

Pursuant to Article 82, paragraph 1, item 2 of the Constitution of Montenegro and Amendment IV, paragraph 1 to the Constitution of Montenegro, the 25th convocation of the Parliament of Montenegro, at the fifth session of the second regular (autumn) session in 2014, on 9 December 2014, adopted the following

## **LAW ON PREVENTION OF CORRUPTION**

**(Published in the Official Gazette of MNE no. 53, dated 19 December 2014)**

### **I. BASIC PROVISIONS**

#### **Scope**

##### **Article 1**

This Law shall prescribe measures for prevention of conflict of public and private interest and shall regulate restrictions in the exercise of public functions, submission of reports on assets and income by public officials, protection of persons reporting threats to the public interest that indicate the existence of corruption, as well as other issues of importance to the prevention and suppression of corruption.

#### **Definition of Corruption**

##### **Article 2**

Corruption is any abuse of official, business or social position or influence that is aimed at acquiring personal gain or for the benefit of another.

#### **Public Officials**

##### **Article 3**

For the purpose of this Law, public officials shall refer to the persons elected, appointed or assigned to a post in a state authority, state administration body, judicial authority, local self-government body, local government body, independent body, regulatory body, public institution, public enterprise or other business or legal person exercising public authority, i.e. activities of a public interest or state-owned (hereinafter: authority), as well as the person whose election, appointment or assignment to a post is subject to consent by an authority, regardless of the duration of the office and remuneration.

For the purpose of this Law, state ownership shall refer to any share in a company in which the state or municipality, Old Royal Capital, or the Capital City (hereinafter: municipality) owns at least 33% of the capital.

#### **Agency for Prevention of Corruption**

##### **Article 4**

The tasks of prevention of conflict of public and private interest, restrictions in the exercise of public functions, verification of the reports on income and assets of the public officials, acting upon whistleblower applications, whistleblower protection, as well as other activities in accordance with this Law shall be performed by the Agency for Prevention of Corruption (hereinafter: the Agency), as an autonomous and independent body, established by the Parliament of Montenegro, in accordance with this Law.

Whistleblower, within the meaning of this Law, shall refer to a natural or legal person filing a report on a threat to public interest that indicates the existence of corruption.

The Agency shall carry out activities of control of lobbying and control of financing of political entities and election campaigns, in accordance with the special law.

The work of the Agency shall be public.

### **Use of Gender-Sensitive Language**

#### **Article 5**

The expressions used in this Law to denote natural persons in the masculine gender shall equally apply to the feminine gender.

### **Definition of terms/expressions**

#### **Article 6**

The terms/expressions used in this Law shall have the following meanings:

1) **Public interest** is the material and non-material interest for the good and prosperity of all citizens on equal terms;

2) **Private interest of a public official** means ownership or other material or non-material interest of a public official or the persons related to him;

3) **Gain** means property or property and other material or non-material rights;

4) **Persons related to a public official** are relatives of a public official in straight line and to the second degree in lateral line, a relative by marriage to the first degree, married and common-law spouse, adoptive parent or adopted child, member of a household, other natural or legal person with which the public official establishes or has established a business relationship;

5) **Gift** includes an item, right or service acquired or performed without compensation and any other gain provided to the public official or a person related to the public official in connection with the exercise of public function;

6) **Public enterprise** is a company in which the state or a municipality owns at least 33% of the capital.

## **II. PREVENTION OF CONFLICTS OF INTEREST IN THE EXERCISE OF PUBLIC FUNCTIONS, RESTRICTIONS IN THE EXERCISE OF PUBLIC FUNCTIONS, GIFTS, SPONSORSHIPS AND DONATIONS AND REPORTS ON INCOME AND ASSETS OF PUBLIC OFFICIALS**

### **1. Prevention of Conflict of Interest in the Exercise of Public Functions**

#### **Conflict of Interest**

##### **Article 7**

A public official shall perform his/her function in such a manner that the public interest is not subordinated to private, and without causing a conflict of interest in the exercise of public function.

The conflict of interest in the exercise of public function exists when a private interest of a public official affects or may affect the impartiality of the public official in the exercise of public function.

The Agency shall establish the existence of a conflict of interest and implement measures for prevention of conflict of interest.

Opinions about the existence of conflict of interest in the exercise of public function and restrictions in the exercise of public functions and the decisions on the violation of the provisions of this Law relating to the prevention of conflicts of interest in the exercise of public functions, restrictions in the exercise of public functions, gifts, sponsorships and

donations and reports on income and property by public officials, which are issued or adopted by the Agency in accordance with this Law, shall be binding for a public official.

It shall be deemed that a public official has violated the provisions of this Law if he fails to act in accordance with the opinion of the Agency referred to in paragraph 4 of this Article and with the obligations laid down in this Law or when he/she acts in a manner that violates the prohibitions and rules prescribed by this Law and other regulations regulating the conflict of interest in areas that are regulated by these regulations.

## **Statement of Conflict of Interest**

### **Article 8**

If, in the authority in which he/she exercises a public function, public official participates in the discussion and decision-making in the matter in which he/she or a person related to the public official has a private interest, he/she shall inform other participants in the discussion and decision-making thereon by making a statement on the existence of private interest, prior to his/her participation in the discussion, and no later than before the beginning of the decision-making.

The obligation of making a statement referred to in paragraph 1 of this Article shall not apply to MPs, councillors and public officials who are subject to the rules on exemption prescribed by a special law or other regulation.

The authority in which the public official exercises public function shall include the statement made by a public official referred to in paragraph 1 of this Article in the minutes and request the opinion of the Agency thereon.

In the case referred to in paragraph 1 of this Article, the public official shall not participate in the discussion and decision-making until the Agency issues an opinion on the existence of the conflict of interest.

If, in the case referred to in paragraph 1 of this Article, the Agency determines the existence of conflict of interest and informs the public official and authority referred to in paragraph 3 of this Article thereon, the public official shall not participate in the discussion and decision-making and the authority shall adopt the decision on his/her exemption.

The authority shall prevent the enforcement of decisions taken contrary to paragraphs 1 to 4 of this Article and put it out of force, in accordance with the Law, and shall notify the Agency thereon.

## **2. Restrictions in the Exercise of Public Function**

### **Performance of other Public Affairs**

#### **Article 9**

A public official may be engaged in scientific, educational, cultural, artistic and sports activities and acquire income from copyrights, patent rights and other similar rights, intellectual and industrial property, unless specified otherwise by the law.

Membership of a public official appointed or elected in the permanent or temporary working bodies established by an authority shall not be deemed a performance of two or more public functions in terms of this Law, except for those who make decisions or participate in decision-making process.

A public official shall report to the Agency accurate and complete data on income acquired through the exercise of activities or tasks referred to in paragraph 1 and 2 of this Article.

In the case of membership in several working bodies referred to in paragraph 2 of this Article, a public official may acquire income only in one working body in the given month.

## **Transfer of Management Rights in Companies**

### **Article 10**

A person who is the owner or founder of a company, institution or other legal person shall, within 30 days from the election, appointment or assignment to public office transfer his/her managerial rights in these entities to another legal or natural person, in order for that person to exercise these rights in their name and on behalf of the public official until the termination of his/her public office.

In the case when a company or other entity referred to in paragraph 1 of this Article has a management body in which the public official exercises his/her managerial rights as a member of the body, the transfer of managerial rights shall include the obligation of the public official to resign from the membership in the management body, in accordance with the law.

A public official shall, within five days of the date of transfer of managerial rights, notify the Agency of the person to whom he/she transferred the managerial rights and submit the evidence of the transfer of managerial rights.

The person to whom a public official has transferred managerial rights shall become a person related to the public official.

## **Exercise of Managerial and other Functions in Companies**

### **Article 11**

A public official shall not be president, authorized representative or member of a management body or supervisory board, or the executive director or member of management in a company.

A person who is elected, appointed or assigned to public office in terms of this Law shall, within 30 days from the election, appointment, or assignment, resign from office or function referred to in paragraph 1 of this Article.

## **Exercise of Public Functions in Public Enterprises and Public Institutions**

### **Article 12**

A public official shall not be a president or member of the management body or supervisory board, executive director, member of management of public companies, public institutions or other legal persons.

Exceptionally, a public official, other than the President of Montenegro, MP, councillor, member of the Government of Montenegro, Judges of the Constitutional Court of Montenegro, Judge, the head of public prosecution office, public prosecutor, Special Prosecutor for Suppression of Organized Crime, Corruption, Terrorism and War Crimes and Deputy Special Prosecutor, may be a president or member of the management body or supervisory board of a public enterprise, public institution or other legal person in a public enterprise, public institution or other legal person owned by the state or a municipality.

A public official who performs work in state administration and local government bodies may not perform the function of an MP or councillor.

Unless otherwise provided by a special regulation, a public official may be a president or a member of the management body or supervisory board of scientific, educational, cultural, artistic, humanitarian, sports and similar associations.

Public officials shall not acquire income or other compensation on the basis of membership in management bodies or supervisory boards referred to in paragraphs 2 and 4 of this Article.

## **Obligation to Resign**

### **Article 13**

A public official who, while holding the public office, accepts to perform other duties or functions referred to in Article 11, paragraph 1 or Article 12, paragraphs 1 and 3 of this Law, shall resign from public office, within 30 days from the beginning of the exercise of other functions or duties,.

### **Contracts on Services and Business Cooperation**

#### **Article 14**

A public official shall not conclude a contract on the provision of services to a public enterprise.

A public official shall not conclude a contract on the provision of services with an authority or company that has a contractual relation or performs tasks for an authority in which the public official exercises his/her function, unless the value of these contracts is less than €1,000 per year.

The authority in which the public official exercises public function shall not conclude a contract with the company or other legal person in which the public official and a person related to him/her have a private interest.

If a public official or authority acts contrary to paragraphs 1, 2 and 3 of this Article, the concluded contract shall be subject to the provisions of the Law on Contracts and Torts relating to the nullity of contracts.

### **Restrictions upon Termination of Public Office**

#### **Article 15**

For a period of two years following the termination of public office, the public official shall not:

1) Act, before the authority in which he/she exercised a public function, as a representative or attorney of a legal person, entrepreneur or international or other organization having or establishing a contractual or business relationship with this authority;

2) Establish a working relationship or business cooperation with the legal person, entrepreneur or international or other organization that acquires gain based on the decisions of the authority in which a public official has exercised function;

3) Represent a natural or legal person before the authority in which he/she exercised a public function in a case in which he participated, as a public official, in the decision-making process;

4) Perform management or audit activities in the legal person in which, at least one year prior to the termination of public function, his/her duties were related to supervisory or control activities;

5) Enter into a contract or other form of business cooperation with the authority in which he/she exercised a public function;

6) Use, for the purpose of obtaining a benefit for himself/herself or another person, or to harm another person, the knowledge and information acquired in the performance of public function, unless the knowledge and information are available to the public.

### **3. Gifts, Sponsorships and Donations**

#### **Prohibition on Receiving Gifts**

##### **Article 16**

Public officials shall not accept money, securities or precious metal in connection with the exercise of public function, regardless of their value.

Public officials shall not accept gifts in connection with the exercise of public function, except for protocol and appropriate gifts.

Protocol gift shall mean a gift from representatives of other states or international organizations, which is given when paying or receiving a visit, or on other occasions, as well as other gifts presented in similar circumstances.

Appropriate gift shall mean a gift to the value of € 50. If, within a year, a public official receives more than one appropriate gift from the same donor, the total value of such gifts shall not exceed the amount of € 50, and if a public official receives gifts from several donors in this period, the value of such gifts shall not exceed € 100.

The prohibition or restriction referred to in paragraph 1 and 2 of this Article shall also apply to married and common-law spouses and children of public officials if they live in the same household, if the receipt of money, securities, or precious metals and gifts is in connection with the public official, or the exercise of public function. Gift value shall be calculated on the basis of its market value on the date of receipt.

### **Refusing Gifts**

#### **Article 17**

A public official who is offered a gift that he is not allowed to accept shall refuse the offer, i.e. inform the donor that he/she cannot accept the gift.

A public official shall, within eight days of the offer under paragraph 1 of this Article, prepare a written report on the offer made and submit it to the authority in which he/she exercises a public function.

If a public official, in the case referred to in paragraph 1 of this Article, was not able to refuse the gift or return the gift to the donor, he/she shall hand over the gift to the authority in which he/she exercises the public function, and the gift shall become state property or property of the municipality.

### **Management of Gifts**

#### **Article 18**

Received gifts and their value shall be entered into the record book of gifts kept by the authority in which the public official exercises public function.

If it is determined that the appropriate gift is of greater value than the value referred to in Article 16, paragraph 4 of this Law, the gift shall be handed over to the authority in which the public official exercises public function for management and shall become state property, or property of the municipality.

Protocol gifts shall, regardless of their value, become state property, or property of the municipality.

The manner of management and use of gifts referred to in paragraph 1, 2 and 3 of this Article, the manner of keeping record books of gifts, as well as other issues relating to restrictions regarding the acceptance of gifts in connection with the exercise of public functions shall be prescribed by the state administration body in charge of anti-corruption (hereinafter: the Ministry).

### **Record books of Gifts**

#### **Article 19**

The authority referred to in Article 18, paragraph 1 of this Law shall submit an excerpt from the record book of gifts it keeps to the Agency by the end of March of the current year for the previous year.

If the Agency determines that the actions were not in accordance with this Law, it shall inform the authority which submitted the excerpt from the records thereon.

The Agency shall prepare a catalogue of gifts that the public officials received in the previous year and publish it on its website.

### **Unlawful Receipt of Gifts**

#### **Article 20**

Based on the knowledge that a public official has received a gift contrary to the law, the Agency shall carry out the procedure in accordance with this Law.

In cases where the Agency determines that a public official has received a gift contrary to the law, a public official shall hand over the gift, or the equivalent monetary value of the gift, to the authority where he/she performs the function, which shall thus become state property or property of the municipality.

### **Sponsorships and Donations to Authorities**

#### **Article 21**

A public official shall not conclude a sponsorship agreement on his/her behalf.

A public official shall not conclude a sponsorship agreement or receive donations on behalf of the authority in which he/she performs a public function, which affect or could affect the legality, objectivity and impartiality of work of the authority.

A public official may ask the Agency for an opinion whether a sponsorship represents the one defined in paragraph 2 of this Article.

If a public official acts contrary to paragraphs 1 and 2 of this Article, the concluded contract shall be subject to the provisions of the Law on Contracts and Torts relating to the nullity of contracts.

For the purpose of this Law, sponsorship shall mean the transfer of certain material or non-material goods, movable or immovable property or other services to the authorities in exchange for oral or written references or advertising a sponsor's logo or the sponsor's product logo or other services, in accordance with the law.

For the purpose of this Law, donation shall mean the transfer without charge or unencumbered transfer of certain material or non-material goods, movable or immovable property to authorities.

### **Disclosure of Information on Sponsorships and Donations**

#### **Article 22**

An authority shall, by the end of March of the current year for the previous year, submit to the Agency a written report on received sponsorships and donations, with a copy of the documentation related to these sponsorships or donations.

If, on the basis of the report referred to in paragraph 1 of this Article, or on the basis of its own information, the Agency determines that the received sponsorships and donations affected or could affect the legality, objectivity and impartiality of work of the public authority, it shall give its opinion thereon and notify the competent authority to undertake measures within its jurisdiction, in accordance with the law.

The authority shall abrogate decisions adopted under the influence of received sponsorships or donations, in accordance with the law and shall notify the Agency thereon.

The Agency shall keep a register of sponsorships and donations referred to in paragraph 1 of this Article, which contains information about the decisions referred to in paragraph 3 of this Article, and shall publish it on its website.

The manner of keeping the register referred to in paragraph 4 of this Article and content of the report referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

## **4. Report on Income and Assets of Public Officials**

### **Submitting the Report on Income and Assets**

#### **Article 23**

The public official shall, within 30 days from assuming the function, submit to the Agency a Report on Income and Assets, as well as on assets and income of married and common-law spouse and children, if they live in the same household (hereinafter: the Report), according to the state of play on the day of election, appointment, or assignment.

The public official shall provide accurate and complete information in the Report.

During the exercise of public function, the public official shall submit the Report:

- Once a year, by the end of March of the current year for the previous year;
- In the case of changes in the Report that relate to an increase in assets of more than € 5,000, within 30 days from the date of change;
- At the request of the Agency in the case of initiation of proceedings referred to in Article 31, paragraph 1 and 2 of this Law, within 30 days from the receipt of the request, or initiation of proceedings ex officio.

In the case of termination of public function, a public official shall, notify the Agency thereon and submit the Report within 30 days from termination of the function.

Public official whose office has terminated shall submit annual Report to the Agency, according to the state of play on the day of submitting the Report, for the period of two years following the termination of office.

When moving to another public function, as well as in the case of election, appointment, or assignment to another public function, the public official shall, pursuant to Article 12, paragraph 2 and 4 of this Law, notify the Agency thereon within 30 days from the date of change.

The obligation to submit Report and the procedure of verification of the data from the Report shall also apply to civil servants who are obliged to submit the Report in accordance with the special law.

### **Data Reported**

#### **Article 24**

The Report shall contain:

1) Personal data of the public official and his/her household members referred to in Article 23, paragraph 1 of this Law, as follows: name and surname, Personal Identification Number of the Citizen, permanent or temporary residence, address, education and occupation, and in the case of public official also the father's name, mother's name and mother's maiden surname.

2) Data about the public function exercised;

3) Data on assets and income of the public official and his/her household members referred to in Article 23, paragraph 1 of this Law, and especially regarding the following:

- Ownership rights over immovable assets and lease rights over immovable assets for a term exceeding one year, in the country and abroad;
- Ownership rights over movable assets the value of which exceeds € 5,000, or that are required to be registered with the competent authorities (motor vehicles, vessels, aircrafts, etc.);
- Ownership rights over the immovable and movable assets of a company, institution or other legal person owned or established by the public official;
- Deposits in banks and other financial institutions in the country and abroad;
- Stocks and shares in a legal person or other securities;
- Cash in the amount exceeding € 5,000;



- Rights arising from copyrights, patent and similar rights, intellectual and industrial property;
- Debts (principal, interest and terms of repayment) and receivables;
- Sources and amount of income from the exercise of scientific, educational, cultural, artistic and sports activities;
- Membership in the management bodies and supervisory boards of public enterprises, public institutions and other legal persons with a share of capital owned by the state or municipality, as well as in scientific, educational, cultural, artistic, humanitarian, sports or similar associations.

For the purpose of verification of the data from the Report, the public official may give consent to the Agency to access his/her data on bank accounts and accounts of other financial institutions, in accordance with the law governing banking operations.

The consent referred to in paragraph 2 of this Article shall refer to the period in which the obligations of the public official are valid in accordance with this Law.

The public official shall enter the data referred to in paragraph 1 of this Article in the Report form.

The Report form shall be established by the Agency and published on its website.

### **Submission of Reports**

#### **Article 25**

The public official shall submit the Report to the Agency electronically, and in writing.

### **Register of Income and Assets**

#### **Article 26**

Data from the Reports shall be kept in the Register of Income and Assets of Public Officials (hereinafter: the Register), which is part of an integrated information system of the Agency.

Data from the Register shall be deleted ex officio 10 years after termination of function of the public official.

The procedure of deletion of the data from the Register may be initiated at the request of public officials as well, after expiry of the deadline referred to in paragraph 2 of this Article.

The manner of entering information from the Report to the Register, as well as the content and manner of keeping the Register shall be determined by the Ministry.

### **Data Available to the Public**

#### **Article 27**

Data from the Register shall be published on the website of the Agency, except for information relating to:

- Personal information referred to in Article 24, paragraph 1, item 1 of this Law, except the names and surnames;
- Address of immovable assets;
- Children of public officials under the age of 16;
- Alimony and other income or payments on the basis of social and child welfare.

## **5. Procedure for Issuance of Opinions**

### **Issuance of Opinion at the Request of the Public Official in Case of Suspected Conflict of Interest and in Relation to Restrictions in the Exercise of Public Functions**

### **Article 28**

When a public official suspects that he/she is in a situation in which there is a conflict of interest or restriction in the exercise of public functions, he/she shall take measures to resolve the conflict of interest or observe the restriction in accordance with the law, and shall report the suspicions of conflict of interest or restriction in the exercise of public function to the Agency, which shall issue its opinion thereon.

A public official whose function has terminated may request the Agency to issue an opinion on the existence of restrictions referred to in Article 15 of this Law.

In the request for an opinion from paragraph 1 and 2 of this Article, the public official or the public official whose function has terminated shall provide accurate information regarding the potential conflict of interest.

A public official may request the Agency to issue the opinion within a period that may not exceed 15 days from the date of submission of request, in order to exercise and protect his rights and interests, or to perform obligations in respect of which he sought an opinion.

### **Rule of Confidentiality of Proceedings**

#### **Article 29**

The proceedings based on the request referred to in Article 28 of this Law shall be confidential.

## **6. The Process of Verifying Data from the Report**

#### **Article 30**

The Agency shall verify the data from the Reports by comparing these data with the data collected on the property and income of public officials from authorities and legal persons possessing such data.

Authorities and legal persons referred to in paragraph 1 of this Article shall submit the required data and information, i.e. make available the requested documentation in accordance with the law and within the time period and in the manner determined by the Agency.

If, in the verification process, the Agency determines that the property and income of a public official and persons related to the public official exceed the actual income, at the request of the Agency, the public official shall provide, within 30 days, detailed information on the grounds of acquiring property and income.

The Agency shall carry out verification of the data from the Reports according to the annual plan of verification for a certain number of public officials and categories of public officials.

The process of verification of the data from the Report shall not be disclosed to the public.

The annual plan of verification referred to in paragraph 4 of this Article shall be adopted once a year, by the end of the current year for the following year.

A more detailed manner of verification of the data referred to in paragraph 1 and 3 of this Article shall be determined by the Rules of Procedure of the Agency.

## **7. The Procedure for Determining Violation of the Provisions of this Law that are related to the prevention of conflict of interest in the exercise of public functions, restrictions in the exercise of public functions, gifts, sponsorships and donations and reports on income and assets of public officials**

### **Initiation of Proceedings**

### **Article 31**

The procedure of deciding whether a public official has violated the provisions of this Law relating to the prevention of conflict of interest in exercising public functions, restrictions in the exercise of public functions, gifts, sponsorships and donations and reports on income and property of public officials shall be initiated by the Agency, at the request of the authority in which the public official exercises or has exercised a public function, or the authority responsible for the election, appointment, or assignment of the public official, other state or municipal authority, other legal or natural person.

The Agency may initiate the procedure referred to in paragraph 1 of this Article ex officio, on the basis of its own information or based on anonymous requests.

The information about the applicant referred to in paragraph 1 of this Article shall be confidential, unless the applicant explicitly requests that such data be made available to the public or a public official that the request refers to and the authority.

### **Form and Content of Requests**

#### **Article 32**

Requests referred to in Article 31 of this Law shall contain: name and surname of a public official, the name of the authority in which he/she performs or performed his function, the detailed facts on the violation of the provisions of this Law that are related to the prevention of conflict of interest in exercising public functions, restrictions in the exercise of public functions, gifts, sponsorships and donations and reports on income and assets of public officials, which the applicant possesses or has knowledge of, names and surnames of persons who can confirm the allegations from the request, if there are such persons or if he is familiar with them, as well as the name and surname and address or name and registered office of the applicant, if the application is not anonymous.

Requests referred to in Article 31 of this Law shall be submitted in writing, directly, by mail or electronically.

Requests may also be submitted in person to the Agency, as a transcript of a verbal statement.

### **Amending and Rectifying Requests**

#### **Article 33**

If the request has not been made in accordance with Article 32, paragraph 1 of this Law, or is incomprehensible or does not contain sufficient facts to be acted upon, the Agency shall invite the applicant to amend or correct the request, determining a deadline for that, which may not be longer than fifteen days.

If the applicant fails to act in the manner and by the deadline specified in paragraph 1 of this Article, the Agency shall reject the request as incomplete.

### **Response by Public Officials**

#### **Article 34**

The Agency shall request from the public official against whom the proceedings referred to in Article 31 of this Law were initiated to submit a written response to the allegations in the request, within 15 days from the receipt of the request for submission of the written response.

If the public official fails to respond in the manner and within the timeframe specified in paragraph 1 of this Article, the Agency shall continue the proceedings in accordance with this Law.

### **Determination of Facts and Circumstances**

### **Article 35**

The Agency shall manage the proceedings referred to in Article 31 of this Law through a person authorized by the director of the Agency (hereinafter: authorized officer).

The authorized officer shall, *ex officio*, obtain data and information on the facts that are necessary for the conduct of the proceedings and decision-making process, the official records of which are kept by the competent state authorities, state administration bodies and municipalities, or public enterprises, companies, institutions or other legal and natural persons.

Authorities, natural and legal persons referred to in paragraph 2 of this Article shall, within the period and in the manner established by the Agency, submit the requested data and information, or make available the required documentation in accordance with the law.

If the authorities, natural and legal persons referred to in paragraph 2 of this Article fail to act within the period and in the manner referred to in paragraph 3 of this Article, they shall notify the Agency on the reasons without delay.

In the case referred to in paragraph 4 of this Article, the Agency shall inform the body supervising their work, and may submit a special report to the Parliament of Montenegro (hereinafter: the Parliament), or inform the public thereon.

### **Presentation of Evidence and Hearing**

#### **Article 36**

If the authorized officer deems it necessary in order to determine the facts and circumstances that are relevant to decision-making, he/she may conduct the examination procedure *ex officio*.

At the request of the participants in the proceedings, the authorized officer shall conduct a hearing.

A hearing may also be conducted when an authorized officer deems it necessary in order to establish a complete and accurate state of facts relevant to decision making.

### **Assignment of Proceedings to the Competent Authorities**

#### **Article 37**

In case of reasonable suspicion that a criminal offense has been committed that is prosecuted *ex officio*, the Agency shall submit to the competent public prosecutor's office without delay the request accompanied by the evidence collected in the exercise of its jurisdiction

If the Agency has information pointing to irregularities that are not within its jurisdiction, it shall submit such information to the competent authority.

The competent authorities referred to in paragraph 1 and 2 of this Article shall inform the Agency about the outcome of the proceedings.

### **Decision-Making**

#### **Article 38**

The authorized officer shall, within 15 days from the completion of the proceedings referred to in Article 31 of this Law, submit a reasoned proposal for a decision to the director of the Agency.

Director of the Agency shall, within eight days from the date of submission of the proposal referred to in paragraph 1 of this Article, decide whether a public official has violated the provisions of this Law relating to the prevention of conflict of interest in the exercise of public functions, restrictions in the exercise of public functions, gifts, sponsorships and donations and reports on income and assets of public officials.

The decision referred to in paragraph 2 of this Article shall be reasoned.

## **Delivery of Decision**

### **Article 39**

The decision referred to in Article 38, paragraph 2 of this Law shall be delivered to the public official, the applicant, as well as the authority in which the public official exercises a public function and the body responsible for the election, appointment, or assignment of the public official when these bodies are not applicants, no later than five days from the adoption of decision.

The decision referred to in Article 38, paragraph 2 of this Law shall be published on the website of the Agency, where a decision establishing that a public official has not violated the provisions of this Law relating to the prevention of conflict of interest in exercising public functions, restrictions in the exercise of public functions, gifts, sponsorships and donations and reports on income and assets of public officials shall not disclose his name and surname and function without the consent of the public official that the decision refers to.

## **Finality of Decisions**

### **Article 40**

The decision referred to in Article 38, paragraph 2 of this Law shall be final, and an administrative dispute may be initiated against it.

## **Application of the Rules of Administrative Procedure**

### **Article 41**

The procedure for determining violation of the provisions of this Law relating to the prevention of conflict of interest in the exercise of public functions, restrictions in the exercise of public functions, gifts, sponsorships and donations and reports on income and assets of public officials shall be subject to the provisions of the law governing the administrative procedure, unless this Law provides otherwise.

## **Legal Effect of Decisions**

### **Article 42**

Violation of the provisions of this Law relating to the prevention of conflict of interest in the exercise of public functions, restrictions in the exercise of public functions, gifts, sponsorships and donations and reports on income and assets of public officials, as well as of special laws determining the powers of the Agency that is established in the final or final and enforceable decision shall be considered negligent discharge of public functions, about which the Agency shall inform the authority in which the public official exercises a public function and the authority responsible for the election, appointment, or assignment of the public official, for the purpose of initiating the procedure of dismissal, suspension or imposition of disciplinary measures.

The authority referred to in paragraph 1 of this Article shall inform the Agency about the measures taken on the basis of the decision of the Agency establishing that a public official has violated the provisions of this Law relating to the prevention of conflict of interest in the exercise of public functions, restrictions in the exercise of public functions, gifts, sponsorships and donations and reports on income and assets of public officials, as well as of special laws determining the powers of the Agency, within 60 days from the receipt of that decision, with written reasoning.

If, as a result of negligent discharge of public functions, within the meaning of paragraph 1 of this Article, a public official is dismissed, suspended, or imposed a disciplinary measure, the authority responsible for the election, appointment, or assignment

of the public official shall notify the Agency thereon, within 30 days from adoption of the decision.

A public official who is dismissed for the reasons referred to in paragraph 1 of this Article may not exercise a public function or duties of a civil servant for a period of four years from the date of dismissal.

The limitation in paragraph 4 of this Article shall not apply to public officials who are elected by direct vote.

The authority responsible for the election, appointment or assignment shall, before deciding on the election, appointment or assignment of a public official with the Agency, verify whether the proposed candidate was dismissed for reasons referred to in paragraph 1 of this Article in the last four years prior to the nomination, in his capacity as a public official.

### **Compensation of Damage**

#### **Article 43**

If a violation of this Law caused damage to a legal or natural person, this person shall be entitled to compensation of the damage by filing a lawsuit in civil proceedings before the competent court, through the application of the general rule of compensation of damages.

## **III. WHISTLEBLOWERS**

### **1. Filing Applications**

#### **Whistleblowers**

#### **Article 44**

A whistleblower who has reasonable grounds to believe that there is a threat to the public interest that indicates the existence of corruption may submit a report in accordance with this Law.

For the purpose of this Law, threatening the public interest shall mean a violation of regulations, ethical rules or the possibility of such a violation, which caused, causes or threatens to cause danger to life, health and safety of people and the environment, violation of human rights or material and non-material damage to the state or a legal or natural person, as well as an action that is aimed at preventing such a violation from being discovered.

A person that helps whistleblowers by providing information or otherwise and any other person who can provide proof of suffering damage, because of the relation with the whistleblower, shall be deemed a person related to the whistleblower.

### **2. Proceedings Based on Applications**

#### **Submission of the Report by a Whistleblower to Authority, Company, other Legal Person or Entrepreneur**

#### **Article 45**

Whistleblowers may submit the report referred to in Article 44, paragraph 1 of this Law to an authority, company, other legal person or entrepreneur in which, to their information, there are reasonable grounds for suspecting that there is a threat to the public interest that indicates the existence of corruption.

The application referred to in paragraph 1 of this Article shall be submitted in writing, in person as a transcript of a verbal statement, by mail or electronically.

#### **Content of the Report**

#### **Article 46**

The application referred to in Article 44 of this Law shall contain a description of the threats to the public interest that indicates the existence of corruption, as well as the signature and personal information of the whistleblower, if he/she does not want to be anonymous, and, if necessary, other facts and circumstances.

### **Protected Information**

#### **Article 47**

Information on whistleblowers referred to in Article 46 of this Law shall be handled in accordance with the law governing data confidentiality, unless the whistleblower explicitly requests such data to be made available to the public.

If the report filed by a whistleblower contains classified information, the authority, company, other legal person or entrepreneur to whom the report has been submitted shall handle this information in accordance with the law governing the confidentiality of data.

### **Actions of Authorities, Companies, other Legal Persons and Entrepreneurs**

#### **Article 48**

In a procedure based on the report of the whistleblower, an authority, company, other legal person or entrepreneur referred to in Article 45, paragraph 1 of this Law shall verify the allegations of threats to the public interest indicating the existence of corruption and take measures within its jurisdiction in order to prevent the threat to public interest indicating the existence of corruption, in accordance with the law.

### **Designation of Persons Receiving and Acting upon the Report**

#### **Article 49**

In order to carry out the procedure referred to in Article 48 of this Law, the authority, company, other legal person or entrepreneur shall designate a person for receiving and acting upon the report of whistleblowers.

If he/she determines the existence of a threat to the public interest, which indicates the existence of corruption, the person referred to in paragraph 1 of this Article shall implement the procedure to verify the allegations in the report of whistleblowers and propose measures to the head of authority, or the responsible person in the legal person or entrepreneur.

A more detailed manner of action-taking referred to in paragraph 2 of this Article shall be prescribed by the Ministry.

### **Notification of Measures Taken**

#### **Article 50**

An authority, company, other legal person or entrepreneur referred to in Article 45, paragraph 1 of this Law shall inform the whistleblower of the measures taken on the basis of his/her report or the outcome of measures taken, within 45 days from the date of submission of the application.

### **Reporting Threats to Public Interest that Indicate the Existence of Corruption to the Agency**

#### **Article 51**

If the whistleblower has not been informed, or is not satisfied with the notification or the measures referred to in Article 50 of this Law, he/she may submit report on threats to the public interest that indicate the existence of corruption to the Agency.

Whistleblowers may also submit the report on threats to the public interest that indicate the existence of corruption to the Agency without prior submission to an authority, company, other legal person or entrepreneur to which the application relates.

The report referred to in paragraph 1 and 2 of this Article shall, in addition to the data referred to in Article 46 of this Law, contain information about the authority, company, other legal person or entrepreneur to whom the application relates and a notification on the taken measures referred to in Article 50 of this Law, if the notification was delivered to the whistleblower.

### **Opinion of the Agency**

#### **Article 52**

On the basis of the procedure conducted based on the application referred to in Article 51 of this Law, the Agency shall prepare an opinion on the existence of threats to the public interest that indicate the existence of corruption.

When the Agency determines that there is a threat to the public interest that indicates the existence of corruption, the opinion shall contain a recommendation about what should be done to prevent these threats, as well as the deadline for acting on the recommendation and notifying the Agency thereon.

### **Acting on the Recommendation of the Agency**

#### **Article 53**

An authority, company, other legal person or entrepreneur to whose work the recommendation referred to in Article 52, paragraph 2 of this Law applies, shall, within the set deadline, submit a report on the actions taken to enforce the recommendation.

If the authority, company, other legal person or entrepreneur does not act on the recommendation within the set deadline or fails to inform the Agency thereon, the Agency shall inform the body supervising their work, and shall submit a special report to the Parliament and inform the public thereon.

### **Acting ex officio**

#### **Article 54**

The Agency shall initiate the procedure for determining the existence of threats to the public interest that indicates the existence of corruption ex officio, on the basis of its own information.

### **Actions of the Agency**

#### **Article 55**

Actions referred to in Article 51 and 54 of this Law shall be subject to provisions of Articles 33 to 36 of this Law.

### **Protection of Whistleblowers' Identity and Rights**

#### **Article 56**

An authority, company, other legal person or entrepreneur, as well as the Agency, shall handle the data referred to in Article 46 of this Law in accordance with the law governing data confidentiality and shall ensure the protection against all forms of discrimination and restrictions and denial of the whistleblowers' rights.

### **Filing Criminal Charges and Assignment of Proceedings to Competent Authorities**

#### **Article 57**

If, in the process of verification of allegations on a threat to public interest that indicates the existence of corruption, the head or the responsible person in the authority, company, other legal person or entrepreneur, as well as the Agency, suspects that a criminal offense which is prosecuted ex officio has been committed through the threats to the public



interest that indicate the existence of corruption, they shall submit the application with the gathered evidence to the competent state prosecutor without delay.

If the authorities referred to in paragraph 1 of this Article, or the Agency, possess data pointing to irregularities that are not within their jurisdiction, they shall provide such data to the competent authority.

The competent authorities referred to in paragraph 1 and 2 of this Article shall inform the Agency about the outcome of proceedings.

### **3. Protection of Whistleblowers**

#### **Obligations of the Agency towards the Whistleblowers**

##### **Article 58**

The Agency shall protect whistleblowers that have reasonable grounds to believe that there are threats to the public interest that indicate the existence of corruption and that report this suspicion in good faith.

When assessing the intent referred to in paragraph 1 of this Article, the Agency shall take into account the quality of the information provided, the degree of threats and effect that can occur due to threats to the public interest that indicate the existence of corruption.

#### **Right to Protection**

##### **Article 59**

A whistleblower shall be entitled to protection if he/she has been inflicted damage, or if there is a possibility of damage due to submission of the report referred to in Article 44 of this Law, and in particular if:

- 1) His/her life, health and assets are at risk;
- 2) His/her employment has been terminated or his post at work has been abolished or changed, or if the description of duties and the conditions of the post at work where he/she used to work have been changed;
- 3) His/her business cooperation has been terminated through a termination of service contract or contract on business cooperation;
- 4) Disciplinary proceedings have been instituted against him/her and if a disciplinary measure has been imposed against him/her;
- 5) He/she has been prohibited from accessing certain data required for the performance of his/her working duties;
- 6) He/she has been deprived of the means for work that he/she used; or
- 7) His/her promotion and professional development has been prevented.

#### **Request for Whistleblower Protection**

##### **Article 60**

In order to exercise the right to protection, a whistleblower shall submit a request to the Agency (hereinafter: request for whistleblower protection), in writing or in person as a transcript of a verbal statement.

The request for whistleblower protection shall be submitted within six months from the date of damage or knowledge of the possibility of damage due to the application submitted by the whistleblower.

The request for whistleblower protection shall provide information on the applicant filing the request for protection, data from the application filed by the whistleblower, data on the authority, company, other legal person or entrepreneur, or other legal or natural person whose actions have caused the whistleblower to suffer damage, as well as data on the damage, or the possibility of damage to the whistleblower for filing the report.

## **Preliminary Examination of the Request for Whistleblower Protection**

### **Article 61**

If a request for whistleblower protection is untimely, the Agency shall not act and shall notify the applicant thereon.

If a request for whistleblower protection does not include data referred to in Article 60, paragraph 3 of this Law, and the whistleblower fails to provide justified reasons why he failed to specify all required information in the request, the Agency shall invite the whistleblower to complete the request within eight days.

If the whistleblower fails to act in accordance with paragraph 2 of this Article, the Agency shall terminate the proceedings.

## **Powers of the Agency**

### **Article 62**

If the request for whistleblower protection was filed in a timely manner and contains the information specified in Article 60, paragraph 3 of this Law, the Agency shall conduct the proceedings to verify the allegations in the request.

Once it implements the verification procedure referred to in paragraph 1 of this Article, the Agency shall determine whether any damage occurred, i.e. whether there is a possibility of damage to the whistleblower, issuing an opinion thereon.

The Agency shall submit the opinion referred to in paragraph 2 of this Article to the authority, company, entrepreneur or other legal or natural person whose acts cause or could cause damage to the whistleblower, within 15 days from drafting of opinion.

The Agency shall notify the applicant who filed the request for whistleblower protection on the opinion referred to in paragraph 2 of this Article within 15 days from the drafting of opinion.

When the Agency determines that the whistleblower was caused damage, or that there is a possibility of damage to the whistleblower because he/she filed application report, the opinion shall also contain a recommendation about the actions to be taken to remedy or prevent the damage, as well as the deadline for the elimination of harmful consequences, or the prevention of possibility of damage.

The procedure referred to in paragraph 1 of this Article shall be subject to provisions of Articles 33 to 37 of this Law.

## **Acting upon Recommendations of the Agency**

### **Article 63**

An authority, company, other legal person or entrepreneur to whose work the recommendation referred to in Article 62, paragraph 5 of this Law refers shall, submit a report on actions taken to implement the recommendation by the set deadline.

If the authority, company, other legal person or entrepreneur does not act upon the recommendation within the set deadline, the Agency shall inform the body supervising their work, and shall submit a special report to the Parliament, and inform the public thereon.

## **The Burden of Proof**

### **Article 64**

When the whistleblower's report is filed in accordance with this Law, and the act or activity referred to in Article 59 of this Law is taken after the submission of the report, the burden of proving that the act or activity is not a result of submission of the report on threats to public interest that indicate the existence of corruption is on the authority, company, other

legal person or entrepreneur whose actions cause damage to the whistleblower or due to which there is a possibility of damage.

### **Third Parties**

#### **Article 65**

When legal or factual action causing damage to the whistleblower or a person related to the whistleblower is not conducted directly by an authority, company, other legal person or entrepreneur, but by a third party, the action shall be deemed a consequence of submission of the report if the whistleblower or a person related to the whistleblower makes it probable that the action of a third party is associated with the authority, company, other legal person or entrepreneur to which the report related.

### **Assistance by the Agency**

#### **Article 66**

If, as a result of the damage sustained, the whistleblower initiates a judicial process, the Agency shall, at his request, provide the necessary expert assistance in proving the causal connection between the submission of the report on the threat to public interest that indicates the existence of corruption and the caused damage.

### **Termination of Damage**

#### **Article 67**

If an authority, company, other legal person or entrepreneur remedy the damage or prevent the damage in the course of the proceedings upon the request for whistleblower protection, the Agency shall inform the whistleblower thereon and set a time limit of 15 days for him to respond.

Upon receipt of the response, or the expiry of the time limit specified in paragraph 1 of this Article, the Agency shall decide whether to terminate or continue the proceedings.

### **Judicial Protection**

#### **Article 68**

Whistleblowers shall be entitled to judicial protection against discrimination and harassment at work based on reporting threats to the public interest that indicate the existence of corruption, which they shall exercise in accordance with the law governing the prohibition of discrimination and the law governing the prohibition of harassment at work.

## **4. Award for Reporting Threats to Public Interest that Indicate the Existence of Corruption.**

### **Right of Whistleblowers to Award**

#### **Article 69**

An authority, company, other legal person or entrepreneur may reward a whistleblower who, by filing application report, contributed to preventing the threats to public interest that indicate the existence of corruption.

A whistleblower who, by filing application report on the threats to public interest that indicate the existence of corruption, contributed to the realization of public revenue or income of a company, legal person or an entrepreneur, and if those revenues and income would not have been generated had the report not been filed, shall be entitled to a cash prize by an authority, company, other legal person or entrepreneur who generated the revenue or income.

A whistleblower shall acquire the right to award as of the moment of realization of revenue or income referred to in paragraph 2 of this Article, and if the submission of report by a whistleblower initiated the launch and conduct of criminal proceedings that ended with a final and enforceable decision on the basis of which property is permanently confiscated, he/she shall acquire the right to an award as of the moment when the decision on confiscation of property becomes final and enforceable.

An award for whistleblowers shall be determined on the basis of the contribution of the whistleblower compared to the amount of revenue or income generated, or of confiscated property.

The award may not be less than 3% or more than 5% of the income or revenue generated or of property referred to in paragraph 4 of this Article.

### **The Procedure for Exercising the Right to Award**

#### **Article 70**

In order to exercise the right to award, a whistleblower shall submit a written request to the authority, company, legal person or entrepreneur who generated income or revenue.

The request referred to in paragraph 1 of this Article shall be decided upon within 30 days from the date of submission.

The decision establishing the right to award shall also determine a deadline for the payment of award that may not be longer than six months.

The decision on the request referred to in paragraph 1 of this Article shall be final, and an administrative dispute may be initiated against it.

## **IV. PREVENTION OF CORRUPTION**

### **Integrity Plan**

#### **Article 71**

Based on estimates of the susceptibility of certain jobs and work processes to the emergence and development of corruption and other forms of biased conduct of public officials and employees of an authority, the authority shall adopt an Integrity Plan containing measures to prevent and eliminate opportunities for the emergence and development of corruption and providing confidence of citizens in their work (hereinafter: Integrity Plan).

The Integrity Plan shall be adopted in accordance with the rules for the development and implementation of the Integrity Plan adopted by the Agency.

The Integrity Plan may be adopted by another legal person as well, and the Agency may, upon the proposal of this legal person, assess the integrity and propose recommendations for its improvement.

The costs of the integrity assessment referred to in paragraph 3 of this Article shall be borne by the legal person upon whose proposal the Agency conducted the assessment.

### **Definition of Integrity**

#### **Article 72**

Integrity shall mean a legitimate, independent, impartial, accountable and transparent performance of duties based on which the public officials and other employees of an authority protect their reputation and the reputation of the authority, provide confidence of citizens in the performance of public functions and the operation of the authority and eliminate doubts about the possibility of the emergence and development of corruption.

### **Integrity Plan Content**

#### **Article 73**

An Integrity Plan shall contain:

- An assessment of exposure of an authority to corruption and other forms of violation of integrity;
- A description of jobs and activities that are particularly susceptible to corruption and other forms of violation of integrity;
- Types of risks of corruption and other forms of violation of integrity;
- Existing control measures;
- Preventive measures for reducing the risk of corruption and other forms of violation of integrity and the deadlines for their implementation;
- Information on the person responsible for the preparation and implementation of the Integrity Plan (hereinafter: integrity manager);
- Other data, in accordance with the rules for the development and implementation of the Integrity Plan.

### **Integrity Manager**

#### **Article 74**

Integrity Manager shall be appointed by the head or the responsible person in an authority.

The employees of an authority shall submit the necessary data and information relevant to the preparation and implementation of the Integrity Plan to the Integrity Manager, at his/her request.

### **Integrity Plan Transparency**

#### **Article 75**

An authority shall submit the Integrity Plan to the Agency within 15 days from its adoption, in accordance with rules for the development and implementation of the Integrity Plan.

The authority shall make the Integrity Plan available to the public by publishing it on its website or in any other appropriate manner.

### **Integrity Plan Efficiency and Effectiveness**

#### **Article 76**

Integrity Plan may be amended depending on the needs, development and interests of an authority.

An authority shall assess the efficiency and effectiveness of an Integrity Plan every second year, in accordance with the rules for the development and implementation of the Integrity Plan.

### **Report on the Implementation of Integrity Plan**

#### **Article 77**

An authority shall submit the Report on the implementation of Integrity Plan to the Agency by 15 April of the current year for the previous year.

Based on the submitted Integrity Plans and Reports on their implementation, the Agency may give the authorities recommendations for improving the Integrity Plans.

Based on the plans, reports and recommendations referred to in paragraph 2 of this Article, the Agency shall prepare a report on the adoption and implementation of Integrity Plans in the authorities.

The report referred to in paragraph 3 of this Article shall constitute an integral part of the annual Activity Report of the Agency.

## **V. THE AGENCY**

### **Responsibilities of the Agency**

#### **Article 78**

The Agency shall:

- Establish the existence of conflict of interest in the exercise of public function and take measures for its prevention;
- Control restrictions in the exercise of public function;
- Conduct control of receiving gifts, sponsorships and donations;
- Conduct control of the data from the Report on income and assets of public officials;
- Give an opinion on the existence of threats to the public interest that indicate the existence of corruption and make recommendations for preventing threats to the public interest and the whistleblower protection;
- Monitor the adoption and implementation of Integrity Plans, make recommendations for their improvement and assess the efficiency and effectiveness of Integrity Plans in accordance with this Law;
- Adopt acts under the jurisdiction of the Agency in accordance with the law;
- Take the initiative to amend the laws, other regulations and general acts, in order to eliminate the possible risk of corruption or to bring them in line with international standards in the field of anti-corruption;
- Give opinions on draft laws and other regulations and general acts for the purpose of their alignment with international standards in the field of anti-corruption;
- Initiate and conduct proceedings for establishing the violation of the provisions of this and other laws governing the responsibilities of the Agency;
- Cooperate with the competent authorities, higher education institutions and research organizations and other entities, in order to implement the activities in the area of prevention of corruption;
- Keep records and registers in accordance with this Law;
- Issue misdemeanour reports and initiate misdemeanour and other proceedings;
- Conduct educational, research and other preventive anti-corruption activities;
- Exercise regional and international cooperation in prevention of corruption;
- Perform other duties prescribed by the law.

The Agency shall supervise the implementation of regulations governing lobbying and implement measures of control of financing of political entities and election campaigns, in accordance with a special law.

In performing the tasks within its jurisdiction, the Agency may engage national and international experts or institutions and organizations.

### **Opinions for the Improvement of Prevention of Corruption**

#### **Article 79**

The Agency may, at its own initiative or at the request of an authority, company, legal person, entrepreneur or natural person, give an opinion for the purpose of improving the prevention of corruption, reducing the risk of corruption and strengthening of ethics and integrity in authorities and other legal persons, which includes an analysis of the risk of corruption, measures to eliminate the risk of corruption and corruption prevention.

In giving the opinion referred to in paragraph 1 of this Article, the Agency shall assess the compliance of actions with this Law and other laws governing the measures to combat corruption.

The Agency shall not act upon the request referred to in paragraph 1 of this Article if:

- The same request is handled by another competent authority;

- There are grounds for suspicion that a criminal offense that is prosecuted ex officio has been committed; or
  - The Agency initiates proceedings within its jurisdiction in the specific case.
- The Agency shall publish the opinions referred to in paragraph 1 of this Article on its website or in any other appropriate manner making them available to the public.

### **Legal Status of the Agency**

#### **Article 80**

The Agency shall have a status of a legal person.

### **Bodies of the Agency**

#### **Article 81**

Bodies of the Agency shall be the Council of the Agency (hereinafter: the Council) and director of the Agency.

The work of members of the Council and director of the Agency in the exercise of duties governed by this Law shall not be subject to illegal or unlawful influence.

### **Election of the Members of the Council**

#### **Article 82**

The Council shall have five members.

Members of the Council shall be elected by the Parliament, at the proposal of the working body responsible for anti-corruption affairs (hereinafter: the competent committee).

Members of the Council shall be elected for a term of four years and may not be elected more than twice.

### **Conditions for Election of Members of the Council**

#### **Article 83**

A person may be elected as a Member of the Council if he, in addition to the general requirements for work in state authorities, has:

- 1) Higher education, the seventh qualification framework level, sub-level VII-1;
- 2) Ten years of work experience of which at least five years of work experience in the conduct of affairs in the field of fight against corruption or protection of human rights; and
- 3) At least three opinions on professional and working qualities by a company, other legal person or entrepreneur for which he/she works or has worked, or with which he/she has business cooperation.

### **Restrictions on the Election of Members of the Council**

#### **Article 84**

A person may not be elected as a Member of the Council if he/she, within the last ten years, performed or performs:

- 1) Function of an MP or councillor;
- 2) Function of a member of the Government of Montenegro;
- 3) Function in a political party (party president, member of presidency, their deputies, member of the executive and the central committee or other officials in a political party).

### **The Procedure for the Election of Members of the Council**

#### **Article 85**

Members of the Council shall be elected on the basis of a public competition announced by the competent committee.

The competent committee shall form a Commission for the conduct of election of members of the Council (hereinafter: the Commission).

The Commission shall have five members, including two representatives of the Parliament of Montenegro (one from the parliamentary majority, one from the parliamentary opposition), one representative of the Judicial Council, one representative of the Prosecutorial Council and one representative of non-governmental organizations.

The competent committee shall invite authorities and other entities referred to in paragraph 3 of this Article to designate their representative in the Commission, within seven days from the call.

The competent committee shall announce a public call for the appointment of members of the Commission from among the non-governmental organizations.

A non-governmental organization may propose a candidate for a member of the Commission if it is registered with the competent government authority, if the act of establishment and its Statute contain the activities and objectives in the fight against corruption and it has at least three years of experience in the fight against corruption, if it has implemented during the course of the previous year at least one project in the area of fight against corruption and if it has filed a tax return for the previous fiscal year to the tax authority (balance sheet and income statement).

Non-governmental organizations referred to in paragraph 6 of this Article shall, along with the proposal of candidate, submit a certified copy of an act of establishment and the Statute, a certified copy of the decision on registration, overview of implemented projects and activities in the last three years and a certified copy of the filed tax return for the previous year.

On the basis of the procedure referred to in paragraph 5 of this article the competent committee shall prepare a list of proposed candidates.

The NGO representative in the Commission shall be the person proposed by the largest number of non-governmental organizations in the nomination procedure.

The competent committee shall establish the Commission within 30 days from the call referred to in paragraph 4 of this Article.

### **Compiling a List of Candidates**

#### **Article 86**

After the expiration of the prescribed deadline for nomination of candidates on the basis of a public competition referred to in Article 85, paragraph 1 of this Law, the Commission shall verify compliance with the requirements of Articles 83 and 84 of this Law and make a list of candidates who meet the requirements.

The Commission shall, in the presence of all members, interview the candidates referred to in paragraph 1 of this Article.

A candidate for the Council membership shall prepare and present a written and reasoned vision of the future work of the Agency in the prevention of corruption.

The Commission shall, on the basis of the evidence referred to in Article 83, paragraph 1, item 2 and 3 of this Law and the interview conducted, compile a list of five candidates for the election of members of the Council, with an explanation.

The Commission shall compile a list referred to in paragraph 4 of this Article by a majority of at least four votes, within 60 days of expiry of the deadline for applying to the competition.

The Commission shall submit the list of candidates referred to in paragraph 4 of this Article to the competent committee, for proposal to the Parliament.



If the competent committee fails to propose to the Parliament the list of candidates referred to in paragraph 4 of this Article, the procedure for the election of members of the Council shall be repeated.

### **Dismissing a Member of the Council**

#### **Article 87**

A member of the Council may be dismissed before the expiry of the term of office for which he was appointed:

- 1) At his personal request;
- 2) Due to permanent loss of working capacity;
- 3) If it is subsequently determined that he does not meet the requirements referred to in Articles 83 and 84 of this Law or if he/she assumes the function referred to in Article 84 of this Law;
- 4) If he/she violates the provisions of this Law and the Rules of Procedure of the Council.

The reasons for dismissal referred to in paragraph 1, item 2, 3 and 4 of this Article shall be determined by the Council, which shall also notify the competent committee thereon.

The dismissal procedure shall be initiated at the proposal of at least three members of the Council.

The Parliament shall dismiss a member of the Council at the proposal of the competent committee.

The competent committee shall, three months before the expiration of the term of office of members of the Council, initiate the procedure for the election of members of the Council in accordance with Article 85 of this Law.

If the function of a member of the Council terminates before the expiry of the term of office, the competent committee shall, without delay, initiate the procedure for the election of a new member of the Council referred to in Article 85 of this Law and shall, propose to the Parliament a new member of the Council within 30 days.

### **Responsibilities of the Council**

#### **Article 88**

The Council shall:

- 1) Announce a competition for the appointment of the director of the Agency, appoint and dismiss the director of the Agency;
- 2) Adopt the Statute and the Act on internal organization and systematization of the Agency, at the proposal of the director of the Agency;
- 3) Adopt the annual work plan of the Agency at the proposal of the director of the Agency;
- 4) Adopt the proposal for the budget and statement of accounts at the proposal of the director of the Agency;
- 5) Adopt rules governing the work of the Agency and the rules for the preparation and implementation of Integrity Plans at the proposal of the director of the Agency;
- 6) Adopt Rules of Procedure of the Council;
- 7) Give initiatives for improving the work of the Agency to the director of the Agency;
- 8) At the proposal of the director of the Agency, submit an Annual Activity Report of the Agency;
- 9) Verify data from reports on income and assets of the director of the Agency;
- 10) Perform other duties prescribed by the Statute of the Agency.

The Statute of the Agency, Rules of Procedure of the Council, the rules of work of the Agency and the rules for the development and implementation of Integrity Plans shall be published in the “Official Gazette of Montenegro”.

### **The Manner of Work of the Council**

#### **Article 89**

The work of the Council shall be managed by the President, who shall be elected from amongst the members of the Council, by a majority vote of all the members of the Council.

The Council shall decide by majority vote of all the members of the Council, except in the case referred to in Article 91, paragraph 7, and Article 93, paragraph 3 of this Law.

The Council shall hold meetings minimum twice a month, in which it will decide on matters within its jurisdiction.

By rule, the President of the Council shall inform the public on the affairs under the jurisdiction of the Council.

### **Remuneration for Work of the Council Members**

#### **Article 90**

President and members of the Council shall be entitled to a monthly remuneration in the amount of 50% of the average gross salary in Montenegro in the previous year, according to the data of the administration body in charge of statistics.

### **The Procedure for the Election of the Agency Director**

#### **Article 91**

Director of the Agency shall be elected by the Council, on the basis of a public competition, for a period of five years, with the possibility to be elected twice.

A person who meets the requirements referred to in Article 83 of this Law may be elected as the Director of the Agency.

In addition to the restrictions referred to in Article 84 of this Law, the Director of the Agency may not be a person who was appointed or assigned by the Government of Montenegro or the Parliament as a public official in the last five years.

After the expiration of the prescribed period for application by candidates, the Council shall verify compliance with the conditions referred to in Article 83 and 84 of this Law and make a list of candidates who meet the requirements.

Interviews with the candidates shall be conducted by the Council, in the presence of all members.

A candidate for director of the Agency shall prepare and submit a written and reasoned proposal of the work programme and the key priorities of the Agency.

The Council shall decide on the election of the director of the Agency by a majority of at least four votes, within 30 days from the expiry of the deadline for applying to the competition.

### **Responsibilities of the Agency Director**

#### **Article 92**

The director of the Agency shall:

- 1) Represent the Agency;
- 2) Organize and be responsible for work of the Agency;
- 3) Make decisions, give opinions and recommendations and take other measures within the jurisdiction of the Agency;
- 4) Perform other duties, in accordance with the law.

## **Dismissal of the Agency Director**

### **Article 93**

Director of the Agency may be dismissed before the expiry of the term of office for which he was elected:

- 1) At his/her personal request;
- 2) Due to permanent loss of working capacity;
- 3) If it is subsequently determined that he/she does not meet the requirements referred to in Articles 83 and 84 and Article 91 paragraph 3 of this Law or if he/she assumes the function referred to in Article 84 of this Law;
- 4) If he violates the provisions of this Law and the Rules of Procedure of the Agency.

The dismissal of the director of the Agency shall be decided upon by the Council.

The procedure for dismissal of the director of the Agency shall be initiated at the proposal of at least three members of the Council, and the decision on the dismissal of the director of the Agency shall be passed by the Council by a majority of at least four votes.

## **Statute of the Agency**

### **Article 94**

The Agency shall have a Statute.

The Statute of the Agency shall particularly contain the seat of the Agency, the principles of internal organization, manner of work and responsibilities of the Agency's bodies, the manner of adopting general and other acts and other issues of importance to the work of the Agency, in accordance with the law.

## **Financing of the Agency**

### **Article 95**

Funds for the operation of the Agency shall be provided in the budget of Montenegro.

The Council proposes the draft budget of the Agency and submits it to the competent authority of the Parliament.

The competent authority of the Parliament shall determine the draft budget of the Agency and submit it to the Government.

Funds approved for the operation and functioning of the Agency shall not amount to less than 0.2% of the current budget.

If the Government makes changes to the Proposal of the annual Law on budget related to the draft budget of the Agency referred to in paragraph 3 of this Article, it shall submit an official explanation in writing to the Parliament.

The Agency shall decide independently on the use of funds referred to in paragraph 4 of this Article.

## **Implementation of other Regulations**

### **Article 96**

The rights, obligations and accountability of employees of the Agency shall be subject to the regulations on civil servants and state employees.

The employees of the Agency shall have a monthly bonus to salary in the amount of 30%.

Director of the Agency shall be entitled to remuneration in the amount determined for the Protector of Human Rights and Freedoms of Montenegro.

The powers under the law governing the salaries of civil servants and state employees shall be executed by the director, in accordance with the available budget.

## **Code of Ethics and Official Identity Card**

### **Article 97**

The Council shall adopt a special Code of Ethics for employees of the Agency.  
For the purpose of performing their duties and enforcing their powers, director of the Agency and its authorized officers shall have official identity cards.  
Official identity cards shall be issued by the director of the Agency.  
The form and content of official identity cards shall be prescribed by the Ministry.

## **Reports of the Agency**

### **Article 98**

The Council shall submit an annual Activity Report of the Agency to the Parliament no later than 31 March of the current year for the previous year.

The Council may submit special reports to the Parliament, on the state of play in areas within the jurisdiction of the Agency.

The reports referred to in paragraph 1 and 2 of this Article shall be published on the website of the Agency.

## **Handling of Data**

### **Article 99**

Members of the Council, the director of the Agency and the Agency employees shall handle confidential data, unpublished data and personal information that they learn in the performance of their duties in accordance with the regulations governing the confidentiality of information, protection of undisclosed information and personal data protection.

## **Records**

### **Article 100**

In addition to catalogues and registers referred to in Article 19, paragraph 3, Article 22, paragraph 4, and Article 26, paragraph 1 of this Law, the Agency shall keep:

- Records of public officials who were established, by a final, i.e. final and enforceable decision, to have violated this Law or special laws governing the responsibilities of the Agency, which contains the following information: serial number, name and surname, Personal Identification Number of the Citizen and function performed by the public official, the number and date of the final, i.e. final and enforceable decision, the date of receipt of the notification by the authority responsible for the election, appointment or assignment, the reason for the dismissal, suspension or imposed disciplinary measure, the number and date of the act on dismissal, suspension or imposed disciplinary measure and the authority which issued the decision on dismissal, suspension or imposed disciplinary measure;

- Records of applications by whistleblowers containing the following information: serial number, date of application, name and surname, municipality, permanent residence and address of the whistleblower, name and seat of the authority, company or other legal person, or name and surname of the entrepreneur to whom the application relates, a brief description of the threat to the public interest that indicates the existence of corruption reported by the whistleblower, information about the measures taken under Article 50 of this Law if delivered to the whistleblower, number and date of the opinion of the Agency on the existence of threats to the public interest that indicate the existence of corruption, and the number and date of the report by the authority, company, other legal person or entrepreneur to which the application refers, on the actions taken to enforce the recommendations from the opinion of the Agency;

- Records of requests for whistleblower protection, containing the following information: serial number, date of request for whistleblower protection, name and surname, municipality of permanent residence and address of the applicant for protection, data from the report filed by the whistleblower, authority, company, other legal person and an entrepreneur,

or other legal or natural person whose acts caused damage to the whistleblower, as well as the data of the damage, or the possibility of damage to the whistleblower on the basis of submitted report, number and date of the opinion of the Agency based on the request for whistleblower protection, and the number and date of the report by the authority, company, other legal person or entrepreneur to which the recommendation refers, on the actions taken to enforce the recommendations from the opinion of the Agency.

Data from the records referred to in paragraph 1 of this Article shall not be made available for use if the provision of such data could affect the conduct of the proceedings, as well as in the cases stipulated by this Law and the law governing the confidentiality of data and personal data protection.

The manner of keeping the records referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

### **Publicity of Work of the Agency**

#### **Article 101**

The Agency shall notify the public about its work through press releases, by publishing its decisions on its website or otherwise.

In its work and informing the public, the Agency shall ensure the protection of confidential information and personal data.

## **VI. PENAL PROVISIONS**

### **Fines for Violations by a Legal Person and the Responsible Person in the Legal Person or State Authority, State Administration Body, Local Government and Local Self-Government Body**

#### **Article 102**

A fine ranging from € 1,000 to € 20,000 shall be imposed on a legal person for the misdemeanour offense if it:

1) fails to enter the statement of a public official on the existence of private interest in the minutes and does not seek the opinion of the Agency (Article 8, paragraph 3);

2) fails to bring a decision on exemption of a public official from the discussion and decision-making if the Agency determined that there was a conflict of interest referred to in Article 8, paragraph 1 of this Law (Article 8, paragraph 5);

3) fails to abrogate a decision made contrary to Article 8, paragraph 1 to 4 of this Law, and does not notify the Agency thereon (Article 8, paragraph 6);

4) Concludes a contract with the company or other legal person in which the public official and a person related to him have a private interest (Article 14, paragraph 3);

5) fails to submit an excerpt from the records of gifts to the Agency by the end of March of the current year for the previous year (Article 19, paragraph 1);

6) fails to submit to the Agency a written report on received sponsorships and donations, with a copy of the documentation, by the end of March of the current year for the previous year (Article 22, paragraph 1);

7) fails to submit the requested data and information, or does not make available the requested documentation (Article 30, paragraph 2 and Article 35, paragraph 3);

8) fails to notify the Agency of the outcome of proceedings referred to in Article 37, paragraph 1 and 2 of this Law (Article 37, paragraph 3);

9) fails to inform the Agency about the measures taken on the basis of the decision of the Agency establishing that a public official has violated the provisions of this Law relating to the prevention of conflict of interest in the exercise of public functions, restrictions in the exercise of public functions, gifts, sponsorships and donations and reports on income and

assets of public officials, as well as of special laws within the jurisdiction of the Agency, within 60 days from receipt of that decision, with written reasoning (Article 42, paragraph 2);

10) fails to notify the Agency, within 30 days from adoption of the decision, on the dismissal, suspension or imposition of disciplinary measure based on negligent discharge of public functions (Article 42, paragraph 3);

11) fails to verify with the Agency, before deciding on the election, appointment or assignment of a public official, whether the proposed candidate was dismissed for reasons referred to in Article 42, paragraph 1 of this Law in the last four years prior to the nomination, in his/her capacity as a public official (Article 42, paragraph 6);

12) fails to designate a person for receiving and acting upon the applications of whistleblowers (Article 49, paragraph 1);

13) fails to inform the whistleblower of the measures taken on the basis of his application or the outcome of measures taken, within 45 days from the date of submission of the application (Article 50);

14) fails to submit, by the set deadline, a report on the actions taken to enforce the recommendation referred to in Article 52, paragraph 2 of this Law (Article 53, paragraph 1);

15) fails to handle the data referred to in Article 46 of this Law in accordance with the law governing data confidentiality and does not ensure the protection against all forms of discrimination and restrictions and denial of the rights of whistleblowers (Article 56);

16) fails to submit, by the set deadline, a report on actions taken to implement the recommendation referred to in Article 62, paragraph 5 of this Law (Article 63, paragraph 1);

17) fails to bring a decision within 30 days from the date of submission of the request referred to in Article 70 paragraph 1 of this Law, or fails to determine a deadline for the payment of award or determines a time limit longer than six months (Article 70, paragraph 2 and 3);

18) fails to adopt an Integrity Plan (Article 71, paragraph 1);

19) fails to designate an integrity manager (Article 74, paragraph 1);

20) fails to submit a report on implementation of Integrity Plan by 15 April of the current year for the previous year (Article 77, paragraph 1).

For the violation referred to in paragraph 1 of this Article, a fine shall also be imposed on the responsible person in the legal person, state authority, state administration body, local government and local self-government body, in the amount ranging from € 500 to € 2,000.

For the violation referred to in paragraph 1, item 13, 14, 15, 16 and 17 of this Article, a fine in the amount of € 500 to 6,000 shall be imposed on the entrepreneur.

### **Fines for Violations by Public Officials**

#### **Article 103**

A fine in the amount ranging from € 500 to € 2,000 shall be imposed on a public official for the misdemeanour offense, if he:

1) fails to inform other participants in a discussion of the existence of private interest, by making a statement before his/her participation in the discussion, and no later than the commencement of decision-making (Article 8, paragraph 1);

2) Participates, in case referred to in Article 8, paragraph 1 of this Law, in a discussion and decision-making (Article 8, paragraph 4 and 5);

3) fails to report to the Agency accurate and complete data on income made by exercising an activity, or tasks referred to in Article 9, paragraph 1 and 2 of this Law (Article 9, paragraph 3);

4) Acquires membership-based income in more than one working body referred to in Article 9, paragraph 2 of this Law in a single month (Article 9, paragraph 4);

5) fails to transfer his management rights in a company, institution or legal person owned or founded to another legal or natural person, within 30 days from the election, appointment or assignment to public office (Article 10, paragraph 1);

6) fails to submit to the Agency information on the person to whom he/she transferred the management rights and the evidence of the transfer of management rights, within five days of the date of transfer of management rights (Article 10, paragraph 3);

7) fails to resign from office or function referred to in Article 11, paragraph 1 of this Law, within 30 days from the election, appointment, or assignment to public function (Article 11, paragraph 2);

8) Is a president or member of the management body or supervisory board, executive director or management member in a public company, public institution or other legal person in more than one public company, public institution or other legal person owned by the state or a municipality (Article 12, paragraph 2);

9) Performs work in state administration and local government bodies while performing the function of an MP or councillor (Article 12, paragraph 3);

10) Acquires income or other compensation on the basis of the membership in management bodies or supervisory boards referred to in Article 12, paragraph 2 and 4 of this Law (Article 12, paragraph 5);

11) Fails to resign from public function when he/she, while performing a public function, accepts to perform another duty or function referred to in Article 11, paragraph 1 and Article 12, paragraph 1 and 3 of this Law, within 30 days from the beginning of the exercise of other functions or duties (Article 13);

12) Concludes a contract on the provision of services with a public enterprise or a contract on the provision of services with an authority or company that has a contractual relation or performs tasks for an authority in which the public official exercises his function, if the value of these contracts exceeds € 1,000 per year (Article 14, paragraph 1 and 2);

13) Accepts money, securities or precious metal, regardless of their value, or accepts a gift that is not a protocol or appropriate one (Article 16, paragraph 1 and 2);

14) Receives more than one gift from the same donor within a year, the total value of which exceeds the amount of € 50, or if he receives gifts from several donors in this period, the value of which exceeds € 100 (Article 16, paragraph 4);

15) Fails to prepare or submit, within eight days of the offer made, a written report on the offer referred to in Article 17, paragraph 1 of this Law, to the authority in which he/she exercises a public function (Article 17, paragraph 2);

16) In the case referred to in Article 17, paragraph 1 of this Law, where he/she could not refuse the gift, or return it to the donor, fails to hand over the gift to the authority in which he/she exercises the public function (Article 17, paragraph 3);

17) In the case where the Agency determines that he/she received gifts, he/she fails to hand over the gift, or the equivalent monetary value of the gift to the authority where he/she performs the function, for its management (Article 20, paragraph 2);

18) Concludes a sponsorship agreement in his/her own name (Article 21, paragraph 1);

19) Concludes a sponsorship agreement or receives a donation in the name of the authority in which he/she performs a public function, which affects or could affect the legality, objectivity and impartiality of work of the authority (Article 21, paragraph 2);

20) Fails to submit to the Agency a written report on received sponsorships and donations with a copy of documentation about the sponsorships or donations, by the end of March of the current year for the previous year (Article 22, paragraph 1);

21) Fails to abrogate the decisions made under the influence of received sponsorship or donation and fails to notify the Agency thereon (Article 22, paragraph 3);

22) Fails to submit to the Agency a Report on his income and assets, as well as on assets and income of married and common-law spouse and children, if they live in the same household, within 30 days from assuming the function (Article 23, paragraph 1);

23) Fails to include accurate and complete data in the Report (Article 23, paragraph 2);

24) During the exercise of a public function, fails to submit the Report once a year, by the end of March of the current year for the previous year, or when he/she does not report changes from the Report that relate to an increase in assets of more than € 5,000, within 30 days from the day of change or at the request of the Agency in the event of initiation of proceedings referred to in Article 31, paragraph 1 and 2 of this Law, within 30 days from receipt of the request, or the initiation of proceedings ex officio (Article 23, paragraph 3);

25) When moving to another public function, as well as in the case of election, appointment, or assignment to another public function, pursuant to Article 12, paragraph 2 and 4 of this Law, fails to notify the Agency thereon within 30 days from the change (Article 23, paragraph 6);

26) Fails to provide, at the request of the Agency, detailed information on the grounds of acquiring assets and income within 30 days (Article 30, paragraph 3).

For violations referred to in paragraph 1 item 13, 14, 16 and 17 of this Article, a protective measure of confiscation of the item – gift, shall be imposed.

A fine in the amount ranging from € 500 to € 1000 for violation referred to in paragraph 1 item 22, 23, 24 and 26 shall also be imposed on a civil servant who is required to submit the Report in line with a special law.

A fine in the amount ranging from € 300 to € 500 for violation referred to in paragraph 1 item 13 of this Article shall also be imposed on of the married and common-law spouses and children of public officials if they live in the same household, if the receipt of money, securities, or precious metals and gifts is in connection with the public official, or the exercise of public function (Article 16, paragraph 5).

### **Fines for Violations by Persons Whose Public Function Expired**

#### **Article 104**

A fine in the amount ranging from € 1,000 to € 2,000 shall be imposed on a person whose public function has expired, if in the period of two years following the termination of the public function he:

1) Acts, before the authority in which he/she exercised a public function, as a representative or attorney of a legal person, entrepreneur or international or other organization having or establishing a contractual or business relationship with this authority (Article 15, paragraph 1, item 1);

2) Establishes a working relationship or business cooperation with the legal person, entrepreneur or international or other organization that, based on the decisions of the authority in which a public official has exercised his function, acquires gain (Article 15, paragraph 1, item 2);

3) Represents a natural or legal person before the authority in which he/she exercised a public function in a case in which he participated, as a public official, in the decision-making (Article 15, paragraph 1, item 3);

4) Performs management or audit activities in the legal person in which, at least one year prior to the termination of public function, his/her duties were related to supervisory or control activities (Article 15, paragraph 1, item 4);

5) Enters into a contract or other form of business cooperation with the authority in which he/she exercised a public function (Article 15, paragraph 1, item 5);



6) Uses, for the purpose of obtaining a benefit for himself or another, or to harm another, the knowledge and information acquired in the performance of public function, unless the knowledge and information are available to the public (Article 15, paragraph 1, item 6);

7) Within 30 days from termination of the function, fails to notify the Agency thereon and fails to submit the Report, or fails to submit the Report on the state of play on the day of submission of the Report once a year over the course of two years following the termination of function (Article 23, paragraph 4 and 5).

Along with the fine, in case of the violations referred to in paragraph 1 of this Article, protective measures of prohibition from carrying out activities for a period of six months to one year may be imposed.

## **VII. TRANSITIONAL AND FINAL PROVISIONS**

### **Deadline for the Election of Members of the Council and Director of the Agency Article 105**

Members of the Council shall be elected within six months of the entry into force of this Law.

Director of the Agency shall be appointed within 90 days following the selection of members of the Council.

### **Adoption of Acts by the Agency Article 106**

The Statute of the Agency, Act on internal organization and systematization of the Agency, the Rules of Procedure of the Council, the rules of work of the Agency and the rules for the creation and implementation of integrity plans shall be adopted within 60 days of appointment of the director of the Agency.

### **Commencement of Work of the Agency and Assuming Tasks Article 107**

The Agency shall start working on 1 January 2016.

On the day of commencement of work of the Agency, the Commission for Prevention of Conflict of Interest and the Directorate for Anti-Corruption Initiative shall cease to operate.

On the day of commencement of work, the Agency shall assume the tasks of the Commission for Prevention of Conflict of Interest and the Directorate for Anti-Corruption Initiative, as well as the employees, rights, obligations, items, equipment, means of work, documentation, registers and records of the Commission for Prevention of Conflict of Interest and the Directorate for Anti-Corruption Initiative.

### **Article 108**

The President of Montenegro the President of the Parliament and the Prime Minister shall be entitled to pension even before fulfilling the conditions prescribed by regulations governing pension and disability insurance.

The base for calculation of the pensions shall be the net wage the beneficiary would earn by exercising the function referred to in paragraph 1 of this Article in the month preceding the submission of application for pension.

The pension of public officials referred to in paragraph 1 of this Article shall amount to 65% of the determined base, increased by 2% for each accrued year of pensionable service.

Pension amount shall not exceed 85% of the determined base.

#### **Article 109**

In case a public official referred to in Article 108, paragraph 1 is found guilty by the final court decision and punished pursuant to the Criminal Code regulating criminal acts with elements of corruption and organized crime, he shall lose the obtained right to a pension under this law.

#### **Article 110**

The right to a pension under this Law shall be granted to public officials referred to in Article 108, paragraph 1, who exercised the function from 1992.

#### **Article 111**

The right to a survivor pension without any reduction shall be granted to family members of the public official who died before the day of entering into force of this Law, and who has met the conditions for acquiring the right to pension under this Law on the date of his/her death.

### **Adoption of Secondary legislation**

#### **Article 112**

The by-laws for implementation of this Law shall be adopted within one year from the date of entry into force of this Law.

### **Adoption of Integrity Plans**

#### **Article 113**

Authorities shall adopt Integrity Plans in accordance with this Law within 90 days from the date of commencement of implementation of this Law.

### **Initiated Proceedings**

#### **Article 114**

Proceedings initiated before the competent authorities to resolve the conflict of interest in which no decision was made by the commencement of implementation of this Law shall be completed in accordance with the provisions of the law in force at the time of initiation of the proceedings.

### **Termination of Regulations**

#### **Article 115**

On the day of commencement of implementation of this Law, the Law on the Prevention of Conflict of Interest (Official Gazette of Montenegro 1/09, 41/11) and acts adopted for the implementation of that Law, provisions of Articles 79, 80, 157 and 158, paragraph 1 item 5 of the Law on Civil Servants and State Employees (Official Gazette of Montenegro 39/11, 66/12 and 34/14) and provisions of Article 102a of the Labour Law (Official Gazette of Montenegro 49/08, 59/11, 66/12 and 31/14) shall cease to be in force.

### **Entry into Force and Commencement of Implementation**

#### **Article 116**

This Law shall enter into force on the eighth day following the day of its publication in the "Official Gazette of Montenegro", and shall be implemented as of 1 January 2016.

Podgorica, 9 December 2014  
The Parliament of Montenegro of the 25th Convocation  
President, Ranko Krivokapić