

Pursuant to article 88 of the Law on Prevention of Corruption (Official Gazette of Montenegro, 53/14), upon the proposal of the Director of the Agency, the Council of the Agency for Prevention of Corruption hereby adopts the following

Rules of work of the Agency for Prevention of Corruption concerning the prevention of conflict of interest of public officials

These Rules were published in the Official Gazette of Montenegro no. 4/2016, dated 19 January 2016, and entered into force on 27 January 2016.

I. GENERAL PROVISIONS

Article 1

These Rules shall regulate in more detail the initiation, manner and types of procedures before the Agency for Prevention of Corruption (hereinafter: the Agency), when it acts and decides on the rights and obligations: of public officials and persons whose public office ended, over a period of two years from the day the public office ended, in the prevention of conflicts of interest in exercising public functions, compliance with the restrictions in the exercise of public functions even after the public office ended, restrictions related to receiving gifts, sponsorships and donations, concerning the filing of reports, verification of data from the reports on income and assets of public officials and members of shared household, and in other cases concerning the application and implementation of the provisions of the Law on Prevention of Corruption (hereinafter: the Law), and when applying other regulations concerning the conflict of interest in the areas governed by such regulations.

These rules shall also apply to the civil servant for whom there is a prescribed obligation to file the Reports on income and assets.

Article 2

The procedures for reporting and initiating the procedures before the Agency based on the reported threat to public interest, indicating existence of corruption, protection of whistleblowers, control over financing of political entities and election campaigns and lobbying shall be governed by special rules.

Article 3

The provisions of these rules shall apply to persons who have the status of public officials, the persons whose public office ended over the period of two years from the day their public office ended, as well as members of the shared household.

A member of the shared household shall be the spouse of a public official and children, if they live in the same household.

Article 4

The basic principles of the procedure carried out in accordance with these rules shall include:

- Legality;
- Protection of civil rights and protection of public interest;
- Efficiency and cost-effectiveness;
- Establishment of material truth;
- Hearing of the Party;
- Independence and impartiality;
- Evaluation of evidence;
- Obligation of the participant in the proceeding to tell the truth;
- Protection of data regarding the applicant; and
- Publicity and transparency, in order to implement the procedure in a lawful manner.

II. TYPES OF PROCEDURES BEFORE THE AGENCY CONCERNING ACTIONS OF THE PUBLIC OFFICIALS

Types of Procedures

Article 5

1. Procedure for issuing opinions – when there is suspicion of existence of conflict of interest, at the request of the public official, person whose public office ended, and the authority responsible for election, appointment or assignment;

2. Procedure concerning the submission of reports on income and assets, in accordance with the deadlines prescribed by the Law;

3. Procedure concerning verification of accuracy and completeness of the data provided in the Report on income and assets of public official and members of shared household;

4. Procedure concerning examination of the grounds for acquiring the assets of public official and members of shared household;

5. Procedure concerning the prevention of conflict of interest, involving also the application of other regulations (as well as the procedures for non-compliance with the provisions of the Law on issuing statements about the existence of private interest);

6. Procedure based on the receipt of remuneration for work in several working bodies in the same month;

7. Procedure for failing to transfer management rights of the public official, who is the owner / founder of a company, institution or other legal person;

8. Procedure concerning the exercise of managerial and other functions of public official in a company (private companies - without the share of state capital of less than 33%);

9. Procedure concerning the membership of a public official in the management and supervisory bodies in which a municipality / state has ownership

10. Procedure concerning remuneration the public official receives based on membership in management and supervisory bodies of a public enterprise, public institution, association;

11. Procedures due to performance of incompatible functions

12. Procedures based on conclusion of a Service contract, in accordance with the provisions of law;

13. Restrictions for public officials, if in the period of two years from the day their public office ended, they established business cooperation with an authority, in accordance with article 15 of the Law;

14. Procedure for failing to report gifts on the form prescribed by law, unlawful receipt of gifts, failing to report to the authority an unlawful offer and the manner of handling a gift;

15. Procedure for failing to report sponsorships and donations on the form prescribed by the law, and unlawful receipt of sponsorships and donations;

16. Issuance of misdemeanour orders;

17. Procedure upon the request for free access to information;

18. Procedure upon the request of a party to examine/ copy case files.

PARTICIPATION IN OTHER PROCEDURES CARRIED OUT BY OTHER COMPETENT AUTHORITIES:

1. By submitting the request for initiation of misdemeanour procedure before the competent misdemeanour courts, the Agency shall participate in the misdemeanour proceedings – attending the hearing, lodging an appeal, sending motions;

2. Procedure before the Administrative Court - the Party shall be entitled to appeal to the court against the final decision and resolution of the Agency, in which case the Agency shall take part in the administrative dispute - by submitting responses to the lawsuit, attending the hearing, using extraordinary legal remedies;

3. It shall participate in other procedures concerning the rights and obligations of public officials (civil procedure, executive procedure, etc).

III. INITIATION OF PROCEDURE AND WORK WITH PARTIES

Party to the Procedure

Article 6

Party shall be the person, at whose request the procedure is initiated or against whom the procedure is conducted, or who has the right to participate in the procedure, in order to protect his/her rights or legal interests.

For the purpose of these rules, party to the procedure shall be: the public official and the person whose public office ended, for the period of two years from the day the public office ended, and other natural or legal person who initiates the procedure.

Party to the procedure may be represented by a proxy or an authorised representative of the legal and natural person.

An authorised officer may hear the Party at the time scheduled in advance.

Participant in the procedure shall be any natural or legal person undertaking certain actions in the procedure before the Agency.

Receipt of written documents

Article 7

Petitions shall be: reports, forms, initiatives, requests, suggestions, complaints, appeals and other written documents that the party and participant in the procedure use to address the Agency.

Petitions shall be prepared in writing and submitted to the Agency directly at the Archive of the Agency, via fax, email, or by post. The motion shall be accompanied by the appropriate evidence, if available.

Exceptionally, certain petitions may be submitted as transcripts of verbal statements given to an authorised officer of the Agency, in accordance with these rules and the law.

Petitions must be clear and comprehensible and contain all details necessary to be processed. If the petition is incomprehensible or incomplete, the authorized officer shall invite the applicant to amend it in accordance with the timeframe set by the law, and inform the applicant about the legal consequences in case he/she fails to do so.

In case of anonymous petitions that are submitted in accordance with the provisions of the law, such petitions shall be registered and the Agency shall process them in the same manner as those processed ex officio.

The following shall not be considered a petition:

- Expression of opinion, criticism, point of view, and similar;
- Claims by the applicant with offensive content;
- Request previously submitted to other competent authority, and forwarded to the Agency for information only;
- Anonymous request that does not meet the requirements for initiation of the procedure in accordance with the law;
- Request already processed by the Agency, not containing new facts or evidence.

IV. INITIATION OF PROCEDURE

Article 8

Procedure before the Agency concerning the rights and obligations of public officials shall be initiated in accordance with the law: upon the Agency's own initiative or upon the request of a legal or natural person.

Article 9

The Agency shall adopt decisions on violation of provisions of the law and issue opinions in accordance with the provisions of the law.

The decision shall establish whether or not a public official violated the provisions of the Law on Prevention of Corruption.

Opinions issued by the Agency shall be binding for the public official.

Specific issues related to the work of the Agency, and which are not regulated by these rules, may be regulated by other acts of the Agency.

Actions of the authorized persons

Article 10

Upon receipt of the petition in the Archive office of the Agency (registration), where the case file is opened (put in folder and inventory made), the cases shall be allocated to authorized officers, in accordance with the Annual Work Plan of the Director of the Agency, and with the job descriptions of authorized officers.

Random allocation of cases shall mean that each authorised officer processes cases on a certain number of initial letters of the surname of the person who has the status of a public official (*interpreter's note: each officer receives cases of public officials whose surname starts with a particular letter; each officer is assigned a group of these initial letters*). The distribution of letters shall be changed every three months in accordance with the Work Plan of the Director of the Agency for the current year.

Article 11

The Director of the Agency shall sign the acts of the Agency, in accordance with the Law.

The Director of the Agency may delegate the authority to act to other employees of the Agency, in accordance with the job descriptions in the Rulebook on internal organization and job descriptions and the Statute of the Agency.

Acting upon request

Article 12

If the request to initiate the procedure is made in accordance with the Law (prescribed formal legal terms, amended, corrected), the authorized officer of the Agency shall initiate the procedure to establish facts and present evidence, in order to make a decision on the violation of the provisions of the Law on Prevention of Corruption.

Prior to adopting the decision, all facts and circumstances relevant for decision-making shall be established, and interested parties shall be given the possibility to exercise and protect their rights and legal interests.

Examination procedure

Article 13

Examination procedure shall be carried out when necessary to determine the decisive facts and circumstances relevant for clarification of administrative matters or to enable the parties to exercise and protect their rights and legal interests.

The course of the examination procedure, depending on the circumstances of the particular case, shall be defined by the authorized officer carrying out the procedure, in accordance with the provisions of the law and other regulations related to the administrative matter in question.

The authorized officer of the Agency carrying out the procedure shall, in particular: define which actions in the procedure should be carried out, define the order in which specific actions will be carried out and the time frames within which they will be carried out, if not stipulated by the law; schedule the date of **oral hearing and hearing**, as well as all requirements necessary for the organisation thereof; decide which evidence shall be presented and decide on all proposals and statements made in the procedure.

Article 14

After the initiation of procedure in accordance with the provisions of the law, and following the completion of the examination procedure, the authorized officer of the Agency shall notify in writing the public official against whom the procedure has been initiated, about the initiation of the procedure and inform him/her about the examination procedure and the right of the party to participate in the procedure before the Agency, and shall require him/her to respond in writing within 15 days following the day of receipt of the Agency's request.

If the public official fails to respond in the manner and within the time frame referred to in paragraph 1 of this article, the Agency shall go on with the procedure in accordance with the Law and these rules.

Article 15

The authorized officer of the Agency, carrying out the procedure, shall obtain, ex officio, the data and information on facts on which official records are kept by the competent state authorities, state administration bodies and municipalities, or public enterprises, companies, institutions or other legal persons, as well as other information that would contribute to the efficiency of the procedure.

If the authorities and legal persons referred to in paragraph 1 of this article fail to act in the time frame and manner specified by the Agency, they shall notify the Agency's authorized officer, without delay, of the reasons thereof, after which the

authority that supervises such legal person shall be notified, in order to take legal action, and the public may also be informed thereof.

When he/she deems necessary for establishing the facts and circumstances relevant for decision-making, the authorized officer of the Agency, carrying out the procedure, may instruct, ex officio, the presentation of evidence, in accordance with the rules of the general administrative procedure.

Summoning

Article 16

The authorized officer carrying out the procedure shall be authorized to summon the person whose presence is needed in the procedure. By rule, summoning shall not be used for the delivery of decisions or conclusions or for notifications that may be delivered by post or in any other manner more convenient for the person to whom the notice is to be delivered.

Summoning shall be carried out by written invitation, unless specified otherwise by special regulations, and shall be delivered to the party with a delivery/receipt note.

The invitation shall be delivered in written form within the time frame prescribed by law and shall include: name and surname and address of the party being summoned, place, date and hour of arrival of the invited person, the subject matter for which he/she is invited and the capacity in which he/she is invited.

The hearing

Article 17

The hearing shall take place before the Agency, and shall be chaired by an authorized officer of the Agency.

The authorized officer of the Agency carrying out the procedure shall schedule, at his/her own initiative or at the request of the party, an oral hearing in every case where this is necessary in order to establish complete and accurate factual situation relevant for decision-making.

Minutes

Article 18

The minutes of the hearing or other important action in the procedure shall be kept, as well as the minutes of important verbal statements of parties or third parties to the procedure.

The minutes shall include: the name of the Agency, place, date and hour of the hearing or other action, subject matter of the instigated procedure, name of the authorized officer, attending parties and their attorneys, proxies or representatives, reference number and date. The minutes shall contain an accurate and brief account of the course and content of a procedure, accurate statements of the parties, witnesses, experts and others that are important for the Agency to make the decision, as well as

identification of all documents that have been used, and which are enclosed with the minutes.

The minutes shall be kept orderly and no deletion shall be made of the data in it. The parts, which were **crossed out**, due to errors, by the conclusion of the minutes shall remain readable and shall be certified by the signature of the authorized officer of the Agency who carried out the procedure, and in the concluded and signed minutes, no amendments shall be made.

Before concluding, the minutes shall be read to the parties to the procedure, which shall have the right to personally examine the minutes and give their objections, and the authorized officer shall enable them to do so.

In the end of the minutes, it shall be stated that the minutes were read and that there were no objections, and, if there were objections, a brief account of the objections shall be recorded and signed by the person who made such objections. Then, the minutes shall be signed, first by all parties to the procedure, and then it shall be certified by the signature of the authorized officer who carried out the procedure and the clerk who kept the minutes.

Parties to the procedure shall sign the minutes below their statements.

If a party refuses to sign the minutes or leaves before the signing thereof, this shall be recorded in the minutes, as well as the reasons for not signing the minutes.

Article 19

The party to the procedure shall provide accurate, truthful and specific account of the facts that he/she bases his/her request upon.

The party to the procedure shall give a verbal statement, by rule, but may also provide it in written form.

If the party fails to make the statement on facts and circumstances in the course of the procedure, the Agency shall make a decision without the statement of the party.

Evidence

Article 20

The facts on the basis of which the decision is made shall be established based on the evidence.

Evidence, according to this rule, shall be anything necessary to determine the state of affairs and anything appropriate in a given case, such as official documents or copies of official documents, witness statements, party statements, findings and opinions of expert witnesses, interpreters.

Evidence shall include processing, analysing, controlling and verifying all data on assets and income of public officials and of the members of shared household, as well as the information on the manner of acquisition of such assets and sources of funds used for acquisition of movable and immovable property, listed in the submitted report, and comparing the obtained data through the data network. The presentation of evidence in electronic form through the use of the databases shall be carried out with the following: Tax Administration, Real Estate Administration, Securities

Commission, Ministry of Interior, as well as other authorities and legal persons, which hold in their records data on assets and income of public officials and members of the shared household.

Article 21

The authorized officer of the Agency shall establish whether a fact needs to be proved or not, depending on whether it can affect the decision on the specific matter.

By rule, evidence is presented upon establishing what is disputable in the factual situation or what needs to be proved.

Widely known facts shall not require proving, as well as the facts presumed by the law, but absence of such facts may be proved, unless otherwise specified by the law.

Exemption

Article 22

In accordance with the principle of efficiency, the authorized officer of the Agency shall end the procedure he/she is in charge of and submit the proposal of the act, along with the case files, to the Director for signing.

The authorized officer shall submit to the Director the reasoned proposal of the decision, along with the case files.

Should the Director of the Agency, or the person authorized to sign the decisions, establish that a particular case requires additional information or clarifications, for the purpose of legality of the implemented procedure necessary for the decision-making of the Agency, he/she shall return the case to the authorized officer to act in accordance with the orders from the superior.

The authorized officer of the Agency shall be exempt from the procedure, if he/she is a related person to the public official who is subject to the decision-making by the Agency, and notify his/her superior thereof by signing the Declaration of the existence of private interest.

The Director of the Agency, or a person authorized for signing, shall be exempt from the signing of the Agency's documents, if he/she is a related person to the public officials who is subject to the decision-making by the Agency.

Decision-making by the Agency

Article 23

Based on the proposal of the authorized officer, the Director of the Agency shall adopt the decision on the subject matter of the procedure, i.e. on whether a certain conduct, act or failure to act of a public official constitutes a violation of the Law.

Director of the Agency shall adopt the decision within 8 days from the day of receipt of the proposed decision.

Director of the Agency shall issue an Opinion within 8 days from the day of receipt of the proposed Opinion.

Delivery of documents

Article 24

The Agency's decision shall be delivered to the parties to the procedure, as well as the authority in which the public official exercises public function and the authority responsible for the election, appointment or assignment of the public official, within five days from the day the decision was adopted.

Provisions of paragraph 1 of this article shall also apply to the delivery of the Opinion of the Agency.

Content of the decision

Article 25

Written decision shall have an introduction, enacting terms of the decision, reasoning, reference number and date of adoption, signature of the Director of the Agency, or the person authorized for signing, seal of the Agency and the advice on legal remedy.

Introduction of the decision shall contain: the name of the Agency, regulation on the competences of the Agency, short reference note on the case with name and surname of the party upon whose request the procedure was initiated and the date of the decision.

The enacting part of the decision shall contain: name and surname of the public official, the function exercised, establishment of existence or absence of conflict of interest or other violation of the provisions of the Law.

The reasoning of the decision shall contain: a brief description of the request for initiation of the procedure, short summary of the procedure that was carried out with the statements of the parties, presented evidence and established facts, circumstances and actions of the Agency in the given case, and the provisions of the law on the basis of which it was decided as stated in the enacting part of the decision.

The decision shall also contain advice on legal remedy.

Initiation of administrative dispute

Article 26

The decision of Agency shall be final and the party to the procedure may initiate an administrative dispute, within 30 days following the day of receipt of the Decision, in accordance with the provisions of the Law on Administrative Dispute.

The procedure is initiated by filing a lawsuit with the Administrative Court of Montenegro.

Obligation to safeguard classified information and protect personal data

Article 27

Director of the Agency and employees of the Agency shall not collect, process or use personal data without authorization.

Director of the Agency and employed civil servants and state employees shall protect and safeguard classified information and personal data, in accordance with the law, regardless of the manner in which they learned of such information.

Civil servant and state employee shall have the obligation to safeguard the business secrets referred to in paragraph 1 of this article even upon termination of employment in the state authority, for a period of up to five years from the date of termination of employment, unless specified otherwise by a special law.

Director of the Agency may free the civil servant or state employee from the obligation to safeguard the data in the court proceedings, when such data are critical in the procedure for establishing the facts and making a lawful decision.

Publicity and transparency

Article 28

In order to protect the integrity and personal freedoms and rights of public officials in the course of the procedure before the Agency, it is prohibited to publish names and surnames of public officials, members of shared household and names of companies and other legal and natural persons, who are subject to the procedure, before the end of the procedure, i.e. adoption of the decision.

Notifications of adopted decisions on the existence of conflict of interest and issued opinions shall be entered into the register of the Agency and published on the website of the Agency within 8 days from the date of adoption thereof.

The Agency shall publish on its website the public statements related to the implementation of the law, concerning the conduct of public officials, adopted decisions, issued opinions, number of implemented procedures for verification of data, number of initiated and completed misdemeanour proceedings, on a monthly basis.

Information on the work of the Agency shall be provided by the Director of the Agency or a person authorized by the Director of the Agency, in accordance with the job description.

Procedure concerning receipt of gifts, sponsorships and donations

Article 29

Public official shall report a gift received in connection to the exercise of public function (protocol gift and occasion gift) to the authority in which he/she exercises the public function, and its value on the form available on the website of the Agency.

Protocol gifts shall mean the gifts received from the representatives of other countries or international organizations presented during a visit, tour or on other occasions.

Occasion gift shall mean a gift the value of which does not exceed EUR 50,00.

A public official who receives a protocol or occasion gift the value of which exceeds EUR 50,00, or receives a gift that s/he could not refuse, shall complete the

Notification of received gift, and hand over the gift to the authority in which he/she holds public office within 8 days.

A public official, who receives an occasion gift the value of which is less than EUR 50,00, shall submit the Notification of received gift to the authority within 8 days.

The authorities shall submit the Summary of the gift record to the Agency by March 31 of the current year for the previous year.

Detailed activities and reporting of received gifts shall be prescribed by the Rulebook on keeping records of gifts and management of gifts of public officials.

Article 30

Following the receipt of the Summary from an authority, the authorized officer of the Agency shall prepare a catalogue of received gifts for the previous year and publish it on the website of the Agency.

Article 31

Public official shall not conclude a sponsorship agreement on his/her own behalf, i.e. conclude a sponsorship agreement or receive donations on behalf of the authority in which he/she exercises a public function, which affect or could affect the legality, objectivity and impartiality of work of the public authority.

A public authority shall submit to the Agency a written report on received sponsorships and donations by the end of March each year for the previous year, along with copy of the documentation related to such sponsorships or donations.

Following the receipt of the Report from the authority referred to in paragraph 2 of this article, the authorized officer of the Agency shall prepare a register of received sponsorships and donations in the previous year and publish it on the website.

The manner of keeping the register and the content of the reports of the authorities referred to in paragraph 2 of this article shall constitute an integral part of the Rules.

Actions of the Agency

Article 32

The Agency shall act in accordance with articles 11 to 26 of these Rules, when acting upon the request for establishing violations of the provisions of the Law on Prevention of Corruption, which define the restrictions and rules concerning receipt of gifts, sponsorships and donations, or ex officio, based on its own knowledge or anonymous requests.

Submission of data on public officials holding office in state authorities

Article 33

The Agency shall keep the records of public officials, based on the notifications from the authorities and official records.

The authorities referred to in paragraph 1 of this article shall submit to the Agency the notification of a public official assuming the office, terminating the office and being re-elected, within 30 days following the day when the public official assumed, terminated or was re-elected for the office.

The notification referred to in paragraph 2 of this article shall include: location, address, name of the institution/organization in which a public function is exercised, name of the authority that elected, appointed or assigned the public official, date of assuming/terminating office, personal data of the official (name, surname, personal identification number, place of temporary/ permanent residence and address, telephone, e-mail, education, profession, occupation, job or activity carried out at the time of assuming office), place and date of the notification and signature of authorized person and seal of the authority.

Article 34

The public official shall submit to the Agency the Report on assets and income for himself/herself, spouse and children thereof, if they live in the same household (hereinafter: the Report), as follows:

- 1) Within 30 days following the day of assuming office;
- 2) While exercising public function:
 - once a year, by the end of March each year for the previous year;
 - in case of changes in the Report relating to an increase in property exceeding EUR 5,000.00, within 30 days following the day such change occurred;
 - at the request of the Agency, in the event of initiation of procedure concerning violation of provisions of the Law on Prevention of Corruption pertaining to prevention of conflict of interest in exercising public functions, restrictions in the exercise of public functions, gifts, sponsorships and donations, and Reports on assets and property of public officials, within 30 days following the day the procedure was initiated ex officio;
 - in the event of termination of office, within 30 days following the day of termination of office, and once a year in the next two years following the termination of public office.

Article 35

Obligation to submit the Report and the procedure of verification of data in the Report shall also apply to the civil servant, for whom the obligation to submit the Report is prescribed by a special law.

The authorities (Ministry of Interior, Customs Administration, Tax Administration and Inspection Directorate) shall submit to the Agency the names of civil servants obliged by the law to submit the Report on assets and property.

Software control

Article 36

Public official or civil servant shall submit to the Agency the Report referred to in articles 34 and 35 of these rules within the timeframes prescribed by the Law, in electronic form and hardcopy, on the a form defined by the Agency.

The form of the Report, to be completed and submitted by the public official or civil servant, shall be available on the Agency's website, and upon its completion and entry of required data, it shall be submitted to the Agency electronically.

Once the Report is submitted, initial software control of the completed document shall be carried out, and shall include checking whether all required fields have been completed, and notification to the person who submitted it of possible "errors", if any.

Following the successful initial software control of the completed document, the Agency's software shall generate a final version of the submitted Report, which contains a bar code and allows the submitter of the Report to download it and print it.

After downloading and printing out of the final version of the Report with a bar-code, public official or civil servant shall confirm the submission of the electronic form of the Report on the Internet portal.

Public official or civil servant shall submit to the Agency the signed version of the Report with the bar code in written form (hardcopy).

In order to facilitate completion of the form, Instructions for completing the form, and an example of a properly completed form, shall be available on the website of the Agency.

Administrative control

Article 37

Once the Report referred to in article 36 of the Rules is received at the Archive Office of the Agency, an officer of the Agency shall read the bar code from the document and scan the Report that is electronically transferred, via software, to the competent division of the Agency.

Authorized officer of the competent division of the Agency shall initiate the procedure of administrative control by comparing the electronic and signed version of the Report on assets and property, and, if the versions are identical, the data from the reports shall be verified and published in the Register of assets and property of public officials.

Publishing of data from the Report on the website of the Agency shall be carried out automatically, if no irregularities have been found in the administrative control and identity control referred to in paragraph 2 of this article.

Should it be established that the documents are not identical, the officer of the Agency shall initiate the procedure to control accuracy of data from the Report of public official or civil servant submitted electronically and in written form.

Article 38

Once the deadline for the submission of regular annual report has expired, the authorized officer of the Agency shall issue a misdemeanour order or request for initiation of misdemeanour proceedings against public officials or civil servants, who failed to submit the reports within the prescribed timeframe.

Verification of completeness and accuracy of data in the submitted reports

Article 39

Following the software and administrative control referred to in articles 35 and 36 of these rules, the procedure of verification of completeness and accuracy of the data in the submitted reports on assets and property shall be undertaken according to the order established in the annual plan for control of the reports.

The verification referred to in paragraph 1 of this article shall be carried out by comparing the data stated in the Report with the data on assets and income of public official collected from the authorities and legal persons, which hold such data.

Through the Information System of the Agency, the authorized officer of the Agency shall verify the completeness and accuracy of the data from the submitted report, by comparing the data from the report with the data of the authorities whose databases the Agency has access to.

Article 40

Following the completion of the verification procedure, if no irregularities were found, the authorized officer of the Agency shall notify the supervisor thereof and prepare an official note. If irregularities were found, the authorized officer of the Agency shall notify the supervisor of the irregularities and issue a misdemeanour order, i.e. submit the request for initiation of misdemeanour proceedings, in accordance with the provisions of the Law on Misdemeanour.

Full verification

Article 41

Full verification of the Reports on assets and property of public officials and members of shared household shall be carried out by the authorized officers of the Agency.

Full verification referred to in paragraph 1 of this article shall include processing, analysis, control and verification of all data on assets and income of public officials and members of shared households, as well as data on the manner in which such property was acquired and the sources of funds used for acquisition of movable and immovable property. Full verification shall include verification of all the data listed in the submitted report, by comparing data on income and assets of public officials collected from authorities and legal entities, which hold in their records data on income and assets of public officials, as well as data on the sources of funds used for acquisition of movable and immovable property, acquired after taking office.

A precondition for the initiation of the procedure shall be the existence of indications based on facts that the person to whom the data relate has submitted inaccurate, incomplete data or that there has been a disproportionate increase in property.

Full verification shall be carried out by exchanging data on assets of the public official through data network, using databases, via written requests, e-mail, etc, with

the Tax Administration, Real Estate Administration, Securities Commission, Ministry of Interior, Ministry of Transport and Maritime Affairs, commercial banks in Montenegro, as well as other authorities and legal persons, which hold in their records data on income and assets of public officials.

Verification procedure referred to in paragraph 1 of this article shall be carried out according to the schedule defined in the annual verification plan.

Annual verification plan

Article 42

Verification referred to in article 40 of these rules shall be carried out according to the annual verification plan for a certain number of officials and category of officials.

The annual plan referred to in paragraph 1 of this article shall be carried out in accordance with the Methodology for risk assessment, which shall be adopted by the Agency once a year, by the end of the current year for the following year, and published on the website of the Agency.

The annual plan shall include the following methodology, based on which the verification procedure is carried out:

- All public officials who belong to a particular category (judges, prosecutors, members of the Government and MPs);
- A particular number of random samples of public officials by groups, as follows:
- A particular percentage of public officials at the local level, every tenth public official following the alphabetical order of surnames in the list of local public officials;
- A particular percentage of public officials at the state level, every tenth public official following the alphabetical order of surnames in the list of state public officials.

Article 43

Verification of data on public officials and members of the shared household referred to in articles 38 and 40 of these Rules shall be carried out in cooperation with all institutions holding data on assets and income of public officials: Tax Administration (data on taxable income, as well as data from the Central Registry of Business Entities), Real Estate Administration (data on holders of property rights over real estate), Ministry of Interior (data on ownership of registered movable property - motor vehicles, weapons, etc), Ministry of transport and maritime affairs (data on ownership of registered movable property - vessels - ships, yachts, etc), Securities Commission of Montenegro (data on entities that own securities or shares in companies and other legal persons) and commercial banks in Montenegro (data on persons who possess funds in bank accounts).

Article 44

These rules shall enter into force on the eighth day following the day of publication thereof in the Official Gazette of Montenegro.

Number 00-73
Podgorica, 13 January 2016

Council of the Agency for Prevention of Corruption
President of the Council of the Agency,
Goranka Vučinić, m.p.