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PRINCIPLES ON SALE

In the eve of the long time announced vote on granting or denying the support to the mayor Mimir Mugosa, Centre for Civic Education (CCE) considers as very important clarification of this whole debate in which there were various references to the principles, but the essence comes down to a mere to trade with these.

There are many dimensions that remain unexplained, but worth recalling is the one that reveals a rather illustrative point of the current reality, regardless the interpretations of different actors.

Not so long time ago, the Constitutional Court rejected the initiative to review the constitutionality and legality of the Decision on city construction land passed by the Parliament of the Capital City in 2003 with amendments from April 2008. The Constitutional Court, in its reasoning, states that is not competent to decide on this initiative which has expired before the procedure on assessment of its constitutionality and legality started within this court. This would not be surprising if it weren't for the Constitutional Court's Decision that came after a year of waiting, just enough for the current mayor to adjust the Decision on city construction land disposal to the law!

In this way, the justice system is once again put as defense of Mugosa, because it is indicative that the actions of the Constitutional Court on the initiative of councilors waited so long. Also, the councilors requested, apart from the reviewing the constitutionality and legality of the Decision, that Court impose a temporary measure to stop the illegal execution of Mayor's individual decisions on the transfer of the urban construction sites from early 2007. Constitutional Court Act stipulates that the initiative must be investigated in a reasonable time by which they protect the public interest and that the decision must be done on emergency for a temporary measure. However, the Constitutional Court for reasons unknown to the public waited more than a year for the Capital to set aside the decision under attack. This created a situation which pre-determines the essence of the decision to protect the particular, not the public interest.

The public should receive a response from the Constitutional Court on the question how is it possible that the Decision, having a character of a planning document, regulates relations when it comes to disposal of property contrary to the law and which consequently leads to an unlawful practice in areas of vital importance for capital. **These decisions relates to practically illegally sold assets of the Capital City in 2007 amounting up to 18 720 000 EUR, in 2008 up to 22 864 000 EUR, and in 2009 year 14 000 000 EUR. In short, for those three years, the mayor Mugosa decided illegally on sale of assets worth 55 584 000 €!**

Beside the Constitutional Court protecting Mugosa, such acts are tolerated also by coalition partners who are trying to oust him now, and the opposition itself, with rare exceptions. Therefore, the value of the current discussion should be in clear identification of accountability of all actors.



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To remind, the Statute of the Capital City has clearly established that real estate of the Capital City is managed by the Parliament. The Parliament, in line with the prescribed procedure and in the manner envisaged by Statute, has the right to transfer rights of real estate (right to sale). The same Statute established the scope of rights that the Mayor is authorized exclusively, within the budget of allocated means, in terms of buying of property for the needs of the Capital City. This provision indicates, when it comes to the real estate, that the Mayor can't have more authority than defined by Statute, especially not those within the attacked Decision which stated: "The decision on the transfer of the urban construction sites is made by the Mayor," since this is exclusive right of the Parliament, established by the Law and the Statute.

That this was indeed an original interpretation of the law and Statute of the Capital City that constitutes a "new contribution" to the theory and practice in this area, contrary to the solutions in other municipalities in which the Parliament has the right of transfer rights of real estate (sale) in accordance with the law and its Statute. For all other units of local self-governments, which is a parallel practice of countries with developed democracy, the legislature protected one of the most important resources (such as urban construction sites), putting it within the jurisdiction of the representative bodies. In that way, transparency of work and deciding on issues of great importance for the rights of citizens and legal entities is ensured. **At the same time, it narrows the scope for corruption practices and disproportionate power of the individual, which was not the case in the Municipality of Podgorica, and we all see the consequences.**

Mugosa and those who have related interests in Podgorica have sufficient strength to trample these principles without sanctions. Only once they finish their jobs they change the decision and thus believe that they deleted all the previous irregularities. Unfortunately, in the Montenegrin society, that is still doable, especially with the consent of the political elite, as long as they all have portion of their own interest in it.

And finally, this raises the question of responsibility of the competent ministries, which did not provide uniform enforcement of laws at the state level as the basic requirement of legal certainty.

From the above elaborated, it is evident that this is a serious abuse of the rights and powers of the authorities of the Capital City, and especially the Mayor, whose actions resulted in the creation of uneven and inconsistent legal system in this area. Also, there are grounds for suspect on the damage inflicted on the public interest for the benefit of someone's personal interests with regard to nontransparent actions.

Regardless of what would eventually be the decision of the councilors on the fate of Mugosa, there is a clear need for the competent judicial and other authorities to begin to deal with him, but also with the work of other local decision makers, in a professional manner and without political influence. This would help the citizens to have a clearer picture to whom are the principles a motivating factor and to whom only personal interests.

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