



Elections in Montenegro: **Stuck in an Envelope**

July 2019

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Title:

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Publisher:

Politikon Network

For the publisher:

Jovana Marović

Authors:

Jovana Marović, Boris Marić

Design:

Dragana Koprivica

Podgorica, July 2019

European Fund for the Balkans

This brief was supported by the European Fund for the Balkans through the 2019 Think and Link Regional Policy within the project “Rule of law in the Western Balkans: Reinventing the rules of the game” implemented by Politikon Network in cooperation with CRTA from Serbia and Tim Institute from North Macedonia. All views expressed in this research paper are those of the authors and do not necessarily represent the views of the European Fund for the Balkans.

The 'envelope affair' broke on 11 January, 2019, after the release of a video clip showing the President of the 'Atlas Group', Duško Knežević, handing an envelope to the former Mayor of Podgorica, Slavoljub Stjepović, which contained 97,500 euros for the ruling Democratic Party of Socialists (DPS) and was intended to be used for the 2016 parliamentary election campaign. Knežević claims that he acted in agreement with the DPS President, Milo Đukanović. The DPS leader has confirmed the donation, adding that many 'helped' the DPS in this manner, not only Knežević. To the uninformed viewer observing the character of the Montenegrin political system, it would seem logical that the affair would prompt swift resignations and a quick reaction from the competent institutions. On the contrary, what ensued was a virtual stalemate, with the main actor in the affair still maintaining his position as General Secretary of the President and his membership in the DPS Presidency.

of undertaken steps and the institutional response to an affair that cast a shadow over the Montenegrin political scene for many months, this case study offers a prism through which the lack of responsibility and transparency in the country's institutional system can be viewed. We created this case study within the framework of the 'Rule of law in the Western Balkans: Reinventing the rules of the game' project, which Politikon Network implements together with CRTA from Serbia and Tim Institute from North Macedonia. The project was financially supported by the European Fund for the Balkans (EFB).

What have we learned from the envelope affair?

- » Retrospective: The Agency for Prevention of Corruption reacts only when the DPS tells them to do so – from incompetence to determination of guilt

OPENING REMARKS

Illegal donations for the purposes of election campaigning are an ingrained part of the Montenegrin reality, even now that there is concrete evidence to prove it. However, the conduct of Montenegro's institutions hasn't changed much since the 'envelope affair'. Therefore, this study aims to chronologically describe the (non) engagement of institutions, as well as work patterns which influence the perception of their politicisation. Through an analysis

The Agency for Prevention of Corruption (APC) quickly released a statement after the envelope affair broke,¹ motivated by increased public interest in the affair, as well as, in their opinion, false assertions concerning the institution's competence. The statement, in a rough way, qualified initiatives and called for action from "those that were removed from office in the Parliament due to unworthy performance of duty and which have filed a lawsuit thousands of times during election campaigns, with the aim of personal gains, rather than improving this institution's efficacy."²

It has never been specified to whom the APC was referring, although in Montenegro it is not unusual for those who have been removed from parliament to have in the meantime won court cases, and in doing so confirmed that these removals from

1 Public statement of the Agency for Prevention of Corruption, Published 23 January 2019, <https://www.antikorupcija.me/me/kontrola-politickih-subjekata-izbornih-kampanja/novosti/1901241240-saopstenje-za-javnost/>

2 Public release of the Agency for Corruption Prevention, Published 23 January 2019, <https://www.antikorupcija.me/me/kontrola-politickih-subjekata-izbornih-kampanja/novosti/1901241240-saopstenje-za-javnost/>

office were unlawful.³ It is little wonder that the APC has been unwilling to respect the verdicts of the Administrative Court in repeated cases.⁴

It is evident that the APC reacts depending on whether or not it views the initiatives as coming from a 'serious' individual. The criteria the APC uses to make these decisions are unknown, **and this kind of reaction from the APC indicates that the institution, which was funded to strengthen preventive activities in the fight against corruption, is undermining its independence and impartiality by taking actions with political connotations.**

The APC further claimed in its press release that it is impossible in any way to influence its work, which in their opinion should be a sufficient enough guarantee of its independence and impartiality, and justifies their further statements. After providing some service information,⁵ the APC stated in its conclusion that the Public Prosecutor's Office is responsible for acting when there are signs of potential criminal conduct and that the APC does not have the power to act in the realm of prosecutor-police supervisions. As such, it will pass on the required documentation regarding the financing of political subjects and campaigns if this is requested by the Special Prosecutor's Office (SPO). The APC therefore did not recognise its status as an authorised institution in the envelope affair and the press release highlighted that the SPO had begun processing the case. The APC also indicated that there was no basis for instigating misdemeanour charges against the DPS in relation to a violation of the law on financing political entities and electoral campaigns, and that it has monitored the party eight times since the beginning of 2016 without uncovering any irregularities.

Soon after the first press release, the APC informed the public on 2 February⁶ that it would repeat the supervision and monitoring process for the ruling party's campaign during the 2016 parliamentary elections to clarify whether all attained funds were present in the bank account they had designated for campaign financing.⁷ The reality is that funds from the 'envelope' were never transferred to this account, even though there is an obligation under the law to do this for all donations intended to support political parties during their election campaigns. This represented a serious violation which was only later identified by the APC after the affair became public. As such, the violation was uncovered at the second attempt and on this occasion the APC concluded that there were no obstacles in terms of control and work, adding that the SPO had yet to complete its investigation of the case. Aside from being unaware of its own supervision responsibilities, the APC has also shown a willingness to adapt its argument to fit the context.

We can conclude that the numerous reminders by the European Commission that the APC must become more proactive have been insufficient for the institution to intensify its activities. Furthermore, the APC has failed to check allegations of fraud and violations of the law that are within its own domain. Additionally, the Law on Corruption Prevention mandates that in cases where there is information to suggest a criminal offense may have been committed, the APC must, without delay, deliver all gathered evidence to the authorised Public Prosecutor's Office. The APC has clearly not complied with this requirement. Even though it was aware that the SPO was conducting an investigation, it waited for the Prosecutor's Office to request information.

³ Some of the examples include verdicts of courts in Podgorica and Nikšić regarding unlawful removals of Goran Đurović and Nikola Vukčević from the RTCG Council, "Court gave its verdict: Vukčević to be reappointed in the RTCG Council", Antena M, 14. February 2018, <https://www.antenam.net/drustvo/69125-sud-donio-mjeru-vukcevic-da-se-vrati-u-savjet-rtcg>; "First trial verdict of the Magistrate Court in Podgorica – Goran Đurović unlawfully removed from membership in the Council of the Radio Television of Montenegro", Action for Human Rights, March 2019, <https://www.hraction.org/2019/03/04/4-3-2019-prvostepena-odluka-osnovnog-suda-u-podgorici-goran-durovic-nezakonito-razrijesen-clanstva-u-savjetu-radio-televizije-crne-gore/>

⁴ Decision of the Agency for Prevention, of Corruption published on 26 January 2019, <http://www.antikorupcija.me/media/documents/odluka.pdf>

⁵ Indicating the set of legal obligations that are generally fulfilled by all parliamentary parties, and in this particular case by DPS

⁶ "APC controls whether DPS violated the law", Antena M, 2 February 2019, <https://www.antenam.net/politika/109240-ask-kontrolise-da-li-je-dps-prekrsio-zakon>

⁷ Article 18 paragraph 3 of the Law on financing political entities and election campaigns prescribes that all funds intended for the financing of political campaigns are transacted to the respective bank account and all costs of the campaign shall be handled from that bank account.

It is interesting to note that when the APC released information that the DPS violated the legislation covering the financing of political entities and election campaigns, it stated that the actual sum in the envelope was 47,500 euros. This implies that the final judgment on how much money must be paid back to the state budget (as per the APC's conclusions) was based on an interrogation of the party representative against which the case was being filed. The APC has yet to inform the public about further activities which were carried out with the aim of preventing violations or to provide more information on subsequent talks with witnesses.

» **Formal and (almost) regular informing of the public**

Following the envelope affair, the APC concluded that the DPS violated the law on the financing of political entities and election campaigns, and that it therefore didn't report all donations accordingly. However, despite this decision indicating that the DPS had violated the law, the APC has implied that the DPS's liability should remain a secret. It has refused requests for access to information on the case, claiming that certain details cannot be released due to the SPO's ongoing investigation. Given the APC concluded that the violation occurred, for which it has assigned misdemeanour liability and issued a fine of 20,000 euros, it would be reasonable to assume the gathered information indicates the DPS's liability. It is therefore unclear how this information could threaten the (different) investigation being carried out by the SPO.

At the same time, this example highlights that as issues become more complex, institutions can become less open and at increased risk of capture. The APC's actions have facilitated a decline in its already low levels of public trust. Since its inception, the APC has received a steady stream of

criticism from the public due to a series of oversights and numerous violations of the law. Its reputation has been further eroded by the European Commission, which has for many years been warning that the institution is perceived by the public to be insufficiently independent and proactive, and that it is viewed as an instrument for acquiring political gains.⁸

The APC website offers relatively up-to-date information, but it is communicated in an entirely formal manner. There is room for improvement when it comes to classifying information and its representation on the website. Additionally, the APC doesn't inform the public about the results of recommendation fulfilment, as requested by the European Commission. There have been numerous instances in which interested parties have expressed concern that the APC does not release information on a decision when it has determined there has been no conflict of interest involving a public official.⁹

The APC's formalistic approach is exhibited perfectly in its report on the supervision activities carried out during the 2018 presidential election campaign, as well as its report on electoral campaign financing,¹⁰ where the APC determined that candidates and state institutions, **generally speaking**, have complied with their legal obligations, bans and limitations, while ensuring the transparency of campaign financing and the use of public resources.

» **The procedure for the APC exercising control and supervision has not been prescribed in detail**

The bylaw on monitoring the election campaign¹¹ prescribes that the APC should exercise control by investigating documents, reports, information, data, transactions, business books, accounting and financial cases and related acts and records,

⁸ "Non-paper on the state of play regarding Chapters 23 and 24 for Montenegro"; European Commission, November 2018, p. 4

⁹ Ana Đurmić "Instead of reforms, status quo: Control of assets declaration and conflict of interest in Montenegro", Institute Alternative, May 2018, <https://institut-alternativa.org/en/instead-of-reforms-status-quo-control-of-assets-declarations-and-conflict-of-interest-in-montenegro/>

¹⁰ "Report on conducted monitoring during election campaign for the Presidential elections in Montenegro and conducted control of financing of election campaign for the Presidential elections, held on 15 April 2018"; APC, June 2018., https://www.antikorupcija.me/media/documents/izvjestaj_DfnrRXw.pdf

¹¹ Bylaw on exercising control on implementing articles 24–34 of the Law on financing political subjects and election campaigns and exercise of control and supervision during election campaign, adopted based on article 35 and article 46 paragraph 7 of the Law on financing political entities and election campaigns.

alongside control and supervision of the actor under supervision, as well as other individuals and legal entities in accordance with the law. **The bylaw does not state a clear and unequivocal procedure for the APC or the obligations of supervised subjects and other state institutions, as well as possible third parties.** Furthermore, it is imprecisely explained how the APC should adopt control and supervision plans, which are based on a risk assessment that the agency prepares itself and on which it determines the political actors that will be subject to comprehensive control and supervision measures.

» Why has the public lost its interest?

During the campaign for the 2018 Montenegrin presidential elections, there were no complaints filed by citizens or the civil sector.¹² This is remarkable given the APC received 2,373 complaints during the 2016 parliamentary election campaign.¹³ The fact that all previous complaints were rejected by the APC might explain why there was reluctance among these actors to participate in the process for monitoring the elections.

» The SPO does not view the unlawful financing of political parties as a criminal offense that infringes on citizens' election rights

The envelope affair is classified by the SPO as

a form of money laundering via assistance,¹⁴ even though the Criminal Code outlines a set of criminal offences violating election rights.¹⁵ One of the criminal offences which the SPO should have focused on is the violation of citizens' freedom to vote. The SPO's approach continues a pattern of impunity and the non-processing of high-level political corruption cases, since no final verdict for this criminal offence has been reached.¹⁶

The SPO is legally obliged¹⁷ to closely monitor the origins and flow of money, which would help uncover the core motives of the accused. This would also clarify the character of the political interest, enabling for the possibility of addressing criminal offences which violate election rights.

Besides this, it must also be emphasised that the prosecutor's investigation has taken far too long given the level of public interest in the envelope case. The SPO should provide timely information to the public on the activities that have been undertaken and the dynamics of bringing forward indictments.

» There will be no trust in the election process without the perception that the law is equal for all

More than half of Montenegrin citizens (59%) partly or completely disagree that the law is equal for everyone, while only 6% completely agree with this statement, according to the Balkan Barometer survey

¹² "Report on conducted monitoring during election campaign for the Presidential elections in Montenegro and conducted control of financing of election campaign for the Presidential elections, held on 15th April 2018", June 2018, https://www.antikorupcija.me/media/documents/izvjestaj_DfnrRXw.pdf

¹³ "Report on conducted monitoring during the campaign for Parliamentary elections in Montenegro and local elections in municipalities Andrijevica, Budva, Gusinje and Kotor, and conducted control on financing of election campaign of political subjects held on 16th October 2016", Agency for Prevention of Corruption, https://www.antikorupcija.me/media/documents/izvjestaj_o_sprovedenom_nadzoru_u_toku_izborne_kampanje.pdf

¹⁴ Article 268 paragraph 3 in relation to paragraph 1 article 25 of the Criminal Code of Montenegro
¹⁵ Articles 184-194

¹⁶ Dejan Milovac in the documentary film "Envelope" which was broadcasted by TV Vijesti, 26 May 2019., <https://www.youtube.com/watch?v=6u3v-qSY0iM>

¹⁷ Article 3 of the Law on Special State Prosecutor's office: "Special Prosecutor's office is authorised to prosecute criminal offenders of: 1) organised crime, regardless of the prescribed punishment; 2) high level corruption: a) if a public official committed these criminal offences: conflict of interest, service fraud, illegal influence, asking to exert illegal influence, bribery. b) if there were property gains exceeding forty thousand euros by these criminal offences: 1) misuse of position commercial business, 2) misuse of authorisations in commerce, 3) money laundering, 4) terrorism, 5) war crimes and 6) violations of election rights prescribe by Chapter XVII of the Criminal Code of Montenegro", Law on Special State Prosecutor's office, Official Gazette of Montenegro, no. 010/15 from 10.03.2015, 053/16 from 11.08.2016

conducted in 2019.¹⁸ When it comes to trust in institutions, a recent survey¹⁹ carried out by the APC shows that citizens have trust in its work. Based on the methodology used by the APC, 60% of citizens have trust in its work and 94% of citizens indicate they are informed about what the APC does. The concern for the APC is that 34.9% of respondents state the institution conducts prosecutions. This presents a clear contradiction given almost all respondents claim they are informed about the APC's activities, but over a third believe the APC conducts prosecutions (which is not the case).

A CEMI survey from June 2018 presents a different story. A far lower number of respondents (33.7%) express satisfaction with the work of the APC, and many other institutions that monitor the election process also receive low approval rates: 36.8% of respondents approve of the work of the State Audit Institution (SAI), while 39.4% of respondents are satisfied with the Constitutional Court's actions when deciding over objections within the election process.²⁰ Public trust in the work of the APC has never been high. A survey conducted by Institute Alternative in December 2017 indicated that 57% of those who had heard of the APC thought the institution had not contributed to solving corruption-related issues.²¹

» Donations “under the table” are not worthy of attention unless they are recorded

The SPO claims that further investigation would show whether there is the need for a hearing involving Montenegro's President, even though his name is mentioned in

the video clip. Đukanović has also made a statement that the envelope did not contain 97,500 euros,²² which indicates that he is more than familiar with the case. As he is the President of the party that received the donation, it would make sense to address all such claims to him. Besides the fact that the DPS President has noted donations like the one from Knežević are a regular and widespread occurrence, as well as Knežević's allegations that anyone who wants to do business in Montenegro must pay an amount to the ruling party which is determined by Đukanović himself,²³ neither the APC nor the SPO have informed the public about the steps which have been taken to clarify this issue, strengthen control and prevent this kind of practice from continuing.

» Who cares about political responsibility?

Parliament has, as usual, made only a limited contribution. MPs from the ruling party which are members of the Parliamentary Committee for Security and Defence refused the Social Democratic Party's proposal to interrogate the Director of the Police, the APC's Director, and state and special prosecutors about the Envelope Affair, with the following explanation:

“This Committee won't allow that its work transforms into a courthouse. Nor that it would interfere with the work of other institutions, especially the State Prosecutor's office, which is currently conducting an investigation. In this phase we must not allow to work other's jobs for which they are paid and who already undertook measures and steps regarding the issue which the whole Montenegrin public is familiar with.”²⁴

18 Balkan Barometer 2019: Public opinion survey, RCC, 3 July 2019, <https://www.rcc.int/pubs/89/balkan-barometer-2019-public-opinion-survey>

19 Comment of the Director of the Agency for Prevention of Corruption on the results of public opinion survey, APC, 28. December 2018, <http://antikorupcija.me/me/novosti/1812281157-komentar-direktora-agencije-za-sprjecavanje-korupcije-rezultate-istrazivanja-javnog-mnjenja/>

20 “Citizens do not trust how institutions work”, CEMI, June 2018, <http://cemi.org.me/2018/06/gradani-nemaju-povjerenje-u-rad-drzavnih-organa-u-izbornom-procesu/>

21 “Opinion survey of Montenegrin citizens on corruption”, Institute Alternative, December 2017, <http://media.institut-alternativa.org/2018/02/stavovi-gradjana-cg-o-korupciji.pdf>

22 Srđan Janković “Secret fund key for Đukanović's election wins?”, Radio Free Europe, 22. January 2019, <https://www.slobodnaevropa.org/a/29724615.html>

23 Srđan Janković “Atlas case indicates the connection between business and politics”, Radio Free Europe, 18. January 2019, <https://www.slobodnaevropa.org/a/crna-gora-afera-koverta/29717925.html>

24 Srđan Janković “Atlas case indicates the connection between business and politics”, Radio Free Europe, 18 January 2019, <https://www.slobodnaevropa.org/a/crna-gora-afera-koverta/29717925.html>

Even the extraordinary parliamentary session held in February 2019, initiated by opposition MPs, did not result in the conclusions being adopted, since the opposition withdrew them before voting. This has ensured the practice of rendering useless the control mechanisms at the disposal of the Parliament has continued, as has the enduring failure to determine political responsibility.

» It's not a problem if money can solve it

When they found out that the Envelope Affair would result in a misdemeanour sanction, DPS officials received the decision relatively calmly. The DPS paid the fine, and the decision, which revealed that the DPS violated the law, was announced in secret. This would have been enough to put their worries to rest. The party stated to the public that:

*"We have violated the law and behaved accordingly in regards to all relevant institutions in Montenegro. The APC has **made its decision**, and we accepted it without further comments."*²⁵

It should be mentioned that the DPS only "calmly accepted the punishment" after huge public pressure. It sought to find the most harmless solution,²⁶ which in the end came in the form of a fine.

» The European Commission has expressed criticism from a distance

The European Commission confirmed in its latest country report for Montenegro

that the country's institutions haven't done enough, and linked the resolution of the envelope affair with restoring confidence in the electoral system:

*"The 'envelope' affair requires a credible, independent and effective institutional response."*²⁷

"A swift, credible, independent, and effective institutional response to this affair will be key for restoring public trust in the electoral process and the state institutions";

*"Shortcomings persist in the legal framework regulating political parties and their funding, including those identified by OSCE/ODIHR, such as loopholes and legal uncertainties regarding the use of loans and party resources to finance the election campaign, insufficient women's participation and a lack of transparency in the financing of political parties. The 'envelope affair' highlighted the need for these shortcomings to be urgently addressed, which would also enhance public trust in the electoral system."*²⁸

The European Commission could assist in overcoming the current political crisis, which was deepened when the affair broke out, in accordance with instruments and initiatives which were set out in its 'credible enlargement perspective for and enhanced EU engagement with the Western Balkans' communication from February 2018.²⁹ One of the instruments which the EC announced was the establishment of expert missions, which were intended to be based on the ad hoc mission of Reinhard Priebe to (what is now) North Macedonia.³⁰ The mandate of such a mission to Montenegro would include

25 "Opposition withdraws conclusions on the Envelope affair", Portal analitika, MINA, 21 February 2019., <https://www.mina.news/crnagora/opozicija-povukla-zakljucke-o-aferi-koverta/>, <https://portalanalitika.me/clanak/326749/opozicija-povukla-zakljucke-o-aferi-koverta>

26 "Former Podgorica Mayor: It was about 'conversion of money'", Politika, 12 January 2019, <http://www.politika.rs/sr/clanak/420114/Bivsi-gradonacelnik-Podgorice-Radi-se-o-konverziji-novca>

27 Montenegro country report 2019, European Commission, May 2019, p. 6, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-montenegro-report.pdf>

28 Isto, str. 8-9

29 "A Credible Enlargement Perspective for and Enhanced EU engagement with the Western Balkans", European Commission, February 2018, https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans_en.pdf

30 The mandate of this mission to Macedonia aimed "to carry out a rapid analysis of the situation and provide concrete recommendations on how to address the issues arising from the interception scandal". Further reading on: "The Former Yugoslav Republic of Macedonia: Recommendations of the Senior Experts' Group on systemic Rule of Law issues relating to the communications interception revealed in Spring 2015", June 2015, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/news_corner/news/news-files/20150619_recommendations_of_the_senior_experts_group.pdf Mission which is presided by Reinhard Priebe is currently analysing the state of the judiciary in Bosnia and Herzegovina

election irregularities, with a particular focus on the envelope affair.³¹

» The 'audio recordings affair' has fostered a sense of pessimism

Numerous problems regarding legitimacy and legality are present in the election process in Montenegro. The 'Snimak' (recordings) affair, in which the misuse of state resources and the election process were discussed at a DPS party meeting, offer a notable example. The affair never received a full judicial conclusion, though there were some final verdicts issued, albeit at a far lower scale than the seriousness of the recordings merited. Since 2013, the affair has been mentioned in the European Commission's country reports, including for this year. Despite this, there have been no further clarifications offered on what transpired.³²

CONCLUSION AND RECOMMENDATIONS



The envelope affair has yet to receive its epilogue, given the SPO still hasn't issued an indictment. The APC chose to keep its decision on the misdemeanour secret, the DPS has paid its fine, and the Montenegrin public has been left in a state of confusion and apathy as a result.

A credible, independent and efficient institutional response to the affair would entail cuts, investigations and results. Therefore, on a technical level, the APC should:

- » bolster communication with citizens, especially when it comes to informing the public about implemented activities regarding the numerous allegations of misuse and illegal donations that have

been made (i.e. through cooperation with other institutions in this field);

- » establish a credible corruption prevention system that involves administrative investigations and aids the initiation of cases involving the other state institutions, primarily the State Prosecutor's Office;
- » amend and improve the plan of measures which it has prepared as a response to criticism from the European Commission to help define activities which will lead to a more independent and proactive approach, given its recent activities have fallen short of this standard;
- » amend the bylaw on control of implementation of articles 24-34 of the law on financing political entities and election campaigns so that it can accurately prescribe control and supervision procedures;
- » use the possibility prescribed by law to appoint domestic and foreign experts who will help in developing a communication strategy (enhancing the quality of the agency's statements, website, and communication channels with citizens), work methodology, risk assessment and exercise of control;
- » improve the presentation of information on the agency's website, with an advanced search function for data, a full display of party expenses, the listing of expenses by category, and the inclusion of contracts, invoices and related documentation;
- » improve transparency by publishing all decisions related to cases on which it has reached a conclusion.

The public perception of the APC is that it lacks independence and is not proactive enough to perform its role effectively. The main reasons for this relate to the process for appointing its Director and Council, subsequent removals of individuals from the Council, recent events regarding newly appointed members, and several

³¹ Jovana Marović, Tena Prelec and Marko Kmezić "Strengthening the Rule of Law in the Western Balkans: Call for a Revolution against Particularism", BiEPAG, January 2019, <https://biepag.eu/wp-content/uploads/2019/01/Strengthening-the-Rule-of-Law.pdf>

³² Montenegro Progress Report 2013, European Commission, 16. October 2013, https://eeas.europa.eu/sites/eeas/files/montenegro_2013.pdf

controversial decisions it has issued. Ultimately, any attempt to build public confidence in the APC's work is unlikely to be successful without resolving the issue of who should manage the agency.

In this sense, one of the best examples of good practice is the procedure through which the State Commission for Corruption Prevention in North Macedonia was elected, which involved hearings for candidates in Parliament, the participation of members of civil society organisations, and a live transmission of the hearings on the Parliament's TV channel.

With these points considered, the SPO should:

- » proactively intervene to prevent, reveal and deter the committing of crimes contained in the election rights violations prescribed in Chapter XVI of the Criminal Code of Montenegro and related criminal offences;
- » identify potential risks to the regularity of the election process and establish a proactive practice of operative engagement.

The European Commission should:

- » Form an ad hoc mission with a mandate to examine electoral irregularities in Montenegro, especially in relation to the envelope affair, and to formulate obligatory recommendations which will lead to fair elections.

REFERENCES:



"A Credible Enlargement Perspective for and Enhanced EU engagement with the Western Balkans"; European Commission, February 2018, https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans_en.pdf

Administrative Court to investigate why ASK's rescript vs DPS is secret"; Institut alternativa, 25. March 2019, <https://institut-alternativa.org/upravni-sud-da-preispita-zasto-je-rjesenje-ask-protiv-dps-a-tajna/>

Ana Đurnić "Instead of reforms, status quo: Control of assets declaration and conflict of interest in Montenegro"; Institute Alternative, May 2018, <https://institut-alternativa.org/en/instead-of-reforms-status-quo-control-of-assets-declarations-and-conflict-of-interest-in-montenegro/>

"ASK controls whether DPS violated the law"; Antena M, 2. February 2019, <https://www.antenam.net/politika/109240-ask-kontrolise-da-li-je-dps-prekrsio-zakon>

"Balkan barometer 2019: Public opinion survey"; RCC, 3. July 2019, <https://www.rcc.int/pubs/89/balkan-barometer-2019-public-opinion-survey>

Citizens do not trust how institutions work"; CEMI, June 2018, <http://cemi.org.me/2018/06/gradani-nemaju-povjerenje-u-rad-drzavnih-organa-u-izbornom-procesu/>

Comment of the Director of the Agency for Corruption Prevention on the results of public opinion survey, ASK, 28. December 2019, <http://antikorupcija.me/me/novosti/1812281157-komentar-direktora-agencije-za-sprjecavanje-korupcije-rezultate-istrazivanja-javnog-mnjenja/>

„Court gave its verdict: Vukčević to be reappointed in the RTCG Council"; Antena M, 14. February 2018, <https://www.antenam.net/drustvo/69125-sud-donio-mjeru-vukcevic-da-se-vrati-u-savjet-rtcg;>

"Directorial positions for actors of "Envelope"; Dan, 5. March 2019, <https://www.dan.co.me/?nivo=3&rubrika=Politika&clanak=686376&datum=2019-03-05>

Decision of the Agency for Corruption Prevention from 26th January 2018, <http://www.antikorupcija.me/media/documents/odluka.pdf>

Documentary film "Envelope"; CIN, TV Vijesti, 26. May 2019., <https://www.youtube.com/watch?v=6u3v-qSYOim>

"First trial verdict of the Magistrate Court in Podgorica – Goran Đurović unlawfully removed from membership in the Council of the Radio Television of Montenegro". Action for Human Rights., March 2019, <https://www.hraction.org/2019/03/04/4-3-2019-prvostepena-odluka-osnovnog-suda-u-podgorici-goran-durovic-nezakonito-razrijesen-clanstva-u-savjetu-radio-televizije-crne-gore/>

"Former Podgorica Mayor: It was about "conversion of money"; Politika, 12. January 2019, <http://www.politika.rs/sr/clanak/420114/Bivsi-gradonacelnik-Podgorice-Radi-se-o-konverziji-novca>

Jovana Marović, Tena Prelec and Marko Kmezić " Strengthening the Rule of Law in the Western Balkans: Call for a Revolution against Particularism"; BiEPAG, January 2019, <https://biepag.eu/wp-content/uploads/2019/01/Strengthening-the-Rule-of-Law.pdf>

“Montenegro Country Report 2018: European Commission”, 17. April 2018, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-montenegro-report.pdf>

“Montenegro Country Report 2019: European Commission”, May 2019, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-montenegro-report.pdf>

Montenegro Progress Report 2013, European Commission, 16 October 2013, https://eeas.europa.eu/sites/eeas/files/montenegro_2013.pdf

“Report on conducted monitoring during election campaign for the Presidential elections in Montenegro and conducted control of financing of election campaign for the Presidential elections, held on 15th April 2018”, Agency for Corruption Prevention, June 2018, https://www.antikorupcija.me/media/documents/izvjestaj_DfnrRXw.pdf

“Report on conducted monitoring during the campaign for Parliamentary elections in Montenegro and local elections in municipalities Andrijevica, Budva, Gusinje and Kotor, and conducted control on financing of election campaign of political subjects held on 16th October 2016”, Agency for Corruption Prevention, https://www.antikorupcija.me/media/documents/izvjestaj_o_sprovedenom_nadzoru_u_toku_izborne_kampanje.pdf

Non-paper on the state of play regarding Chapters 23 and 24 for Montenegro”, European Commission, November 2018

“Opposition withdraws conclusions on the Envelope affair“, Portal analitika, MINA, 21 February 2019, <https://www.mina.news/crnagora/opozicija-povukla-zakljucke-o-aferi-koverta/>, <https://portalanalitika.me/clanak/326749/opozicija-povukla-zakljucke-o-aferi-koverta>

Public statement of the Agency for Prevention of Corruption, Published 23 January 2019, <https://www.antikorupcija.me/me/kontrola-politickih-subjekata-izbornih-kampanja/novosti/1901241240-saopstenje-za-javnost/>

Srdan Janković, “Atlas” case indicates the connection between business and politics”, Radio Free Europe, 18. January 2019, <https://www.slobodnaevropa.org/a/crna-gora-afera-koverta/29717925.html>

Srdan Janković “Secret fund key for Đukanović’s election wins?”, Radio Free Europe, 22. January 2019, <https://www.slobodnaevropa.org/a/29724615.html>

“Opinion survey of Montenegrin citizens on corruption”, Institut alternativa, December 2017., <http://media.institut-alternativa.org/2018/02/stavovi-gradjana-cg-o-korupciji.pdf>

“The Former Yugoslav Republic of Macedonia: Recommendations of the Senior Experts’ Group on systemic Rule of Law issues relating to the communications interception revealed in Spring 2015”, June 2015, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/news_corner/news/news-files/20150619_recommendations_of_the_senior_experts_group.pdf

Law on financing political entities and election campaigns, “Official Gazette of Montenegro”, no. 052/14 from 16.12.2014, 076/15 from 28.12.2015, 083/16 from 31. 12. 2016, 092/17 from 30. 12. 2017.

Law on Special State Prosecutor’s office, “Official Gazette of Montenegro”, no. 010/15 from 10.03.2015, 053/16 from 11. 08. 2016.

Law on Prevention of Corruption, “Official Gazette of Montenegro”, no. 053/14 od 19. 12. 2014, 042/17 from 30. 06. 2017.



About the authors:

Jovana Marović is Executive Director of the Politikon Network, a think tank based in Podgorica, Montenegro. She studied at the Faculty of Political Science in Belgrade where she received her doctorate. Between 2004–2016, Jovana worked as a Counsellor for the European Union in the Ministry of Foreign Affairs' multilateral department, Advisor for International Relations and European Integration within the Cabinet of the Budva Municipality's Mayor, Research Coordinator at the Institute Alternative (think tank) and Special Advisor to the Minister of Labour and Social Welfare. Jovana is a member of the Balkans in Europe Policy Advisory Group (BiEPAG). She is also a Member of the Working Group for Chapter 23, Judiciary and Fundamental Rights, within Montenegro's EU accession negotiations.

Boris Marić graduated from the Faculty of Law within the University of Montenegro. He has multi-decennial work experience in politics, public authorities and the civil sector. Furthermore, he was the Minister of Labour and Social Care in the Government of electoral trust, the main legal counsellor in the Centre for Civic Education (CGO), and a representative in the City Parliament of Podgorica. Boris is the Executive Director of the Centre for Civic Liberties (CEGAS).



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CRTA received the OSCE 2018 Democracy Defender Award for contribution to the promotion of democracy and the defense of human rights, as well as the international recognition for innovation, commitment and contribution to democracy through the W. Averell Harriman Democracy Award, awarded by the National Democratic Institute in 2013. CRTA also received the 2018 award of the Commissioner for Information of Public Importance for its strong contribution in the area of free access to information in Serbia.

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- 🌐 www.politikon.me
- ✉ info@politikon.me
- 📘 Politikon mreža
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