



**CONTROL OF COMPLIANCE WITH
PRESCRIBED RESTRICTIONS AND
PROHIBITIONS DURING THE ELECTION
CAMPAIGN
PRACTICE EXAMPLES**

PODGORICA, DECEMBER 2020

Employment restriction in the election campaign (Article 44 of the Law)

In accordance with the obligations prescribed by Art. 44 of the Law, on June 30, the Municipality informed the Agency about the employment of three persons and submitted the accompanying documentation. Performing control of the submitted documentation, the Agency stated in one employment that the procedure was conducted in accordance with the Law, while after the requested amendment of the documentation, in conducting the employment procedure of two persons, the mentioned employment procedure was not conducted in accordance with Article 200 paragraph 1 of the Labor Law, that the mentioned contracts last longer than 120 working days in a calendar year.

The entire case was forwarded to the Administration for Inspection Affairs, i.e. the Ministry of Public Administration - Administrative Inspection, as the competent authority, which informed the Agency that in accordance with the initiative an inspection was performed by inspecting the documentation and found in the procedure that the Municipality concluded contracts on temporary and occasional jobs for performing activities from regular competence, which is not in accordance with the provisions of Article 32 to and concluding with Article 47 of the Law on Civil Servants and State Employees and Article 108 to and concluding with Art. 118 of the Law on Local Self-Government, which members refer to the establishment of employment and filling vacancies, and have undertaken activities within their competences.

Restriction and transparency of social benefits from the budget reserve (Article 40 of the Law)

The Agency published on its website all the decisions by which funds were allocated and paid during the election campaign. The control of that documentation established that the Municipality paid one-off assistance to the same persons in several seven-day reporting periods. After reviewing the submitted Decisions by which the Municipality approved the payment of one-off assistance from the current budget reserve, the Agency initiated and conducted a procedure during which the Municipality stated that the pandemic affected the socio-economic picture of persons paid assistance in several reporting seven-day periods and having in mind their situation, it required an urgent intervention, in order to meet their basic existential needs (food, groceries, medicines, hygiene products, etc.), so there was no time to conduct a special procedure. The complete supporting documentation on the basis of which the payment was made was not submitted. The total case was submitted to the Administration for Inspection Affairs for further action and verification, which performed the inspection and informed the Agency about the identified irregularities and further actions that will be taken.

Acting on reports of natural and legal persons in the campaign (Article 56 of the Law)

A report was submitted to the Agency stating that one local public broadcaster did not submit the price list of election advertising services within the legally prescribed deadline (the deadline for submitting the price list was July 3), which is a violation of Article 16 paragraph 6 of the Law. The broadcaster submitted a statement stating that due to the current situation and measures to mitigate the consequences of Covid-19, they did not have a sufficient number of employees who would complete the work on the acts, i.e. complete the price list of election advertising services. Also, this broadcaster submitted Agreements on business cooperation with two political entities which

regulate mutual rights and obligations on the occasion of the parliamentary and local elections 2020.

After considering the list of cases and evaluating the allegations from the submitted application, bearing in mind that the elections for deputies of the Parliament of Montenegro, for councilors in the Municipal Assembly of Andrijevica, the Municipal Assembly of Budva, the Municipal Assembly of Gusinje, the Municipal Assembly of Kotor and the Municipal Assembly of Tivat and that the price list of this broadcaster was submitted to the Agency on July 21, 2020, and that it provided media advertising services, which is confirmed by the submitted contracts no. 583/1 and no. 583/1, the Agency determined that the report was founded, i.e. that this broadcaster violated the provision of Article 16, paragraph 6 of the Law, for which reason misdemeanor proceedings were initiated in accordance with the Law.

Restrictions for persons contributing to political entities – right to vote (Article 33 of the Law)

Article 33, paragraph 1 of the Law prescribes the prohibition of political entities, among other things, to receive material, financial assistance and non-financial contributions from natural persons who do not have the right to vote in Montenegro. In this regard, at the request of the Agency, the Ministry of Interior Affairs controlled, i.e. inspected the voting register for 1,649 persons registered in the Reports on contributions of legal and natural persons, Reports on the origin, amount and structure of collected and spent funds from public and private sources for the election campaign submitted by political entities and the Annual consolidated financial statements of political entities containing membership fees and contributions of persons given for regular work. A total of 708 contributors were inspected in election campaign held on the August 30.

In the procedure it was determined that the three persons who are on the list sent by the Agency are not in the voting register, while the other persons for whom verification is requested are in the voting register.

Having in mind that the Article 33 paragraph 1 of the Law prescribes the prohibition of political entities to receive material, financial assistance and non-financial contributions from natural persons and entrepreneurs who do not have the right to vote in Montenegro, and that these persons gave contributions in accordance with the records of these political entities, the Agency initiated misdemeanor proceedings in accordance with Art. 66 paragraph 1 item 39 and paragraph 2 of the Law.

Restrictions for persons who give contributions to political entities - public procurement (Article 33 of the Law)

Article 33, paragraph 5 of the Law prescribes the prohibition of legal entities, companies and entrepreneurs and related legal and natural persons, who, based on contracts with competent authorities, among other things, concluded a contract in public procurement, in the two years preceding concluding a contract, for the duration of that business relationship, as well as two years after the termination of that business relationship, giving contributions to political entities.

The Agency conducted a control of the implementation of this article when it comes to contributions collected in the election campaign and public procurement contracts concluded in

2020. Thus, all contracts from the database of the Ministry of Finance - Public Procurement Administration were controlled and reviewed and compared with 928 registered persons in the Reports on contributions of legal and natural persons submitted by political entities for the election campaign. After the control, eight persons were found whose names match the names of the contributors, while based on the data submitted by the Department of Public Revenues it was determined that one natural person contributed to a political entity, and that at the same time a person was connected to a company. In 2020, it concluded public procurement contracts with the Municipality of Nikšić and the Transport Administration. Additionally, according to the data submitted by the Department of Public Revenues, all persons related to this company, i.e. four other natural persons, were contributors to a political entity in the election campaign. The Agency initiated misdemeanor proceedings against these persons, in accordance with Article 70, paragraph 1, item 6 of the Law.

Restriction on providing one-off financial assistance in the election campaign (Article 40, paragraph 1 of the Law)

The Agency paid special attention to the control of all paid one-off financial assistance by the Municipalities and the complete documentation related to those payments was requested. After the control of the submitted documentation with the municipalities where the requests, approvals and payments were made during the election campaign, the procedure was initiated and statements were requested.

After the procedure and the statement by the Municipalities that paid one-off assistance from the transfer of "one-off financial assistance" contrary to Article 40, paragraph 1 of the Law, four misdemeanor proceedings were initiated, prescribed by Article 68, paragraph 1, item 31 of the Law.

Essential control of the accuracy and completeness of the reports of the political entities

The analysis and verification of the submitted Reports on collected and spent funds of political entities was performed and irregularities were found related to: non-submission of documentation (invoices, contracts and statements) for certain costs, non-submission of Decisions on transfer of own funds or Decisions of legal entities on contributions to political entities, non-presentation of costs in the Report stated in bank statements, non-presentation of related costs for non-financial contributions, failure to fill in the report in accordance with the Guidelines for filling in the origin report form, amount and structure of collected and spent funds from public and private sources for election campaign (stamp), showing contributions as financial, while in the submitted fifteen-day reports during the campaign it is shown as non-financial, not showing the associated taxes and contributions based on concluded employment contracts, concluding employment contracts before opening a special bank account for the election campaign, no delivery of travel orders for all persons listed in the report, discrepancy between the accompanying documentation and the submitted report, as well as inconsistency of the data from the report with the data in the possession of the Agency.

17 letters were sent for statement and amendment to political entities in which 44 irregularities were stated (incomplete documentation-22 and incomplete report-22), after which political entities submitted statements, corrected documentation, supplemented documentation and submitted accurate and complete reports. Also, irregularities were noticed related to the payment of funds to entities from public sources, before notifying the Agency or the payment of funds in equal amounts to all political entities that participated in the elections, including 20% and 80% of funds.

Employment restrictions prescribed by the Labor Law and LFPEEC

After the control of the submitted documentation on employment by the Municipalities of Budva, Ulcinj, Berane, Herceg Novi and Tivat, the Agency determined the existence of possible irregularities, which concern the concluded fixed term and temporary contracts during the election campaign.

All fixed term and temporary contracts of the mentioned Municipalities concluded after July 7, i.e. the day of entry into force of Article 200 of the Labor Law (Official Gazette of Montenegro, No. 74/19) were referred to the competent inspection for further action. The Agency is of the opinion that, with the entry into force of this article of the Labor Law, it was not possible to conclude fixed term and temporary contracts on in the election campaign, having in mind the restrictions prescribed by that article and Article 44 of the Law on Financing Political Entities and Election Campaigns.

Contributors to political entities that are also beneficiaries of social welfare

In accordance with the Control Plan, the Agency checked the contributors with the Ministry of Labor and Social Welfare, i.e. whether the persons who provided contributions to political entities were beneficiaries of material benefits. On that occasion, it was stated that out of 886 persons who were checked, 15 of them are beneficiaries of material benefits in 2020. Of the registered recipients of material benefits, 4 of them are recipients of veteran and disability protection, 6 are recipients of newborn child benefits, 2 persons are recipients of care and assistance allowance, 1 recipient of care and assistance allowance and travel benefits for persons with disabilities, 1 recipient of allowance for children and 1 recipient of compensation based on funeral expenses. No basis for further action was found in this procedure.