subjekti koji vrše javna ovlaštenja), primjenjivao odredbe Zakona o slobodnom pristupu informacijama.

Certain state-owned companies submitted the requested employment contracts, but they **hid the amounts of wages they paid to new employees**. Thus, **Public Enterprise for Coastal Zone Management (JPMD)** deleted the net amounts in the submitted contracts, while **Montenegro Post** hid the gross amounts. We filed appeals in these cases too, the legal deadlines expired, and no decisions were made.



Broj: 0202-1330/11
Budva, 01.07.2022. godine

Na osnovu Zakona o obligacionim odnosima, glava XVI, Predloga rukovodioca službe za uređenje i izgradnju morskog dobra broj 0202-1330/9-1 od 01.07.2022. godine i Odluke broj 0202-1330/10 od 01.07.2022. godine,

JAVNO PREDUZEĆE ZA UPRAVLJANJE MORSKIM DOBROM CRNE GORE iz Budve, Ulica Popa Jola Zeca bb, koga zastupa direktor Mladen Mikijelić (u daljem tekstu: Javno preduzeće)

GOJKO ĐUROVIĆ, zaposlen u "Đurović inženjering" d.o.o. Herceg Novi, adresa [redacted] Zelenika, JMBG: [redacted] (u daljem tekstu: Poslenik)

Zaključuju dana 01.07.2022. godine:

UGOVOR O DJELU

Član 1.

Javno preduzeće angažuje Gojka Đurovića, građevinskog inženjera iz Herceg Novog, Zelenika, zaposlenog u "Đurović inženjering" d.o.o. Herceg Novi, kao stručno lice na poslovima supervizora nad izvođenjem građevinskih radova u zoni morskog dobra i vršenja kontrole projektne dokumentacije, kontrole nad izvođenjem radova prema projektnoj dokumentaciji, kontrole privremenih i konačnih situacija, praćenje realizacije investicionih aktivnosti u zoni morskog dobra, vršenje nadzora nad izgradnjom, rekonstrukcijom, održavanjem i zaštitom lučke infrastrukture, vršenje nadzora nad objektima obalne infrastrukture, vršenje procjene radova tj izrade predmjera i predračuna radova i pripreme tehničkih rješenja za sanaciju i rekonstrukciju objekata obalne infrastrukture, učestvovanje u drugim poslovima po nalogu rukovodioca Službe za uređenje i izgradnju morskog dobra.

Poslenik je dužan da dostavlja Izvještaje o obavljenim poslovima ovlaštenom licu Naručioca i to do 20. u mjesecu za prethodni mjesec.

Član 2.

Poslenik će na poslovima iz člana 1 ovog Ugovora biti angažovan u periodu od 01.07.2022. godine do 31.08.2022. godine.

Član 3.

Javno preduzeće se obavezuje da izvršiocu na ime naknade uplati honorar, i to: za mjesec jul u neto iznosu od [redacted] eura [redacted] i za mjesec avgust u neto iznosu od [redacted] eura [redacted]. Plaćanje honorara vršice se uplatom na račun Poslenika, broj [redacted] koji se vodi kod [redacted].

Član 4.

Ugovorne strane su saglasne da sve svoje obaveze po osnovu ovog Ugovora, kao i sve ostale obaveze koje nisu precizirane ovim Ugovorom a mogu uticati na njegovu realizaciju, izvršavaju krajnje profesionalno i savjesno, na način koji obezbjeđuje najveću moguću zaštitu imovinsko pravnih, poslovnih i svih drugih interesa Javnog preduzeća.

One of the submitted employment contracts, JPMD at the request of NGO MANS

When it comes to companies majority-owned by the Capital City, they were completely transparent and provided information about employment: **PE "Water Supply and Sewerage" Podgorica, "Road Maintenance" LLC Podgorica, Parking Service Podgorica LLC, Comunal Services LLC Podgorica**, as well as **Monteput**. According to the data provided to us in the pre-election period, there was no significant increase in employment.

On the other hand, **"Landfills" LLC Podgorica** was the only one to refuse access to this information, and MANS appealed against their decisions, on which no decisions have yet been made.

A.3.3. Hiding of business data

Using the Law on Free Access to Information, MANS also asked state companies for data on their operations, i.e. bank account statements. **Montenegrin Electric Enterprise EPCG, Montenegrin Electric Transmission System (CGES), Pljevlja Coal Mine**, and the companies owned by the Capital City Podgorica, **"Landfills"** and **"Parking Service"**, refused to provide this information, citing business secrecy.

MANS filed appeals against all these decisions, but a decision was adopted in only one case related to the Coal Mine, whose decision was annulled as unlawful, for the same reason as in the previously described case.

Upon the appeal, the Coal Mine again refuses to provide the data, with the same reasoning as in the case of providing employment data.



NVO "MANS"
Brij. 139161
Podgorica, 03.03.2022. god.
138984
139067
139110

NVO MANS

Dalmatinska 188
81000, Podgorica
Crna Gora

Naš znak 02/1- 122 521/1

Datum: 29.09.2022.

PREDMET: Odgovor na Zahtjeve za slobodan pristup informacijama br. 139161 od 26.04.2022. godine, br. 138984 od 14.04.2022. godine, 139067 od 19.04.2022. godine i br. 139110 od 20.04.2022. godine

Poštovani,

Zahtjevima za slobodan pristup informacijama br. 139161 od 26.04.2022. godine, br. 138984 od 14.04.2022. godine, 139067 od 19.04.2022. godine i br. 139110 od 20.04.2022. godine tražene su kopije svih izvoda sa žiro računa u prirodu od 01.03.2022. godine do 31.03.2022. godine, kao i više vrsta ugovora. Ovom prilikom vas obavještavamo da nijesu ispunjeni zakonski uslovi za postupanje po predmetnim zahtjevima, te se isti nisu mogli uzeti u razmatranje.

Naime, Zakonom o slobodnom pristupu informacijama regulisano je pravo na slobodan pristup informacijama u posjedu organa vlasti, te je članom 9 stav 1 tačka 1 Zakona propisano ko se smatra organom vlasti, odnosno da su to: državni organ (zakodavni, izvršni, sudski, upravni), organ lokalne samouprave, organ lokalne uprave, ustanova, privredno društvo i drugo pravno lice čiji je osnivač, suosnivač ili većinski vlasnik država ili lokalna samouprava, pravno lice čiji se rad većim dijelom finansira iz javnih prihoda, kao i fizičko lice, preduzetnik ili pravno lice koje vrši javno ovlaštenje ili upravlja javnim fondom.

U smislu citirane zakonske odredbe, a imajući u vidu činjenicu da je Rudnik uglja AD Pljevlja, kao jednoclano akcionarsko društvo, u 100% vlasništvu Elektroprivrede Crne Gore AD Nikšić, a ne Države Crne Gore, smatramo da ne postoji zakonska obaveza Rudnika uglja AD Pljevlja za postupanje po predmetnim zahtjevima.

Takođe, nesporno je da Rudnik uglja AD Pljevlja ne vrši javna ovlaštenja, niti se finansira iz javnih prihoda, niti je organ vlasti, da bi u navedenom smislu, primjenom člana 1 Zakon o upravnom postupku Crne Gore, kao "javnopravni organ" (Član 1 Zakona određuje ko se smatra javnopravnim organom a to su: državni organi, organi državne uprave, organi lokalne samouprave, organi lokalne uprave, ustanove i drugi subjekti koji vrše javna ovlaštenja), primjenjivao odredbe Zakona o slobodnom pristupu informacijama.

Kako Rudnik uglja nesporno nije "organ vlasti", smatramo da se nije moglo istom naložiti donošenje rješenja po predmetnim zahtjevima, na način kako je to precizirano drugostepenim rješenjem, te vaši zahtjevi nisu mogli biti uzeti u razmatranje.

S poštovanjem,

Dostaviti:

1 x naslovu
1 x 02/1
1 x 03/1
1 x a/a

IZVRŠNI DIREKTOR

Milap Lekić

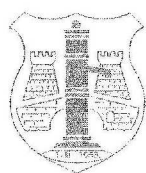
RUDNIK UGLJA A.D. PLJEVLJA CRPS br. 00000000 PIB: 00000000 www.rudnikuglja.me mail: rudnikuglja@rudnikuglja.me

Sitna djelatnost 0109 PDV: B: 8101048 Telet: 062321791, 062311111 Fax: 062321791, 062311111

The Coal Mine's response to the decision of the Agency for Personal Data Protection and Free Access to Information, dated September 29, 2022.

The company **"EPCG-Solar-Gradnja"** allowed access to account statements for one month (March 2022), while it responded to an identical request related to other months by denying access with the explanation that it protected the company's economic interests. MANS filed an appeal in this case too, but no decision has been passed.

Companies that completely ignored this type of request include the company **"Marina"** from Bar, **"Airports of Montenegro"**, while **the Public Enterprise for Coastal Zone Management (JPMD)** and **"Water Supply and Sewerage"** from Podgorica submitted data only for March 2022. After that, JPMD ignores all submitted requests, and Water Supply denied access to data due to privacy protection and reduced employee capacities.



DRUŠTVO SA OGRANIČENOM ODGOVORNOSĆU **"VODOVOD I KANALIZACIJA"**
81000 PODGORICA, ul. Zetskih vladara bb,
PIB: 02015641, PDV: 2071-00109-1
Telefoni: centrala 020/440 300, fax: 440 362, komerc. sl. tel/fax: 440 364
Vodovodna mreža: 440 309, kanalizacija: 440 325, tehnička priprema 440 312
E-mail: vikpg@t-com.me, Web: www.vikpg.co.me
Žiro račun:
PG banka: 550-1105-66
CKB: 510-8284-20
Prva banka CG: 535-9562-08
Hipotekarna banka: 520-9074-13

N.V.O. **"MANS"**

Broj: UPI-07-037/22-7419/1

Broj: 141059

Podgorica, 24.11.2022

Podgorica, 24. 11. 2022. god.

Na osnovu člana 30 stav 5 Zakona o slobodnom pristupu informacijama („Sl.list CG“ br.44/12 i 30/17) i člana 18 Zakona o upravnom postupku („Sl.list CG“ br.56/14, 12/15, 40/16 i 37/17), ovlašćeno lice za rješavanje po zahtjevima za slobodan pristup informacijama, rješavajući po zahtjevu NVO Mans iz Podgorice broj UPI-07-037/22-7419/1 od 04.11.2022 godine, donijela je

RJEŠENJE

ODBIJA SE zahtjev NVO Mans iz Podgorice, za slobodan pristup informacijama, odnosno dostavu KOPIJE svih izvoda sa svih žiro računa u posjedu za period od 01.04.2022 godine do 31.08.2022 godine.

Obrazloženje

NVO Mans iz Podgorice podnijela je ovom Društvu zahtjev za slobodan pristup informacijama broj UPI-07-037/22-7419/1 dana 04.11.2022 godine, koji se odnosi na dostavu KOPIJE svih izvoda sa svih žiro računa u posjedu za period od 01.04.2022 godine do 31.08.2022 godine.

„Vodovod i kanalizacija“ d.o.o. Podgorica, razmotrilo je zahtjev, pa je odlučilo kao u dispozitivu rješenja, a ovo sa sljedećih razloga:

Članom 14. st.1 t.1 Zakona o slobodnom pristupu informacijama je predviđeno da organ vlasti može ograničiti pristup informaciji, ako je to u interesu zaštite privatnosti od objelodanjivanja podataka predviđenih zakonom, kojim se uređuje zaštita podataka o ličnosti, osim podataka koji se odnose na javne funkcionere u vezi sa vršenjem javne funkcije, kao i prihode, imovinu i sukob interesa tih lica i njihovih srodnika, koji su obuhvaćeni zakonom kojim se uređuje sprečavanje sukoba interesa.

Objelodanjivanjem određenih privatnih podataka kao što su jedinstveni matični brojevi otkrili bi se lični podaci za koje je čl.2 st.2 Zakona o zaštiti podataka o ličnosti propisano da se ne mogu obrađivati u većem obimu nego što je potrebno da bi se postigla svrha obrade, niti na način koji nije u skladu sa njihovom namjenom.

Dalje, zahtjevom za slobodan pristup informacijama traženo je da se informacije dostave na adresu podnosioca zahtjeva ili na e-mail adresu podnosioca zahtjeva. Zbog obimnosti tražene informacije (oko dvadeset hiljada stranica), kao i zbog malog broja zaposlenih koji imaju ovlašćenja da pristupe traženim izvodima, nije moguće dostaviti informacije na traženi način, a sve zbog prevelikog obima posla koji iziskuje vađenje izvoda. Zbog velikog broja stranica nije moguće ni informaciju poslati na e-mail adresu, jer se radi o preobimnoj dokumentaciji u koju memorija fleške ne podržava toliki broj stranica.

*Response of the Water Supply and Sewerage from November 4, 2022,
submitted to MANS on November 24, 2022*

A.4. Institutional advantage

The use of institutional advantage as a specific type of misuse of public funds in order to achieve political gain during the pre-election campaign was also recorded in the eve of local elections.

This type of misuse was noted earlier in the official reports of the ODIHR observation missions after the previous parliamentary and presidential elections in Montenegro. Thus, in the final report on the 2020 parliamentary elections, this organization states that DPS gained „an undue advantage through misuse of office and state resources and dominant media coverage.“ [11]

In the municipalities where they form the executive power at the local level, the political parties used a little more than two months of the pre-election campaign to intensify activities, on infrastructural works predominantly, including the construction and reconstruction of streets, the arrangement of parks and green areas, and the announcement of new investments and projects, which is a practice recorded in all municipalities where the elections were held.

A.4.1. Functionary campaign

Functionary campaign for local elections was most visible in Podgorica, where the chief candidate of the list "SVI za naš grad", Ivan Vuković, from the position of Mayor of the Capital City, was the most exposed member of the coalition led by his party, the Democratic Party of Socialists (DPS).

Monitoring of the pre-election campaign showed that during a little more than two months that the campaign lasted, Mayor Vuković participated in more than 50 individual events organized by the Capital City, which were aimed at promoting the results of his administration or announcing new projects. These events often overlapped on the same day with the promotional activities of the electoral list he led in the local elections, which was most visible through the campaign conducted on social media.

The president of the Municipality of Budva, Milo Božović, had a similar practice, representing the electoral list of the Democratic Front coalition in that town. Some holders of electoral lists from parties that exercise executive power at the state level used this fact to gain an advantage among voters. Thus, during the pre-election campaign Suada Zoronjić, who led the list United Reform Action (URA) whose president is also the Prime Minister of Montenegro, promised investments in Bijelo Polje that will be implemented by the Government of Montenegro and the Prime Minister personally. [12]

"STVORILI BI SE USLOVI DA SE POVRŠINA IZMEĐU ZGRADA PRETVORI U FUNKCIONALAN PROSTOR"

Zoronjić: URA spremna za osposobljavanje toplane u Rasadniku, Vlada i Abazović spremni da ulože milion eura

"To će biti jedan od značajnih projekata koje planiramo ostvariti"

3896 pregleda 17 komentar(a)



[11] Final report of the Limited Election Observation Mission of the Office for Democratic Institutions and Human Rights, parliamentary elections August 30, 2020, Montenegro. p. 1. paragraph 2. Available at: <https://www.osce.org/files/f/documents/9/9/475223.pdf>.
[12] Example of functionary campaign: <https://www.vijesti.me/vijesti/politika/624572/zoronjic-ura-spremna-za-osposobljavanje-toplane-u-rasadniku-vlada-i-abazovic-spremni-da-uloze-milion-eura>.

LOKALNI IZBORI

Rovčanin za "Vijesti": Nova radna mjesta za opstanak Pljevalja

Nosilac liste "Idemo ljudi" najavio toplifikaciju, podršku seoskom turizmu, socijalno ugroženima

5103 pregleda 14 komentar(a)



The situation was similar when it comes to state companies managed by officials of political parties who were also the holders of electoral lists in the local elections. Thus, during the election campaign, the Executive Director of Montenegrin Electric Enterprise (EPCG), Nikola Rovčanin, as the chief candidate of the list "Idemo ljudi" led by his party Democratic Montenegro, promised jobs in the energy sector that he manages. [13]

A special type of use of state resources for the promotion of political parties was recorded in the movement called "Evropa sad!" (Europe Now!). This political party was formed by the former ministers of finance and economic development, Miloško Spajić and Jakov Milatović who, during their term of office in the 42nd Government of Montenegro, created and promoted a tax reform called "Evropa sad!". [14] The focus of this reform was the increase of the minimum net salary from 250 to 450 euros, and the mentioned ministers received a lot of public support in a short time.

Shortly after the 42nd Government of Montenegro lost no-confidence vote, Spajić and Milatović formed a political movement that bore the same name as the tax policy they created - "Evropa sad!". [15] During the pre-election campaign for local elections, where the movement "Evropa sad!" participated for the first time, former ministers openly politically valorised the results of the reforms they achieved while they were in public office, presenting them as solely their merit.

A.4.2. Infrastructure projects

The use of existing infrastructure projects and the announcement of new ones in order to promote political parties that exercise power at the local level was recorded in all municipalities where local elections were organized in October 2022.

This type of institutional advantage and misuse of public resources was most visible in Podgorica, where the results of the work of the local administration, financed by the money of all citizens, were presented as an achievement of the electoral list led by the current Mayor. For the purposes of his election list "SVI za naš grad", a special interactive map [16] was created about the projects implemented by the local administration in its latest term, with the use of videos and other materials that were paid with taxpayers' money.

[13] Example of functionary campaign: <https://www.vijesti.me/vijesti/politika/625753/rovcanin-za-vijesti-nova-radna-mjesta-za-opstanak-pljevalja>.

[14] Official presentation of tax policy "Evropa sad!": <https://www.gov.me/cyr/mif/evropa-sad>.

[15] Presentation of the movement "Evropa sad!": <https://evropasad.com/razvijena-ekonomija-za-bogate-gradane/>.

[16] Interactive map with projects on the portal of the list "SVI za naš grad": <https://www.svizanasgrad.me/interaktivna-mapa/>.

Interaktivna mapa "Svi za naš GRAD"

Rađili smo predano i rezultati se vide! Pogledajte najznačajnije realizovane aktivnosti na teritoriji glavnog grada u periodu od 2018. do 2022. godine



Photo: Interactive map "Svi za naš grad!"

When it comes to the Capital City, the monitoring of social media showed that the campaign for the list "SVI za naš grad!" included public companies and companies founded by the Capital City, which openly supported the mentioned list and its chief candidate, Ivan Vuković, mainly on Facebook. "Water and Sewerage" and "Housing Agency" particularly took the lead in this regard.

A similar practice was recorded in other municipalities in which local elections were organized, where local administrations intensively advertised the results achieved in the previous period, along with announcements of new projects. Local administrations in Podgorica [17], Budva [18] and Bar [19] even financed the production of special video and photo content that promotes municipal projects during the election campaign.



In addition to local administrations, the results of their work were promoted and presented as those of their political parties, which is a practice that was also recorded in previous elections. This type of institutional advantage, i.e. the use of public resources for political promotion, was most visible on social media in the case of the Democratic Party of Socialists (DPS), whose municipal committees in Bijelo Polje [20], Kolašin [21] and Pljevlja [22], openly took credit for the implemented infrastructure works.

[17] Promo material of the Capital City: https://podgorica.me/storage/24896/62e64f961dfe7_GLAVNI-GRAD-publikacija_FIN-small.pdf.
 [18] Promo material of the Municipality of Budva: <https://www.facebook.com/OpstinaBudva/posts/454726273362044>.
 [19] Promo video of the Municipality of Bar: <https://www.facebook.com/BarOpstina/posts/470799055094550>.
 [20] Facebook page of the DPS' Municipal Board in Bijelo Polje: <https://www.facebook.com/oodpsbp/posts/388383470144803>.
 [21] Instagram account of the DPS' Municipal Board in Kolašin: <https://www.instagram.com/p/CjQHwZ7IYL6/>.
 [22] Instagram account of the DPS' Municipal Board in Pljevlja: <https://www.instagram.com/p/CjhpRfIAzKv/>.



When it comes to infrastructure projects, the monitoring conducted by MANS showed that at the local level, the reconstruction of existing streets, i.e. paving of local roads, especially in the municipalities in the north of Montenegro, was the most represented.



In addition to Podgorica, this type of activity was particularly visible in the municipalities of Rožaje, Bijelo Polje and Šavnik. When it comes to Podgorica, from August 3, when the pre-election campaign officially began, to the day of the elections, October 23, the administration of the Capital City announced the start or marked the completion of 23 individual infrastructure facilities, including street paving and improvement of the water supply and sewerage network. In addition, in the same time period, the beginning of the renewal of greenery and park furniture or their completion was announced at 16 locations in the city.

In Rožaje, during the pre-election campaign, work was done on as many as 17 individual paving projects, predominantly in the rural areas of this municipality, while at the same time in Šavnik, six locations in that municipality received new paving ahead of the election. When it comes to Bijelo Polje, during the pre-election campaign, paving of streets was registered at 15 individual locations in that municipality.

A complete overview of individual cases of the institutional campaign is available at the website cistakampanja.me. [23]

[23] <https://cistakampanja.me/najintezivnija-funkcionerska-kampanja-u-podgorici-partije-institucionalnu-prednost-koristile-u-svim-opstinama/>.

B. Law enforcement supervision

The Agency did not publish data on the spending of public funds, as prescribed by law, but only links to the websites of competent authorities, which are also obliged to publish information on their expenses. This caused major issues as the websites of many state authorities were down due to cyber-attacks, thus, the data on state spending was published with great delay. APC tolerated the delays, even when the websites started working again, and declared the proceedings it initiated for violations secret.

Although the law stipulates that the restrictions on the use of public funds are in force from the day of calling until the day of holding of the election, they were applied for only one month, thanks to the interpretation of the Agency. Thanks to this, the increase in spending of a total of 24.9 million euros by 32 institutions during August and October 2022 was not sanctioned.

According to the interpretation of the APC, institutions whose competences changed in the period of six months before the holding of the elections, do not have the obligation to comply with the legal restrictions on spending, because they cannot be determined.

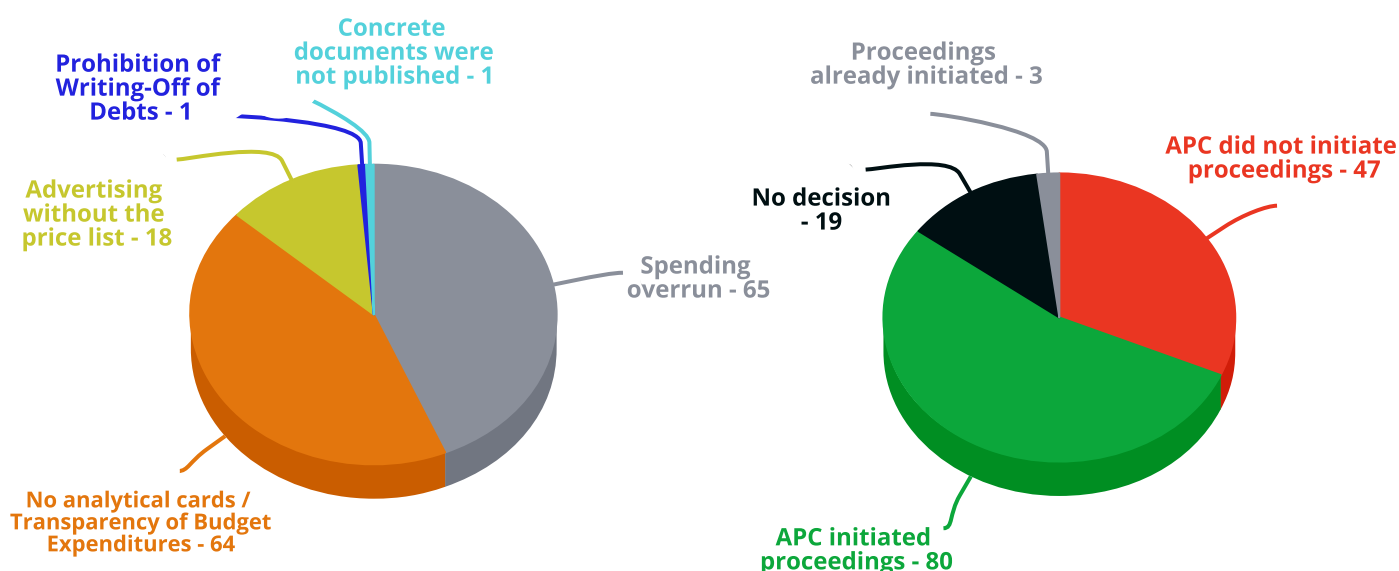
During the pre-election campaign, the Agency checked compliance with the legal restrictions on spending by only 1% reporting entities to the law, where it conducted direct supervision. Only after the election did that institution state that they collected data on the basis of which they control the use of state funds in the pre-election period.

The Agency makes its preventive role senseless, and by delaying its action, it enables the violation of legal norms. In the specific example, the APC was informed in advance about the plans to exempt the payment of taxes before the holding of the local elections, but the procedure was initiated only after that decision was made and after the holding of the elections.

The focus of this part of the analysis is on the actions of the Agency for Prevention of Corruption (APC), which is primarily responsible for control and supervision of the implementation of the Law regulating the financing of political entities and election campaigns.

MANS monitored meeting of the obligations of the reporting entities to the Law and **filed nearly 150 initiatives** to launch proceedings for violation of the provisions concerning:

- Restriction of the Use of State Funds (Article 38 paragraph 1 and paragraph 5);
- Transparency of Budget Expenditures (Article 41 paragraph 1);
- Expenses of the Election Campaign (Article 16 paragraph 6) and
- Prohibition of Writing-Off of Debts (Article 42 paragraph 3).



Out of the total number of reports submitted, **APC initiated proceedings in 54% of cases**, rejected 31%, while for nearly 13% no decision has yet been made. In no case did the APC allow us to participate in the administrative procedure as submitters of initiatives.

Basis of the violation	Article to which it refers	Submitted reports	APC initiated proceedings	APC does not initiate proceedings	Proceedings already initiated	No decision
Data on spending not published / Transparency of Budget Expenditures	38 paragraph 5 + 41 paragraph 1	64	48	11	3	2
Spending overrun	38 paragraph 1	65	26	30		9
Advertising without the price list	16 paragraph 6	18	5	5		8
Prohibition of Writing-Off of Debts	Article 42 paragraph 3	1	1			
APC does not publish concrete documents	46 paragraph 5	1		1		
TOTAL:		149	80	47	3	19

Table 10: Overview of submitted reports by types of violation of provisions of the Law on Financing of Political Entities and Election Campaigns

Specific case studies that point to issues in the implementation of the law by the APC are provided below.

B.1. Inactive links:

data on government spending are available, but they are not

Despite the legal obligation, the Agency does not publish data on spending submitted to it by institutions, but only links to the websites of authorities, where such data should be published. APC maintained such a practice even during the cyber-attack when the websites of most state authorities were not in operation.

Article 38 paragraph 5 of the Law on Financing of Political Entities and Election Campaigns prescribes that all budgetary spending units shall submit analytical cards from all the accounts in their possession to the Agency for Prevention of Corruption. In Article 46 paragraph 5, the Law stipulates that the Agency is obliged to publish the analytical cards submitted to it by the authorities on its website.

The portal of the Government of Montenegro, and thus the websites of all ministries and many other authorities at the central level, **were not in operation for almost a month**, from mid-August to mid-September. [24] Therefore, it was not possible to access the websites of authorities that are reporting entities to the Law and data on their spending. Therefore, MANS asked APC to publish the data it receives from institutions on its website in accordance with the obligations prescribed by Article 46 paragraph 5 of the Law. [25]

Bearing in mind the scope of the submitted documentation, we proposed that the Agency publish the statements from the state treasury as a matter of priority, which the Ministry of Finance [26], whose website was not in operation, was obliged to submit and publish, and especially the budget reserve, which was previously the subject of numerous suspicions of electoral misuses.

The Agency informed us that its website contained the requested data [27], although it is only a table with links to the websites of state authorities that were not in operation at that time, and not the documents themselves. [28]

OPŠTINA/ORGAN VLASTI	2-7.08	8-14.08	15-21.08	22-28.08	29.08-4.09	5-11.09	12-18.09	19-25.09	26.09-2.10
OPŠTINA BUDVA									
Predsjednik opštine i Služba predsjednika opštine	DA	DA	DA	DA	DA	DA	DA	DA	DA
Služba glavnog administratora	DA	DA	DA	DA	DA	DA	DA	DA	DA
Predsjednik skupštine i Služba Skupštine	DA	DA	DA	DA	DA	DA	DA	DA	DA
Služba za javne nabavke	DA	DA	DA	DA	DA	DA	DA	DA	DA
Služba za naplatu naknade za komunalno opremanje građevinskog zemljišta	DA	DA	DA	DA	DA	DA	DA	DA	DA
Služba zaštite i spašavanja	DA	DA	DA	DA	DA	DA	DA	DA	DA
Kancelarija za borbu protiv korupcije	DA	DA	DA	DA	DA	DA	DA	DA	DA
Služba menadžera	DA	DA	DA	DA	DA	DA	DA	DA	DA
Služba za unutrašnju reviziju	DA	DA	DA	DA	DA	DA	DA	DA	DA
Služba Glavnog gradskog arhitekta	DA	DA	DA	DA	DA	DA	DA	DA	DA
Uprava lokalnih javnih prihoda	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za zaštitu imovine	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za lokalnu samoupravu	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za društvene djelatnosti	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za finansije	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za privredu	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za komunalno-stambene poslove	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za investicije	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za urbanizam i održivi razvoj	DA	DA	DA	DA	DA	DA	DA	DA	DA
Komunalna inspekcija i komunalna policija	DA	DA	DA	DA	DA	DA	DA	DA	DA
Centar za informacione tehnologije	DA	DA	DA	DA	DA	DA	DA	DA	DA
JU "Grad teatar"	DA	DA	DA	DA	DA	DA	DA	DA	DA
JU "Muzeji i galerija"	DA	DA	DA	DA	DA	DA	DA	DA	DA
JU Dnevni centar za djecu i omladinu sa smetnjama i teškoćama u razvoju	DA	DA	DA	DA	DA	DA	DA	DA	DA
JU "Narodna biblioteka"	DA	DA	DA	DA	DA	DA	DA	DA	DA
Turistička organizacija	DA	DA	DA	DA	DA	DA	DA	DA	DA
JU Dom zdravlja	NE	DA	DA	DA	DA	DA	DA	DA	DA
Sud za prekršaje	DA	DA	DA	NE	DA	DA	DA	DA	DA
JU "Druga osnovna škola"	DA	DA	DA	DA	DA	DA	DA	DA	DA
JU "Škola "V. Jovanović-Miloš"	DA	DA	DA	DA	DA	DA	DA	DA	DA
JU "Srednja mješovita škola "Danilo Kiš"	DA	DA	DA	DA	DA	DA	DA	DA	DA
JU "Škola za osnovno muzičko obrazovanje"	DA	DA	DA	NE	DA	DA	DA	DA	DA
JU OS "Stefan Mitrov Ljubica"	DA	DA	DA	DA	DA	DA	DA	DA	DA
JU OS "Mirko Srzentić"	DA	DA	DA	DA	DA	DA	DA	DA	DA
OPŠTINA DANILOVGRAD									
Služba Predsjednika	DA	DA	DA	DA	DA	DA	DA	DA	DA
Služba Skupštine	DA	DA	DA	DA	DA	DA	DA	DA	DA
Služba glavnog administratora	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za lokalnu samoupravu i društvene djelatnosti	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za finansije i ekonomski razvoj	DA	DA	DA	DA	DA	DA	DA	DA	DA
Uprava lokalnih javnih prihoda	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za planiranje, uređenje prostora i zaštitu životne sredine	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za komunalne, stambene poslove i saobraćaj	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za imovinu i investicije	DA	DA	DA	DA	DA	DA	DA	DA	DA
Služba za unutrašnju reviziju	DA	DA	DA	DA	DA	DA	DA	DA	DA
Služba komunalne policije	DA	DA	DA	DA	DA	DA	DA	DA	DA
Služba zaštite i spašavanja	DA	DA	DA	DA	DA	DA	DA	DA	DA
JU Centar za kulturu	DA	DA	DA	DA	DA	DA	DA	DA	DA
JU Umjetnička kolonija	DA	DA	DA	DA	DA	DA	DA	DA	DA
Opštinska organizacija Crvenog krsta	DA	DA	DA	DA	DA	DA	DA	DA	DA
JU Centar za dnevni boravak djece sa smetnjama u razvoju i odraslih lica sa invaliditetom	DA	DA	DA	DA	DA	DA	DA	DA	DA
JU "Policijska akademija"	DA	DA	DA	DA	DA	DA	NE	DA	DA
Turistička organizacija	DA	DA	DA	DA	DA	DA	DA	DA	DA
JU Centar za socijalni rad	DA	DA	DA	DA	NE	NE	NE	NE	NE
JU Dom zdravlja "Dimirija-Dika Marenjić"	DA	DA	DA	DA	DA	DA	DA	DA	DA
Donovni sud	NE	NE	NE	NE	NE	NE	NE	NE	NE
JU OS "Milosav Koljenić"	DA	DA	DA	DA	DA	DA	DA	DA	DA
JU OS "Vuklo Lovović"	DA	DA	DA	DA	DA	DA	DA	DA	DA
JU Gimnazija "Petar i Petrowić Njegoš"	DA	DA	DA	DA	DA	DA	DA	DA	DA
JU "Irena Radović"	DA	DA	DA	DA	DA	DA	DA	DA	DA
JU OS "Njegoš"	DA	DA	DA	DA	DA	DA	DA	DA	DA
JU OS "Blazo Mraković"	DA	DA	DA	DA	DA	DA	DA	DA	DA
GLAVNI GRAD PODGORICA									
Služba za ostvarivanje izvrsne funkcije Građaninika	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za finansije	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za socijalno stazanje	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za lokalnu samoupravu	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za planiranje prostora i održivi razvoj	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat komunalne poslove	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za kulturu i sport	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za podršku javnim službama	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za podršku poljoprivredi	DA	DA	DA	DA	DA	DA	DA	DA	DA
Sekretarijat za saobraćaj	DA	DA	DA	DA	DA	DA	DA	DA	DA
Služba glavnog administratora	DA	DA	DA	DA	DA	DA	DA	DA	DA

APC's table - analytical cards

[24] <https://www.portalanalitika.me/clanak/internet-stranica-vlade-ponovo-u-funkciji>.

[25] <https://mans.co.me/zbo-g-hackerskog-napada-nema-podataka-o-potrosnji-budzeta-ask-da-objavi-sve-informacije/>.

[26] Article 41 paragraph 1 of the Law.

[27] https://www.antikorupcija.me/media/documents/lzvodi_iz_dr%C5%BEavnog_trezora_i_bud%C5%BEetska_rezerva_1.8_4.9.22.pdf.

[28] https://www.antikorupcija.me/media/documents/ANALITICKE_ZA_OBJAVU_CiltXth.pdf.



Crna Gora
Agencija za sprječavanje korupcije

N.V.O. "MANS"
Broj 135
Podgorica, 23. 09. 2022. god.

Broj:UPI-02-03-412/2-2022

Agencija za sprječavanje korupcije na osnovu člana 56 stav 3 Zakona o finansiranju političkih subjekata i izbornih kampanja („Sl.list CG“, br.3/2020 i 38/2020) odlučujući po prijavi broj UPI 02-03-412/2022 od 12.09.2022.godine, podnijetoj protiv Agencije za sprječavanje korupcije, zbog kršenja člana 46 stav 5 Zakona o finansiranju političkih subjekata i izbornih kampanja, dana 19.09.2022.godine donijela je

O D L U K U

O nepokretanju postupka protiv Agencije za sprječavanje korupcije, radi utvrđivanja povrede člana 46 stav 5 Zakona o finansiranju političkih subjekata i izbornih kampanja, jer su Izvod iz državnog trezora pojedinačnih institucija i analitičke kartice o potrošnji sredstava iz budžetske rezerve u izbornom periodu objavljene na internet stranici Agencije za sprječavanje korupcije https://www.antikorupcija.me/media/documents/Izvodi_iz_dr%C5%BEavnog_trezaora_i_bud%C5%BEetska_rezerva_1.8_4.9.22.pdf.

O b r a z l o ž e n j e

Agenciji za sprječavanje korupcije je podnesena prijava, zavedena pod brojem UPI 02-03-412/2022 od 12.09.2022.godine, kojom je zatraženo da se pokrene postupak u skladu sa ovlaštenjima propisanim zakonom i da se utvrdi kršenje člana 46 stav 5 Zakona o finansiranju političkih subjekata i izbornih kampanja. U prijavi se navodi da je Agencija za sprječavanje korupcije nije objavila Izvod iz državnog trezora pojedinačnih institucija i analitičke kartice o potrošnji sredstava iz budžetske rezerve u izbornom periodu, što predstavlja moguće kršenje člana 46 stav 5 Zakona o finansiranju političkih subjekata i izbornih kampanja.

Agencija za sprječavanje korupcije je Izvod iz državnog trezora pojedinačnih institucija i analitičke kartice o potrošnji sredstava iz budžetske rezerve u izbornom periodu objavila na svojoj internet stranici https://www.antikorupcija.me/media/documents/Izvodi_iz_dr%C5%BEavnog_trezaora_i_bud%C5%BEetska_rezerva_1.8_4.9.22.pdf

Shodno članu 56 stav 3 Zakona o finansiranju političkih subjekata i izbornih kampanja, a na osnovu izloženog, odlučeno je kao u izreci ove odluke.

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Response of the Agency for the Prevention of Corruption to the report submitted by the NGO MANS

B.2. Tolerating delays in publishing of spending data

APC rejected reports against institutions that were late in publishing data on spending during the election campaign. The Ministry of Finance, which is obliged by law to make this data available to the public every week, took the lead in this. Other 18 state authorities did not meet this legal obligation on time.

Regarding those violations of the provisions of the Law, MANS sent a total of 64 motions to APC to initiate proceedings, both against state bodies and local self-government bodies of the Capital City. [29]

APC made a decision to initiate proceedings for 48 reports, rejecting 11 of them, while for three reports, it was concluded that proceedings had already been initiated on the same basis. For two reports, APC had not provided us with a decision until the conclusion of the report.

All decisions on non-initiation of proceedings refer to institutions that published data on spending after reports submitted by MANS.

Name of the institution	Number of reports
Ministry of Finance	11
Capital City Podgorica	4
Ministry of Capital Investments	3
Ministry of Agriculture, Forestry and Water Management	3
Ministry of Health	3
Ministry of Education	3
Ministry of Defence	3
Ministry of the Interior	3
Ministry of Science and Technological Development	3
Ministry of Labour and Social Welfare	3
Ministry of Foreign Affairs	3
Ministry of European Affairs	3
Ministry of Human and Minority Rights	3
Ministry of Sports and Youth	3
Police Directorate	3
Ministry of Ecology, Spatial Planning and Urbanism	2
Ministry of Economic Development	2
Ministry of Public Administration	2
Ministry of Culture and Media	2
Institute for the Execution of Criminal Sanctions	2
TOTAL:	64

Table 11: Reports submitted due to non-publishing of spending (38 paragraph 5 and 41 paragraph 1)

Basis of the violation	Article to which it refers	TOTAL submitted reports	APC's decision - initiates proceedings	APC's decision - does not initiate proceedings	APC's decision proceedings already initiated	APC's decision - no
No analytical cards / Transparency of Budget Expenditures (overview of the budget reserve spending / election report)	38 paragraph 5 and 41 paragraph 1	64	48	11	3	2

[29] In all cases, the Capital City published the analytical cards on the same day when the report was sent (four reports in total).

B.3. Suspension of legal restrictions on public spending

The Agency found that the institutions were not obliged to observe the restrictions on the spending of public funds during August and October 2022, even though the law prohibits the increase of monthly expenses from the day of calling to the day of holding the election.

The elections were called on August 2 and held on October 23, 2022. According to Article 38 of the Law on Financing of Political Entities and Election Campaigns, budgetary spending units shall be **“prohibited from monthly spending higher than the average monthly spending in the previous six months from the day of calling of the elections until the day of holding of the elections”**.

Through the analysis of the budget, MANS determined that 19 state and five local-level institutions exceeded spending in August, 28 state and five local institutions in September, and from October 1 to 23, when the elections were held, the average spending was exceeded by six state and two local institutions. [30]

However, **APC assessed that the restriction did not come into effect from the day of calling the elections, but from the first following calendar month**. As the elections were called on August 2, according to APC, the restriction only applies to the budget spending in September. [31]

ODLUKU

O nepokretanju postupka protiv Direkcije za imovinu Glavnog grada Podgorice, radi utvrđivanja povrede člana 38 stav 1 Zakona o finansiranju političkih subjekata i izbornih kampanja.

O b r a z l o ž e n j e

Agenciji za sprječavanje korupcije je podnesena prijava, zavedena pod brojem UPI 02-03-666/2022 od 20.10.2022.godine, kojom je zatraženo da se pokrene postupak u skladu sa ovlaštenjima propisanim zakonom i da se utvrdi kršenje člana 38 stav 1 Zakona o finansiranju političkih subjekata i izbornih kampanja. U prijavi se navodi da je Direkcija za imovinu Glavnog grada Podgorice imala uvećanu mjesečnu potrošnju za oktobar 2022. godine u odnosu na zakonom propisano ograničenje za 17.249,73 eura, što predstavlja kršenje člana 38 stav 1 Zakona o finansiranju političkih subjekata i izbornih kampanja.

Članom 38 Zakona o finansiranju političkih subjekata i izbornih kampanja propisano je da je državnim i lokalnim budžetskim potrošačkim jedinicama, osim Državnoj izbornoj komisiji i opštinskim izbornim komisijama, zabranjena mjesečna potrošnja veća od prosječne mjesečne potrošnje u prethodnih šest mjeseci od dana raspisivanja do dana održavanja izbora.

Imajući u vidu činjenicu da su lokalni izbori održani 23. oktobra 2022. godine, to se zabrana iz člana 38 stav 1 Zakona o finansiranju političkih subjekata i izbornih kampanja ne može odnositi na mjesec oktobar 2022. godine, pa nema mjesta pokretanju postupka radi utvrđivanja kršenja predmetnog člana.

Shodno članu 56 stav 3 Zakona o finansiranju političkih subjekata i izbornih kampanja, a na osnovu izloženog, odlučeno je kao u izreci ovog rješenja.

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ODLUKU

O nepokretanju postupka protiv Uprave za bezbjednost hrane, veterinu i fitosanitarne poslove, radi utvrđivanja povrede člana 38 stav 1 Zakona o finansiranju političkih subjekata i izbornih kampanja.

O b r a z l o ž e n j e

Agenciji za sprječavanje korupcije je podnesena prijava, zavedena pod brojem UPI 02-03-466/2022 od 11.10.2022.godine, kojom je zatraženo da se pokrene postupak u skladu sa ovlaštenjima propisanim zakonom i da se utvrdi kršenje člana 38 stav 1 Zakona o finansiranju političkih subjekata i izbornih kampanja. U prijavi se navodi da je Uprava za bezbjednost hrane, veterinu i fitosanitarne poslove u avgustu 2020. godine imala rast potrošnje u odnosu na zakonom propisana ograničenja za 60%, što nedvosmisleno ukazuje na kršenje člana 38 stav 1 Zakona o finansiranju političkih subjekata i izbornih kampanja.

Članom 38 stav 1 Zakona o finansiranju političkih subjekata i izbornih kampanja propisano je da je državnim i lokalnim budžetskim potrošačkim jedinicama, osim Državnoj izbornoj komisiji i opštinskim izbornim komisijama, zabranjena mjesečna potrošnja veća od prosječne mjesečne potrošnje u prethodnih šest mjeseci od dana raspisivanja do dana održavanja izbora, osim u slučajevima vanrednog stanja, u skladu sa zakonom.

Imajući u vidu činjenicu da su izbori raspisani 02.08.2022. godine, a da obaveze iz člana 38 stav 1 Zakona o finansiranju političkih subjekata i izbornih kampanja počinju teći 03.08.2022. godine, to se zabrana iz člana 38 Zakona o finansiranju političkih subjekata i izbornih kampanja ne može odnositi na mjesec avgust, pa nema mjesta pokretanju postupka radi utvrđivanja kršenja predmetnog člana.

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Decisions of the Agency for the Prevention of Corruption on the reports of NGO MANS for overspending (August and October)

In addition, APC found that spending restrictions **could not be applied to October either** [32], given that the elections were held on October 23.

[30] <http://mans.co.me/uoci-izbora-drzavne-institucije-ponovo-krse-zakon-zzzcg-potrosio-million-eura-vise-od-dozvoljenog/>, <http://mans.co.me/vise-organa-glavnog-grada-povecalo-potrosnju-u-susret-izborima/>

[31] All proceedings upon reports related to spending in September initiated (for only three a decision has not been submitted yet), **except for** the Ministry of Finance, Education, Labour and Social Welfare and the Ministry of Culture and Media. More details in case study 3: Implementation of the Law does not apply to all state bodies.

[32] At the time of writing the analysis, APC submitted decisions on not initiating the proceedings for two reports that related to the authorities of the Capital City and overspending in the period from October 1 to October 23, 2022.

B.4. (Dis)continuity of authorities as an obstacle to law implementation

According to the interpretation of the APC, institutions whose competences were changed in the six-month period before the holding of the elections do not have the obligation to respect the legal restrictions on spending, because they cannot be determined.

Local elections were called on August 3, 2022, thus, the six-month average of spending before the calling of those elections is calculated from February. That period includes two Governments, as the current 43rd Government was elected on April 28, 2022. This Government has more Ministries than the previous one, thus, their competences are also different.

Thus, 42nd Government had the Ministry of Education, Science, Culture and Sports, while in the 43rd Government, these responsibilities are divided into four ministries: the Ministry of Education, the Ministry of Science, the Ministry of Culture and Media, as well as the Ministry of Sports and Youth.

In order to determine the average spending of those institutions, we analysed the budget items, and especially the budget rebalance, which made a clearer connection between those authorities.

However, upon our initiatives against the Ministry of Education, APC decided that it could not determine what their average spending was in the six-month period before the calling of the elections, thus, for those reasons, it could not initiate proceedings.



Crna Gora

Agencija za sprječavanje korupcije

Broj: 2.2.2
Podgorica, 03.11.2022. g.

Broj:UPI-02-03-517/2-2022

Agencija za sprječavanje korupcije na osnovu člana 56 stav 3 Zakona o finansiranju političkih subjekata i izbornih kampanja („Sl.list CG“, br.3/2020 i 38/2020) odlučujući po prijavi broj UPI 02-03-517/2022 od 18.10. 2022.godine, podnijetoj protiv Ministarstva prosvjete zbog kršenja člana 38 stav 1 Zakona o finansiranju političkih subjekata i izbornih kampanja, dana 25.10.2022.godine donijela je

O D L U K U

O nepokretanju postupka protiv Ministarstva prosvjete, radi utvrđivanja povrede člana 38 stav 1 Zakona o finansiranju političkih subjekata i izbornih kampanja.

O b r a z l o ž e n j e

Agenciji za sprječavanje korupcije je podnesena prijava, zavedena pod brojem UPI 02-03-517/2022 od 18.10.2022.godine, kojom je zatraženo da se pokrene postupak u skladu sa ovlaštenjima propisanim zakonom i da se utvrdi kršenje člana 38 stav 1 Zakona o finansiranju političkih subjekata i izbornih kampanja. U prijavi se navodi da je Ministarstvo prosvjete imalo mjesečnu potrošnju u periodu od šest mjeseci prije raspisivanja izbora u iznosu od 17.931.903 eura, a da je u septembru 2020. godine ukupno potrošeno 30.869.791 euro, što je razlika od 12.937.889 eura, odnosno imalo je rast potrošnje u odnosu na zakonom propisana ograničenja za 72%, što nedvosmisleno ukazuje na kršenje člana 38 stav 1 Zakona o finansiranju političkih subjekata i izbornih kampanja.

Imajući u vidu činjenicu da su izbori raspisani 02.08.2022. godine, a da se Ministarstvo prosvjete formiralo 28.04.2022. godine, to se ne može utvrditi prosječna mjesečna potrošnja u periodu šest mjeseci prije raspisivanja izbora, pa nema mjesta pokretanju postupka radi utvrđivanja kršenja predmetnog člana.

Shodno članu 56 stav 3 Zakona o finansiranju političkih subjekata i izbornih kampanja, a na osnovu izloženog, odlučeno je kao u izreci ovog rješenja.

DIREKTORICA
Jelena Perović

B.5. Until the holding of the elections, 1% of reporting entities controlled

The Agency first claimed that it did not have a system for monitoring the use of state funds in the pre-election period, but checked whether authorities complied with legal restrictions only in cases when it performed direct supervision in the premises of a certain institution. Such supervision was carried out over only 1% of reporting entities to the law during the pre-election campaign. Only after the elections, APC stated that they had collected data on the previous spending of reporting entities, on the basis of which they conduct control.

We asked the APC [33] to provide us with all spending plans adopted at the beginning of this fiscal year by state and local budgetary units, which were submitted to the Agency in order to control average monthly spending in accordance with the restrictions prescribed by Article 38 of the Law.

That article stipulates that during the election period, budgetary spending units are prohibited from spending more than the average in the previous six months, that is, from the amount determined by the spending plan, when the elections are held in the first half of the year. [34]

Local elections were scheduled at the beginning of the year, and before they were postponed until the fall, APC was able to monitor whether the institutions comply with legal restrictions based on spending plans.

However, APC's reply states that it does not have this information, but controls it directly with the subject of supervision:

"The Agency for Prevention of Corruption is not in possession of the requested information, since it **supervises directly the subjects of supervision over the application of Article 38** of the Law on Financing of Political Entities and Election Campaigns (Official Gazette of Montenegro 3/20 and 38/20), **and for this reason, it is not necessary to obtain spending plans from the Ministry and public revenues of the local authorities.**"

[33] MANS' request number: 139134, dated April 21, 2022.

[34] Law on Financing of Political Entities and Election Campaigns, Article 38:

"State and local budgetary spending units, except for the State Election Commission and the municipal election commissions, shall be prohibited from monthly spending higher than the average monthly spending in the previous six months from the day of calling of the elections until the day of holding of the elections, except in cases of emergency, in accordance with the Law. Notwithstanding paragraph 1 of this Article, if the elections are held in the first half of the year, budgetary spending units shall be prohibited from monthly spending exceeding the amounts specified by monthly spending plans established by the Ministry or local administration body at the beginning of the fiscal year. The prohibition referred to in paragraph 1 of this Article shall also apply to legal entities exercising public authorisations or activities of public interest on the basis of a contract with the competent authority, as well as to business organisations owned by the state or local self-governing unit in accordance with the law governing prevention of corruption. Notwithstanding paragraph 1 of this Article, monthly spending higher than the average monthly spending in the last six months of the previous year shall be prohibited for state institutions for social and child protection and for state and local authorities competent for agriculture. From the day of calling until the day of holding of the elections, as well as one month following the holding of the elections, all budgetary spending units, at the state and local level, shall post on their websites weekly analytical statements from all the accounts in their possession and submit them to the anti-corruption working body of the Parliament (hereinafter referred to as: the Committee) and to the Agency."

Broj: 02-03-1577/2

Na osnovu čl. 30 st. 1 u vezi čl. 13 Zakona o slobodnom pristupu informacijama (Sl. list CG, br. 44/12 i 30/17) i čl. 18 Zakona o upravnom postupku (Sl. list CG br. 37/17), odlučujući o zahtjevu Mansa za slobodan pristup informacijama, Agencija za sprječavanje korupcije dana 4.5.2022. donijela je:

R J E Š E N J E

Odbija se, zbog neposjedovanja tražene informacije, zahtjev za pristup informaciji kopiji svih planova potrošnje usvojenih početkom ove fiskalne godine od strane državnih i lokalnih budžetskih jedinica dostavljenih Agenciji za sprječavanje korupcije a sve u cilju kontrolisanja prosječne mjesečne potrošnje u skladu sa limitima propisanim članom 38 Zakona o finansiranju političkih subjekata i izbornih kampanja.

Obrazloženje

Mans je predao Agenciji za sprječavanje korupcije zahtjev broj 02-03-1577-22 za slobodan pristup informacijama dana 21.4.2022. godine, kojim se traži pristup informaciji kopiji svih planova potrošnje usvojenih početkom ove fiskalne godine od strane državnih i lokalnih budžetskih jedinica dostavljenih Agenciji za sprječavanje korupcije a sve u cilju kontrolisanja prosječne mjesečne potrošnje u skladu sa limitima propisanim članom 38 Zakona o finansiranju političkih subjekata i izbornih kampanja.

Postupajući po predmetnom zahtjevu Agencija je odlučila kao u dispozitivu, a ovo iz sljedećih razloga:

Agencija za sprječavanje korupcije nije u posjedu tražene informacije, budući da ista vrši nadzor direktno kod subjekata nadzora nad primjenom člana 38 Zakona o finansiranju političkih subjekata i izbornih kampanja (Sl.list CG br. 3/20 i 38/20) iz kojeg razloga nije nužno pribavljanje planova potrošnje kod Ministarstva i lokalnih organa javnih prihoda.

Response of the Agency for Prevention of Corruption from May 4, 2022, to the request of NGO MANS

The law stipulates that the Agency shall create a report on the results of the control, which will be “mandatorily published on the Agency's webpage”. [35]

Judging by the report of APC, that institution conducted a total of 16 controls during the campaign for local elections, six of which related to political parties, and only 10 to institutions that are obliged to comply with Article 38.

Bearing in mind that, according to the Agency's data, there are 878 reporting entities to the law that publish analytical cards on their spending [36], and therefore the legal provision on spending restrictions applies to them, only about 1% were subject to control of compliance with those prohibitions.

[35] Law on Financing of Political Entities and Election Campaigns, Article 5, Paragraph 2.

[36] https://www.antikorupcija.me/media/documents/ANALITICKE_ZA_OBJAVU_CiLxth.pdf.

ASK Agencija za sprječavanje korupcije

O Nama Biblioteka Javni registri Korisnički servisi Kontakt

Pretraga...

Sukob interesa Politički subjekti Integritet Lobiranje Zviždači Analiza propisa Međunarodna saradnja SPI Savjet Agencije Izvještaji o radu Prikaži sve stavke

početna > politički subjekti

zapisnici oktobar 2022

pretraga

Pretraži sadržaj strane...
Dogadaj

Zapisnici oktobar 2022

Zapisnik o izvršenoj kontroli-Koalicija Za budućnost Podgorice	datum: 28.10.2022. objavljen: 28.10.2022.
Zapisnik o izvršenoj kontroli-Opština Budva	datum: 28.10.2022. objavljen: 28.10.2022.
Zapisnik o izvršenoj kontroli-Pokret Evropa sad	datum: 28.10.2022. objavljen: 28.10.2022.
Zapisnik o izvršenoj kontroli-Opština Kolasin	datum: 28.10.2022. objavljen: 28.10.2022.
Zapisnik o izvršenoj kontroli-Opština Plav	datum: 21.10.2022. objavljen: 21.10.2022.
Zapisnik o izvršenoj kontroli - Glavni grad Podgorica	datum: 14.10.2022. objavljen: 14.10.2022.
Zapisnik o izvršenoj kontroli - Socijalistička narodna partija	datum: 14.10.2022. objavljen: 14.10.2022.
Zapisnik o izvršenoj kontroli-Demokratska partija socijalista	datum: 14.10.2022. objavljen: 14.10.2022.
Zapisnik o izvršenoj kontroli-JU OŠ Sutjeska Podgorica	datum: 14.10.2022. objavljen: 14.10.2022.
Zapisnik o izvršenoj kontroli-Ministarstvo ekologije, prostornog planiranja i urbanizma	datum: 14.10.2022. objavljen: 14.10.2022.

Ukupno: 16 datum dokumenta 1 2

ASK Agencija za sprječavanje korupcije

O Nama Biblioteka Javni registri Korisnički servisi Kontakt

Pretraga...

Sukob interesa Politički subjekti Integritet Lobiranje Zviždači Analiza propisa Međunarodna saradnja SPI Savjet Agencije Izvještaji o radu Prikaži sve stavke

početna > politički subjekti

zapisnici oktobar 2022

pretraga

Pretraži sadržaj strane...
Dogadaj

Zapisnici oktobar 2022

Zapisnik o izvršenoj kontroli-JU SMŠ Danilo Kiš Budva	datum: 14.10.2022. objavljen: 14.10.2022.
Zapisnik o izvršenoj kontroli-JU OŠ Marko Miljanov Podgorica	datum: 14.10.2022. objavljen: 14.10.2022.
Zapisnik o izvršenoj kontroli-Građanski pokret URA	datum: 14.10.2022. objavljen: 14.10.2022.
Zapisnik o izvršenoj kontroli -Demokratska Crna Gora	datum: 14.10.2022. objavljen: 14.10.2022.
Zapisnik o izvršenoj kontroli-JU OŠ Drago Milović Tivat	datum: 14.10.2022. objavljen: 14.10.2022.
Zapisnik o izvršenoj kontroli-Opština Tivat	datum: 14.10.2022. objavljen: 14.10.2022.

Ukupno: 16 datum dokumenta 1 2

Excerpt from the APC's website with data on the minutes on the conducted control of the local elections financing, accessed December 2, 2022

In the statement it issued on November 1, 2022, after local elections, APC stated:

“As part of the control of compliance with the restrictions on the use of state funds, the Agency collected data on the monthly spending of all budgetary units, both at the state and local levels. The process of verifying that data is underway, after which the results will be publicly available.” [37]

[37] <https://www.antikorupcija.me/me/dogadjaji/2208091317-lokalni-izbori-oktobar-2022/2211011053-toku-kontrola-mjesecne-potrosnje-svih-budzetskih-jedinica-izbornoj-kampanji/>

B.6. APC's lack of promptness led to violations of the law

Thanks to the lack of promptness of the Agency to act upon the submitted report, the Capital City made a decision to release the cooperative of healthcare workers of paying dues before the holding of local elections. Although MANS informed the Agency about those plans, it started the procedure to determine the violation of the law only after the elections.

The Mayor of Podgorica announced on his Facebook profile that at the agenda of the session of the municipal Parliament scheduled for October 19, there would be a decision to release the Housing Cooperative "Healthcare" of payment obligation of the fee for the communal equipment of the land on which the building for healthcare workers will be built. In this way, the Capital City is giving up significant income.



Screenshot of the Facebook page of the Mayor of the Capital City, Ivan Vuković, published on October 6, 2022

Article 42 paragraph 3 of the Law prescribes that "from the day elections are called until two months after the final election results are pronounced, the competent national and local authorities are prohibited from writing off the liabilities on the basis of exemption from value added tax, other taxes and parafiscal duties.

On October 7, a day after the Mayor published the disputed announcement, MANS submitted an initiative to the APC.

Although the initiative stated that the adoption of the contested decision was planned for October 19, the Agency missed the opportunity to act preventively, and only on October 31 did it make a decision to initiate the procedure to determine a possible violation of the law. In the meantime, the Assembly of the Capital City adopted the disputed decision, precisely at the session announced by the Mayor. [38]

[38] <http://skupstina.podgorica.me/2022/10/05/xxxviii-sjednica-19-oktobra-2022-godine-sa-pocetkom-u-1000-caso/> .

By such action, the Agency, which started the procedure only after the elections instead of acting preventively, renders the law meaningless.

Even by the end of November, almost two months after the report was submitted, APC did not determine whether the law had been violated.



Crna Gora
Agencija za sprječavanje korupcije

Broj:UPI-02-03-462/2022

Agencija za sprječavanje korupcije na osnovu člana 56 stav 3 Zakona o finansiranju političkih subjekata i izbornih kampanja („Sl.list CG“, br.3/2020 i 38/2020) odlučujući po prijavi broj UPI 02-03-408/2022 od 01.09.2022.godine, podnijetoj protiv Glavnog grada Podgorica, zbog kršenja člana 42 stav 3 Zakona o finansiranju političkih subjekata i izbornih kampanja, dana 31.10. 2022.godine donijela je

ODLUKU

Pokreće se postupak protiv Glavnog grada Podgorice, radi utvrđivanja moguće povrede člana 42 stav 3 Zakona o finansiranju političkih subjekata i izbornih kampanja.

O b r a z i o Ź e n j e

Agenciji za sprječavanje korupcije je podnesena prijava, zavedena pod brojem UPI 02-03-462/2022 od 07.10.2022.godine, kojom je zatraženo da se pokrene postupak u skladu sa ovlaštenjima propisanim zakonom i da se utvrdi kršenje člana 42 stav 3 Zakona o finansiranju političkih subjekata i izbornih kampanja. U prijavi se navodi da će se na XXXVIII sjednici (koja se održala 19. oktobra 2022. godine) biti razmatrana Odluka o oslabadanjju plaćanja naknade za komunalno opremanje zemljišta za kat.parcelu 281/2, list nepokretnosti br.365 KO Podgorica III, u zahvatu DUP-a 3 i 4 – Zona 2, što predstavlja moguće kršenje člana 42 stav 3 Zakona o finansiranju političkih subjekata i izbornih kampanja.

Shodno članu 56 stav 3 Zakona o finansiranju političkih subjekata i izbornih kampanja, a na osnovu izloženog, odlučeno je kao u izreci ovog rješenja.

DIREKTORICA
Jelena Perović

Kralja Nikole 27/V
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Crna Gora

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*Decision of the Agency for the Prevention of Corruption adopted on October 31, 2022.
to the report of NGO MANS*

B.7. Limitation of the control of the work of APC: Secret proceedings initiated due to violations of the law

APC declares secret information about proceedings it initiates due to violations of the law, referring to the protection of the privacy of civil servants, thus limiting the control of its work.

The Agency declared secret the misdemeanour charges it had initiated against the responsible persons in the authorities for violating the provisions related to employment and restrictions on the use of state funds, in order to protect their privacy.

In the response of the APC, it is stated that the request for initiation of misdemeanour proceedings includes the personal data of the person to whom it refers and states that:

“...in the case of erasure of data on the identity of the offenders, this would lead to the delay of the procedure and costs for the party, with no benefit for realizing the principles from Article 2, Article 4 and Article 5 of the Law on Free Access to Information. The identity of the violator is an essential element of the misdemeanour and requires the initiation of misdemeanour proceedings, and by deleting it, the requested information would essentially cease to be a request for the initiation of a misdemeanour, instead, it would become some other information that is not the subject of a request for information”.

The Law on Free Access to Information clearly stipulates that documents must be made public after removing personal data. The practice of the second-instance authority regarding the application of that law, as well as of the court, shows that the data on persons employed in the state administration are public, and that personal data is personal identity number, residential address or bank account number. [39]

In addition, the Law foresees the possibility of the authority to extend the deadline for submitting data if there is an adequate justification for this, but this cannot be a basis for rejecting a request for information.

The rationale that by deleting personal data the content of the information would be ruined or it would be "transformed" into other information that is not the subject of the request for information is absurd and for the reason that it is not possible to delete data on the names of the institutions where the persons against whom the proceedings have been initiated are employed, as well as because misdemeanour reports contain a description of the misdemeanour itself and evidence that it was committed.

Suprotno tome, Mišljenjem broj 06-11-471-3/18 od 20. februara 2018. godine Agencije za zaštitu ličnih podataka i slobodan pristup informacijama je konstatovano da objavljivanje podataka o podnijetim zahtjevima za pokretanje prekršajnog postupka na web sajtu Agencije za sprječavanje korupcije, bez saglasnosti lica na koje se podaci odnose, nije u skladu sa Zakonom o zaštiti podataka o ličnosti.

Polazeći od izloženog stanja stvari, donešena je odluka kao u dispozitivu, u skladu sa članom 29 stav 1 tačka 3 Zakona o slobodnom pristupu informacijama, da će organ odbiti pristup informacijama ako postoji razlog iz člana 14 za ograničenje pristupa traženoj informaciji, na osnovu člana 14 stav 1 tačka 1 da organ vlasti može ograničiti pristup informaciji u interesu zaštite privatnosti od objelodanjivanja podataka koji su predviđeni zakonom kojim se uređuje zaštita ličnih podataka, a u vezi člana 2 i člana 10 Zakona o zaštiti podataka o ličnosti.

Član 30 Zakona o slobodnom pristupu informacijama propisuje da organ o zahtjevu za pristup informacijama odlučuje rješenjem kojim se dozvoljava pristup informaciji ili njenom dijelu (nakon izvršenog brisanja dijela kojem je ograničen pristup, po članu 24 ovog zakona) ili se zahtjev odbija. U konkretnom je riješeno kao u dispozitivu jer bi u slučaju brisanja podataka o identitetu izvršilaca prekršaja to vodilo odugovlačenju postupka i troškovima za stranku, bez koristi za ostvarivanje načela iz člana 2, člana 4 i člana 5 Zakona o slobodnom pristupu informacijama. Identitet prekršioca je bitan element prekršaja i zahtjeva za pokretanje prekršajnog postupka, te bi tražena informacija njegovim brisanjem suštinski prestala da bude zahtjev za pokretanje prekršaja, već bi postala neka druga informacija koja nije predmet zahtjeva za pristup informacijama. Odnosno, postala bi samo statistika pravnih osnova za pokretanje prekršaja, o čemu se zainetsovana javnost svakako može upoznati kroz kvartalne izvještaje o radu Agencije i izvještaje o izvršenoj kontroli kampanje i nadzorom nad primene Zakona o finansiranju političkih subjekata izbornih kampanja.

UPUTSTVO O PRAVNOJ ZAŠTITI: Protiv ovog rješenja dozvoljena je žalba u roku od 15 dana od dana prijema Agenciji za zaštitu ličnih podataka i slobodan pristup informacijama.


DIREKTORICA
Jelena Perović

APC's response to MANS' request, decision number: 02-03-2151/3
dated 10/27/2022

[39] This was stated in the decision upon the appeal that referred to Coal Mine, and it is addressed in the chapter that refers to state-owned companies.

ANNEXES

Annex 1:

Available data on total spending of budget users in August, September and October 2022, by users

Name of the budget user / spending	Average	August	September	October
Investment Agency	42,582	38,327	46,931	44,178
Agency for Control and Quality Assurance of Higher Education	23,624	4,353	77,476	17,771
Agency for Peaceful Settlement of Labour Disputes	24,299	18,095	25,409	18,561
National Security Agency	531,795	552,670	532,403	538,753
Agency for Prevention of Corruption	112,718	81,354	114,321	147,159
Agency for Protection of Competition	41,859	35,146	38,017	46,443
Agency for Personal Data Protection and Free Access to Information	59,093	44,046	63,395	72,976
Nature and Environment Protection Agency	198,568	563,614	270,429	461,523
Centre for Alternative Dispute Resolution	21,558	36,016	17,896	18,628
Centre for Training in the Judiciary and State Prosecutor's Office	34,522	18,190	39,046	29,662
Centre for Vocational Education	48,489	34,010	44,455	61,351
Montenegrin Academy of Sciences and Arts	139,216	69,366	99,753	111,907
Red Cross of Montenegro	26,736	22,917	22,917	22,917
Directorate for Protection of Classified Information	24,044	23,079	24,035	23,909
State Election Commission	34,949	14,025	44,303	28,137
State Audit Institution	151,988	140,879	169,802	149,226
State Archives	134,641	163,081	131,160	134,215
Pension and Disability Insurance Fund	37,571,995	38,357,018	38,374,347	53,926,175
Labour Fund	101,583	42,831	63,309	232,249
Compensation Fund	331,577	52,861	153,301	38,867
Fund for Protection and Realization of Minority Rights	20,289	13,319	23,666	19,674
Health Insurance Fund	30,048,617	26,578,166	32,279,191	41,556,010
Secretariat-General of the Government of Montenegro	371,450	231,497	311,789	502,102
Examination Centre	63,976	31,793	92,597	74,865
Public Enterprise Radio and Television of Montenegro	1,326,650	1,121,650	1,241,650	1,326,650
Office of the Prime Minister	152,675	73,052	195,981	50,877
Commission for Concessions	2,811	2,730	2,730	2,730
Commission for Protection of Rights in Public Procurement Procedures	28,326	25,766	29,044	11,749
Cultural Institution Matica crnogorska	28,445	20,000	20,000	20,000

ANNEXES

Name of the budget user / spending	Average	August	September	October
Ministry of Ecology, Spatial Planning and Urbanism	756,788	758,715	392,867	981,551
Ministry of Economic Development and Tourism	794,295	605,944	833,763	584,302
Ministry of European Affairs	42,948	100,853	173,293	132,938
Ministry of Finance	37,899,155	10,668,293	44,074,851	10,221,663
Ministry of Public Administration	689,435	481,478	395,100	2,467,549
Ministry of Capital Investments	401,180	276,249	734,969	360,267
Ministry of Culture and Media	1,133,437	1,464,450	1,360,950	1,101,180
Ministry of Human and Minority Rights	75,574	73,381	85,493	94,970
Ministry of Science and Technological Development	146,109	30,337	1,751	32,474
Ministry of Defence	3,399,584	3,599,974	3,044,302	3,716,175
Ministry of Agriculture, Forestry and Water Management	2,964,559	1,833,586	4,487,507	5,731,455
Ministry of Justice	222,066	143,962	608,564	201,483
Ministry of Education	17,931,903	15,879,756	30,869,791	8,524,529
Ministry of Labour and Social Welfare	11,699,123	12,598,707	14,972,942	14,725,912
Ministry of Sports and Youth	803,466	180,625	89,041	89,767
Ministry of the Interior	6,752,864	7,286,683	7,537,928	6,036,039
Ministry of Foreign Affairs	1,265,391	1,144,999	1,229,539	1,242,076
Ministry of Health	222,446	191,519	154,509	132,386
National Commission for Investigation of Accident and Serious Incidents of aircraft, extraordinary events endangering safety of railroad traffic and maritime incidents and accidents	3,819	3,539	3,658	4,653
National Tourism Organization of Montenegro	83,110	29,975	69,450	94,122
Regional Diving Centre for Underwater Demining and Divers Training	33,051	-	69,973	17,008
Audit Authority	30,824	29,099	32,508	31,468
Council for Civilian Control of Police Operations	3,247	2,880	2,405	3,355
Privatisation and Capital Projects Council	10,800	-	13,452	23,255
Secretariat for Legislation	26,022	23,855	24,104	30,332
Senate of the Old Royal Capital	4,158	4,694	7,859	6,174
Parliament of Montenegro	667,572	767,863	707,188	772,139
Office of the President of Montenegro	91,016	35,452	61,705	147,543
Official Gazette of Montenegro	3,375	10,125	6,750	10,125

ANNEXES

Name of the budget user / spending	Average	August	September	October
Social Council	4,277	4,720	4,390	6,274
Judicial Council	2,337,160	969,102	3,595,563	2,392,392
Prosecutorial Council	754,676	782,893	666,798	818,959
Public Works Administration	3,444,004	2,772,393	7,010,788	4,481,299
Administration for Maritime Safety and Port Management	85,064	73,153	85,170	92,463
Revenue and Customs Administration	1,258,522	1,217,608	1,230,431	1,148,824
Administration for Food Safety, Veterinary and Phytosanitary Affairs	195,796	313,578	316,354	408,903
Administration for Inspection Affairs	396,067	407,107	403,412	403,115
Institute for the Execution of Criminal Sanctions	791,987	1,126,888	860,207	928,415
Human Resources Management Authority	103,993	64,433	80,552	122,414
Cadastre and State Property Administration	3,094,233	2,127,366	2,641,508	1,607,795
Traffic Administration	9,847,608	4,673,301	6,163,646	4,739,993
Department for Co-operation with Diaspora and Emigrants	24,094	50,609	15,341	106,750
Directorate for Sports and Youth	19,869	-	-	-
Statistical Office	161,628	146,037	170,811	140,857
Forest Administration	399,276	148,448	580,032	181,761
Hydrocarbons Administration	10,835	14,972	14,159	10,376
Water Administration	11,753	23,316	34,882	16,532
Administration for Protection of Cultural Property	39,086	30,812	64,727	44,304
Railway Directorate	1,580,182	1,874,934	3,397,541	1,070,815
Constitutional Court of Montenegro	75,789	57,561	60,386	60,589
Protector of Property and Legal Interests of Montenegro	67,313	50,060	51,476	55,100
Protector of Human Rights and Freedoms	53,111	53,598	54,908	63,544
Institute of Hydrometeorology and Seismology	107,940	96,205	111,435	101,789
Metrology Institute	54,775	54,974	55,429	65,645
Institute for Social Protection of Children of Montenegro	20,771	15,744	19,847	17,206
Institute of Education	87,541	127,786	81,648	71,527
Employment Agency	4,039,565	5,165,866	4,900,697	4,263,115
Unknown	62,084	181,010	205,362	306,892
TOTAL	188,985,389	149,261,324	219,473,065	180,933,803

ANNEXES

Annex 2:

Available data on total spending of budget users in August, September and October 2022, by types of expenses

Type of expense / spending	Average	August	September	October
Administrative material	255,979	724,539	381,030	399,555
Lawyer, notary and legal services	114,396	441,886	478,095	192,200
Banking services and negative exchange differences	346,490	214,153	219,148	357,982
Veterans and Disabled Persons' Protection	394,725	423,570	414,223	418,010
Child allowance	1,773,560	1,792,260	1,772,992	1,827,138
Allowances	130,471	135,685	133,748	139,972
Contributions at the expense of the employer	3,491,399	3,432,243	3,485,026	3,415,054
Contributions at the expense of the employee	6,206,096	6,116,771	6,196,365	6,294,899
Contributions for the healthcare of pensioners	-	-	-	-
Guaranteed income	66,776	17,850	24,300	29,772
Invalidity pension	4,976,864	5,139,149	5,114,573	8,017,786
Investment maintenance	59,531	55,496	724,834	58,242
Nutrition of children in preschool institutions	27,778	103,766	102,303	54,550
Expenses based on the payment of temporary employment contracts	1,044,765	990,681	1,332,834	1,066,083
Expenses based on the costs of court proceedings	90,482	107,931	59,251	172,256
Expenses for construction facilities	2,624,438	1,686,421	3,057,846	2,097,713
Expenses for infrastructure of general importance	8,291,973	4,391,007	4,330,866	3,448,695
Expenses for the purchase of securities	-	-	-	-
Expenses for local infrastructure	1,240,264	908,310	3,100,799	2,051,291
Expenses of equipment	973,133	525,134	2,767,438	2,976,319
Expenses for landscaping	80,324	110,269	53,600	284,189
Expenses for supplies	6,935	1,663	25,307	23,087
Support of residents in homes	300,104	291,388	288,811	304,466
Development and maintenance of software	686,561	561,475	314,400	1,284,654
Jubilee awards	28,680	74,937	8,571	19,671
Interest for non-residents	5,311,904	584,425	13,293,670	512,257
Interest for residents	1,096,015	220,742	74,730	295,419
Penalties	129	14	14	14
Utility fees	308,898	141,261	577,128	182,036
Communication services	374,291	267,305	549,157	389,990

ANNEXES

Type of expense / spending	Average	August	September	October
Consulting services, projects and studies	2,205,428	1,866,260	1,634,003	2,287,039
Contributions for membership in local and international organizations	443,705	95,114	52,804	191,264
Treatment outside Montenegro	685,894	917,254	728,523	438,811
Treatment outside the system of public health institutions in Montenegro	673,566	119,038	564,440	829,061
Material for special purposes	444,297	2,552,916	445,348	561,147
Health care material	325,321	199,101	20,903	233,901
Financial security of the family	756,310	733,126	725,633	752,525
Compensation for sick leave of over 60 days	530,382	596,127	537,820	650,763
Transportation fee	38,587	32,322	31,401	36,917
Reimbursement for travel expenses of patients	320,688	455,416	425,783	156,914
Allowance for housing and separate living	182,467	167,991	181,152	156,820
Fees	747,069	735,325	708,830	663,587
Benefits to unemployed persons	2,281,451	2,159,905	2,132,981	2,213,729
Net earnings	33,173,540	30,950,003	45,144,465	22,666,236
Municipal surtax	203,219	157,910	206,654	201,230
Orthopaedic devices and aids	200,846	30,764	323,647	353,286
Insurance	285,596	176,326	162,781	170,405
Other rights	910,733	914,555	984,247	1,251,144
Other rights in the field of social protection	2,312,532	4,024,173	4,024,597	4,014,558
Other fees	1,035,878	948,258	1,201,800	1,054,231
Other loans and credits	982	350	-	-
Other subsidies	992,559	1,903,290	1,869,331	1,345,661
Other services	482,619	565,319	804,089	452,530
Other expenses for material	27,574	14,429	3,770	55,949
Other transfers to institutions	2,561,705	3,752,429	4,202,810	1,686,933
Other transfers to natural persons	1,871,458	1,560,876	1,668,772	1,172,818
Other	477,796	301,617	149,117	1,389,898
Repayment of the guarantee to financial institutions	83,333	-	-	-
Repayment of securities and loans to non-residents	23,218,696	3,470,834	7,423,857	3,615,549
Repayment of securities and loans to residents	3,671,675	2,374,634	722,146	2,482,187
Repayment of liabilities from the previous period	1,572,287	158,820	990,011	847,454

ANNEXES

Type of expense / spending	Average	August	September	October
Severance pays	125,007	87,895	95,306	181,453
Severance pays for redundancies	14,978	11,556	3,852	5,778
Income tax	1,382,086	1,579,206	1,453,785	1,434,432
Family pension	7,414,876	7,760,206	7,744,667	12,723,170
Maternity leaves	1,557,251	1,503,730	1,699,457	1,539,443
Loans and credits to natural persons	134,644	-	-	832,764
Energy expenses	847,287	716,667	554,874	192,831
Fuel expenses	828,410	423,119	919,645	756,206
Representation	34,099	23,835	49,909	45,336
Business trips	384,896	427,498	628,869	678,899
Old age pension	22,430,931	23,404,144	23,364,183	30,831,679
Subsidies for production and provision of services	2,999,109	1,845,819	4,999,430	5,970,955
SECRET	-	-	-	-
Taxes	837	536	2,747	1,008
Current budget reserve	1,810,523	1,405,979	20,102,504	1,454,371
Ongoing maintenance of construction facilities	67,911	348,593	545,107	187,686
Ongoing maintenance of public infrastructure	1,424,541	541,911	2,243,432	1,403,384
Ongoing equipment maintenance	234,299	154,292	148,262	342,937
Transfers to cultural and sports institutions	671,234	668,413	58,790	39,900
Transfers to public enterprises	-	-	-	-
Transfers to non-governmental organizations	195,527	397,291	255,593	102,080
Transfers to education	2,908,563	18,575	5,601,060	240,961
Transfers to municipalities	413,783	841,767	398,532	583,233
Transfers to political entities, parties and associations	627,134	516,404	516,404	590,404
Transfers for one-off allowance	780,281	56,956	39,096	59,169
Transfers for trainees' personal income	635,665	663,084	-	2,582,261
Transfers for health care	13,979,586	10,275,935	16,573,215	25,121,633
Disability-related financial support	3,056,293	3,144,247	3,291,355	3,801,263
Transportation services	63,267	53,563	80,224	77,333
Professional training services	57,991	115,042	60,540	118,738
Lease of buildings	854,697	869,296	1,062,376	761,224
Lease of equipment	27,487	10,169	24,329	26,492
Land lease	1,039	783	2,749	936

