

Mapping of rights and obligations of a) Prime Minister, Deputy Prime Ministers, ministers and state secretaries, (deputy) Chief of Cabinet to the Prime Minister and “special advisors” to the Prime Minister and the Deputy Prime Minister (PTEFs), b) public officials (as defined in Law on the Prevention of Corruption) and c) civil servants

Guidance of rights and obligations

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ANTI-CORRUPTION GUIDE FOR PTEFs, PUBLIC OFFICIALS AND CIVIL SERVANTS

1. PURPOSE OF THIS GUIDE

This Guide is prepared in response to GRECO Recommendation V and aims to provide an overview of the rights, obligations and responsibilities arising from the anti-corruption legal framework¹ in Montenegro. It is intended to:

- enable subjects to understand which rules apply to them regarding Conflict of interests, incompatibility of functions, assets declarations, gifts, whistleblowers protection, lobbying, integrity plans, transparency;
- reduce uncertainty caused by dispersed legislation and by laws;
- support lawful, ethical and integrity based performance of public functions.

This Guide does not replace laws, but:

- consolidates obligations in one place;
- clarifies personal scope;
- improves legal certainty and awareness, as required by GRECO.

2. SUBJECTS OF THE GUIDE

This Guide applies to three main categories, clearly distinguished by GRECO and Montenegrin law:

2.1 Persons Entrusted with Top Executive Functions (PTEFs)

Including, inter alia:

- Prime Minister, Deputy Prime Ministers, ministers and state secretaries, (deputy) Chief of Cabinet to the Prime Minister and “special advisors” to the Prime Minister and the Deputy Prime Minister.

Important: All PTEFs are also public officials within the meaning of the Law on the Prevention of Corruption (LPC) and are subject to all obligations applicable to public officials, plus additional integrity rules.

2.2 Public Officials (javni funkcioneri) according to LPC

As defined by the LPC, including:

- elected, appointed or designated person in a state authority, state administration body, judicial authority, body of local self-government, body of local administration, independent body, regulatory body, public institution, commercial company, or other legal entity exercising public powers or performing activities of public interest or that is state-owned² (hereinafter: authority),
- person whose election, appointment or designation requires the consent of an authority, regardless of the permanence of the position or remuneration,
- notaries, public enforcement officers, and bankruptcy trustees.

¹ As the expert is not fully acquainted with the Montenegrin legal system, there is a possibility that the list is incomplete.

² State ownership shall refer to any share in a company in which the state or municipality, Royal Capital, or the Capital City (hereinafter: municipality) has at least 33% of the capital.

2.3 Civil Servants and State Employees according to Law on civil servants and state employees (državni službenici i namještenici)

Including, inter alia:

- person who has entered into an employment relationship with a state authority for the purpose of performing tasks through which the competences of that authority, as established by the Constitution, law, and other regulations, are exercised,
- a person who performs information technology, material and financial, accounting, and other administrative tasks within a state authority,
- a person who has entered into an employment relationship with a state authority for the purpose of performing auxiliary and other supporting tasks.

3. CORE PRINCIPLES APPLYING TO ALL CATEGORIES

Regardless of status or position, all persons covered by this Guide must:

- act lawfully, impartially and in the public interest;
- avoid actual, potential and perceived conflicts of interest;
- ensure transparency and accountability;
- refrain from accepting undue benefits, gifts or advantages;
- cooperate with competent oversight bodies.

In further text, the Guide is divided to three parts – for each category of persons:

- I. PTEFs,**
- II. Public officials as defined by LPC**
- III. Civil servants and State Employees**

I. GUIDE FOR PERSONS ENTRUSTED WITH TOP EXECUTIVE FUNCTIONS (PTEFs)

1. DEFINITION OF PTEFS

PTEFs include:

- Prime Minister, Deputy Prime Ministers,
- Ministers and State Secretaries,
- Chief / Deputy Chief of Cabinet,
- Special advisers to the Prime Minister and Deputy Prime Ministers.

Legal status:

PTEFs are **public officials** within the meaning of the **Law on the Prevention of Corruption (LPC, Art. 3)**. PTEFs are also subject to **sector-specific executive integrity regimes** (Draft Law on Government, Decree on Government, election and campaign laws, lobbying law, public resources rules, etc.).

2. COMPETENT AUTHORITIES FOR PTEFS

Matter	Competent authority
Conflicts of interest, assets, gifts, lobbying	Agency for the Prevention of Corruption (APC)
Ethics and integrity within Government	Ethics Committee (Draft Law on Government)
Disciplinary / political accountability	Parliament / Government
Campaign conduct / public resources	APC + other control bodies
Judicial review	Administrative Courts

3. CONFLICT OF INTEREST

Obligation	Law	Articles
Perform public function without subordinating public interest to private interest	LPC	Art. 9
Submit written declaration of private interest	LPC	Art. 10(1)
Abstain from acting or influencing	LPC	Art. 10(2)
Record conflict; may seek APC opinion	LPC	Art. 10(4)
Mandatory recusal	LAP	Arts. 48–50
Collegial decision-making, transparency obligations	Decree on Government	Arts. 4, 8

Declaration of COI; exclusion from procedure	Law on Public Procurement	Arts. 40–43
COI declaration; exclusion; nullity of contracts	Law on Public-Private Partnership	Arts. 28, 37–39
Avoid misuse of public resources	Law on Financing of Political Entities and Election Campaigns	Arts. 36–45

4. INCOMPATIBILITIES AND ADDITIONAL ACTIVITIES

Prohibition / obligation	Law	Articles
Prohibition of managerial roles in private entities	LPC	Arts. 12–13
Prohibition of incompatible public offices	LPC	Arts. 14–15
Obligation to resign	LPC	Art. 15
Prohibition of service contracts creating private interest	LPC	Art. 16
Ethics obligations during and after mandate	Draft Law on Government	Art. 18
Integrity check before appointment	Draft Law on Government	Arts. 43–45
Ban on lobbying by PTEFs	Law on Lobbying	Art. 15
Cooling-off period	LPC	Art. 17

5. ASSETS AND INCOME DECLARATIONS

Obligation	Law	Articles
Initial declaration	LPC	Art. 25
Annual declaration	LPC	Art. 25
Declaration of changes	LPC	Art. 25
Scope of assets and income	LPC	Art. 26
Submission form and method	LPC	Art. 27
Assets register	LPC	Art. 28
Publication of data	LPC	Art. 29

Verification procedures (procedural expansion via by-laws)	LPC + by-laws	Arts. 32–33
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6. GIFTS, SPONSORSHIPS AND DONATIONS

Obligation	Law	Articles
General prohibition	LPC	Art. 18
Mandatory	LPC	Art. 19
Authority obligation	LPC	Art. 20
APC publishes	LPC	Art. 21
Return value	LPC	Art. 22
Prohibited if influencing impartiality	LPC	Arts. 23–24
Strict prohibition	Law on Financing of Political Entities and Election Campaigns	Arts. 7, 34

7. Lobbying

Obligation	Law	Articles
Accept only registered lobbying	Law on Lobbying	Art. 39
Identification of lobbyist	Law on Lobbying	Art. 39(6)
Official record of lobbying contact	Law on Lobbying	Art. 41
Delivery of record to APC	Law on Lobbying	Art. 41(4)
Publication of lobbying data	Law on Lobbying	Art. 42
Refusal of illegal lobbying	Law on Lobbying	Art. 40
Reporting illegal lobbying	Law on Lobbying	Arts. 46–47

8. Whistleblowing

Obligation	Law	Articles
Establish reporting channels	LPC	Arts. 54–57

Protection from retaliation	LPC	Arts. 65–66
Judicial protection	LPC	Arts. 67–72
Rewards mechanism	LPC	Arts. 73–74

II. GUIDE FOR PUBLIC OFFICIALS AS DEFINED BY LPC

1. DEFINITION OF PTEFS

LPC in Article 3 defines “public officials” (javni funkcioneri) as:

- elected, appointed or designated person in a state authority, state administration body, judicial authority, body of local self-government, body of local administration, independent body, regulatory body, public institution, commercial company, or other legal entity exercising public powers or performing activities of public interest or that is state-owned³ (hereinafter: authority),
- person whose election, appointment or designation requires the consent of an authority, regardless of the permanence of the position or remuneration,
- notaries, public enforcement officers, and bankruptcy trustees.

2. COMPETENT AUTHORITIES FOR PUBLIC OFFICIALS

Matter	Competent authority
Conflict of interest, assets, gifts	Agency for the Prevention of Corruption (APC)
Ethical issues (judges)	Judicial Council / Ethics Commission
Ethical issues (prosecutors)	Prosecutorial Council / Ethics Commission
Notaries / enforcement officers	Ministry of Justice + professional chambers
Disciplinary accountability	Sector-specific bodies
Judicial protection	Courts

3. CONFLICT OF INTEREST

Applicable laws⁴

- Law on the Prevention of Corruption
- Law on Administrative Procedure
- Law on Judicial Council and Judges
- Law on State Prosecution
- Law on Notaries
- Law on Public Enforcement Officers
- Law on Bankruptcy

³ State ownership shall refer to any share in a company in which the state or municipality, Royal Capital, or the Capital City (hereinafter: municipality) has at least 33% of the capital.

⁴ As the expert is not fully acquainted with the Montenegrin legal system, there is a possibility that the list is incomplete.

3.1 General conflict-of-interest obligations (ALL public officials)

Obligation	Law	Articles
Perform duties without subordinating public interest to private interest	LPC	Art. 9
Declare private interest in writing	LPC	Art. 10(1)
Abstain from deciding or influencing	LPC	Art. 10(2)
Record conflict; may request APC opinion	LPC	Art. 10(4)
Mandatory recusal	Law on Administrative Procedure	Arts. 48–50

3.1.1. Judges

Obligation	Law	Articles
Avoid conflicts of interest	Law on Judicial Council and Judges	Art. 102
Ethics and professional conduct	Code of Judicial Ethics	Arts. 107a–107č
Asset & income declaration	Law on Judicial Council and Judges + LPC	Art. 108(12)
Disciplinary liability (COI, gifts)	Law on Judicial Council and Judges	Arts. 108–119

3.1.2 State Prosecutors

Obligation	Law	Articles
Incompatibility and conflicts	Law on State Prosecution	Arts. 26, 101
Ethics oversight	Prosecutors' Code of Ethics	Arts. 107a–107d
Asset & income declaration	Law on State Prosecution + LPC	Art. 108(9)
Disciplinary liability	Law on State Prosecution	Arts. 108–119

3.1.3 Notaries

Obligation	Law	Articles
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Mandatory recusal in case of interest	Law on Notaries	Arts. 28, 43
Incompatibility of functions	Law on Notaries	Art. 13
Asset & income declaration	Law on Notaries + LPC	Art. 30a
Disciplinary responsibility	Law on Notaries	Arts. 112–123

3.1.4 Public Enforcement Officers

Obligation	Law	Articles
Mandatory recusal	Law on Public Enforcement Officers	Art. 31
Incompatibilities	Law on Public Enforcement Officers	Arts. 12–15
Asset & income declaration	Law on Public Enforcement Officers + LPC	Art. 35
Disciplinary offences (COI, abuse)	Law on Public Enforcement Officers	Arts. 62–63

3.1.5 Bankruptcy Administrators

Obligation	Law	Articles
Conflict-of-interest exclusion	Law on Bankruptcy	Art. 29č
Removal due to conflict	Law on Bankruptcy	Art. 38
Oversight and control	Law on Bankruptcy	Arts. 25a–25h

4 INCOMPATIBILITIES AND ADDITIONAL ACTIVITIES

4.1 General regime (all public officials)

Prohibition / obligation	Law	Articles
Management rights in private entities	LPC	Arts. 12–13
Incompatible public offices	LPC	Arts. 14–15
Obligation to resign	LPC	Art. 15
Prohibited contracts creating private interest	LPC	Art. 16
Post-mandate restrictions	LPC	Art. 17

4.2 Sector-specific additional restrictions

Category	Law	Key articles
Judges	Law on Judicial Council and Judges	Arts. 102, 107a
Prosecutors	Law on State Prosecution	Arts. 26, 101
Notaries	Law on Notaries	Art. 13
PEOs	Law on Public Enforcement Officers	Arts. 12–15
Bankruptcy administrators	Law on Bankruptcy	Arts. 29č, 38

5 ASSETS AND INCOME DECLARATIONS

Obligation	Law	Articles
Initial declaration	LPC	Art. 25
Annual declaration	LPC	Art. 25
Declaration of changes	LPC	Art. 25
Scope of declaration	LPC	Art. 26
Register & publication	LPC	Arts. 28–29
Verification & control	LPC + by-laws	Arts. 32–33

6 GIFTS, DONATIONS AND OTHER BENEFITS

Obligation / Prohibition	Law	Articles
General ban on gifts	LPC	Art. 18
Refusal and reporting	LPC	Art. 19
Records and surrender	LPC	Arts. 20–21
Illegal gifts	LPC	Art. 22
Gifts as disciplinary offence (judges, prosecutors)	Sectoral laws	Arts. 108–119
Sponsorships / donations influencing impartiality	LPC	Arts. 23–24

7 LOBBYING AND UNDUE INFLUENCE

Obligation	Law	Articles
Accept only registered lobbying	Law on Lobbying	Art. 39
Identification of lobbyist	Law on Lobbying	Art. 39(6)
Official record of contact	Law on Lobbying	Art. 41
Delivery of record to APC	Law on Lobbying	Art. 41(4)
Publication of data	Law on Lobbying	Art. 42
Refusal of illegal lobbying	Law on Lobbying	Art. 40
Reporting suspected illegal lobbying	Law on Lobbying	Arts. 46–47

8 WHISTLEBLOWING PROTECTION

Obligation / Right	Law	Articles
Right to report corruption	LPC	Arts. 48–49
Internal reporting systems	LPC	Arts. 54–57
Protection from retaliation	LPC	Arts. 65–66
Judicial protection	LPC	Arts. 67–72
Rewards mechanism	LPC	Arts. 73–74

III. PRACTICAL GUIDE FOR CIVIL SERVANTS AND STATE EMPLOYEES

1. DEFINITION OF CIVIL SERVANTS AND STATE EMPLOYEES

Civil servants are defined in the Law on civil servants and state employees (Zakon o državnim službenicima i namještenicima) as:

- person who has entered into an employment relationship with a state authority for the purpose of performing tasks through which the competences of that authority, as established by the Constitution, law, and other regulations, are exercised,
- a person who performs information technology, material and financial, accounting, and other administrative tasks within a state authority,
- a person who has entered into an employment relationship with a state authority for the purpose of performing auxiliary and other supporting tasks.

2. APPLICABLE INTEGRITY FRAMEWORK

Civil servants are not governed by a single integrity law, but by a layered framework:

A) Primary laws

- Law on Civil Servants and State Employees
- Law on Administrative Procedure

B) Sector-specific laws

- Law on Police Affairs
- Law on Customs Service
- Law on Tax Administration
- Law on Inspection Supervision
- Public Procurement Law
- Public-Private Partnership Law
- Others, depending on function

→ Civil servants must NOT assume that all LPC rules apply automatically.

3. COMPETENT AUTHORITIES FOR CIVIL SERVANTS

Matter	Competent authority
Conflicts of interest	Immediate superior / head of authority
Disciplinary responsibility	Disciplinary commission / employer
Administrative recusal	Authority under -Law on Administrative Procedure
Assets & income (where applicable)	Agency for the Prevention of Corruption (APC)

Whistleblower protection	Employer + APC
Judicial protection	Courts

4. CONFLICT OF INTEREST

Applicable laws

- Law on Civil Servants and State Employees (LCSSE)
- Law on Administrative Procedure
- Sector-specific laws (Police, Customs, Tax, Inspection)

4.1. General conflict-of-interest obligations (ALL civil servants)

Obligation	Description	Law	Articles
Duty to protect public interest	Perform duties impartially	LCSSE	Art. 75
Identification of conflict	Actively assess conflict situations	LCSSE	Art. 75
Declaration of conflict	Notify immediate superior in writing	LCSSE	Art. 76
Prohibition of abuse	No use of office for personal benefit	LCSSE	Art. 77
Corrective action	Superior must eliminate conflict	LCSSE	Art. 76

4.2. Recusal in administrative procedures

Obligation	Law	Articles
Mandatory recusal where impartiality compromised	Law on Administrative Procedure	Arts. 48–50
Decision on recusal	Law on Administrative Procedure	Arts. 48–50
Annulment of biased decisions	Law on Administrative Procedure	Art. 139

4.3. Sector-specific conflict-of-interest rules

4.3.1. Police officers

Obligation	Law	Articles
Impartial conduct	Law on Internal Affairs	Arts. 19–20
Refusal of unlawful orders	Law on Internal Affairs	Art. 49
Reporting integrity risks	Law on Internal Affairs	Arts. 49, 125–128

4.3.2. Custom officers

Obligation	Law	Articles
Avoid subordination of public interest	Law on Customs Service	Art. 73
Written reporting of conflict	Law on Customs Service	Art. 74
Corrective measures by superior	Law on Customs Service	Art. 75
Prohibition of oversight over related persons	Law on Customs Service	Art. 79

4.3.3. Tax officials

Obligation	Law	Articles
Independent and impartial work	Law on Tax Administration	Art. 6
Internal control mechanisms	Law on Tax Administration	Art. 91c

4.3.4. Inspectors

Obligation	Law	Articles
Disciplinary accountability	Law on Inspection Supervision	Arts. 15, 71
Institutional oversight	Law on Inspection Supervision	Arts. 65a–65b

5. INCOMPATIBILITIES AND ADDITIONAL WORK

5.1. General regime

Obligation / Prohibition	Law	Articles
Additional work only with approval	LCSSE	Art. 79
Prohibition of incompatible activities	LCSSE	Art. 80
Political neutrality	LCSSE	Art. 6

5.2. Sector-specific incompatibilities

Category	Law	Articles
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Police senior management	Law on Internal Affairs	Arts. 15–17
Customs officers	Customs Law	Art. 76
Inspectors	Inspection Law	Various

6. ASSETS AND INCOME DECLARATIONS (ONLY WHERE APPLICABLE)

General rule: Civil servants do NOT submit asset declarations unless a special law explicitly requires it.

6.1. Categories REQUIRED to submit declarations

Category	Law	Articles
Inspectors	Law on Inspection Supervision	Art. 71a
Tax officials	Law on Tax Administration	Art. 6a
Customs officers	Law on Customs Service	Art. 55

In these cases, LPC Arts. 25–29 apply mutatis mutandis, and APC is competent authority.

7. GIFTS AND BENEFITS

General rule: absolute prohibition

Rule	Law	Article
No gifts, services or benefits	LCSSE	Art. 78

8. WHISTLEBLOWING AND PROTECTION

Applicable laws:

- Law on the Prevention of Corruption

8.1. Rights and obligations

Right / Obligation	Law	Articles
Right to report corruption	LPC	Arts. 48–49
Internal reporting channels	LPC	Arts. 54–57
Protection from retaliation	LPC	Arts. 65–66
Judicial protection	LPC	Arts. 67–72