

# PAR Principles Mainstreaming in Sectoral Policies - Report for Montenegro

*PAR AREA: PUBLIC SERVICE AND HUMAN RESOURCE  
MANAGEMENT*

*POLICY SECTOR: EDUCATION*

*INSTITUTION: CENTRE FOR CIVIC EDUCATION (CCE/CGO)*

Authors: Snežana Kaluđerović, Milica Zindović  
PODGORICA, JULY 2022

## Contents

Report summary .....	2
I. Introduction.....	4
I.1 What does WeBER monitor and how?.....	4
I.2 In this report .....	<b>Error! Bookmark not defined.</b>
II. Analysis.....	5
Requirement 1: Information about public competitions is made broadly publicly available .....	7
Requirement 2: Potential candidates have sufficient time to submit applications in the public competition process .....	7
Requirement 3: Selection committees' composition is professional and impartial.....	8
Requirement 4: Transparency of selection committees' outcomes is ensured.....	9
Requirement 5: The best-ranked candidates get the job in practice .....	9
Requirement 6: Reasons for annulling public competition procedures are publicly available.....	11
Final assessment of the requirements .....	11
III. Recommendations for improvements.....	12
Appendices.....	14
Free access to information requests .....	14
Interviews.....	15
Other sources.....	15



*This document has been produced with the financial support of the European Union. The responsibility for content and information in this publication rests solely with the Institute Alternative, Centre for Civic Education, and the Think for Europe Network. Opinions expressed in this publication do not necessarily represent those of the European Union. For more information, please visit: [www.par-monitor.org](http://www.par-monitor.org).*



## Report summary

Employment in public institutions in Montenegro is regulated by the Labour Law<sup>1</sup>, the Law on Civil Servants<sup>2</sup>, and other special laws, depending on the sector in which the employment is performed.

The subject of this analysis is the legal framework and the manner of employment, i.e. the election of directors of public institutions in the field of education and upbringing. Criteria for hiring directors and teachers, in addition to the Labour Law, are regulated by the General Law on Education and Upbringing<sup>3</sup>. Amendments to the General Law on Education and Upbringing from June 2021 served as a basis for the controversial dismissal of directors in over 200 public educational institutions and opened space for the election and employment of new directors. As this was preceded by a change of the decades-long government in Montenegro, the intention of the then Minister of Education<sup>4</sup> to dismiss directors of public educational institutions was noticeable and it happened only because they were appointed by the previous government and without any individual assessment of their work<sup>5</sup>, which caused the initiation of over 157<sup>6</sup> judicial proceedings by the dismissed directors, who appreciated that they were the injured party<sup>7</sup>. This was followed by a number of first-instance<sup>8</sup> court decisions in favor of the injured parties<sup>9</sup>, with the tendency that, in accordance with the established judicial practice, all disputes of the injured parties, resulting from the illegal and non-transparent process of dismissal, will end in their favor. For this reason, the Social Democratic Party (SDP), at the end of 2021, submitted to the then President of the Parliament of Montenegro, Aleksa Bečić, an interpellation for investigating the Government's policy in the field of education, with the explanation, among other things, that "*the dismissal of hundreds of directors is political revenge and revanchism*"<sup>10</sup>. Therefore, 45 MPs of the Parliament of Montenegro voted for the

---

<sup>1</sup> Labor Law, "Official Gazette of Montenegro", no. 074/19, 008/21, 059/21, 068/21, 145/21

<sup>2</sup> Law on Civil Servants and Employees, "Official Gazette of the Republic of Montenegro", no. 2/2018, 34/2019 and 8/2021

<sup>3</sup> General Law on Education and Upbringing, "Official Gazette of the Republic of Montenegro", no. 064/02, 031/05, 049/07, "Official Gazette of Montenegro", no. 004/08, 021/09, 045/10, 073/10, 040/11, 045/11, 036/13, 039/13, 044/13, 047/17, 059/21, 076/21, 146/ 21 of 31.12.2021)

<sup>4</sup> Vesna Bratić, Minister of Education, Science, Culture and Sports in the 42nd Government of Montenegro

<sup>5</sup> <https://cgo-cce.org/en/2021/07/17/instead-of-enacting-the-needed-reform-educational-institutions-remain-prey-to-the-authorities/>

<sup>6</sup> Parliamentary question No. 1 of MP Božena Jelušić addressed to Minister of the 42nd Government, Vesna Bratić, at the 4th special sitting of the second regular session of the Parliament of Montenegro from November 30, 2021: "*How many claims have there been so far in all areas covered by your department following dismissal from managerial and leadership positions?*" Bratić's answer: "*The Ministry of Education, Science, Culture and Sports, through the Protector of Property and Legal Interests, received 157 claims by November 24, 2021, from dismissed directors of public educational institutions in Montenegro, to which, in all 157 cases, Ministry submitted its statement to the competent courts, through the Protector of Property and Legal Interests, with the proposal that the claims should be rejected as unfounded*". In addition, parliamentary question No. 2 of Aleksandra Vuković: "*Which criteria did you use when electing heads of educational institutions?*" Bratić's answer: "*When choosing the acting directors of educational institutions, we were guided only by meritocratic principles, and that position of the Ministry of Public Affairs was known from before. Of course, it is possible that, at the same time, there were solutions that could have been better balanced, but acting status lasts for six months, which leaves us enough space to closely monitor the results of each individual candidate, so that, through the election and appointment of the director, we can come up with the best appropriate solutions after the competition that will be announced. The fact that in these, almost 20 days since the appointment of the acting directors, we have not heard from the on-duty critics of the work of the Ministry and Minister Bratić that any appointment is acceptable to them, not even the one where the directors were the persons who performed that function until now, perhaps it best speaks in favor of the fact that in this short time since the beginning of the implementation of the General Law on Education and Upbringing, a good job has been done, which we believe, time will confirm.*"

<sup>7</sup> <https://www.cdm.me/drustvo/jedan-direktor-vec-dobio-spor-odstetu-placaju-gradani/>

<sup>8</sup> For instance, the verdict of the Basic Court of Rožaje, marked P no. 96/22, by which the claim of the dismissed director I.S. was granted, in order to annul the decision of the Ministry of Education, Science, Culture and Sports as illegal, because the court did not find that there was a violation of the director's work obligations nor that violation happened in the previous procedure by the supervisory inspection.

<sup>9</sup> <https://portalluca.me/drustvo/zastitnica-imovinsko-pravnih-interesa-crne-gore-bojana-cirovic-vise-od-100-smijenjenih-rukovodilaca-tuzilo-drzavu/>

<sup>10</sup> "*Minister Vesna Bratić, as the public had the opportunity to become familiar with, gave explanations for the dismissal of the directors contrary to the law, citing reasons for which they are not accountable, but the Ministry itself, thus confirming the intention to carry out classic political revanchism, which is even in contradiction with the Agreement signed at the beginning of September 2020 by the list holders of the ruling coalition. The dismissal of hundreds of directors is a political revenge and revanchism because it is impossible that all of them worked illegally and abused their position for political or other purposes*"... she guaranteed the entire public that appointments will not have anything to do with "party booklets"

interpellation to investigate the Government's policy in the field of education, and 24 MPs were against it, which means that the majority of MPs voted for the dismissal of Minister Bratić, but the Prime Minister ignored the opinion of the majority.

The General Law on Education and Upbringing should provide for independent and impartial treatment during the election of directors of public educational institutions. However, in practice, there are many cases in which the spirit of this Law is not respected. The legal provision<sup>11</sup> by which the Minister of Education elects and dismisses directors of public educational institutions in practice makes this procedure discretionary and lacking transparency. However, no matter how much it has been criticized, such a legal solution and a powerful mechanism of party and party-tied influence, despite all the changes, is not renounced by any government. There are over 14,000 employees<sup>12</sup> in the public institutions of education and upbringing, and it seems clear that it does not suit any governing structure to employ heads of educational institutions impartially and fairly, with frequent criticism directed at ministers regarding the manner of employment.

The Centre for Civic Education (CCE), following this topic, and from the documentation at its disposal, concluded that the acting directors of most public institutions were appointed on 12 July 2021, without the previously conducted public competition in most public institutions in Montenegro, for the period of six months. In most public institutions whose directors are elected by the Minister of Education, advertisements were announced after the appointment of acting directors, i.e. in November and December 2021, in order to hold elections following the competitions after the expiration of the six-month terms of office<sup>13</sup> of the acting directors and to make decisions on either election of the candidate or a decision not to elect them. In some of the available decisions<sup>14</sup>, by which an election was not done, and which were made in 2021 by Minister Bratić, there are contradictions but also questionable legal grounds.

---

*and that the necessary changes will take place on the basis of clear and measurable criteria, which was not the case",* extract from the request for interpellation - <https://www.vijesti.me/vijesti/politika/558143/sdp-podnio-interpelaciju-bratic-smijeniti-u-najkracem-roku>

<sup>11</sup> Article 80 paragraph 6 of the General Law on Education and Upbringing, "Official Gazette of the Republic of Montenegro", no. 064/02, 031/05, 049/07, "Official Gazette of Montenegro", no. 004/08, 021/09, 045/10, 073/10, 040/11, 045/11, 036/13, 039/13, 044/13, 047/17, 059/21, 076/21, 146/21

<sup>12</sup> From the comments of the former Minister of Education in the 41st Government of Montenegro, **Damir Šehović**, who stated in March 2021: "It is not about an increased number of employees, but about a legal procedure according to which, out of a total of about 14 thousand employees in education, about 2.5 thousand who are engaged for a certain period of time, and whose employment contract expires on June 30 every year, are rehired from September, when the school year begins. Of course, according to the procedure defined by the General Law on Education," explained Šehović. - <https://www.vijesti.me/vijesti/politika/524205/sehovic-netacan-podatak-o-broju-zaposlenih-u-prosvjeti>

On the other hand, the Minister of Education of the 43rd Government, **Miomir Vojinović**, states that the number of employees is between 12,613 being active in the work process and 15,914 in all public institutions of education and upbringing,, including those who are engaged on a part-time basis on all grounds, and are not active in the work process - <https://www.cdm.me/drustvo/vojinovic-sreduje-se-stanje-razrijesili-smo-nekoliko-v-direktora-skola/>

<sup>13</sup> Article 81 paragraph 1 of the General Law on Education and Upbringing stipulates that if the director of a public institution ceases to serve at his personal request, by dismissal or by force of law, and the director is not elected by the public competition, the minister appoints an acting director for a period of up to six months.

<sup>14</sup> Elementary school "Hajro Šahmanović" from Plav submitted the Decision of the Ministry of Education, Science, Culture and Sports no. 10101-601/21-1460/7 of April 12, 2021, which determined that the director of that public institution will not be elected according to the competition published on 3 February 2022., to which four candidates applied. In the decision, it was stated that the candidates met the general requirements prescribed by Article 78 paragraph 2 of the General Law on Education and Upbringing, and that the development programmes of the institution that they submitted did not contain any criteria that, in the opinion of the Ministry, were necessary for the candidates to be elected, i.e. that it was necessary to "prepare a better designed and precise programme that would be the basis for further development".

Elementary school "Marko Nukulović" Štoj, Ulcinj submitted the Decision of the Ministry of Education, Science, Culture and Sports no. 10101-601/21-1140/6 of 2 September 2021, which determined that the director of that public institution was not elected according to the competition published on 21 January 2021. That decision contains contradictory views in its explanation. It is stated that all six candidates who applied for the competition met the general conditions of the Labor Law and the special conditions prescribed by Article 78 paragraph 2 of the General Law on Education and Upbringing. Then there are the individual reasons why the candidates were not elected, and the same relate to the fact that they did not meet the special requirements from Article 78 paragraph 2 of the General Law on Education and Upbringing in the part that the candidates

Moreover, it is nowhere prescribed how many times a person can be extended the status of acting director, but it is only stated that the minister appoints the acting director for a maximum period of six months.

The findings indicate that public educational institutions were transparent when announcing public competitions for directors, and in that part, the legal procedures were followed. However, this transparency of the process of appointing directors ends when public institutions send applications to the Ministry<sup>15</sup> with accompanying documentation, i.e. when the Ministry takes over part of the obligations from its competence.

The work of the three-member Committee<sup>16</sup>, appointed by the Minister, for conducting oral interviews and reviewing the attached development programmes of the institution for the election of the director of the public institution, is not transparent, because there are no publicly available guidelines/rules on its work, nor there are any available reports or information on its composition. However, the CCE, through certain available materials submitted by public institutions following the request for free access to information, determined that the members of the Committee changed in 2021<sup>17</sup>. References of its members and reports/recommendations submitted to the minister in 2021 are not available.

The existence of the Minister's discretionary decision to appoint and dismiss directors makes the transparent procedures and the purpose of the three-member Committee meaningless, while the teachers' council and other existing resources on hiring and electing directors are simply wasted, often violating the law by the competent minister.

## I. Introduction

### I.1 What does WeBER monitor and how?

The monitoring in Public Service and Human Resource Management (PSHRM) area, is performed against SIGMA Principle 3.

*Principle 3: Recruitment of public servants is based on merit and equal treatment in all its phases.*

PSHRM checklist consists of 6 requirements that pertain to the key elements of the recruitment process based on public competition for civil service jobs. It starts with monitoring practices of assessed institution in advertising vacancies for filling in civil service positions, and whether all potential candidates are given reasonable amount of time to apply. Composition of selection committees is monitored by assessing whether every committee member meets standards of professionalism and impartiality. When it comes to selection committees' decisions, it is assessed whether they are transparent, detailing performance

---

did not meet the professional qualifications required by law or did not submit work licenses or a proof of work experience in teaching prescribed by law, as well as untimely submission of applications.

<sup>15</sup> Article 80 paragraph 8 of the General Law on Education and Upbringing stipulates that the public institution submits complete documentation to the minister within seven days of the end of the competition.

<sup>16</sup> Article 80 paragraph 7 of the General Law on Education stipulates that in the process of electing the director of a public institution, the minister forms a three-member Committee that conducts an oral interview with candidates who meet the prescribed conditions and reviews the attached development programmes of the institution and submits a report to the minister.

<sup>17</sup> From certain decisions of Minister Vesna Bratić, not to elect candidates by competition, it can be seen that Miroslav Anđelić, Mira Radović, Vladimir Lončar, Branka Kankaraš participated in the composition of the three-member Committee on 29 March 2021. Additionally, by changing the management in the managerial positions in the Ministries, in addition to those mentioned in 2021, the members of this Committee were Marija Lalatović (primary education), Slavica Ilinčić (secondary education), Neda Ojdanić (tertiary level of education), Milica Kadović (state secretary), Dejan Dašić (general director of the Directorate for normative-legal affairs, personnel and general affairs).

information for all eligible candidates who participated in the recruitment process. Finally, monitoring focuses on the final outcomes of all analysed recruitments based on public competition, meaning if the best-ranked candidates are getting the job in practice, and in case of annulled recruitments procedures, if reasons behind annulments are made publicly available.

For data collection, approach to this checklist relies on review of website of assessed institution, centralized portal for all recruitments in the public administration (if applicable), website of national employment agencies, social media accounts of assessed institution, but also on filing of requests for free access to information for all documents that are not available online. Timeframe of analysis covers recruitment practices based on public competitions for last calendar year (or previous year if there were no public competition announcements during the last calendar year).

## II. Analysis

[This section is the **main part of the report - narrative, detailed analysis for each requirement, divided in sub-sections based on the requirements of the selected checklist**. The titles of sub-sections correspond to the formulations of requirements (provided below this instruction). The analysis should elaborate in detail on the findings that stem from analysing the checklist requirements and should include good practices, worrisome trends and similar, and should be translated into qualitative analysis focusing on the essence of each requirement. The final assessment (whether requirements are fully, partially, or not met at all) should come only at the end of the section II (as provided in the table below - *Final assessment of the requirements*). Review of relevant legislative provisions, where needed or mandatory, should be presented as part of the flow of analysis, and no separate sub-sections/headings should be used for legal/institutional review. In this section, if applicable, authors can also refer to other external sources useful for complementing the analysis, but overall, it should primarily rely on monitoring results. There are no limitations in terms of the length of section II. However, the analysis should be sufficiently detailed and respond to all requirements contained in the instructions in the checklist.]

Preschool public institutions in Montenegro, of which there is a total of 18, during 2021 were mostly in the acting term of office, except in two<sup>18</sup> cases where there was no dismissal in 2021, but the term of office of the director was running from before. According to the data submitted by these institutions to the CCE, which are the acts of appointing the heads of institutions, it was determined that the majority of them received decisions on the appointment of acting directors issued on 12 July 2021. After the expiration of that six-month term, on 13 January 2022, the Minister made appointments to the second acting mandate of half a year, instead of electing directors based on competitions from October, November and December 2021. Two or more candidates mostly applied for these competitions, so the Minister was by law obliged to elect directors for a full term and not to appoint acting directors again.

---

<sup>18</sup> There were no dismissals in two PIs in 2021 - PI Kindergarten "Vukosava Ivanović-Mašanović" Bar and PI "Radost" Kotor

In two educational<sup>19</sup> and two resource centers<sup>20</sup>, as well as in the five dormitories of pupils and students<sup>21</sup>, by the end of 2021, the institutions were in an acting state, and that state in some institutions, according to the received information, also lasted illegally for more than six months. According to the CCE data obtained from these institutions, some decisions on the appointment of directors for a term of four years after the competition from October, November or December 2021 were made only in March or April 2022, while some awaited the new 43rd Government in the acting state and the appointment by the new Minister of Education.

Out of 169 public primary education institutions, in 11<sup>22</sup> elementary schools, there was no dismissal of principals in 2021. Decisions on full-term appointments in 2021 were made in seven<sup>23</sup> institutions, while in other primary education institutions in 2021 acting directors were appointed to the position of director. In these educational institutions, too, they waited for the appointment of a full-term director for an unreasonably long time, even though several candidates applied for the public competition from November 2021 in almost every institution, and the minister, as an employer, had to decide within 45 days<sup>24</sup>.

Therefore, in the majority of public institutions, there were no decisions on the appointment for a full mandate within the legal term of 45 days, no decisions were made not to make an election by competition, which was the obligation of the Ministry, nor were the advertisements canceled, but a violation of the law was in force with the maintenance of acting state.

In addition, some interviews before the three-member Committee with candidates who applied for competitions in November 2021 were held only during May 2022<sup>25</sup>, which is unacceptably long and makes the competition meaningless, and puts the candidate in a state of uncertainty and need to look for another job.

Moreover, there are 47 public institutions of secondary education, and they consist of gymnasiums, secondary vocational schools, mixed secondary schools and art schools. According to the data available to the CCE, seven<sup>26</sup> of the 47 secondary education institutions did not advertise and elect directors in 2021, because their directors were appointed before 2021, while in the rest of the other secondary education institutions, acting directors were appointed mainly on 12 July 2021, for a period of six months.

---

<sup>19</sup> PI Educational Center Plužine and PI Educational Center Šavnik

<sup>20</sup> Resource Center for Education and Training "June 1" and Resource Center for Children and Youth "Podgorica"

<sup>21</sup> Pls Student dormitories in Podgorica, Nikšić, Cetinje, Kotor and Berane

<sup>22</sup> Elementary schools in which there were no dismissals in 2021 - Elementary school "Anto Đedović" Bar, Elementary school "Bečko Jovović" Plužine, Elementary school "Derđ Kastrioti Skenderbeg" Bar, Elementary school "Ilija Kišić" Herceg Novi, Elementary school "Mahmut Lekić" Tuzi, Elementary school "Pavle Rovinski" Podgorica, Elementary school "Radoje Kontić" Pljevlja, Elementary school "Radoje Tošić" Pljevlja, Elementary school Risto Ratković Bijelo Polje, Elementary school "Šćepan Đukić" Lijeva Rijeka - Podgorica, PI School for elementary musical education Ulcinj

<sup>23</sup> In 2021, only seven directors were appointed for a full term of four years, namely in Elementary School "Aleksa Đilas Bečo" Mojkovac, Elementary School "Branko Brinić" Tivat, Elementary School "Daciće" Rožaje, Elementary School "Derđ Kastrioti Skenderbeg" - Tuzi, Elementary School "Maršal" Tito" Ulcinj, Elementary School "Mileva Lajović Lalatović" Nikšić, Elementary School "Njegoš" Kotor

<sup>24</sup> Article 26 of the Labor Law, "Official Gazette of Montenegro", no. 074/19, 008/21, 059/21, 068/21, 145/21, prescribes that the employer informs the participants of the advertisement about the selection of candidates within 45 days of the deadline for submitting the application.

<sup>25</sup> Candidate A.H. from Rožaje applied for three vacancies for the position of director in three Rožaje schools, one of which is "Donja Lovnica" Elementary School, from which he was illegally dismissed on 12 July 2021, during his term. The Committee conducted an interview with him only on May 26, 2022, and according to the competition from November 2021.

<sup>26</sup> There were no dismissals in seven Pls of secondary education in 2021, namely "Niko Rolović" Bar Gymnasium, PI School for Elementary and Secondary Music Education "Dara Čokorilo", PI Artistic School of Elementary and Secondary Music Education for Talents "Andre Navara" Podgorica, Secondary School of Economics "Mirko Vešović" Podgorica, Secondary School of Medicine - Podgorica, Secondary Vocational School - Cetinje, Secondary Vocational School "Spasoje Raspopović" Podgorica

## Requirement 1: Information about public competitions is made broadly publicly available

Information about public competitions for the election of directors of public educational institutions is publicly available. The school or managing board decides on the announcement of a public competition<sup>27</sup> two months before the end of the director's term, and the public institution announces the vacancy through the Employment Bureau<sup>28</sup>, which is obliged to publish the vacancy in one of the print media.

Based on free access to information, 227 copies of advertisements from the print media published by public institutions in 2021 through the Employment Bureau were submitted to CCE, i.e. all institutions that announced vacancies in 2021 submitted the requested documentation.

According to the data of the Employment Bureau, in 2021, 238<sup>29</sup> vacancies were announced for the position of director of public preschool institutions, elementary schools, gymnasiums, vocational schools, mixed schools, resource centres, educational centres, student and pupil dormitories, without specifying how many of those public institutions advertised for the same position more than once or canceled the advertisement.

Article 80 of the General Law on Education and Upbringing defines the manner of election and the procedure for the election of the director, i.e. the obligation to elect the director of a public institution based on a public competition and the submitted institution's development programme. This Law on Education nowhere prescribes the obligation to advertise vacancies on the website of an educational institution, but this should be part of good practice, in addition to the legal obligation to advertise through the Employment Bureau, as provided for public administration bodies<sup>30</sup>. Such an approach would strengthen the transparency and competitiveness of the process.

## Requirement 2: Potential candidates have sufficient time to submit applications in the public competition process

The General Law on Education and Upbringing does not specify a deadline for candidates to apply for the competition for the employment of directors, and in practice, there is usually a deadline of 15 days, as prescribed by the Law for the employment of teaching staff<sup>31</sup>.

It is important to note that employees in the institution announcing the public competition have an advantage in the part of learning about its announcement compared to candidates outside the institution, who see the competition for the first time published in the media or on the website of the Employment Bureau. The candidate for the director's position is obliged to submit, along with the application for the competition, the programme for the development of the public institution.

---

<sup>27</sup> Art. 80 paragraph 2 of the General Law on Education and Upbringing stipulates that the competition for the election of the director is announced by the school board, two months before the end of the term of office of the director.

<sup>28</sup> Article 24 of the Labor Law regulates applying and public advertising

<sup>29</sup> Decision of the Employment Bureau no. UPI 06/22-100/ 21, from 11 April 2022

<sup>30</sup> Article 42 of the Law on Civil Servants and Employees, "Official Gazette of Montenegro", no. 2/2018, 34/2019 and 8/2021

<sup>31</sup> Article 101 of the General Law on Education and Upbringing stipulates that a teacher in a public institution is employed on the basis of a public competition, as well as that the competition is announced by the director of the institution and lasts for 15 days.



### Requirement 3: Selection committees' composition is professional and impartial

According to the Law<sup>32</sup>, the public institution submits to the Minister the complete documentation with the applications of the candidates within seven days from the day of the end of the competition. The Minister then forms a three-member Committee<sup>33</sup> that conducts an oral interview with the candidates who meet the prescribed conditions and discusses the submitted programme for the development of the public institution and submits a report to the Minister.

The reports of the three-member Committee are not publicly available, so a valid external assessment of the impartiality of reporting cannot be made. Based on the interviews<sup>34</sup> with the former employees from the education department, who were once part of the Committee for the selection of directors, and with whom the CCE team communicated during the preparation of this analysis, it was stated that the Committee proposes a candidate who determines that he/she is the best candidate to meet the requirements for the position of principal.

Resolutions/decisions on appointing the Committee that conducts interviews with candidates are not available, and therefore the assessment of the reference and professionalism of this body is limited. In addition, it is not known whether legal measures have been taken to prevent conflicts of interest of the Committee members in relation to the candidates they examine.

During the work on this analysis, the CCE repeatedly requested data related to the manner of work of the Committee, but the Ministry's response was absent even after several urgent requests were sent. After the last urgent request, the Ministry offered physical insight, which fundamentally makes access to information meaningless, considering the volume of the latter. However, from the interviews<sup>35</sup> with employees of the Ministry, it was determined that the Committee, since its establishment in 2017, including in 2021, was formed *ad hoc* by the Minister, and that it consists of persons in managerial positions, i.e. general directors of primary, secondary and higher education, and the state secretary in that Ministry. The same persons invariably participated in the work of the three-member Committee<sup>36</sup>. This information was also confirmed

---

<sup>32</sup> Article 80 paragraph 8 of the General Law on Education and Upbringing

<sup>33</sup> Article 80 paragraph 7 of the General Law on Education and Upbringing

<sup>34</sup> Interview from 29 March 2022 with one of the former general directors of the Directorate in the Ministry of Education in 2020, who was a member and president of the Committee in the 41st Government of Montenegro, and who stated, among other things, "*Pursuant to the General Law on Education and Upbringing, the minister forms a three-member Committee that conducts an interview with all candidates for the director of a public institution who meet the conditions of the competition. In that Committee, when directors for secondary schools were elected at the time of the 41st Government, members of the Committee were: the Director of the Directorate for General Secondary Education, the Head for the General Secondary Education and the Chief of the Cabinet of the Minister of Education were members of the Committee. The members of the three-member Committee were chosen according to the same principle when the director of the elementary school was chosen, so the members were usually the Director of the Directorate for Primary Education, one official for elementary schools and a person from the Minister's cabinet. The three-member Committee conducted interviews with all candidates in relation to the submitted programme and development plan of the institution for the next four-year period, which was set as a basic "parameter". Furthermore, during the interview, which usually lasted 30-60 minutes, the candidate elaborated, i.e. orally presented his/her vision of school development, challenges, etc. After that, the Committee was obliged to compile a written report on the conducted interview, that would then submit to the Minister, but that opinion was never binding...*" Also, in the interview, he states that there had to be all individual reports for each of the institutions. "*It often happened that non-governmental organizations, candidates and other persons requested that report, in accordance with the Law on Free Access to Information. Apart from the conditions stipulated by the law, there was no special rulebook that would elaborate some special conditions for the selection of the director of a public institution. Therefore, there were no elaborated criteria, points, no point list was drawn up. There was no list, e.g. of the three best candidates that would be submitted to the minister so that he chooses the first one according to the number of points. Also, that three-member Commission was some kind of compromise or a temporary solution from 2017, due to the trade union and some other actors' requests for the school boards to choose the director.*"

<sup>35</sup> Ibid

<sup>36</sup> Interview with several candidates M.T, A.S, B.V, P.J. for director who confirmed the names of the committee members: Marija Lalatović (primary education), Slavica Ilinčić (secondary education), Neda Ojdanić (tertiary level of education), Milica Kadović (state secretary), Dejan Dašić (General

by several acting directors of public institutions, who had oral interviews and elaborated on the submitted programmes for the development of the institution in front of the mentioned members in the last quarter of 2021.

#### Requirement 4: Transparency of selection committees' outcomes is ensured

On 4 April 2021, CCE requested the following information from the Ministry: Rulebook/rules/instructions/guidelines on the work of the three-member Committee from the Article 80 paragraph 7 of the General Law on Education and Upbringing for conducting oral interviews and assessment of the programme of development of the institution for the election of the director of the public institution, appointed by the Minister; copies of decisions on the appointment of members of the said Committee; list/biographies/references of the members of the Committee; copies of the statements of the members of the Committee on the prevention of conflicts of interest; copies of applications and accompanying documentation with public institution development programmes of all registered candidates for the public competition for the election of directors of public institutions; copies of the Committee's reports on the selection of candidates for directors of public institutions; copies of all decisions of the Minister on the election of directors of public institutions in 2021; copies of all decisions of the Minister on the election of the acting directors of public institutions in 2021. Even after several urgent requests were sent to this Ministry, the answer to the requested questions was missing.

There is none of this requested information on the website of the Ministry of Education, and the practice indicates that candidates who run in the race for the election of directors but are not elected, are not provided with a report from the Committee so that they can be convinced that the accepted candidate is better for some justified reason. The decision on the selected candidate for a director is not accompanied by the Report of the members of the Committee who evaluated the candidates, nor the substantive explanation of the decision, therefore, those candidates who were not elected and want to know the reasons, can access the Committee's report if they submit a request for free access to information, and the competent Ministry eventually decides to accept their request.

#### Requirement 5: The best-ranked candidates get the job in practice

There is no publicly available data on whether the Minister, who by the Law elects the director, evaluates the best candidate or whether this is done by a three-member Committee. The available decisions<sup>37</sup> of the Minister on the election of individual directors, which the CCE had insight into, determine the discretionary actions and decisions of the Minister, and it can be concluded that the Minister evaluates, elects and appoints the director. Unfortunately, decisions and rulings on the appointment of heads/directors of educational institutions, whose explanations should contain information on the registered candidates and the reasons for choosing the nominated candidate, have not been made public.

There is also no statement<sup>38</sup> on the website of the Ministry of Education, i.e. the opinion of the teachers' councils of schools, from which the Minister requested to give an opinion on the candidates proposed by the institution, which would be one of the indicators of choosing the best candidate. It should be noted

---

Director of the Directorate for Normative-Legal Affairs, Personnel and General Affairs) who, after the competition from the third quarter of 2021, conducted interviews with the candidates.

<sup>37</sup> Decision on the election of the director by the Ministry of Education, Science, Culture and Sports No. 06-601/21-12684/3, from 28 January 2022

<sup>38</sup> Article 153h, paragraphs 4 and 5 of the General Law on Education and Upbringing

that there is no legal obligation, but only the possibility for the teachers' council to give an opinion on the proposed candidate.

The fact that there are no published decisions on the appointed candidates for the election of directors of public institutions, as well as the decision on the election of the acting directors of these institutions, was registered by the Agency for Personal Data Protection and Free Access to Information (APDP)<sup>39</sup>, which ordered the Ministry to be proactive and publish "[decisions and other individual acts that are important for rights, obligations and the interests of third parties, but also other similar information](#)", to which the CCE has previously reacted publicly. Up until 1 June 2022, the Ministry has not acted on the orders of the APDP, so there is a lack of transparency in this part as well, and an infringement procedure has been launched against the Ministry.

Using the data obtained from the request for free access to information<sup>40</sup>, the CCE examined some of the submitted decisions of the then Minister on the candidates appointed for a full term of four years. From these decisions, it can be clearly concluded that the given explanations of these decisions are not substantive and it is not possible to clearly determine whether the appointed person is really the best-ranked candidate. In addition, there were some decisions of the Minister not to elect a director<sup>41</sup> according to the competition, but without a convincing explanation of such decisions, except in the case when the only candidate did not meet the conditions of the competition.

Moreover, in its findings, the Education Inspection, after certain reports were made by some institutions, on the election of some acting directors, determined that some appointed acting directors did not meet the legal requirements of Article 78 of the General Law on Education and Upbringing to be directors, and yet the Minister of Education in 2021 appointed them to that position. Thus, for example, some nominated candidates did not have the appropriate qualifications, i.e. 240 ECTS credits<sup>42</sup> or had less than seven years<sup>43</sup> of work experience in teaching or did not teach any of the compulsory<sup>44</sup> or elective courses in the institution, nor were professional associates, as required by the General Law on Education and Upbringing.

An example was also noted that one of the elementary schools<sup>45</sup> did not intentionally announce a competition, but the school board, out of its jurisdiction, signed a service contract with the director whose employment had been terminated due to retirement. She had been previously appointed to that position, despite the fact that she did not meet the special requirements prescribed by law, i.e., she did not have the VII National Framework of Qualifications. After the termination of employment due to retirement, she continued to perform the role of a director under the service contract for three months. The School knew that the director was acquiring the condition for retirement, and the legal obligation required the school board to announce a competition for the election of a new director two months before acquiring that

---

<sup>39</sup> Agency for Personal Data Protection and Free Access to Information, Press Release, No. 07-37-5117-13/21, from 15 December 2021

<sup>40</sup> CCE's request sent to all public institutions on 5 April 5 2022.

<sup>41</sup> See footnote No. 13

<sup>42</sup> Record on the performed inspection supervision of the Public Institution Elementary School "Bogdan Kotlica", Šavnik, No. UPIN 0501-741/21-8094/2, from 25 October 2021

<sup>43</sup> Record on the performed inspection supervision of the Public Institution Elementary School "Mirko Srzentić", Petrovac, No. UPIN 0501-741/21-7555/9, from 8 October 2021

<sup>44</sup> Record on the performed inspection supervision of the Public Institution Elementary School "Mexico", Bar, No. UPIN 0501-741/21-6112, from 1 October 2021

<sup>45</sup> Elementary school "Šunjo Pešikan" Trešnjevo in Cetinje, for the director Rada Pupović, the service contract was signed for three consecutive months.

condition, which means that the competition had to be in 2021. Instead, the school board opted for unlawful acting signing the service contract with the then director.

## Requirement 6: Reasons for annulling public competition procedures are publicly available

The reasons for the annulment of the public competition procedure are publicly available because they are advertised, as well as the competition itself, through the Employment Bureau and in one of the print media. More precisely, it is stipulated that the institution may decide on annulment of the vacancy<sup>46</sup> announcement within 45 days from the day of its publication, due to changes in regulations, acts on internal organization and systematization<sup>47</sup> or other justified circumstances arising after the announcement.

Therefore, the annulment of the announcement can also happen when, in accordance with the General Law on Education and Upbringing, the public institution which announced the competition for the election of the director submitted complete documentation to the Minister, within seven days from the end of the competition, but the stated circumstances for its annulment arise, or, perhaps, the candidate gave up<sup>48</sup>.

### Final assessment of the requirements

Requirement	Final assessment
Requirement 1: Information about public competitions is made broadly publicly available	Fully met
Requirement 2: Potential candidates have sufficient time to submit applications in the public competition process	Fully met
Requirement 3: Selection committees' composition is professional and impartial	Not met / Partially met*
Requirement 4: Transparency of selection committees' outcomes is ensured	Not met
Requirement 5: The best-ranked candidates get the job in practice	Not met / Partially met*
Requirement 6: Reasons for annulling public competition procedures are publicly available	Fully met

<sup>46</sup> Article 27 of the Labour Law ("Official Gazette of Montenegro", No. 074/19 dated 30.12.2019, 008/21 dated 26.01.2021, 059/21 dated 04.06.2021, 068/21 dated 23.06.2021, 145/21 from 12/31/2021)

<sup>47</sup> Example: Elementary school 'Risto Manojlovic' had two vacancies and one of them was canceled due to "the lack of consent of the Ministry of Education, Science, Culture for the Rulebook on Amendments to the Rulebook on Internal Organization and Systematization of Workplaces".

<sup>48</sup> Example: "The vacancy, published in the daily press and on the website of the Employment Bureau on 28 June 28 2021, for the position of director, for a fixed period of 4 years, is annulled due to the fact that the vacancy no longer produces legal effect, because the only candidate in the competition gave up" - <https://www.zzzcg.me/jobs/j201922100945/>

### III. Recommendations for improvements

- The procedure for hiring directors of public institutions must be transparent from the day the announcement is made until the decision on the election is made;
- It is necessary to ensure mechanisms so that procedures for electing directors of public institutions are free of selective approach, bias, and discrimination;
- The Ministry of Education should adopt an act regulating the criteria and procedures in the work of the three-member Committee, i.e. its actions with the obligation to publish reports which would contain score lists for candidates;
- The Ministry must initiate amendments to the General Law on Education and Upbringing in the part that the election and dismissal of the director of a public institution is not in the competence of the Minister but of the school board;
- School boards must not go out of their jurisdiction and are accountable for the illegal conclusion of contracts<sup>49</sup> with third parties, because the conclusion of contracts falls within the competence of the director of a public institution who represents the institution and is responsible for the legality of the work of that institution. The representation of the institution is not within the competence of the president of the school board, nor the appointment and election of the director of a public institution, but it is the current legal obligation of the minister to appoint the director of a public institution.
- The Ministry should be more proactive in publishing data on its website, especially in the context of this analysis, in terms of publishing reports on candidates as well as decisions on the appointment of directors;
- It is necessary to seriously review the decisions of the Minister of Education, Vesna Bratić, in 2021 regarding the elected candidates for directors and acting directors in 2021, as well as those decisions that prescribing not to hold an election, which are full of numerous contradictions, and accordingly initiate criminal liability of the minister and her associates for abuse of official position;
- The Ministry should also order public educational institutions to publish employment advertisements, acts, and data that are important for the interests of third parties on their websites.
- Decisions on the selection of candidates for directors of public institutions made by the minister should be more consistent and meaningful and include detailed reasons along with the score list that the best candidate was selected, i.e, it should contain detailed reasons why the other candidates in the competition were not selected;

---

<sup>49</sup> Service contracts between PI Elementary School "Šunjo Pešikan" Trešnjevo from Cetinje no. 259/1 of 11.10.2021; No. 268 of 28.10.2021, no. 305 dated 29 November 2021, signed by the president of the ŠO, Ratko Četković, with the previous director, Rada Pupović, who, after retiring, continues to perform the work of the director for three months and, accordingly, concludes a work contract with the school board every month. Despite the legal fact based on Article 153h paragraph 3. that until the election of the director, the function of the management body is performed by the current director of public institutions, this provision could not be applied in the case of termination of the director's employment due to retirement (Decision No. 05/2-02 -603/21-9561 from October 14, 2021) The minister then had to appoint an acting director until the appointment of a new director. Special attention should be paid to the fact that in the said employment contract the president of the school board is highlighted as someone who represents the institution, which is contrary to the General Law on Education, because the institution is represented by the director of the public institution or his deputy authorized by him due to his disability.

- Establish a system of accountability for the violation of Article 78 of the General Law on Education and Upbringing by the competent minister due to the appointment as acting directors of those persons who do not meet the legal requirements to be in the position of head of a public institution and the necessary compliance and implementation of the order of the Educational Inspection which noted irregularities in its records;
- Establish a system of accountability for employees in the Ministry of Education if candidacies are verified that do not meet the basic and special legal requirements for the position of director of a public institution.

## Appendices

### Free access to information requests

For the purposes of this research and analysis of the state of the employment of directors, CCE sent 243 requests for free access to information to all public educational institutions in Montenegro whose directors are elected and dismissed by the Minister of Education, according to the General Law on Education and Upbringing.

Access to the requested data was approved by 242 public institutions, i.e, only the School for Elementary Music Education from Pljevlja did not respond, but according to publicly available data, that institution ended the year 2021 in acting state. Requests were sent to the Ministry of Education, which did not approve access to the requested information in the requested form. Information was also requested from the Educational Inspectorate and the Employment Bureau of Montenegro, which duly responded. Therefore, out of 243 institutions, only 20 public institutions did not dismiss their directors in 2021.

In this way, the CCE requested public educational institutions to submit data for 2021 on the number of public competitions for the election of directors which the institutions announced to the Employment Bureau of Montenegro in 2021; copies of public competitions advertised for the position of director in 2021; copies of decisions on the election of directors in 2021; copies of decisions on the election of acting directors in 2021. The requested information is not available on the websites of public institutions, therefore, as we mentioned earlier, publishing it would be a good practice. Also, this information was not published on the official website of the Ministry of Education, and according to the law, it should have been.

Institution	Date of sending	Date of receipt
PI - Kindergartens (18)	05.04.2022.	Within the legal deadline of 15 days
PI of Primary Education (169)	06.04.2022.	Within the legal deadline of 15 days
PI of General Secondary Education (47)	06.04.2022.	Within the legal deadline of 15 days
Educational Centres (2)	07.04.2022.	Within the legal deadline of 15 days
Resource Centres (2)	07.04.2022.	Within the legal deadline of 15 days
Student and Pupil Dormitories (5)	13.04.2022.	Within the legal deadline of 15 days
Employment Bureau	04.04.2022.	Within the legal deadline of 15 days
Directorate for Inspection Affairs	04.04.2022.	Within the legal deadline of 15 days

Ministry of Education, Science, Culture and Sports	04.04.2022.	After several urgent requests, the decision was delivered on 21 June 2022, which adopted the CCE's request, but in a way to provide direct physical insight into the information instead of the requested copy of the voluminous documentation, which made access to this information meaningless.
--	-------------	--

## Interviews

Institution/Organisation	Position	Date	Place
<b>Interview No. 1</b> - Ministry of Education	Formerly employed in the 41st Government of Montenegro in the position of Director General of the Directorate	29.03.2022.	Podgorica
<b>Interview No. 2.</b> - Candidate for director in Rožaje, A.H.	The former director who was illegally dismissed on 12 July 2021	26.05.2022.	Podgorica
<b>Interview No. 3. 4/4.</b> Candidates M.T, P.J, B.V, A.S, for principals in elementary schools in Podgorica	Employed teachers in Podgorica elementary schools	M.T. and P.J. – 05.05.2022. B.V. and A.S. – 26.04.2022.	Podgorica
<b>Interview No. 4.</b> - Ministry of Education	One of the general directors of the directorate in the mandate of 2021.	16.05.2022.	Podgorica

## Other sources

- Labor Law, "Official Gazette of Montenegro", no. 074/19, 008/21, 059/21, 068/21, 145/21
- Law on Civil Servants and Employees, "Official Gazette of the Republic of Montenegro", no. 2/2018, 34/2019 and 8/2021
- General Law on Education and Upbringing, "Official Gazette of the Republic of Montenegro", no. 064/02, 031/05, 049/07, "Official Gazette of Montenegro", no. 004/08, 021/09, 045/10, 073/10, 040/11, 045/11, 036/13, 039/13, 044/13, 047/17, 059/21, 076/21, 146/ 21
- <https://cgo-cce.org/en/2021/07/17/instead-of-enacting-the-needed-reform-educational-institutions-remain-prey-to-the-authorities/>



- <https://crnogoravijesti.me/2022/01/24/tuzbe-smijenjenih-direktora-skola-ce-skupo-kostati-crnu-goru/https://portalluca.me/drustvo/zastitnica-imovinsko-pravnih-interesa-crne-gore-bojana-cirovic-vise-od-100-smijenjenih-rukovodilaca-tuzilo-drzavu/>
- Decision of the Employment Bureau no. UPI 06/22-100/21 from 11 April 2022
- Decision of the Directorate for Inspection Affairs, designation UPIZH-1001-037/22-88/3, dated 15 April 2022. (Record of the Directorate for Inspection Affairs on the performed inspection supervision of the Elementary School "Bogdan Kotlica" Šavnik, No. UPIN 0501-741/21-8094/2, dated 25 October 2021; Record of the Directorate for Inspection Affairs on the performed inspection supervision of the Elementary School "Mirko Srzentić" Petrovac, No. UPIN 0501-741/21-7555/9, dated 08 October 2021; Record of the Directorate for Inspection Affairs on the performed inspection supervision of the Elementary School "Mexico" Bar, No. UPIN 0501-741/21-6112, dated 1 October 2021)
- Transcript of the parliamentary session of 30 November 2021 - parliamentary questions addressed to Minister Vesna Bratić and her answers
- Available decisions and resolutions on the appointment of candidates
- Work/service contracts in Elementary School "Šunjo Pešikan" in Cetinje
- Submitted advertisements or competitions for 2021 by public institutions
- <https://www.vijesti.me/vijesti/politika/558143/sdp-podnio-interpelaciju-bratic-smijeniti-u-najkracem-roku>
- Interpellation for the investigation of the Government's policy in the field of education and the dismissal of the Minister of Science, Education, Culture and Sports, Vesna Bratić.
- Verdict of the Basic Court Rožaje, P no. 96/22.