

LAW ON THE PREVENTION OF CORRUPTION

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I. BASIC PROVISIONS

Subject

Article 1

The present 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 the present 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 company 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 the present Law, 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.

Agency for the Prevention of Corruption

Article 4

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

Whistleblower, within the meaning of this Law, shall mean 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 the financing of political entities and election campaigns, in accordance with a special law.

The work of the Agency shall be public.

Use of Gender-Sensitive Language

Article 5

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

Meaning of Expressions

Article 6

The expressions used in the present 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 a thing, right or service acquired or performed without compensation and any other gain provided to a public official or a person related to a public official in connection with the exercise of public function;
- 6) **Public company** is a company in which the state or a municipality has 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 BY 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 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 shall be deemed to exist 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 the prevention of conflict of interest.

Opinions about the existence of a 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 the present 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 assets by public officials, which are given or adopted by the Agency in accordance with the present Law, shall be binding for a public official.

It shall be deemed that a public official has violated the provisions of the present Law in the event that 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 the present Law or when he acts in a manner that violates the prohibitions and rules prescribed by the present 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 exercises a public function, a public official participates in the discussion and decision-making in the matter in which he or a person related to the public official has a private interest, he shall inform other participants in the discussion and decision-making thereon by making a statement on the existence of the private interest, prior to his 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 the 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 a public function shall enter 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, a public official may not participate in the discussion and decision-making until the Agency brings 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 that there is a conflict of interest, informing the public official and authority referred to in paragraph 3 of this Article thereon, the public official may not participate in the discussion and decision-making and the authority shall take a decision on his exemption.

The authority shall prevent the execution of decisions taken contrary to paragraph 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 otherwise specified by 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 the present Law, except for those who make decisions or participate in decision-making.

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 in just one working body in one 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 of the election, appointment or assignment to public office transfer his

management rights in these entities to another legal or natural person, in order for this person to exercise these rights in his name and on behalf of the public official until the termination of his 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 management rights as a member of the body, the transfer of management 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 management rights, submit the Agency with information on the person to whom he transferred the management rights and the evidence of the transfer of management rights.

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

Exercise of Managerial and other Functions in Companies

Article 11

A public official may 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 the present Law shall, within 30 days of the election, appointment, or assignment, resign from office or function referred to in paragraph 1 of this Article.

Exercise of Public Functions in Public Companies and Public Institutions

Article 12

A public official may 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 company, 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 MPs and councillors.

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

Obligation to Resign

Article 13

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

Contracts on Services and Business Cooperation

Article 14

A public official may not conclude a contract on the provision of services to a public company.

A public official may 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 function, unless the value of these contracts is less than €1,000 per year.

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

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

Restrictions upon Termination of Public Function

Article 15

For a period of two years following the termination of public function, a public official may not:

1) Act, before the authority in which he 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, based on the decisions of the authority in which a public official has exercised function, acquires gain;

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

4) Perform management or audit activities in the legal person in which, at least one year prior to the termination of public function, his 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 exercised a public function;

6) Use, 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.

3. Gifts, Sponsorships and Donations

Prohibition on Receiving Gifts

Article 16

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

Public officials may 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 may not exceed the amount of € 50, and if a public official receives gifts from several donors in this period, the value of such gifts may 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 he may not receive shall refuse the offer, i.e. inform the donor that he 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 exercises a public function.

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

Disposal of Gifts

Article 18

Received gifts and their value shall be entered in the records 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 the present Law, the gift shall be handed over to the authority in which the public official exercises public function for disposal 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 disposal of gifts referred to in paragraph 1, 2 and 3 of this Article, the manner of keeping records 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).

Records of Gifts

Article 19

The authority referred to in Article 18, paragraph 1 of the present Law shall submit an excerpt from the records 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 it has not been acted in accordance with the present 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 the present 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 performs the function, which shall thus become state property or property of the municipality.

Sponsorships and Donations to Authorities

Article 21

A public official may not conclude a sponsorship agreement in his own name.

A public official may not conclude a sponsorship agreement or receive donations in the name of the authority in which he 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 paragraph 1 and 2 of this Article, the concluded contract shall be subject to the provisions of the Law on Contracts relating to the nullity of contracts.

For the purpose of the present 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 the present 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 the Agency with 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 knowledge, 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 for undertaking 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 notifying 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

A public official shall, within 30 days of assuming the function, submit the Agency with 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.

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

During the exercise of a public function, a 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 from the Report that relate to an increase in assets of more than € 5,000, within 30 days of 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 the present Law, within 30 days of receipt of the request, or initiation of proceedings ex officio.

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

A public official whose function has terminated shall annually, over the next two years after termination of the function, submit the Report to the Agency, according to the state of play on the day of submitting the Report.

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 the present Law, notify the Agency thereon within 30 days of the 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 a special law.

Data Reported

Article 24

The Report shall contain:

1) Personal data of a public official and family household referred to in Article 23, paragraph 1 of the present Law, as follows: name and surname, Unique Master Citizen Number, permanent or temporary residence, address, education and occupation, and for the 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 family household referred to in Article 23, paragraph 1 of the present Law, and especially on:

- 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 whose value 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;

- Debt (principal, interest and 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 companies, 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, a public official may give consent to the Agency for access to 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 a public official are valid in accordance with the present Law.

A 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

A 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 a unified information system of the Agency.

Data from the Register shall be deleted ex officio 10 years after the termination of the function of a 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 the present 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 of Giving Opinions

Giving Opinion at the Request of a Public Official in Case of Suspected Conflict of Interest and in Relation to Restrictions in the Exercise of Public Functions

Article 28

When suspecting that he is in a situation in which there is a conflict of interest or restriction in the exercise of public functions, a public official 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 give its opinion thereon.

A public official whose function has terminated may submit the Agency with a request for opinion on the existence of restrictions referred to in Article 15 of the present Law.

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

A public official may request the Agency to submit him with the opinion within a period that may not exceed 15 days of the 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 a request referred to in Article 28 of the present 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 assets and income of public officials from authorities and legal persons who hold such data.

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

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

The Agency shall conduct the 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 the present 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 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 knowledge 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 to whom the request relates and the authority.

Form and Content of Requests

Article 32

Requests referred to in Article 31 of the present Law shall contain: name and surname of a public official, the name of the authority in which he performs or performed his function, the detailed facts on the violation of the provisions of the present 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 the present Law shall be submitted in writing, directly, by mail or electronically.

Requests may also be made orally, on the minutes with the Agency.

Amending and Rectifying Requests

Article 33

If the request has not been made in accordance with Article 32, paragraph 1 of the present Law, or is incomprehensible or does not contain sufficient facts to be acted upon, the Agency shall invite the applicant to amend or rectify the request, determining a deadline for that, which cannot 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 the public official against whom the proceedings referred to in Article 31 of the present Law were initiated to submit a written response to the allegations in the request, within 15 days of receipt of the request for submission of the written response.

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

Determination of Facts and Circumstances

Article 35

The Agency shall manage the proceedings referred to in Article 31 of the present 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, the official records of which are kept by the competent state authorities, state administration bodies and

municipalities, or public companies, 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 of the reasons without delay.

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

Presentation of Evidence and Hearing

Article 36

If he deems it necessary to determine the facts and circumstances that are relevant to decision-making, an authorized officer 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 without delay submit the request with evidence collected in the exercise of its jurisdiction to the competent public prosecutor's office.

If the Agency has information pointing to irregularities that are not within its jurisdiction, it shall provide this 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 proceedings.

Decision-Making

Article 38

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

Director of the Agency shall, within eight days of 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 the present 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 the present Law shall be delivered to a 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 a public official when these bodies are not applicants, no later than five days of the adoption of decision.

The decision referred to in Article 38, paragraph 2 of the present Law shall be published on the website of the Agency, where a decision establishing that a public official has not violated the provisions of the present 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 to whom the decision relates.

Finality of Decisions

Article 40

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

Application of the Rules of Administrative Procedure

Article 41

The procedure for determining violation of the provisions of the present 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 the present Law provides otherwise.

Legal Effect of Decisions

Article 42

Violation of the provisions of the present 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 the present 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 of 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 of 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 the present 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 an application in accordance with the present Law.

For the purpose of the present 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 reasonable proof of suffering damage because of relation with the whistleblower shall be deemed a party related to the whistleblower.

2. Proceedings Based on Applications

Submission of an Application by a Whistleblower to Authority, Company, other Legal Person or Entrepreneur

Article 45

Whistleblowers may submit the application referred to in Article 44, paragraph 1 of the present Law to an authority, company, other legal person or entrepreneur in which, to their knowledge, 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, orally on the minutes, by mail or electronically.

Application Content

Article 46

The application referred to in Article 44 of the present 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 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 the present Law shall be handled in accordance with a law governing data confidentiality, unless the whistleblower explicitly requests that such data be made available to the public.

If the application filed by a whistleblower contains classified information, the authority, company, other legal person or entrepreneur to whom the application 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 an application by a whistleblower, an authority, company, other legal person or entrepreneur referred to in Article 45, paragraph 1 of the present 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 Application

Article 49

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

If he 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 application 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 the present Law shall 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.

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 the present Law, he may submit an application on threats to the public interest that indicate the existence of corruption to the Agency.

Whistleblowers may also submit the application 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 application referred to in paragraph 1 and 2 of this Article shall, in addition to the data referred to in Article 46 of the present 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 the present 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 the present 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 the present 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 that oversees 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 knowledge.

Actions of the Agency

Article 55

Actions referred to in Article 51 and 54 of the present Law shall be subject to provisions of Articles 33 to 36 of the present 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 the present 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 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 has been inflicted damage, or if there is a possibility of damage due to submission of the application referred to in Article 44 of the present Law, and in particular if:

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

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 of 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 due to whose acts the whistleblower suffers damage, as well as data of the damage, or the possibility of damage to the whistleblower for filing the application.

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 the present Law, and the whistleblower does not provide justified reasons why he failed to specify all required information in the request, the Agency shall invite the whistleblower to, within eight days, complete the request.

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 the present 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, making 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 of the 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 of 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 filed an application, 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 the present 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 the present Law refers shall, by the set deadline, submit a report on actions taken to implement the recommendation.

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 that oversees 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 application is filed in accordance with the present Law, and the act or activity referred to in Article 59 of the present Law is taken after the submission of the application, the burden of proving that the act or activity is not a result of submission of the application 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 application 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 application 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 application 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 an application, contributed to preventing the threats to public interest that indicate the existence of corruption.

A whistleblower who, by filing an application 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, shall, when these revenues and income would not be generated if the application had not been filed, 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 of the moment of realization of revenue or income referred to in paragraph 2 of this Article, and if the submission of application 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 shall acquire the right to an award 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 cannot 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 preparation 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 improving it.

The cost 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 preparation 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.

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

Integrity Plan Transparency

Article 75

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

An 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 preparation 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 Report on Work 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 the present 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 the present 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 the present 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 preventing anti-corruption;
- Perform other duties prescribed by law.

The Agency shall conduct supervision over 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, on 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 the present 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 the present 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, on 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 working experience of which at least five years of working 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 works or has worked, or with which he 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, in 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 of the call.

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

Non-governmental organizations may propose a candidate for a member of the Commission if it is registered with the competent government authority, if in the act of foundation and in the Statute has established the activities and objectives in the fight against corruption and has at least three years of experience in the fight against corruption, if in the previous year implemented at least one project in the area of fight against corruption and if has submitted an application 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 foundation 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 representative of the Commission from among the non-governmental organization is a person who is in the completed procedure proposed by the largest number of non-governmental organizations.

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

Compiling a List of Candidates

Article 86

After the expiration of the prescribed deadline for application of candidates on the basis of a public competition referred to in Article 85, paragraph 1 of the present Law, the Commission shall verify compliance with the requirements of Articles 83 and 84 of the present 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 the present 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 does not 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 the present Law or if he assumes the function referred to in Article 84 of the present Law;
- 4) If he violates the provisions of the present 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 on the motion 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 the present 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 the present Law and shall, within 30 days, propose to the Parliament a new member.

Responsibilities of the Council

Article 88

The Council shall:

- 1) Announce a competition for the selection of director of the Agency, appoint and dismiss the director of the Agency;
- 2) Adopt the Statute and the Act on internal organization and jobs classification of the Agency, on the proposal of the director of the Agency;
- 3) Adopt the annual work plan of the Agency on proposal of the director of the Agency;
- 4) Adopt the proposal for the budget and statement of accounts on 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 on proposal of the director of the Agency;
- 6) Adopt Rules of Procedure of the Council;
- 7) Takes initiatives for improving the work of the Agency to the director of the Agency;
- 8) On the proposal of the director of the Agency, submit an Annual report on work of the Agency;
- 9) Verify data from reports on income and assets of 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 preparation 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 among 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 the present Law.

The Council shall hold meetings at which it decides on matters within its jurisdiction at least twice a month.

As a rule, the President of the Council shall inform the public on the tasks from 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 by 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 the present Law may be elected as the Director of the Agency.

In addition to the restrictions referred to in Article 84 of the present 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 the present 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 director of the Agency by a majority of at least four votes, within 30 days of expiration 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.

Dismissing 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 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 and Article 91 paragraph 3 of the present Law or if he assumes the function referred to in Article 84 of the present Law;
- 4) If he violates the provisions of the present 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 of dismissal of director of the Agency shall be initiated at the motion of at least three members of the Council, and the decision on the dismissal of 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 specifically 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 submit 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 may not amount to less than 0.2% of the current budget.

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

The Agency shall decide independently on disposal 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 report on work 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 the present Law, the Agency shall keep:

- Records of public officials who were determined, by a final, i.e. final and enforceable decision, to have violated the present Law or special laws governing the responsibilities of the Agency, which contains the following information: serial number, name and surname, unique master citizen number 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 the present Law if delivered to the whistleblower, number and date of the opinion of the Agency of 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 application 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 application, number and date of the opinion of the Agency 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 the present 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 provide 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 of € 1,000 to 20,000 shall be imposed on a legal person for violation if it:

- 1) Does not 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) Does not 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 the present Law (Article 8, paragraph 5);
- 3) Does not abrogate a decision made contrary to Article 8, paragraph 1 to 4 of the present 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) Does not 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) Does not submit the Agency with 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) Does not submit the requested data and information, or does not make available the requested documentation (Article 30, paragraph 2 and Article 35, paragraph 3);
- 8) Does not notify the Agency of the outcome of proceedings referred to in Article 37, paragraph 1 and 2 of the present Law (Article 37, paragraph 3);
- 9) Does not 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 the present 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 of receipt of that decision, with written reasoning (Article 42, paragraph 2);

10) Does not notify the Agency, within 30 days of 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) Does not 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 the present Law in the last four years prior to the nomination, in his capacity as a public official (Article 42, paragraph 6);

12) Does not designate a person for receiving and acting upon the applications of whistleblowers (Article 49, paragraph 1);

13) Does not 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) Does not submit, by the set deadline, a report on the actions taken to enforce the recommendation referred to in Article 52, paragraph 2 of the present Law (Article 53, paragraph 1);

15) Does not handle the data referred to in Article 46 of the present Law in accordance with a 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) Does not submit, by the set deadline, a report on actions taken to implement the recommendation referred to in Article 62, paragraph 5 of the present Law (Article 63, paragraph 1);

17) Does not bring a decision within 30 days from the date of submission of the request referred to in Article 70 paragraph 1 of the present Law, or does not determine a deadline for the payment of award or determines a time limit longer than six months (Article 70, paragraph 2 and 3);

18) Does not adopt an Integrity Plan (Article 71, paragraph 1);

19) Does not designate an integrity manager (Article 74, paragraph 1);

20) Does not 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 a legal person, state authority, state administration body, local government and local self-government body, in the amount of € 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 of € 500 to 2,000 shall be imposed on a public official for violation, if he:

1) Does not inform other participants in a discussion of the existence of private interest, by making a statement before his 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 the present Law, in a discussion and decision-making (Article 8, paragraph 4 and 5);

3) Does not 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 the present Law (Article 9, paragraph 3);

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

5) Does not transfer his management rights in a company, institution or legal person owned or founded to another legal or natural person, within 30 days of the election, appointment or assignment to public office (Article 10, paragraph 1);

6) Does not, within five days of the date of transfer of management rights, submit the Agency with information on the person to whom he transferred the management rights and the evidence of the transfer of management rights (Article 10, paragraph 3);

7) Does not resign from office or function referred to in Article 11, paragraph 1 of the present Law, within 30 days of 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 companies, public institutions or other legal persons 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 MPs and councillors (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 the present Law (Article 12, paragraph 5);

11) Does not resign from public function when he, 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 the present Law, within 30 days of the beginning of the exercise of other functions or duties (Article 13);

12) Concludes a contract on the provision of services with a public company 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) Does not prepare or submit, within eight days of the offer made, a written report on the offer referred to in Article 17, paragraph 1 of the present Law, to the authority in which he exercises a public function (Article 17, paragraph 2);

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

17) In the case where the Agency determines that he received gifts, does not hand over the gift, or the equivalent monetary value of the gift to the authority where he performs the function, for its disposal (Article 20, paragraph 2);

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

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

20) Does not submit the Agency with 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) Does not abrogate the decisions made under the influence of received sponsorship or donation and does not notify the Agency thereon (Article 22, paragraph 3);

22) Does not submit the Agency with 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 of assuming the function (Article 23, paragraph 1);

23) Does not include accurate and complete data in the Report (Article 23, paragraph 2);

24) During the exercise of a public function, does not submit the Report once a year, by the end of March of the current year for the previous year, or when he does not report changes from the Report that relate to an increase in assets of more than € 5,000, within 30 days of 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 the present Law, within 30 days of receipt of the request, or the initiation of proceedings ex officio (Article 23, paragraph 3);

25) Does not, 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 the present Law, notify the Agency thereon within 30 days of the change (Article 23, paragraph 6);

26) Does not, at the request of the Agency, provide 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 of € 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 of € 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 of € 1,000 to 2,000 shall be imposed on a person whose public function has expired, if he, in the period of two years following the termination of the public function:

1) Acts, before the authority in which he 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 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 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 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 of termination of the function, does not notify the Agency thereon and does not submit a Report, or does not submit a Report on the situation on the day of submission of the Report once a year in the next 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 Selection of Members of the Council and Director of the Agency Article 105

Members of the Council shall be selected within six months of the entry into force of the present Law.

Director of the Agency shall be selected 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 jobs classification 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 selection 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 article ceases to be applicable.

Article 109

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

Article 110

The article ceases to be applicable.

Article 111

The article ceases to be applicable.

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 the present 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 the present Law, the Law on the Prevention of Conflict of Interest (Official Gazette of Montenegro 1/09, 41/11 and _____) 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

The present Law shall enter into force on the eighth day following that of its publication in the "Official Gazette of Montenegro", and shall apply from 1 January 2016.