



Montenegro
Agency for Prevention of Corruption

Reference number: 03-02-24-24-
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According to Article 54 of the Law on Prevention of Corruption (*"Official Gazette of Montenegro" No. 53/14 and 42/2017*), the Agency for Prevention of Corruption issued on March 1, 2024:

OPINION

I

It is determined that the Council of Radio and Television of Montenegro, in the process of appointing Boris Raonić as the Director General of Radio and Television of Montenegro on June 17, 2021, and on June 1, 2023, jeopardized the public interest indicating the existence of corruption by appointing him as the Director General despite the fact that he did not meet the qualifications prescribed by law for that position, including not having 10 years of work experience at the level VII1 of education qualification. Additionally, regarding the violation of provisions regulating conflict of interest, the court decisively ruled by judgment P.br.3110/21 dated January 4, 2023.

II

In accordance with Article 52 paragraph 2 of the Law on Prevention of Corruption, the Agency for Prevention of Corruption gives the following recommendation to the Council of RTCG:

To, in accordance with the conditions prescribed in Article 50 paragraph 1 of the Law on the National Public Broadcaster RTCG, reconsider the decision on the appointment of the Director General of RTCG in the sense of Article 140 of the Law on Administrative Procedure, and to ensure that future decisions on the appointment of the Director General of RTCG are made in a manner that does not raise suspicions of corruption risks and does not compromise the integrity of the institution.

The Council of RTCG is obliged, in accordance with Article 53 of the Law on Prevention of Corruption, to submit a Report on the actions taken regarding the aforementioned recommendation within 30 days from the date of receiving this Opinion.

Rationale

On February 15, 2024, the Agency for Prevention of Corruption (hereinafter: the Agency), acting ex officio, in accordance with Article 54 of the Law on Prevention of Corruption ("*Official Gazette of Montenegro*" No. 53/14 and 42/2017), initiated proceedings to determine the existence of jeopardizing public interest indicating the presence of corruption by the Council of Radio and Television of Montenegro (hereinafter: RTCG) in the appointment process of Boris Raonić as the Director General of RTCG. This action was based on several cases initiated by reports and initiatives submitted to the Agency, with reference numbers 03-02-22-2023 dated January 24, 2023, 03-02-88-2023 dated May 8, 2023, 03-02-136-23 dated July 19, 2023, 02-01-2135 dated October 30, 2023, and 03-02-219-23 dated December 27, 2023, which relate to the actions of the management and leadership bodies of RTCG.

In the process of assessing corruption risks in regulations, the Agency issued Opinion number 03-04-2104 dated December 28, 2021, in which it pointed out corruption risks and provided recommendations on how to address them.

EXAMINATION PROCEDURE

For the purpose of establishing an accurate and complete factual situation, on February 15, 2024, the Agency sent a request for submission of explanatory statement with accompanying documentation, reference number 03-02-24-24-2, to the Basic Court in Podgorica, requesting copies of all files related to the appointment process of Boris Raonić as the Director General of RTCG, as well as a copy of the file record with business reference number P.br.5314/22. On the same day, the Agency also requested Boris Raonić's diploma regarding completed academic studies from the Faculty of Law at the University of Montenegro.

The Basic Court in Podgorica informed the Agency with letter number Su V br.32/24 dated February 19, 2024, that upon examination through the Judicial Information System (PRIS) and the electronic database of cases of the Basic Court in Podgorica, it was found that the case marked as P.br.5314/22, initiated by plaintiff S.Č. against defendant RTCG, is currently under consideration before the Higher Court in Podgorica, recorded under business reference number Gž.br.302/24 dated January 23, 2024. The letter from the Basic Court in Podgorica further states that upon searching through the database, it was found that only one more case was initiated regarding the appointment of Boris Raonić as the Director General of RTCG, marked as P.br.3110/21, initiated by

plaintiff N.M. against defendant RTCG. It is mentioned that the said case is currently at the Supreme Court of Montenegro for decision on appeal, recorded under business reference number Rev.br.625/23.

The judgment of the Basic Court in Podgorica with reference number P.br.3110/21 dated January 4, 2023, is also publicly available on the website www.sudovi.me

Upon reviewing the letter from the Faculty of Law with reference number 04-238/1 dated February 16, 2024, it was established that Boris (Miodraga) Raonić, born on December 8, 1975, enrolled in the Faculty of Law at the University of Montenegro in the academic year 1994/95 and graduated from the Faculty of Law (four-year studies) on April 2, 2018. Along with the letter, the Faculty of Law provided a Certificate of High Professional Qualification obtained at the Faculty of Law in Podgorica, numbered 8610, indicating that Boris Raonić attained the VII1 level of education qualification on April 2, 2018.

At the session held on June 17, 2021, the Council of RTCG adopted Decision number 01-4182 to announce a public competition for the appointment of the General Director of RTCG based on Article 25, paragraph 1, point 22, and Article 67, paragraph 1, of the Law on the National Public Broadcaster RTCG ("Official Gazette of Montenegro" No. 80/20), as well as Article 26, paragraph 2, of the Statute of RTCG numbered 01-7250 dated December 17, 2020.

At the session held on August 6, 2021, the Council of RTCG adopted Decision number 01-5582 appointing Boris Raonić as the Director General of RTCG..

On June 1, 2023, the Council of RTCG adopted Decision number 01-3575 to revoke the Decision appointing Boris Raonić as the Director General of RTCG, numbered 01-5582 dated August 6, 2021. During the same session, Boris Raonić was re-elected as the Director General of RTCG. Upon reviewing the Certificate of High Professional Qualification obtained at the Faculty of Law, University of Montenegro, with serial number 8610, it is established that Boris Raonić graduated from the Faculty of Law on April 2, 2018, and thus obtained the professional title of Bachelor of Law.

The judgment of the Basic Court in Podgorica with reference number P.br.3110/21 dated January 4, 2023, established that "Namely, according to the findings of this court, the decision of the defendant's Council dated ... 2021 is unlawful, as the elected candidate, R B, did not meet the requirements for the position of Director General and could not be appointed for the following reasons. Namely, from the evidence presented, it appears that R B was a member of the Council of the Electronic Media Agency (EMA) at the time of application for the public competition and appointment as Director General, which means he was a public official appointed by the Assembly of

Montenegro, which is contrary to the provision of Article 29, paragraph 1, point 2 of the Law on the National Public Broadcaster RTCG, which stipulates that members of the Council cannot be individuals appointed by the President of Montenegro, the Assembly, and the Government, as well as Article 50, paragraph 5, which stipulates that the General Director of RTCG cannot be appointed if they are ineligible to be a Council member under this law, and ultimately, contrary to Article 7 of the Law on Prevention of Corruption, which stipulates that a public official is obliged to perform their function in a manner that does not prioritize private interests over public ones and does not cause a conflict of interest in the performance of their public function."

Before the Basic Court in Podgorica, there is an ongoing civil proceeding with business reference number P.br.5314/22, in which, in addition to the conflict of interest, the fulfillment of qualifications related to the required level of qualification for the appointment as Director General of RTCG is also being disputed.

In cases 02-01-155/2 and 02-01-1591/2, the Agency did not provide opinions because both civil proceedings were ongoing at that time and were expected to provide answers to all disputable issues.

However, since the lawsuit in case P.br.3110/21 did not request a determination of the fulfillment of qualifications related to the level of education required for the appointment as Director General of RTCG, the court could not make a decision on that matter. The decision to appoint Boris Raonić as the Director General of RTCG was annulled with finality because he was a public official appointed by the Assembly of Montenegro, which is contrary to the provision of Article 29, paragraph 1, point 2 of the Law on the National Public Broadcaster of Radio and Television of Montenegro.

After the final judgment P.br.3110/21 dated January 4, 2023 was issued, the court in the civil proceeding with business reference number P.br.5314/22, where the legal issue of the fulfillment of educational qualification requirements was raised, could not make a decision because the decision to appoint Boris Raonić had already been annulled with finality as unlawful.

Article 50, paragraph 1 of the Law on the National Public Broadcaster stipulates that the Director General of RTCG must be a citizen of Montenegro, residing in Montenegro, with at least a VII1 level of education qualification and at least ten years of work experience.

Article 5, paragraph 1, point 8 of the Labor Law specifies that work experience includes the time spent in employment and professional training in accordance with the law, in the qualification level of education, or in professional qualification.

Article 12, paragraph 1 of the Law on the National Qualifications Framework states that the qualification level of education is acquired by completing a publicly valid educational program and achieving the necessary qualification volume, after the prescribed verification and obtaining proof of the acquired level of education, or one or more professional qualifications, in accordance with specific regulations.

Article 140, paragraph 2 of the Administrative Procedure Law prescribes that in the case of an obvious violation of substantive regulations, a decision by which a party has acquired a right may be annulled or revoked, depending on the nature of the administrative matter and the consequences that would arise from the annulment or revocation of the decision, within one year from the date of the decision's enforceability.

From the Certificate of High Professional Qualification obtained at the Faculty of Law in Podgorica, with serial number 8610, it is established that Boris Raonić attained the VII1 level of education qualification on April 2, 2018.

Taking into account the aforementioned facts, including the public competition for the position of General Director of RTCG announced on June 17, 2021, the decision on the appointment of the General Director made on August 6, 2021, and the decision on June 1, 2023, following the court's ruling, to annul the aforementioned decision as unlawful and to make a new decision on the reappointment of Boris Raonić as the Director General of RTCG on the same day, the Agency has determined that Boris Raonić did not have ten years of work experience at the VII1 level of education qualification at the time of announcing the competition, at the time of making the decision on appointment as Director General, and at the time of making the new decision on appointment as General Director. This is because he completed his studies at the Faculty of Law in April 2018, and therefore, he could acquire ten years of work experience at the VII1 level of education qualification at the earliest in April 2028.

CONCLUSION

After conducting the examination procedure and evaluating the facts and circumstances, the Agency for Prevention of Corruption concludes that the appointment process of Boris Raonić as the Director General of RTCG constitutes a jeopardizing of public interest within the meaning of Article 44, paragraph 2, and Article 72 of the Law on Prevention of Corruption and may affect the integrity of RTCG.

According to the legal definition, integrity represents the lawful, independent, impartial, responsible, and transparent performance of duties by public officials and other employees in public authorities, aimed at preserving their own reputation and the reputation of the public authority. It ensures the trust of citizens in the performance of public functions and the work of public authorities, and eliminates suspicion of the

possibility of corruption arising. Jeopardizing public interest involves a violation of regulations, ethical rules, or the potential for such a violation that has caused, causes, or threatens to cause danger to the lives, health, and safety of people and the environment, a violation of human rights, or material and immaterial damage to the state or a legal or natural person. It also includes actions aimed at concealing such violations.

Upon reviewing the entire documentation, particularly the documentation that can assess the fulfillment of the substantive conditions for the appointment of the Director General of RTCG, it is undisputedly evident that the Council of RTCG made decisions to appoint Boris Raonić as the Director General of RTCG, contrary to Article 50, paragraph 1 of the Law on the National Public Broadcaster RTCG, which states, among other things, that the Director General must have at least 10 years of work experience with the VII1 level of education qualification.

The Agency concludes that the members of the Council of RTCG should have been aware of the fact that Boris Raonić did not meet the requirements for the position of the Director General of RTCG. This is evident considering that a simple verification of the legally prescribed conditions for the appointment of the General Director of RTCG would have revealed that the appointed candidate graduated in 2018 and therefore, at the time of the decision on his appointment, could not have had 10 years of work experience at the VII1 level of education qualification. Furthermore, given the heightened interest of the media and the non-governmental sector in this matter, as well as the fact that the RTCG portal itself published articles just before the appointment of the Director General of RTCG addressing the fulfillment of the candidate's requirements for the position, it is reasonable to conclude that the Council members should have been particularly diligent in their evaluation of the candidate's qualifications:

<https://rtcg.me/vijesti/drustvo/330546/savjet-javnog-servisa-odgadja-zakazane-intervjue.html>

<https://rtcg.me/vijesti/drustvo/330373/inspekcija-da-provjeri-zakonitost-izbora-generalnog-rtcg.html>

The Agency operates preventively in the fight against corruption in all areas, and the purpose of providing opinions on jeopardizing public interest that indicates the existence of corruption is to create a positive impact on the consistent application of the law and respect for ethical standards and principles. It aims to preserve the reputation of public officials and public authorities to ensure public trust in the performance of public functions and the work of public authorities and to eliminate doubts about the possibility of arising and developing of corruption.

The selection of a candidate who does not meet the requirements regarding the necessary years of work experience at the required level of professional qualification for the position of Director General of RTCG, as prescribed by the Law on the National

Public Broadcaster RTCG, poses a high risk of corruption. Therefore, in accordance with Article 52, paragraph 2 of the Law on Prevention of Corruption, the Agency recommends the following to the Council of RTCG:

To, in accordance with the conditions prescribed in Article 50 paragraph 1 of the Law on the National Public Broadcaster RTCG, reconsider the decision on the appointment of the Director General of RTCG in the sense of Article 140 of the Law on Administrative Procedure, and to ensure that future decisions on the appointment of the Director General of RTCG are made in a manner that does not raise suspicions of corruption risks and does not compromise the integrity of the institution.

The Council of RTCG is obliged, in accordance with Article 53 of the Law on Prevention of Corruption, to submit a Report on the actions taken regarding the aforementioned recommendation within 30 days from the date of receiving this Opinion.

 DIRECTOR
Jelena Perović