

Pursuant to article 44 paragraph 3 of the Law on Financing of Political Entities and Election Campaigns (Official Gazette of Montenegro 52/14), the Agency for Prevention of Corruption hereby adopted

**INSTRUCTIONS  
ON THE MANNER AND PROCEDURE FOR REPORTING AND RESOLVING  
COMPLAINTS FILED IN THE COURSE OF THE ELECTION CAMPAIGN**

**(Official Gazette of MNE no. 9/2016)**

**Article 1**

These Instructions shall prescribe the manner and procedure for reporting and resolving complaints filed in the course of the election campaign, grounded on the suspicion of violation of the Law on Financing of Political Entities and Election Campaigns (hereinafter: “the Law”).

**Article 2**

Any legal or natural person shall have the right to file a complaint with the Agency for Prevention of Corruption, grounded on the suspicion of violation of the Law (hereinafter: “the complaint”).

The complaint shall be filed in writing (directly with the Agency’s Records Office, via the Agency’s website, or by post), or in person as a transcript of a verbal statement.

**Article 3**

The complaint shall contain personal data and signature of the complainant (name and surname and contact details), unless the complainant wishes to remain anonymous, description of the violation, including any other facts and circumstances supporting the suspicion of the violation of the Law or other available documents.

As a rule, the complaint shall be filed on the Form constituting an integral part of these Instructions.

**Article 4**

Upon receiving the complaint, the person authorized by the decision of the Director of the Agency (hereinafter: “authorized officer”), shall establish whether the complaint is comprehensible and whether it contains sufficient facts for processing. If the complaint is incomprehensible or does not contain sufficient facts for processing, and the complainant is not anonymous, authorized officer shall invite him/her to make the complaint comprehensible and to complement it with necessary data, within eight days.

If the complainant fails to act in the manner and within the time frame set forth in paragraph 1 of this article, the complaint shall be dismissed.

**Article 5**

The Agency shall also initiate the procedure based on an anonymous complaint, if the complaint is comprehensible and contains sufficient facts about potential violation of the Law.

#### **Article 6**

The Agency shall dismiss a complaint, if:

- Another competent body is processing the complaint on the same legal matter;
- It is a complaint that the Agency is not competent for or has already processed, and the complaint does not contain any new facts or information.

In the cases referred to in paragraph 1 of this article, the Agency shall adopt a decision and submit it to the complainant, within 8 days from the day the decision was adopted at the latest.

#### **Article 7**

Authorized officer shall verify the facts and circumstances from the complaint with the data from the official records held by the Agency or other bodies or institutions.

If the complaint is not dismissed on the grounds specified in articles 4, 5 and 6 of these Instructions, the Agency shall notify the complainant and the legal or natural person to which the complaint refers to of initiating the procedure.

#### **Article 8**

If the procedure referred to in article 7 of these Instructions is initiated, authorized officer shall request the competent state authorities, public administration bodies and local administration bodies, local government bodies, public enterprises, business organizations, institutions or other legal and natural persons and individuals, to provide necessary data and information about facts that are necessary for the Agency to implement the procedure and make a decision, and specifying the time frame for provision of such information, and in such manner so as to protect the identity of the complainant.

If the competent authorities, legal and natural persons, referred to in paragraph 1 of this article, fail to provide the necessary data and information in the provided time frame, and fail to notify the Agency about the reasons thereof, the Agency shall file the request for initiation of the misdemeanour proceedings before the competent court.

In the case referred to in paragraph 2 of this article, the Agency shall inform the authority that supervises its work, submit a special report to the Parliament of Montenegro and inform the public thereof.

#### **Article 9**

If the Agency, in the course of or after having implemented the procedure, establishes that the facts from the procedure indicate the commission of a criminal offence prosecuted ex officio, it shall forward the complaint and all obtained information to the competent state prosecutor's office.

If the Agency, in the course of or after having implemented the procedure, establishes that processing of the complaint is the competence of another authority, it shall forward the complaint to that competent authority.

#### **Article 10**

If the Agency, after having implemented the procedure, establishes that there are no grounds for the complaint, it shall dismiss the complaint.

In the cases referred to in paragraph 1 of this article, authorized officer shall prepare a draft decision, containing the reasons for the dismissal, and submit it to the Director of the Agency for adoption.

In the cases referred to in paragraph 1 of this article, the Agency shall notify the complainant and relevant entity on the decision, in accordance with paragraph 2 of this article.

#### **Article 11**

When, after having implemented the procedure, authorized officer establishes that a violation of the Law was committed, he or she shall prepare a draft decision, containing a brief description of the complaint, the actions taken by the Agency for the purpose of verifying the allegations in the complaint, and the facts established in the course of the procedure. The draft decision shall also contain specific measures for the political entity to take in order to address the identified problem, should it establish the shortcomings are rectifiable.

The draft decision referred to in paragraph 1 of this article shall be submitted to the Director of the Agency for adoption.

The decision shall be submitted to the state authority, public administration body and local administration body, local government authority, or public enterprise, business organization, institution or other legal or natural person to whose work the decision of the Agency refers to, and published on the Agency's website, within 5 days from day of its adoption at the latest.

#### **Article 12**

The decisions referred to in articles 10 and 11 of these Instructions shall be adopted by the Director of the Agency, within 8 days from the day the draft decision was submitted.

#### **Article 13**

While acting upon complaints and communicating with state authorities, the media or the public, the employees of the Agency shall pay special attention to not allowing for disclosure of the identity of complainant and jeopardizing the Agency's procedure, criminal proceedings or proceedings under the jurisdiction of another authority.

Without the consent of the complainant, the Agency shall not reveal his or her identity, except in the cases prescribed by law.

#### **Article 14**

With the entry into force of these Instructions, the Instructions on the manner and procedure for reporting and resolving complaints filed in the course of the election campaign, dated 31 July 2015 (Official Gazette of Montenegro, 43/15) shall cease to be valid.

#### **Article 15**

This Instruction shall enter into force on the day of its publication in the Official Gazette of Montenegro.

Number 01 - 330

Podgorica, 2 February 2016

Agency for Prevention of Corruption

Director, Sreten Radonjic

**Form for complaints  
submitted in the course of election campaign**

**- \* PERSONAL DATA OF THE COMPLAINANT:**

**Name and Surname:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**E mail:** \_\_\_\_\_

- \* If the complaint is not anonymous

**- CONTENT OF THE COMPLAINT**

**Legal or natural person to which your complaint refers:**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Description of the violation:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Other facts and circumstances supporting the suspicion or other available documents:**

1. \_\_\_\_\_
1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

**Has the complainant reported the case to the prosecutor's office or other competent authority?**

1. **Yes (to whom?)** \_\_\_\_\_
2. **No**

***Does the complainant have any information about the outcome of the procedure implemented based on his or her complaint filed with another authority:***

***1. Yes***

***(outcome?)*** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

***2. No***

***Does the complainant wish to protect his or her identity:***

***1. Yes***

***2. No***

***Signature of complainant***

\_\_\_\_\_