



GOVERNMENT GRANTS THOSE WHO NEED
TO CONTROL IT, INVESTIGATE AND JUDGE

THEY HAVE A HOUSE, LET'S GRANT THEM AN APARTMENT



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COMMENT

**Brussels plan
as a stick**

BRUSSELS PLAN AS A STICK



Photo: Vijesti



By: Vladan Žugić

And what now? Brussels will once again express its condolences?

According to informal comments by people from the civil sector, after the ruling coalition ousted the RTCG Council and editorial team, after shooting - for the second time - on 'Vijesti' journalist **Olivera Lakić**, the decision and comments of the Agency for Prevention of Corruption and the Prosecutor's Office regarding the "Envelope", "Atlas" affair and some other cases.

In Montenegro, almost every democratic shift came after external pressure, with the last European Commission playing mainly the role of firefighter and guardian of stabilocracies in the Balkans and Montenegro.

With fragmented opposition, civil sector with limited possibilities and a government somewhat amnestied due to the alleged coup d'état and fear of Russian influence, the EU in Montenegro did not place any serious pressure on authorities and institutions to make efforts to move closer to the EU, as it was the case with a previous EC convocation.

The EU now has an unusual stick in Montenegro - *the Decision on establishing a Committee on comprehensive reform of electoral and other legislation*. In public, recognized as the *Brussels Plan*.

Members of the ruling majority in the Parliament of Montenegro adopted on the last day of July amendments to the original decision on electoral reform after negotiations with Democratic Montenegro, with strong involvement of EU Head of Delegation to Montenegro, **Aivo Orav**, and ambassadors of influential EU members states.

The Decision covers a significant part of the EU's demands on media freedom and the fight against corruption - strengthening trust in the electoral process, increasing transparency and

professionalism of the Agency for Prevention of Corruption and the State Election Commission, approving and proposing draft laws for the Media Law and the Law on National Public Broadcaster Radio-Television of Montenegro.

Politically speaking, the DPS could have accepted such a decision for two reasons - because of pressure from the EU and due to the expectation that there would be conflict within opposition, which turned out to be a good assessment so far, as well as from conviction that the decision would not be or will be adopted in the amended form, whereby the responsibility for this will be opposition's, both in the domestic public and in Brussels.

Democrats accepted to be promoters of the Brussels Plan because they had no alternative - amendments to electoral and other smaller-scale laws would probably be adopted by the DPS with the rest of the opposition, and then they would be in a position to boycott or vote according to rules agreed by the DPS and part of the opposition which they claim is cooperating with the DPS.

And now, Aivo Orav and the EC can hold the Brussels Plan as a stick - Democrats will get a slap on the wrist if they don't play it right because 'Europeans' certainly expect Democrats to return what they invested in them, while the DPS and the ruling coalition already have the yellow card when it comes to progress on the road to the EU in the form of a decision not to open the last unopened chapter - Competition, at the last June Council of Ministers session.

It would be a big deal if Montenegro did not open this chapter or close any of them by the end of the year, and that would certainly be influenced by the adoption / non-adoption of the Brussels Plan.

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Ask a citizen of Germany, Denmark, or any old EU member state whether there are being granted apartments or loans under favorable conditions for resolving housing issue by government or government's commission for MP, judge or prosecutor who needs to control the work of the executive branch or to be the judge to an official of that Government.

You are likely to get involved in long explanations as this will not be clear to him/her.

It is likely that the European Commission (EC) will also be interested in hearing all the explanations and decisions of the Montenegrin institutions on the "housing corruption" in Montenegro.

The Government of Montenegro has published a list of 96 public officials who, by the decision of the Government Housing Commission, have been granted apartments or loans under favorable conditions during the term of office of Prime Minister **Duško Marković**. The previous Governments also cultivated the same or similar practices, but they never published the lists, although they did occasionally release the names of the awardees.

This time, in addition to raising the issue of the constitutionality of legal acts granting apartments and loans, the analysis of the property status of certain officials indicated that some of them had housing issue resolved before the Government's assistance or that they had already received assistance from the Government in previous years on the same basis, so there is also the question of the legality of the decisions of the Government Commission.

In early June, the NGO Institute Alternative submitted to the Constitutional Court an initiative to review the constitutionality of regulations leading to the allocation of

apartments and loans to public officials. It is disputable for them that the by-laws governing these issues exist on the basis of the resolutions in the Law on maintenance of residential buildings. According to them, the disputed provisions are unconstitutionally 'placed' into this Law and thus represent an unconstitutional basis for making the disputed decisions.

After the Institute Alternative, the same proposal was submitted to the Constitutional Court by the MPs of Democratic Montenegro, which in accordance with the Law on the Constitutional Court should speed up the procedure. Several Constitutional Court judges are in sort of conflict of interest, since they are also beneficiaries of the rights conferred on them by the impugned Law. What makes even more apparent the negative effects of government gifts to judges. 'Unfortunately, we have no other Constitutional Court and judges, so



Photo: B. Ćupić



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Photo: Vjessli



the latter will have to judge and show whether it is committed to the Constitution or to the Government', says to *European Pulse* **Stevo Muk**, Chairman of the Managing Board of the Institute Alternative.

Asked if resolving this case would be a measure of the maturity and readiness of institutions to effectively combat corruption and abuse of authority, Muk said that institutions are run by the people, and that heads of all institutions charged with combating corruption are actors in this corrupt scheme, one way or another, directly or indirectly, as donors or recipients of gifts.

'That's why I expect silence, passivity and obstruction rather than action, efficiency and application of rule of law', emphasizes Muk.

He does not expect concrete moves from the Agency for Prevention of Corruption (APC), managed by **Sreten Radonjić**, who himself received a loan from the Government in the amount of 40 thousand euros, and who did not declare it in his property file, because, as he stated, he still 'did not realize it'.

'Experience teaches us that we do not expect anything good from the Agency. The Agency's director and his loan of 40,000 euros



What is written in the Government's decision and how much is it respected?

Numerous examples of high-ranking officials have emerged from the public, which, as stemming from the rules of the Government's Decision regulating this issue, are not entitled to address the housing need, while they and their spouses have high monthly incomes of several thousand euros each.

Namely, the contested Decision on the Manner and Criteria for Addressing the Housing Needs of Officials stipulates that 'an official has the right to address a housing need, as long as s/he or a member of his/her family household: does not have an apartment, i.e., a family residential building owned, co-owned or jointly owned; has an apartment, i.e., a family residential building owned, co-owned or jointly owned, of an inappropriate size.'

In addition, the Decision also stipulates that 'an official who does not have an apartment in the place of work within the meaning of this Decision may, by replacing an apartment or family apartment building which s/he or a member of his/her family household acquired outside the place of work by solving a housing need in accordance with a Government regulation, i.e., the competent body of the local self-government unit, can solve the housing need, as long as that apartment or family apartment building, by the real estate exchange contract, is transferred to the housing stock of Montenegro, or made available to the Commission.'

Supreme Court President **Vesna Medenica**, who was receiving three and a half thousand euros per month last year, in December received 40,000 euros of loan from the Government Commission, and this is the third time the state has addressed her housing needs - previously receiving an apartment that she later gave to her daughter, as well as another loan for housing.

Director of National Parks **Elvir Klica** received a favorable housing loan of 40 thousand euros, although he owns two houses, three offices and four cars. He told the media that he has nothing in Podgorica and that he pays the rent of apartment.

The same amounts were allocated e.g. to the presidents of the Administrative and Commercial Court, **Branka Lakocević** and **Blažo Jovanić**, while their monthly installment is only 40 euros. Lakocević has an 87-square-meter apartment, and her husband has a 103-square meters apartment unit, while he co-owns four more apartments. Jovanić family, on the other hand, have an apartment of 118 square meters.

Secretary General of the Government **Nataša Pešić** has twice received assistance from the Government Commission. Seven years ago, an apartment of 65 square meters, and recently a housing loan of 30 thousand euros.

Head of Cabinet of Prime Minister Office, **Dragoljub Bulatović** received a housing loan of 20,000 euros from the Government, and less than a year later his wife, Secretary in the Ministry of Sport, **Tatjana Bulatović**, received 35,000 euros. Their monthly installments are 35 euros each. Before obtaining the loan, they had a house of 128 and an apartment of 42 square meters.

Special prosecutors **Saša Čađenović**, **Lidija Vukčević** and **Mira Samardžić** also received apartments and loans under favorable conditions, as well as prosecutors in the Supreme State Prosecutor's Office, **Veselin Vučković**, **Sonja Bošković** and **Dražen Burić**, and prosecutor in the Higher Prosecution **Miloš Šoškić**.

Assistance from the Government, during mandate of Duško Marković, was given to the president of Constitutional Court, **Dragoljub Drašković** and judge **Mevlida Muratović**. Drašković got a 109-square-meter apartment in Podgorica, although he has a 110-square-foot house in Nikšić and a 52-square-meter apartment.

According to the disputed decision, the state covers up to 80 percent of the value of the loan or apartment, so that public officials repay a loan of 40 thousand euros for resolving a housing issue in installments of about 40 euros.

represent is a textbook example of misuse of public money. Still, the director of APC considers that everything is legal, well deserved and justified. Hence, it is not realistic to expect the director to make decisions that others have violated the law, when he is himself the actor of this corrupt scheme,' assesses Muk.

In addition to the executive officials, the list also includes judges and prosecutors, which raised the issue of indirect influence on their work and limiting them from effective combat of crime and corruption in state and related structures, but also MPs who would have to supervise the work of Government and its bodies.

Judges, prosecutors and members of the ruling parties are considered to be the part of one system, and they consider this to be an acceptable practice. They do not see any substantial conflict of interest because they see themselves as authorities and not as controllers of Government,' explains Muk.

Muk states that it is particularly important to consider whether there are legal options to challenge individual decisions, in relation to those officials who were granted but were not eligible, but also to determine the responsibility of members of the Housing Commission.

'Unfortunately, the public still does not have access to the decisions of the Commission, the requests made by officials to the Commission, which makes it impossible to conduct such proceedings. Even if we have access and evidence, the so-called active legitimation for conducting the proceedings is disputable, and the deadlines in most cases have expired. In a better world, the prosecution would have already opened appropriate procedures, but it is obvious that this Prosecution does not have professional enthusiasm to effectively determine whether there is criminal liability in individual cases,' Muk elaborates.

Earlier, Prime Minister Marković said that he did not consider housing to be a privilege, but an employee's need, as well as that it was not a question of allocating free apartments without grounds, without rules and regulations, but on the basis of the Decision according to which civil servants, not just officials, have the option of privileges when resolving housing issue.

Therefore, Muk does not expect the Government to review certain Commission decisions, confirmed in its conclusions.

'It is also hard to believe that this Government, whose president has

Decision making dynamics in the Constitutional Court depends on who the case is allocated, there is no confiscation of apartments regardless the decision made

The Constitutional Court did not answer our question whether it would consider this case as a matter of priority.

Their Rules of Procedure stipulate that they will decide by jumping the line only if the applicant for a constitutional review initiative submits a priority proposal consideration and then the rapporteur judge to whom the case was assigned submits it to the court session.

The Rules of Procedure prescribes six grounds on which a case can be considered as priority. This case can be only based on one ground: 'other cases decided by the Constitutional Court'.

If the Constitutional Court declares unconstitutional the regulation on the allocation of apartments and loans under favorable conditions, it will not affect the procedures completed so far, since its decisions are valid only for the future, i.e., from their publication in the Official Gazette of Montenegro.

claimed at least twice that this is a successful policy, could recognize political responsibility for obvious housing corruption. However, what we expect is to stop this policy and practice, to abolish the provisions of the Law which allowed this, to abolish the Government's accompanying decisions and to dissolve the Government Housing Commission,' concluded Stevo Muk.

The Government did not answer the question of whether it would review the decisions of the Housing Commission so far, or whether it would determine if there had been any abuse in the allocation of apartments and loans.

Neither did the Supreme State Prosecutor's Office respond whether they were examining or whether they would examine if the criminal offense ex officio had occurred during the allocation of apartments and loans.



FREEDOM OF MOVEMENT FOR WORKERS - **MAYBE WE CAN DO IT LIKE MALTA**



Photo: RTCG



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Freedom of movement for workers, as one of the fundamental principles of the EU, includes: access to the labor market, EURES, coordination of the social security system and a European Health Insurance Card. The negotiations in this chapter opened in Brussels on 11 December 2017.

To temporarily close the chapter, the EU has set one final benchmark, as follows: 'Montenegro needs to demonstrate appropriate administrative structures and capacities for the proper enforcement of the acquis in the area of freedom of movement for workers until accession to the EU'. In March 2019, the Government adopted an Action Plan for the period 2020-2022, whose implementation will lead Montenegro to establishment of capacities for proper and efficient implementation of the acquis in this field.

Access to the labor market

All EU countries face the challenges of access to the labor market. That is why it is necessary to put in place timely all the mechanisms to prevent the negative consequences and the labor market to function smoothly after joining the EU. In this part, transitional arrangements are most often introduced to avoid labor drop off. Their aim is to protect the labor market, not only the one from the EU member states, but also the accession states. However, despite all the measures, population migration cannot be stopped, and statistics indicate that about 1% of the population migrates after joining.

By joining the EU, Malta, for example, had the opportunity to continue its work permit policy for EU nationals, while the transitional arrangements did not apply to Malta nationals. This



might be applicable to Montenegro, but it will be negotiated when the obligations necessary to close this chapter are fulfilled.

In coordination with competent institutions, the Ministry of Labor prepares legal and administrative solutions to fulfill obligations in this field.

EURES

EURES is a network of EU employment services that facilitates freedom of movement for workers within EEA countries. Its purpose is to provide information, counseling and services, as well as mediation for all interested persons seeking employment in the EU.

Towards joining EURES, in March 2018, we prepared an Analysis of the current state of information infrastructure at the Employment Service Bureau, with the aim of assessing the necessary adaptation of the system, while the planned activities from IPA 2020 are estimated at around EUR 3 million for strengthening administrative capacity and equipping the Employment Service Bureau with necessary hardware and software equipment.

Coordination of social security systems

The social security system applies the principle of compulsory insurance in the country where the employment relationship for pension and disability insurance, health insurance and unemployment insurance take place.

In order to support the fulfillment of commitments in this area, the project 'Towards EU rules on the coordination of social security systems' was recently completed, within which an Analytical and Financial Study on the Impact of the Free Movement of Workers between Montenegro and EU Member States on the Montenegrin Administrative and Social security system were prepared and administrative capacity was strengthened.

European Health Insurance Card

By joining the EU, health insurance is provided through the European Health Insurance Card. It enables insured persons to obtain health care during their temporary stay in the territory of another EU Member State in cases where it cannot be postponed until the planned return to the country of origin (in the case of sudden illness, injury or accident).

Over the past period, we have prepared a Feasibility Study for the introduction of a European Health Insurance Card' and received information on the fiscal impact of the introduction of this card on the budget of Montenegro. In the coming period, we expect further strengthening of the capacities and education of the staff of the Health Insurance Fund under whose responsibility these jobs should be.

All the activities we have implemented, as well as those in which a large number of civil servants from all relevant institutions are working, gradually lead to fulfilling the obligations from the final benchmark and creating conditions for the temporary closure of this Chapter.



Photo: Private archive



By: **Jakov Milatović**

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GOOD GOVERNANCE - FOUNDATION FOR A NEW ECONOMIC MODEL



Illustration: freepik.com

I work as an economist at the European Bank for Reconstruction and Development (EBRD) based in London, where my job involves analyzing economic and structural reforms, as well as working on their design and implementation. Prior to joining the EBRD, and shortly after completing my master's degree at Oxford, I worked at Deutsche Bank in Frankfurt, in the risk analysis team in developing countries. Living and working in the UK and Germany helped me see what I already knew - the importance of good governance on the

economic development of the country and the quality of life of the individual. These two countries have different models of capitalism, British is free-market capitalism, and German is social-market one. However, a common denominator for both is good governance, as the foundation of any form of market economy.

Good governance refers to the quality of institutions and processes within society. Despite some positive steps taken in recent years, it can surely be said that Montenegro still

suffers from a deficit of good governance. According to the often-cited World Bank Worldwide Governance Indicators, Montenegro is lagging behind all EU member states. Under good governance, the World Bank entails six qualities: rule of law, freedom from corruption, government efficiency, political stability, independent regulatory environment and freedom of expression. The deficit of good governance in Montenegro is also confirmed by the EBRD's indicator, which measures the country's progress in the area of economic transition from a planned economy to a market economy.

Why is good governance important? It is a crucial factor needed for sustainable economic growth. First of all - good governance increases the volume and return on investment in physical capital. The rule of law - according to which all members of society (including those in the governing structure) are considered equally subject to publicly available legal codes (*Oxford dictionary definition*) - is a prerequisite for creating contractual relations among members of society - and this is a precondition for investment. Also, a system based on good governance minimizes unproductive expenditures for corruption while increases return on investment. Larger and more productive investments mean greater economic growth, and consequently higher employment, wages and budgetary revenues needed to finance public goods - such as better education, health care, roads ... - ultimately improving the quality of life.

In addition to the 'income' effect on quality of life explained above, good governance also directly influences individuals' satisfaction with life, and above all, by enhancing the "sense of justice" in society. This is closely linked to the existence of equality of opportunities amongst individuals in society, which, unfortunately, is perceived to be at low level in Montenegro today. For example, according to a study conducted by the EBRD jointly with the World Bank, more than 25 percent of the Montenegrin population believe that political connections are the most important factor for success in life, far more important than the effort or skills invested. By comparison, in Germany only 3 percent of the population thinks the same.

Good governance, through both of the above mechanisms, income and sense of justice, greatly reduces the likelihood of people emigrating, which has positive effect on the maintenance of human capital in the country; this ultimately enhances economic development. Also, system based on good governance - values the freedom of expression (and

thus the diversity of opinion), and optimally allocates jobs to those who most deserve them in relation to their educational and work qualities. In this way, good governance also means smarter management.

The best rated category of good governance in Montenegro is the quality of the regulatory environment. This is at the same time the category that has made the most progress since 2006, since Montenegro's ranking on the international list of good governance began. The EU accession process, i.e. the membership negotiation process (opened in 2012) is the most responsible for improving the regulatory environment by aligning national legislation with that of the EU. This is the best example that the EU accession process is actually mechanism for promoting good governance. Freedom from corruption and rule of law are the least-rated links in the governance system in Montenegro, and therefore the pace of EU membership negotiations depends most on progress in these two areas.

In addition to the dynamics of EU accession, it is even more important that insufficient governance is a key bottleneck in the further path of economic development and improvement of the quality of life in Montenegro. As economies evolve, the need for good governance becomes larger, or in other words the deficit of good governance becomes more problematic. The standard of living in Montenegro is half the EU average and counts for only one quarter compared to the richest countries in Western Europe, such as Germany and England. The 2018 EBRD study (*The Western Balkans in Transition: Diagnosing Constraints on the Path to a Sustainable Market Economy*), in which drafting I participated, indicates that it takes decades for Montenegro to reach only an average standard of living in the EU.

However, that study also indicates that in the case of intensifying structural reforms, which entail the creation of an adequate institutional framework for economic activity within a market economy, most importantly those in the area of good governance, the European standard of living can be reached much earlier. Some researches in this area speak of the so-called good governance dividends at about 1.5 percent of additional annual economic growth. In this context - it is important for Montenegro to more strongly embrace the EU accession process as an additional wind in the back to close its deficit of good governance, all with the aim of achieving a better quality of life for its citizens more quickly.

Note: The views expressed here are those of the author and not necessarily of the EBRD.

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