



Montenegro
Agency for Prevention of Corruption

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Pursuant to Articles 78 and 79 of the Law on Prevention of Corruption ("Official Gazette of Montenegro", No. 53/14 and 42/17) and Article 10 of the Statute of the Agency for Prevention of Corruption, acting ex officio, the Agency for the Prevention of Corruption adopts:

OPINION ON THE LAW ON MONTENEGRIN CITIZENSHIP ("OFFICIAL GAZETTE OF MONTENEGRO", No. 13/08, 40/10, 28/11, 46/11, 20/14 – CONSTITUTIONAL COURT DECISION, 54/16 AND 73/19)

Taking into account that the issue of Montenegrin citizenship is an issue that undoubtedly attracts a lot of attention of the international and domestic public, the Agency for Prevention of Corruption has, ex officio, analyzed the legal framework governing this issue in terms of elaborate legal procedures, manner of application, application control and admission to Montenegrin citizenship, as well as transparency of procedures and decisions in order to detect norms that cause non-transparent and unclear procedures, and which leave room for various types of abuse and discrimination, and thus create a fertile ground for the development of various types of corruption risks.

In this regard, analyzing the Law on Montenegrin Citizenship, the Agency found that "legal" and "uninterrupted" residence, as a specific legal condition for acquiring Montenegrin citizenship by admission, must be defined through a legal norm and not a secondary legislation as stated in Article 17 of the Law, especially in order to increase legal certainty and reduce the room for various abuses during the preparation and adoption of this regulation.

In addition to the legal definition of the terms "legal" and "uninterrupted" residence in order to provide basic guidelines and key parameters for further elaboration of these terms through secondary legislations in accordance with the authorizations, the Agency reviewed the procedures for granting citizenship to persons whose acquisition to Montenegrin citizenship is of particular importance for state, scientific, business, cultural, economic, sports and other interests of Montenegro. In this regard, the Agency considered the Decision on Criteria for Determining the Scientific, Business, Economic, Cultural and Sports Interest of Montenegro for the Acquisition of Montenegrin Citizenship by Admission and the Decision on Criteria, Manner and Procedure for Selection of a Person Who Can Acquire Montenegrin Citizenship by Admission for the

Implementation of a Special Investment Program of Special Importance for the Industry and Economic Interest of Montenegro.

The Agency is of the opinion that from the point of view of anti-corruption, the transparency of the procedure itself is important as it always contributes to minimizing the space for favoring individual interests to the detriment of the public interest.

In this particular case, transparency is important, because it refers to "privilege" procedures, which justify the public's request to know who and why someone acquired Montenegrin citizenship under special procedures and thus establish a legal relationship with Montenegro. In addition, in the application of "privileged" procedures, possible public pressure, both lay and professional, is beneficial, so that the procedure and content of the decision granting this type of citizenship is based on measurable and tangible results, which would "justify" decision-making of the competent authorities in each particular case.

RATIONALE

I PROCEDURE

The Law on Prevention of Corruption ("Official Gazette of Montenegro", No. 53/14 and 42/17) regulates the competence of the Agency for Prevention of Corruption (hereinafter: the Agency) to, pursuant to Article 78, paragraph 1 of the Law:

- "... give initiatives for the amendment of laws, other regulations and general acts, in order to eliminate possible risks for the occurrence of corruption or their harmonization with international standards in the field of anti-corruption;
- give an opinion on draft laws and other regulations and general acts in order to harmonize with international standards in the field of anti-corruption; ..."

Also, Article 79 of the same Law stipulates that the Agency may, on its own initiative or at the request of an authority, company, legal entity, entrepreneur or natural person, give an opinion to improve corruption prevention, reduce corruption risks and strengthen ethics and integrity in authorities and other legal entities, which includes corruption risk analysis, measures to eliminate the risk of corruption and prevent corruption.

In its Opinions, the Agency may refer to the provisions of the Constitution and relevant laws, not in terms of assessing constitutionality and legality, but in terms of applying and achieving the purpose of Article 79 of the Law on Prevention of Corruption. Also, in order to strengthen the mechanisms for the prevention of corruption, which are recognized by international conventions and documents, the Agency in its opinions seeks to point them out and act on recommendations to introduce and strengthen institutions for the prevention of corruption in Montenegrin legislation.

Article 6, paragraph 1, item 1 of the Law on Prevention of Corruption states that the public interest is the tangible and intangible interest for the good and prosperity of all citizens under equal conditions.

The issue of citizenship was recognized primarily in the Universal Declaration of Human Rights of 1948, which recognizes the right of every individual, regardless of where he is, to a legal relationship with the state: "Everyone shall have the right to citizenship. No one shall be arbitrarily deprived of his citizenship nor denied the right to change his citizenship." This primarily refers to the special legal relationship between the state and its citizen, on the basis of which the rights and obligations of both parties arise.

Also, Article 2 of the European Convention on Nationality, ETS No. 166 of November 6, 1997, states that in terms of this Convention, "citizenship" means a legal relationship between a person and a state and does not indicate the ethnic origin of that person, and Article 3 adds that each State should determine by its own law who its nationals are, and that this right should be accepted by other States to the extent to which it complies with the applicable international conventions, customary international law and principles of law generally recognized in respect of citizenship.

The importance of the issue of citizenship is set out in Article 12 of the Constitution of Montenegro, and the issue of dual citizenship is problematized in Article 12 of the Constitutional Law for the Implementation of the Constitution of Montenegro, while Article 7 envisages the obligation to adopt the Law on Montenegrin Citizenship within two months from the date of entry into force of the Constitutional Law for the Implementation of the Constitution of Montenegro.

The Law on Montenegrin Citizenship ("Official Gazette of Montenegro", No. 13/08, 40/10, 28/11, 46/11, 20/14 - Decision of the Constitutional Court of Montenegro, 54/16 and 73/19) defines several aspects of Montenegrin citizenship which envisages 4 ways of its acquisition, specifically by origin, birth in the territory of Montenegro, admission and under international treaties and agreements.

Bearing in mind that the entire legal framework governing the issue of Montenegrin citizenship has attracted great deal of public attention, the Agency has recognized the interest in conducting ex officio procedure under Articles 78 and 79 of the Law on Prevention of Corruption, and considering the elaboration of legal procedures, manner of application, control of application and admission to Montenegrin citizenship, as well as transparency of the procedures and decisions themselves. The aim of the analysis is not to make recommendations on how to regulate the issue of citizenship in terms of conditions, as regulating this issue is the exclusive right of the state, but the Agency's intention to detect norms that cause non-transparent and unclear procedures that leave room for various types of abuse and discrimination and thus create a fertile ground for the development of various types of corruption risks.

II CORRUPTION RISK ASSESSMENT and ANALYSIS OF ARTICLES OF THE LAW ON MONTENEGRIN CITIZENSHIP ("Official Gazette of Montenegro", No. 13/08, 40/10,

28/11, 46/11, 20/14 - Decision of the Constitutional Court of Montenegro, 54/16 and 73/19), and DECISION ON CRITERIA FOR DETERMINING CONDITIONS FOR ACQUIRING MONTENEGRIN CITIZENSHIP BY ADMISSION ("Official Gazette of Montenegro", No. 47/08, 80/08, 30/10, 56/12 and 15/22), DECISION ON CRITERIA FOR DETERMINING THE SCIENTIFIC, BUSINESS, ECONOMIC, CULTURAL AND SPORTS INTEREST OF MONTENEGRO FOR THE ACQUISITION OF MONTENEGRIN CITIZENSHIP BY ADMISSION ("Official Gazette of Montenegro", No. 34/10, 40/16 and 62/18) and DECISION ON CRITERIA, MANNER AND PROCEDURE FOR SELECTION OF A PERSON WHO CAN ACQUIRE MONTENEGRIN CITIZENSHIP BY ADMISSION FOR THE IMPLEMENTATION OF A SPECIAL INVESTMENT PROGRAM OF SPECIAL IMPORTANCE FOR THE INDUSTRY AND ECONOMIC INTEREST OF MONTENEGRO ("Official Gazette of Montenegro", No. 79/18, 12/20 and 143/21)

The Law on Montenegrin Citizenship regulates the ways and conditions of acquiring and losing Montenegrin citizenship, as well as keeping the register of Montenegrin citizens, and Montenegrin citizenship is defined as a legal relationship between a natural person and Montenegro and does not indicate national and ethnic origin. Article 4 of the Law on Montenegrin Citizenship defines that Montenegrin citizenship may be acquired by origin, birth in the territory of Montenegro, admission and under international treaties and agreements.

Montenegro's restrictive approach to admission to Montenegrin citizenship is defined in Article 8 of the Law, which states that an applicant must prove "legal" and "uninterrupted" residence in Montenegro for at least 10 years.

More precisely, Article 8 of the Law on Admission to Montenegrin Citizenship requires that the applicant meets the following conditions:

- 1) that he or she is over 18 years of age;
- 2) that he or she was released from citizenship of another state;
- 3) that he or she has legal and uninterrupted residence in Montenegro over a period of 10 years, prior to applying for Montenegrin citizenship;
- 4) that he or she has accommodation and guaranteed source of income in Montenegro, in the amount that guarantees material and social security;
- 5) that he or she has not received a prison sentence, either in Montenegro or in another state, exceeding one year, for criminal offence for which he or she is prosecuted ex officio, or if the legal consequences of his or her conviction no longer apply;
- 6) that he or she has knowledge of Montenegrin language and can make basic communication in that language;
- 7) that there are no legal obstacles for the reasons of the public order and the security of Montenegro;
- 8) that he or she has settled all tax and other legal obligations...

In relation to the cited article of the law, and pursuant to Article 10 of this Law, it is stated that: "A Montenegrin emigrant and a member of his / her family up to the third

degree of kinship in the direct line may acquire Montenegrin citizenship by admission if he or she legally and without interruption resides in Montenegro for at least two years and meets the conditions from Article 8 paragraph 1 items 1, 4, 5, 7 and 8 of this law.

The legal and uninterrupted residence of the person referred to in paragraph 1 of this Article shall be determined in accordance with the criteria prescribed by the act referred to in Article 17 of this Law."

Also, when it comes to legal and uninterrupted residence of a person who has been married to a Montenegrin citizen for at least three years and legally and without interruption resides in Montenegro for at least five years before applying for Montenegrin citizenship, and who can acquire Montenegrin citizenship by admission if he or she meets conditions from Article 8, paragraph 1, items 1, 4, 5 and 7 of this Law, it is envisaged that the same shall be determined according to the criteria prescribed by the act referred to in Article 17 of this Law (Article 11 of the Law on Montenegrin Citizenship).

Article 17 of the Law states that the criteria for the conditions referred to in Article 8, paragraph 1, items 3, 4 and 7, Article 12 and Article 24, paragraph 1, items 5, 6, 7 and 8 of this Law shall be determined by the Government. Pursuant to Article 17 of the Law on Montenegrin Citizenship, the Government of Montenegro adopted the Decision on Criteria for Determining the Conditions for Acquiring Montenegrin Citizenship by Admission ("Official Gazette of Montenegro", No. 47/08, 80/08, 30/10, 56/12 and 15/22), which determines the criteria for determining the conditions for acquiring Montenegrin citizenship by admission, prescribed by Article 8, paragraph 1, items 3, 4 and 7 of the Law on Montenegrin Citizenship.

According to Article 2, paragraph 1 of the Decision, legal residence in terms of the cited provision of the Law is granted to a person residing in Montenegro on the basis of approval of the state administration body responsible for matters of permanent and temporary residence before applying for admission to Montenegrin citizenship and who has:

- residence, on the basis of the Law on Permanent and Temporary Residence ("Official Gazette of the Republic of Montenegro", No. 45/93) and previous laws on permanent and temporary residence;
- the approved permanent residence and / or approved temporary residence in accordance with the law governing the residence of foreigners in Montenegro;
- residence on the basis of recognized refugee status in Montenegro and
- residence on the basis of the recognized status of displaced person from the republics of the former SFRY in Montenegro, on the basis of the Decree on the Care of Displaced Persons ("Official Gazette of the Republic of Montenegro", No. 37/92).

Legal residence, in terms of Article 8 paragraph 1 item 3 of the Law, is granted to a person:

- whose parents are Montenegrin citizens who have registered residence in Montenegro on June 3, 2006, and have not deregistered that residence until the submission of the application for admission to Montenegrin citizenship, if he or she resides with them without interruption in Montenegro;

- whose one parent is a Montenegrin citizen, and both parents have registered residence in Montenegro on June 3, 2006, which they have not deregistered until the submission of the application for admission to Montenegrin citizenship, if he or she resides with them without interruption in Montenegro;
- whose parents are not Montenegrin citizens, and they have registered residence in Montenegro on June 3, 2006, which they have not deregistered until the submission of the application for admission to Montenegrin citizenship, if he or she resides with them without interruption in Montenegro;
- whose parents are not alive and had registered residence in Montenegro before June 3, 2006;
- who resided without interruption in Montenegro before reaching the age of 18, and reached the age of majority after June 3, 2006;
- who came from the People's Socialist Republic of Albania to the Socialist Republic of Montenegro in 1991, on the basis of an international agreement between the SFRY and the PSR Albania, and gained the status of a foreigner with permanent residence, at least one year before applying,

In addition, Article 3, paragraph 1 of the Decision defines what is not considered uninterrupted residence, stating: "- absence from Montenegro for more than 90 days;

- multiple absences from Montenegro that indicate abuse of the right of residence to acquire the right to citizenship;
- if a person with recognized refugee status, or a person with recognized status of a displaced person in Montenegro, obtained public documents (identity card, passport) from the competent authority of the country of origin during the period of refugee or displaced status in Montenegro... while explaining that the interruption of uninterrupted residence pursuant to Article 3 paragraph 4 of the Decision shall not be considered absence in the case when a person is sent by the competent and authorized state bodies and public institutions in Montenegro to work, study or on a treatment outside Montenegro or absence of a person employed on a ship whose home port is in Montenegro. "

Bearing in mind that the legal and uninterrupted residence of the applicant is one of the conditions for admission to Montenegrin citizenship, and bearing in mind that its fulfillment is appreciated when it comes to acquiring Montenegrin citizenship by admission, acquiring Montenegrin citizenship by a Montenegrin emigrant and his family member, and a person who is married to a Montenegrin citizen, the conclusion is that such an important condition, problematized in several articles of this Law, was necessarily defined through a legal norm, and not by a secondary legislation as stated in Article 17 of the Law. Therefore, what constitutes a specific legal requirement for acquiring Montenegrin citizenship by admission is defined by a secondary legislation that is subject to possible dynamic changes, and which is within the competence of the executive, as opposed to the law adopted by the Parliament.

The basic principles of legal security, and protection of the importance of the relationship between the individual and the state, which is also one of the issues found in the Constitution of Montenegro, presuppose to be clearly and precisely elaborated through the law itself so as not to leave room for doubts, and in order to ensure legal predictability and reduce the scope for possible abuses during the preparation and adoption of this regulation. Defining what is considered legal and uninterrupted residence should be a legal matter, and additional elaboration of these terms is possible and desirable by bylaws. Due to the above, the Agency for the Prevention of Corruption is of the opinion that it is necessary to define in the law what is considered legal and uninterrupted residence in order to provide basic guidelines and key parameters for further elaboration of these concepts through bylaws.

In the case of a person whose admission to Montenegrin citizenship is of special importance for the state, scientific, business, cultural, economic, sports and other interests of Montenegro, it may be acquired pursuant to Article 12 of the Law on Montenegrin Citizenship and if the person does not meet the requirements referred to in Article 8 of this Law. In this case, the admission to Montenegrin citizenship for the state and other interests of Montenegro is decided by the state administration body in charge of internal affairs on the basis of the proposal of the President of Montenegro, the President of the Parliament of Montenegro or the Prime Minister of Montenegro, and with the opinion of the administrative body responsible for the area referred to in paragraph 1 of this Article.

As already stated in the opinion, Article 17 of the Law states that the criteria for the conditions referred to in Article 8, paragraph 1, items 3, 4 and 7, Article 12 and Article 24, paragraph 1, items 5, 6, 7 and 8 of this Law shall be determined by the Government. In this regard, the Decision on Criteria for Determining the Conditions for Acquiring Montenegrin Citizenship by Admission (Official Gazette of Montenegro, No. 47/08, 80/08, 30/10, 56/12 and 15/22) was adopted, setting out the criteria for determining the conditions prescribed in Article 8, paragraph 1, items 3, 4 and 7. Also, the Decision on Criteria for Determining the Scientific, Business, Economic, Cultural and Sports Interest of Montenegro for the Acquisition of Montenegrin Citizenship was adopted ("Official Gazette of Montenegro", No. 34/10, 40/16 and 62/18) as well as Decision on Criteria, Manner and Procedure for Selection of a Person Who Can Acquire Montenegrin Citizenship by Admission for the Implementation of a Special Investment Program of Special Importance for the Industry and Economic Interest of Montenegro ("Official Gazette of Montenegro", No. 79/18, 12/20 and 143 / 21). These decisions determine the criteria on the basis of which a person can acquire Montenegrin citizenship by admission due to the special importance for the scientific, business, economic, cultural and sports interests of Montenegro, and criteria, manner and procedure for selection of a person who submits a request for the implementation of a special investment program of special importance for the industry and economic interest of Montenegro, on the basis of which he can acquire Montenegrin citizenship by admission.

According to publicly available data in the process of proposing and passing the Decision on Amending the Decision on Criteria for Determining Conditions for Acquiring

Montenegrin Citizenship by Admission from February this year, it can be said that the principle of departmental competence was violated when proposing a bylaw, but whose significance is unquestionable, bearing in mind that it defines the criteria for determining the conditions for acquiring Montenegrin citizenship by admission. Namely, the Decree on the organization and manner of work of the state administration ("Official Gazette of Montenegro", 118/20, 121/20, 1/21, 2/21, 29/21, 34/21, 41/21, 85/21 and 11/22) defines in advance the division of competencies of line institutions responsible for policy implementation, and specifically Article 4 of the Decree defines that it is within the competence of the Ministry of the Interior to prepare draft laws, other regulations and general acts in the field of internal affairs, while the Law on Internal Affairs ("Official Gazette of Montenegro", No. 70/21 and 123/21) defines what is covered by internal affairs. According to the line of the above, and having in mind the Rules of Procedure of the Government of Montenegro ("Official Gazette of Montenegro", No. 3/12, 31/15, 48/17 and 62/18), which further regulates the organization and manner of work of the Government of Montenegro, it is clear that the only proposer of bylaws in this area should and had to be the Ministry of the Interior.

All the above further emphasizes the need that the criteria for determining the conditions for admission to Montenegrin citizenship should not be subject to regulation of the Decision, but only legal matters, having in mind the mechanisms of control and political consensus that the law passes until its adoption, which is not the case with bylaws. Defining the legal and uninterrupted residence of the applicant for Montenegrin citizenship must be achieved through a legal norm, and not by a bylaw as stated in Article 17 of the Law on Montenegrin Citizenship, bearing in mind that the practice has shown that these bylaws are subject to possible dynamic changes, and that the executive branch is thus left to regulate important issues with its acts, without taking into account the established policy of "multilevel" in creating and controlling policies and other issues of importance for the work of the Government.

When it comes to Article 12 of the Law on Montenegrin Citizenship, which refers to the acquisition of Montenegrin citizenship by admission due to its special importance for the state, scientific, business, cultural, economic, sports and other interests of Montenegro, and when the conditions referred to in Article 8 of this Law are not met, the same shall be regulated by the Decision on Criteria for Determining the Scientific, Business, Economic, Cultural and Sports Interest of Montenegro for the Acquisition of Montenegrin Citizenship, and Article 3a of this decision stipulates that business and economic interest of special importance may be expressed through capital investment, i.e. donation of funds and through a special investment program, for which the criteria, manner and procedure of election are prescribed by the Government of Montenegro.

The subject decisions regulate issues that are of special importance for acquiring Montenegrin citizenship by admission for persons who do not meet the requirements of Article 8 of this Law, but meet the conditions determining the special importance of these persons for scientific, economic, cultural and sports interests of Montenegro, and due to the importance of the issues they regulate, and the interest of both the domestic

and international public in their implementation, these decisions should be the subject of special reviews and analysis of the executive branch.

Namely, although the procedure for granting citizenship by admission for the stated reasons is envisaged, as well as the criteria for competent bodies participating in the verification of conditions, especially when it comes to the implementation of special investment programs that are of special importance for Montenegro's business and economic interests, what the whole procedure, which is of a privileged nature, lacks is transparency.

Transparency of this procedure means that the competent authorities make publicly available acts with decisive facts which determine that certain person have not only a privileged status, but that they are worthy of the category of citizenship that is "honorary". Publicity and transparency of the whole procedure, from the point of view of anti-corruption, always contributes to minimizing the space for favoring individual interests to the detriment of the public interest. Transparency is especially necessary in the granting of "economic citizenship" aimed at increasing economic activity, and the action of the Investment Agency as a key link in the implementation of a special investment program is of particular importance for the business and economic interest of Montenegro, which is why transparency of their decisions in this area is necessary.

"Economic citizenship" as a special topic needs to be further considered and analyzed, especially bearing in mind that one of the reports of the European Parliament, adopted by the Committee on Civil Liberties, Justice and Home Affairs on February 5, 2022, states that "whereas the Montenegrin government has not decided to discontinue its CBI scheme, although it had signaled the importance of phasing out that CBI scheme fully and effectively as soon as possible; calls upon the Montenegrin government to do so without delay... ". In addition, the same document states that financial investment-based citizenship schemes (CBI schemes), also known as "golden passports", are objectionable from an ethical, legal and economic point of view and pose several serious security risks for Union citizens, such as those stemming from money-laundering and corruption... "¹

Although introduced into the Montenegrin system as an important instrument for attracting investments, economic citizenship has, since its introduction, apparently attracted the attention of the European Union and continues to do so. This institute is an isolated example of application in only two members of the European Union, Malta and Bulgaria, and as such is a frequent subject of discussion within the Union itself. Given the Montenegrin aspirations related to European integration processes, it is very important to conduct an analysis of our country's interest in attracting investment in this way and our development on the path to European integration, where this issue is an obvious "stumbling block ". In addition, what needs to be done especially when it comes to the process of granting this type of citizenship is to strengthen the transparency of the

¹ https://www.europarl.europa.eu/doceo/document/A-9-2022-0028_EN.html#title5

whole process, the availability of all "decisive" documentation on which the decision to grant citizenship is based, so that the space for possible abuses would be reduced to a minimum, and the interested, i.e. professional public would have the opportunity to see the observance of the procedures that justify the acquisition of "economic citizenship".

Although it is clear that not all issues in the norm, which may be important from the point of view of corruption prevention, can be expected to be regulated by law, the Agency for Prevention of Corruption calls on the competent institutions to consider the entire policy in the field of citizenship, and regulate this issue in an adequate manner and to a sufficient extent at the legal level so that it is in synergy with the preventive mechanisms for combating corruption in the norm itself. In addition, the competent institutions in anticipating and implementing these procedures must take into account that the "privileged" procedures require a greater degree of transparency and public availability of complete documentation, on the basis of which it can be concluded what is the real contribution that certain persons have made, and how those persons would be treated as persons of special importance for state, scientific, business, cultural, economic, sports or other interests of Montenegro, as it is defined by Article 12 of the Law on Montenegrin Citizenship. These issues arouse a great degree of interest of the international and domestic public, and this public has the right to know who, according to special procedures, and why, can obtain Montenegrin citizenship and thus establish a legal relationship with Montenegro. In addition, in the application of "privileged" procedures, the possible pressure of both the lay and professional public is beneficial, so that the procedure and content of the decision granting this type of citizenship is based on measurable and tangible results, which would "justify" the decision of the authorities in each specific case.

III FINAL ASSESSMENTS

Bearing in mind that the entire legal framework governing the issue of Montenegrin citizenship has undoubtedly attracted a great deal of attention from the international and domestic public, the Agency, ex officio, analyzed the Law on Montenegrin Citizenship ("Official Gazette of Montenegro", No. 13/08, 40/10, 28/11, 46/11, 20/14 - Decision of the Supreme Court of Montenegro, 54/16 and 73/19), Decision on the criteria for determining the conditions for acquiring Montenegrin citizenship by admission ("Official Gazette of Montenegro", No. 47/08, 80/08, 30/10, 56/12 and 15/22), Decision on Criteria for Determining the Scientific, Business, Economic, Cultural and Sports Interest of Montenegro for Acquiring Montenegrin Citizenship ("Official-Gazette of Montenegro", No. 34/10, 40/16 and 62/18) and the Decision on Criteria, Manner and Procedure for Selection of a Person Who Can Acquire Montenegrin Citizenship by Admission for the Implementation of a Special Investment Program of Special Importance for the Industry and Economic Interest of Montenegro ("Official Gazette of Montenegro", No. 79/18, 12/20 and 143/21).

On this occasion, the Agency reviewed the elaboration of legal procedures, methods of application, control of application and admission to Montenegrin citizenship, as well as the transparency of the procedures and decisions, with the aim of detecting norms that cause non-transparent and unclear procedures, and which leave room for various types of abuse and discrimination, and thus create a suitable ground for the development of various types of corruption risks.

During the analysis of the Law on Montenegrin Citizenship, the Agency determined that "legal" and "uninterrupted" residence, as a specific legal condition for acquiring Montenegrin citizenship by admission, whose fulfillment is also appreciated for acquiring Montenegrin citizenship for a Montenegrin emigrant and a member of his family, and a person married to a Montenegrin citizen, must be defined through a legal norm, and not by a bylaw as stated in Article 17 of the Law, especially with the aim of greater legal certainty and reduction of space for various abuses during the preparation and adoption of this regulation.

In addition to the legal definition of the terms "legal" and "uninterrupted" residence, to provide basic guidelines and key parameters for further elaboration of these terms through bylaws in accordance with the powers, the Agency considered the procedures for granting citizenship to persons whose Montenegrin citizenship is of particular importance for state, scientific, business, cultural, economic, sports and other interests of Montenegro. This issue is regulated by the Decision on Criteria for Determining the Scientific, Business, Economic, Cultural and Sports Interest of Montenegro for Acquiring Montenegrin Citizenship and the Decision on Criteria, Manner and Procedure for Selection of a Person Who Can Acquire Montenegrin Citizenship by Admission for the Implementation of a Special Investment Program of Special Importance for the Industry and Economic Interest of Montenegro.

In principle, it was concluded that due to the importance of the issues they regulate, and the interest of both the professional and international public in their implementation, these decisions should be the subject of special reviews and analysis of the executive branch.

In its Analysis, the Agency stated that the decisions in question provide for the procedure of granting citizenship by admission for the above reasons, criteria for competent authorities participating in the verification of conditions, especially when it comes to the implementation of special investment programs which are of special importance for the industry and economic interest of Montenegro.

However, the Agency, by analyzing the legal framework in question, concluded that what is missing from the whole procedure, which is of a privileged nature, is transparency. The Agency is of the opinion that from the point of view of anti-corruption, the transparency of the procedure itself is important as it always contributes to minimizing the space for favoring individual interests to the detriment of the public interest.

In this case, transparency is important, because it refers to "privileged" procedures, which justify the public's request to know who, according to special procedures, and why, can obtain Montenegrin citizenship and thus establish a legal relationship with Montenegro. In addition, in the application of "privileged" procedures, the possible pressure of both the lay and professional public is beneficial, so that the procedure and content of the decision granting this type of citizenship is based on measurable and tangible results, which would "justify" the decision of the authorities in each specific case. Transparency is especially necessary in the granting of "economic citizenship" aimed at increasing economic activities, and the actions of the Investment Agency, as a key link in the implementation of a special investment program, is of particular importance for the business and economic interest of Montenegro, which is why transparency of their decisions in this area is necessary.

Although introduced into the Montenegrin system as an important instrument for attracting investment, economic citizenship has attracted and continues to attract the attention of the European Union since its introduction, especially bearing in mind that this institute is an isolated example of application only in two members of the European Union, Malta and Bulgaria, and as such is the subject of discussion within the Union itself. In this regard, and having in mind the Montenegrin aspirations related to European integration processes, it is very important to conduct an analysis of the justification for attracting investment in this way, bearing in mind that "economic citizenship" is a clear "stumbling block" for integration processes.


DIRECTOR
Jelena Perović