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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**MONTENEGRO**

**REVISED DRAFT LAW ON THE PREVENTION OF CORRUPTION**

## PROPOSAL

**LAW ON THE PREVENTION OF CORRUPTION\*****I. BASIC PROVISIONS****Scope  
Article 1**

This Law shall prescribe measures for the prevention of conflict of public and private interest and shall regulate restrictions on 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 this Law, public officials shall mean the persons elected, that is, appointed in a state authority, state administration body, judicial authority, local self-government body, local government body, independent body, regulatory body, public institution, public enterprise or other company or legal person exercising public authority, i.e. activities of 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.

Public officials shall also be deemed to mean notaries, public enforcement officers and bankruptcy administrators.

For the purpose of this Law, state ownership shall mean any share in a company in which the state or a municipality, the Capital City, Old Royal Capital, that is the municipality (hereinafter: municipality) owns at least 33 % of the capital.

**Public and Private Interest and Threat to the Public Interest that Indicates to the  
Existence of Corruption  
Article 4**

For the purpose of this Law, public interest is a material and non-material interest for the good and prosperity of all citizens on equal terms.

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\* The provisions of Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union laws have been transferred to this law.

For the purpose of this Law, private interest means ownership or other material or non-material interest of a public official or a person related to him.

For the purpose of this Law, a threat to the public interest that indicates to the existence of corruption means:

- 1) a breach of regulations and ethical rules, ~~that is, undermining of integrity,~~ or the possibility of occurrence of such a breach, ~~which caused, causes or threatens to cause danger to the life, health and safety of people and the environment, public health, 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 breach from being discovered, in particular in the following fields:
  - employment relationships,
  - public procurement,
  - financial services,
  - products and markets,
  - prevention of money laundering and terrorism financing,
  - food and feed safety, animal health and welfare,
  - consumer protection,
  - product safety,
  - health,
  - protection of privacy and personal data, and security of network and information systems,
  - transport safety,
  - protection of the environment and
  - radiation protection and nuclear safety;
- 2) breach of regulations affecting the financial interests of the European Union as referred to in Article 325 of the Treaty on the Functioning of the European Union and as further established in relevant measures of the European Union and
- 3) breach of regulations relating to the internal market, as referred to in Article 26(2) of the Treaty on the Functioning of the European Union, including breaches of Union competition and State aid rules, as well as breaches relating to the internal market in relation to acts which breach the rules of corporate tax or to arrangements the purpose of which is to obtain a tax advantage that defeats the object or purpose of the applicable corporate tax law.

## **Whistleblower**

### **Article 5**

Whistleblower means a natural person employed in private or public sector who who acquired information on breaches in a work-related context and who submits a report on a threat to the public interest that indicates the existence of corruption.

Employee, for the purpose of paragraph 1 of this Article, means a person who has concluded an employment contract, a service contract or a contract for temporary and occasional jobs with an employer, a person who performs actual work, an entrepreneur who works in accordance with the employer's instructions, a person who is a volunteer, trainee, or beneficiary of professional training, a shareholder, a member of the administrative or supervisory body of the employer.

## **Agency for the Prevention of Corruption**

### **Article 6**

The tasks of prevention of conflict of public and private interest, restrictions on the exercise of public functions, verification of the reports on income and assets of the public officials, acting upon whistleblower reports as well as other activities in accordance with this 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 (hereinafter: the Parliament), in accordance with this Law.

The Agency shall carry out the activities of control of lobbying and control of financing of political entities and election campaigns, in accordance with the special law.

The Agency may initiate the procedure for determining the existence of threats to the public interest that indicates the existence of corruption *ex officio*.

The work of the Agency shall be public.

## **Use of Gender-Sensitive Language**

### **Article 7**

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

## **Definitions**

### **Article 8**

The terms used in this Law shall have the following meanings:

- 1) "gain" means property or property and other material or non-material rights;
- 2) "person related to a public official" means a relative 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, partner in a life partnership of the same sex, adoptive parent or adopted child, member of the same household, other natural or legal person with whom/which the public official establishes or has established a business relationship;
- 3) "gift" includes an item, right or service acquired or performed without compensation and any other gain provided to the public official or a person related to the public official in connection with the exercise of public function;
- 4) "public enterprise" means a company in which the state or a municipality owns at least 33 % of the capital;
- 5) "property" means property rights of any kind, regardless of whether they refer to goods of corporeal or incorporeal nature, movables or immovables, securities and other documents evidencing property rights, including assets in electronic or digital form;
- 6) "work-related context" means work activities in the public or private sector through which, irrespective of the nature of those activities, persons acquire information on a threat to the public interest that indicates the existence of corruption and within which those persons could suffer harm if they reported such information, including situations when the activity ended in the meantime, is about to begin or should have begun;
- 7) "whistleblower's facilitator" is a person who helps whistleblower in the procedure of reporting corruption in the work related context;
- 8) "person related to a whistleblower" means:
  - a colleague or other person who could suffer harm in the work related context due to the connection with the whistleblower;
  - natural or legal person to whom the whistleblower is connected in work related context;

- relatives of the whistleblower who are connected to the whistleblower in a work related context ~~in straight line and to the second degree in lateral line, a relative by marriage to the first degree, married and common-law spouse, partner in a life partnership of the same sex, adoptive parent or adopted child, member of the same household that are connected to the whistleblower in a work related context~~
- 9) “information on breaches” means information, including reasonable suspicions, about actual or potential threat to the public interest that indicates the existence of corruption at the employer;
- 10) “employer” means the authority, company, another legal person or entrepreneur where whistleblower is employed or was employed, or should be employed soon, for the purpose of the Article 5 paragraph 2 of this Law;
- 11) a person concerned means the authority, company, another legal person or entrepreneur that is referred to in the report or public disclosure, or a person related to them.

## **II. PREVENTION OF CONFLICTS OF INTEREST IN THE EXERCISE OF PUBLIC FUNCTIONS, RESTRICTIONS ON THE EXERCISE OF PUBLIC FUNCTIONS, GIFTS, SPONSORSHIPS AND DONATIONS AND REPORTS ON INCOME AND ASSETS OF PUBLIC OFFICIALS**

### **1. Prevention of Conflict of Interest in the Exercise of Public Functions**

#### **Conflict of Interest Article 9**

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 exists 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 undertake measures for the prevention of conflict of interest.

Opinions about the existence of conflict of interest in the exercise of public function and restrictions on the exercise of public functions and the decisions on the violation of the provisions of this Law relating to the prevention of conflicts of interest in the exercise of public functions, restrictions on the exercise of public functions, gifts, sponsorships and donations and reports on income and property by public officials, which are issued or adopted by the Agency in accordance with this Law, shall be binding on a public official.

It shall be deemed that a public official has violated the provisions of this Law if, within five days from the date of receiving the opinion of the Agency referred to in paragraph 4 of this Article, he fails to comply therewith and with the obligations laid down in this Law or when he acts in a manner that violates the prohibitions and rules prescribed by this Law and other regulations regulating the conflict of interest in areas that are regulated by these regulations.

#### **Statement of Conflict of Interest Article 10**

If, in the authority in which he exercises a public function, 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 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 public officials who are subject to the rules on exclusion prescribed by a special law or other regulation.

The authority in which the public official exercises public function shall include 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, the public official shall not participate in the discussion and decision-making until the Agency issues 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 there is a conflict of interest and informs the public official and authority referred to in paragraph 3 of this Article thereon, the public official shall not participate in the discussion and decision-making and the authority shall adopt the decision on his exclusion.

The competent authority shall prevent the enforcement of decisions taken contrary to paragraphs 1 to 4 of this Article and repeal them, in accordance with the Law, and shall notify the Agency thereon.

## **2. Restrictions on the Exercise of Public Function**

### **Performance of Other Public Affairs**

#### **Article 11**

A public official may be engaged in scientific, educational, cultural, artistic and sports activities and earn income from copyrights, patent rights and other similar rights, intellectual and industrial property, unless otherwise specified by the law.

Membership of a public official appointed or elected to permanent or temporary working bodies established by an authority shall not be deemed a performance of two or more public functions within the meaning of this Law, except for those working bodies who make decisions or participate in decision-making in accordance with the Law on Administrative Procedure.

A public official shall report to the Agency accurate and complete data on income earned through the exercise of activities or tasks referred to in paragraphs 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 earn income only in one working body in the given month.

### **Transfer of Management Rights in Companies**

#### **Article 12**

A person who is the owner or founder of a company, institution or other legal person shall, within 30 days from the date of election, assignment or appointment to public office transfer his management rights in these entities to another legal or natural person, in order for that person to exercise these rights in their name and on behalf of the public official until the termination of his public office.

In the case when in a company or other entity referred to in paragraph 1 of this Article a management body has been formed in which the public official exercises his management rights as a member of that 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, notify the Agency of the person to whom he transferred management rights and submit 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 Management and other Functions in Companies**

#### **Article 13**

A public official shall not be president, authorized representative or member of a management body or supervisory body, or the executive director or member of management in a company.

### **Exercise of Public Functions in Public Enterprises and Public Institutions or of Other Legal Persons**

#### **Article 14**

A public official shall not be a president or member of the management body or supervisory body, executive director, member of management of a public enterprise, public institution or another legal person.

By way of exception, a public official, other than the President of Montenegro, an MP, councillor, member of the Government of Montenegro (hereinafter: The Government), judge of the Constitutional Court of Montenegro, judge, head of public prosecution office, public prosecutor, Chief Special Prosecutor and Special Prosecutor, may be a president or member of the management body or supervisory body of a public enterprise, public institution in one public enterprise, public institution owned by the state or a municipality.

A public official who performs work in state administration and local government and local self-government bodies may not exercise the function of an MP or councillor.

Unless otherwise provided by a special regulation, a public official may be a president or a member of the management body or supervisory body of scientific, educational, cultural, artistic, humanitarian, sports associations.

Public officials shall not earn income or other compensation on the basis of membership in management bodies or supervisory bodies referred to in paragraphs 2 and 4 of this Article.

### **Obligation to Resign**

#### **Article 15**

A public official who, while holding the public office, accepts to perform another duty or function referred to in Article 13 or Article 14 paragraphs 1 and 3 of this Law, shall resign from the public office, within 30 days from the beginning of the exercise of other function or duty.

### **Contracts on Services and Business Cooperation**

#### **Article 16**

A public official shall not conclude a contract on the provision of services to a public enterprise.

A public official shall not conclude a contract on the provision of services with an authority or company that has a contractual relationship 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 shall 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 acts contrary to paragraphs 1, 2 and 3 of this Article, the provisions of the Law on Contracts and Torts relating to the nullity of contracts shall apply *mutatis mutandis* to the concluded contract.

### **Restrictions upon Termination of Public Office**

#### **Article 17**

For a period of one year following the termination of public office, the public official shall 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 that authority;
- 2) establish an employment relationship or business cooperation with the legal person, entrepreneur or international or other organization that acquires gain based on the decisions of the authority in which a public official has exercised function;
- 3) represent a legal or natural person before the authority in which he exercised 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 contractual relationship or other form of business cooperation with the authority in which he exercised public function;

For a period of two years following the termination of public office, a public official shall not use, for the purpose of obtaining a benefit for himself or another person or to harm another person, the findings and information acquired in the exercise of public function, unless that findings and information are available to the public.

### **3. Gifts, Sponsorships and Donations**

#### **Prohibition on Receiving Gifts**

##### **Article 18**

Public officials shall 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 whose value is up to €50.

If, within a year, a public official receives more than one appropriate gift from the same donor, the total value of such gifts shall not exceed the amount of €50, and if a public official receives appropriate gifts from several donors in this period, the value of such gifts shall not exceed the amount of €100.

The prohibition or restriction referred to in paragraphs 1 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 receiving of gifts is related to the public official, or the exercise of public function.

The value of the gift shall be calculated on the basis of its market value on the date of receiving the gift.

### **Refusing Gifts**

#### **Article 19**

A public official who is offered a gift that he is not allowed to accept 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 referred to in paragraph 1 of this Article, prepare a written report on the offer made and submit it to the authority in which he exercises public function.

If a public official, in the case referred to in paragraph 1 of this Article, was not able to refuse the gift or return the gift to the donor, he shall hand over the gift to the authority in which he exercises public function within five days from the date of receiving the gift which shall become state property or property of the municipality from the day on which it is handed over.

### **Disposal with Gifts**

#### **Article 20**

Received gifts and their value shall be entered into the record book 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 18 paragraphs 3 and 4 of this Law, the gift shall be handed over at the disposal of the authority in which the public official exercises public function 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 with gifts referred to in paragraphs 1, 2 and 3 of this Article, the manner of keeping record books 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).

### **Record Books of Gifts**

#### **Article 21**

The authority referred to in Article 20 paragraph 1 of this Law shall submit an excerpt from the record book 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 this Law has not been complied with, it shall inform thereof the authority which submitted the excerpt from the record book.

The Agency shall prepare a catalogue of gifts that the public officials received in the previous year and publish it on its website.

### **Unlawful Receiving of Gifts**

#### **Article 22**

Based on the knowledge that a public official has received a gift contrary to the law, the Agency shall conduct the procedure in accordance with this 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 exercises the function, within five days from receiving Agency's decision, which gift shall become state property or property of the municipality.

## **Sponsorships and Donations to Authorities**

### **Article 23**

A public official shall not conclude a sponsorship agreement on his behalf.

A public official shall not conclude a sponsorship agreement or receive donations on behalf of the authority in which he exercises 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 it is a sponsorship or a donation within the meaning of paragraph 2 of this Article.

If the Agency determines in its opinion referred to in paragraph 3 of this Article that a public official has acted or will act contrary to paragraphs 1 and 2 of this Article, the public official is obliged to act in accordance with that opinion within five days of receiving that opinion.

If a public official acts contrary to paragraphs 1 and 2 of this Article, the provisions of the Law on Contracts and Torts relating to the nullity of contracts shall apply *mutatis mutandis* to the concluded contract.

For the purpose of this 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 this 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 24**

An authority shall, by the end of March of the current year for the previous year, submit to the Agency a written report on received sponsorships and donations, with a copy of the documentation related to these sponsorships and donations.

If, on the basis of the report referred to in paragraph 1 of this Article, or on the basis of its own information, the Agency determines that the received sponsorships and donations affected or could have affected the legality, objectivity and impartiality of work of the authority, it shall give its opinion thereon and notify the competent authority to undertake measures falling within its jurisdiction, in accordance with the law.

The authority shall, within five days from receiving the opinion referred to in paragraph 2 of this Article, repeal decisions adopted under the influence of received sponsorship or donation, in accordance with the law and shall notify the Agency thereof.

The Agency shall keep a register of sponsorships and donations referred to in paragraph 1 of this Article, which shall also contain 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 25**

The public official shall, within 30 days from assuming the function, in accordance with special legislation, submit to the Agency a Report on its assets and income, as well as on assets and

income of his married or common-law spouse, partner in a life partnership of the same sex, and children, if they live in the same household (hereinafter: the Report), as at the date of his election, appointment, or assignment.

The public official shall provide accurate and complete data in the Report.

During the exercise of public function, the 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 in the Report that relate to an increase in assets of more than €10,000, within 30 days from the date of change;
- at the request of the Agency in the case of initiation of proceedings referred to in Article 33 paragraph 2 of this Law, within 30 days from the date of receiving the request, or initiation of proceedings ex officio.

In the case of termination of public office, a public official shall notify the Agency thereof within 30 days from the date of termination of the office.

Public official whose office has terminated shall submit Report to the Agency, once a year for a period of two years following the termination of office, by the end of March of the current year for the previous year.

When moving to another public function, as well as in the case of election, that is, appointment to another public function, in terms of Article 14 paragraphs 2 and 4 of this Law the public official shall notify the Agency thereof within 30 days from the date of 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 the special law.

## **Data Reported**

### **Article 26**

The Report shall contain:

- 1) personal data of the public official, his household members referred to in Article 25 paragraph 1 of this Law, as well persons related to a public official as follows: name and surname, personal identity number, domicile or residence, address, education level and occupation, and in the case of public official also the father's name, mother's name and mother's maiden name.
- 2) data about the public function exercised;
- 3) data on assets and income of the public official and his household members referred to in Article 25 paragraph 1 of this Law, and in particular regarding the following:
  - 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 the value of which exceeds €10,000, or that are required to be registered with the competent authorities (motor vehicles, vessels, aircraft, weapon, 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 credit institutions and other financial institutions in the country and abroad;
  - stocks and shares in a legal person or other securities;
  - cash in the amount exceeding €10,000;
  - rights arising from copyrights, patent and similar rights, intellectual and industrial property;
  - debts (principal, interest and repayment term) 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 bodies of public enterprises, 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, the public official may give consent to the Agency to access his data on accounts of credit institutions and accounts of other financial institutions, in accordance with the law governing credit institution operations.

The consent referred to in paragraph 2 of this Article shall relate to the period in which the obligations of the public official are valid in accordance with this Law.

The 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 27**

The public official shall deliver the Report to the Agency electronically and in writing.

### **Register of Income and Assets**

#### **Article 28**

Data from the Reports shall be kept in the Register of Income and Assets of Public Officials (hereinafter: the Register), which is part of an integrated information system of the Agency.

Data from the Register shall be deleted ex officio 10 years after termination of office of the 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 period referred to in paragraph 2 of this Article.

The manner of entering data 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 29**

Data from the Register shall be published on the website of the Agency, except for data relating to:

- personal data referred to in Article 26 paragraph 1 point 1 of this Law, except for the names and surnames;
- address of immovable assets;
- children of public officials under the age of 16 years;
- alimony and other income or payments on the basis of social and child welfare.

## **5. Procedure for Issuance of Opinions**

### **Issuance of Opinion at the Request of the Public Official in Case of Suspected Conflict of Interest and in Relation to Restrictions on the Exercise of Public Functions Article 30**

When a public official suspects that he is in a situation in which there is a conflict of interest or restriction in the exercise of public functions, he shall take measures to resolve the conflict of interest or observe the restriction in accordance with the law, as well as report the suspicion to the Agency by submitting a request for an opinion on the existence of conflict of interest or limitations in the exercise of public office.

A public official whose office has terminated may request the Agency to issue an opinion on the existence of restrictions referred to in Article 17 of this Law.

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

It shall be deemed that a public official has violated the provisions of this Law if, within five days from the date of receiving the opinion of the Agency referred to in paragraph 3 of this Article, he fails to comply therewith.

A public official may request the Agency to issue the opinion within a period that may not exceed 15 days from the date of 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 31**

The proceedings based on the request referred to in Article 30 of this Law shall be confidential.

The Agency publishes opinions on the request referred to in the Article 30 of this Law on its website in accordance with the law governing the protection of personal data.

## **6. The Process of Verifying Data from the Report**

### **Annual Plan of Verification Article 32**

The Agency shall carry out 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 annual plan of verification referred to in paragraph 1 of this Article shall be adopted once a year, by the end of the current year for the following year.

### **Data Verification Article 33**

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 possessing such data.

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

If the Agency notices that the submitted data is not in accordance with the data available to the Agency, i.e. if there is a difference of up to €1,000 in the reported monetary amount or in case of technical errors, it shall notify the public official in writing to supplement or amend the Report.

In the case referred to in paragraph 3 of this article, the public official is obliged to supplement or amend the Report in accordance with Article 25 paragraph 3 indent 3 of this Law, and in case of non-action, the Agency is obliged to initiate the procedure.

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

The process of verification of the data from the Report shall not be disclosed to the public.

A more detailed manner of verification of the data referred to in paragraphs 1 and 5 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 on the exercise of public functions, gifts, sponsorships and donations and reports on income and assets of public officials**

### **Initiation of Proceedings**

#### **Article 34**

The procedure of deciding whether a public official has violated the provisions of this Law relating to the prevention of conflict of interest in exercising public functions, restrictions on 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 initiative 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 authority or municipal body, 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 information or based on anonymous initiatives.

The information about the submitter of the initiative referred to in paragraph 1 of this Article shall be confidential.

### **Form and Content of Initiative**

#### **Article 35**

Initiative referred to in Article 34 of this Law shall contain: name and surname of a public official, the name of the authority in which he exercises or exercised his public function, the detailed facts on the violation of the provisions of this Law that are related to the prevention of conflict of interest in exercising public functions, restrictions on the exercise of public functions, gifts, sponsorships and donations and reports on income and assets of public officials, which the submitter of the initiative possesses or has knowledge of, names and surnames of persons who can confirm the allegations from the initiative, 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 submitter of the initiative, if the initiative is not anonymous.

Initiative referred to in Article 34 of this Law shall be submitted in writing, directly, by mail or electronically.

Initiative may also be submitted to the Agency in person as a transcript of a verbal statement.

### **Amending and Rectifying Initiative**

#### **Article 36**

If the initiative has not been made in accordance with Article 35 paragraph 1 of this Law, or is incomprehensible or does not contain sufficient facts to be acted upon, the Agency shall invite the applicant to amend or correct the initiative, determining a deadline for that, which may not be longer than fifteen days.

If the submitter of the initiative fails to act in the manner and by the deadline specified in paragraph 1 of this Article, the Agency shall reject the initiative as incomplete.

### **Response by Public Officials**

#### **Article 37**

The Agency shall request from the public official against whom the proceedings referred to in Article 34 of this Law were initiated to submit a written response to the allegations in the initiative, within 15 days from the receipt of the initiative for submission of the written response.

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

### **Determination of Facts and Circumstances**

#### **Article 38**

The Agency shall manage the proceedings referred to in Article 34 of this 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 records of which are kept, according to the law, by the competent state authorities, state administration bodies and municipalities, or public enterprises, 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 determined 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 on the reasons without delay.

In the case referred to in paragraph 4 of this Article, the Agency shall inform the body supervising work of state bodies, legal or natural persons referred to in paragraph 2 of this Article, and may submit a special report to the Parliament, or inform the public thereof.

### **Presentation of Evidence and Hearing**

#### **Article 39**

If the authorized officer deems it necessary in order to determine the facts and circumstances that are relevant to decision-making, he 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 40**

In case of reasonable suspicion that a criminal offence has been committed that is prosecuted ex officio, the Agency shall submit to the competent public prosecutor's office without delay the request accompanied by the evidence collected in the exercise of its jurisdiction

If the Agency has information pointing to irregularities that do not fall within its jurisdiction, it shall submit such information to the competent authority.

The competent authorities referred to in paragraphs 1 and 2 of this Article shall inform the Agency about the outcome of the proceedings.

## **Decision-Making**

### **Article 41**

The authorized officer shall, within 15 days from the completion of the proceedings referred to in Article 34 of this Law, submit a reasoned proposal for a decision to the Director of the Agency.

Director of the Agency shall, within 15 days from 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 this Law relating to the prevention of conflict of interest in the exercise of public functions, restrictions on 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 42**

The decision referred to in Article 41 paragraph 2 of this Law shall be delivered to the public official, the submitter of the initiative, 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 the public official when these bodies are not initiators, no later than five days from the adoption of decision.

The decision referred to in Article 41 paragraph 2 of this Law shall be published on the website of the Agency, where a decision establishing that a public official has not violated the provisions of this Law relating to the prevention of conflict of interest in exercising public functions, restrictions on 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 that the decision refers to.

## **Finality of Decisions**

### **Article 43**

The decision referred to in Article 41 paragraph 2 of this Law shall be final, and an administrative dispute may be initiated against it.

## **Application of the Rules of Administrative Procedure**

### **Article 44**

The procedure for determining violation of the provisions of this Law relating to the prevention of conflict of interest in the exercise of public functions, restrictions on 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 otherwise provided by this Law.

Proceedings referred to in paragraph 1 of this Article cannot be initiated after the expiration of a period of 5 years from the date of the violation.

### **Legal Effect of Decisions**

#### **Article 45**

Violation of the provisions of this Law relating to the prevention of conflict of interest in the exercise of public functions, restrictions on 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 this Law relating to the prevention of conflict of interest in the exercise of public functions, restrictions on 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 from the receipt of that decision containing a written statement of reasons.

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 from 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 of the public official shall, before deciding on the election, appointment or assignment of a public official, verify with the Agency whether the proposed candidate was dismissed for the 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 46**

If a violation of this 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. Submitting Whistleblower Report

##### **Whistleblower Report Article 47**

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 a report in accordance with this Law.

~~When submitting the report referred to in paragraph 1 of this Article, the whistleblower is obliged to provide reasons for the grounds for suspecting that there is a threat to the public interest that indicates the existence of corruption.~~

The report referred to in paragraph 1 of this article shall be submitted in writing, in person as a transcript of a verbal statement, by mail or electronically and by telephone.

##### **Content of the Report Article 48**

The report referred to in Article 47 of this Law shall contain a description of the threat to the public interest that indicates the existence of corruption, the personal information ~~and signature~~ of the whistleblower, if he does not want to be anonymous, and, if necessary, other facts and circumstances.

~~The provisions of this Law do not apply to:~~

- ~~- protection of secret data;~~
- ~~- protection of the obligation to keep professional secrecy (legal and medical secrets);~~
- ~~- secrecy of court panel deliberations;~~
- ~~- rules on criminal procedure.~~

##### **Prohibition of abuse of reporting Article 49**

It is prohibited to abuse the submission of a whistleblower's report.

It is considered that there is an abuse of filing a whistleblower report if a report on a threat to the public interest that indicates the existence of corruption is submitted containing information that the submitter knew ~~or had to know~~ to be untrue.

##### **Data Protection Article 50**

~~The identity of whistleblower, whistleblower's facilitator, person related to a whistleblower, persons concerned, i.e. the data on the basis of which their identity can be revealed, as well as other data referred to in Article 48 of this Law specified in the report shall be available only to the persons, that is, organizational units referred to in Article 54 paragraph 1 and 2 of this Law, and they shall be handled in accordance with the law governing data confidentiality.~~

~~By way of exception from paragraph 1 of this Article, the identity of the persons and other information referred to in paragraph 1 of this Article may be disclosed only if that is necessary and proportionate to the obligations prescribed by a special law, as part of investigations conducted by state authorities or within court proceedings.~~

## **Confidentiality Protection**

### **Article 51**

The person, that is, the organizational unit to which the whistleblower submits a report referred to in Article 53 paragraph 1 of this Law, whistleblower's facilitator, person related to a whistleblower, and any other person who participates in the procedure following the whistleblower's report is obliged to protect the data obtained from the report and must not use or disclose it for purposes other than those necessary for further procedure on that report.

## **2. Internal and External Reporting and Public Disclosure of Information**

### **Internal Reporting**

#### **Article 52**

Whistleblowers may submit the report referred to in Article 47 of this Law to an employer in which, to the best of their knowledge, there are reasonable grounds for suspecting that there is a threat to the public interest that indicates the existence of corruption.

### **Actions of Employers**

#### **Article 53**

In a procedure based on the report of the whistleblower, the employer shall verify the accuracy of allegations of threats to the public interest indicating the existence of corruption and undertake measures falling 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 or Organizational Units for Receiving and Acting upon the Whistleblower Report**

#### **Article 54**

In order to carry out the procedure referred to in Article 53 of this Law, an employer who employs less than 20 workers may appoint an impartial person or an organizational unit for receiving and acting upon the reports.

In order to carry out the procedure referred to in Article 53 of this Law, an employer who employs at least 20 workers is obliged to appoint an impartial person or an organizational unit for receiving and acting upon the reports.

Employers referred to in paragraph 2 of this Article may share responsibilities in terms of receiving reports and conducting proceedings, under the conditions stipulated by this Law and the law governing labour relations.

The employer shall make the data on designation of the person, that is, the organizational unit referred to in paragraph 1 and 2 of this Article easily available in the work environment and by publishing it on its website.

If he determines the existence of a threat to the public interest which indicates the existence of corruption, the person, that is, the organizational unit referred to in paragraph 1 and 2 of this Article shall conduct the procedure to verify the accuracy of allegations in the whistleblower report and propose measures to remove the said threat.

Employers referred to in paragraphs 1 and 2 of this Article may not influence the actions taken by the impartial person, that is, the organizational unit when undertaking actions falling within his competence necessary for the protection of whistleblowers.

If the report was received by a person, that is, the organizational unit which is not in charge of acting upon the report, that person shall forward the report to the person, that is, the organizational unit in charge without delay and unaltered while protecting the identity of the

whistleblower, the person related to a whistleblower and the confidentiality of the data specified in the report.

More detailed manner of action-taking referred to in paragraph 5 of this Article shall be prescribed by the Ministry.

### **Receipt of Report and Notification on Measures Taken**

#### **Article 55**

A person, that is, the organizational unit referred to in Article 54 paragraph 1 and 2 of this Law shall deliver to the whistleblower the receipt of report within seven days from the date of submission thereof, and the notification of measures taken on the basis of his report or the outcome of measures taken, within 45 days from the date of submission of the report.

### **External Reporting**

#### **Article 56**

If the whistleblower has not been informed, or is not satisfied with the notification or the measures referred to in Article 55 of this Law, he may submit report on threats to the public interest that indicate the existence of corruption to the Agency.

Whistleblowers may also submit the report on threats to the public interest that indicate the existence of corruption to the Agency without prior submission to employer to which the report relates.

The report referred to in paragraph 1 of this Article shall may, in addition to the data referred to in Article 48 of this Law, contain information about the employer, i.e. person concerned to which the report relates and a notification on the taken measures referred to in Article 55 of this Law, if the notification was delivered to the whistleblower, and the report referred to in paragraph 2 of this article shall may also contain the data on the employer, i.e. the person concerned.

If the report does not contain information referred to in paragraph 3 of this Article 48 of this Law, the Agency shall invite the whistleblower to supplement the report within eight days.

If the whistleblower fails to comply with paragraph 4 of this Article, the Agency shall discontinue the procedure.

More detailed manner of action-taking referred to reports referred to in paragraphs 1 and 2 of this Article shall be prescribed by the Ministry.

### **Opinion of the Agency**

#### **Article 57**

If on the basis of the procedure conducted based on the report referred to in Article 56 of this Law, the Agency determines that there is a threat to the public interest that indicates the existence of corruption, it shall prepare an opinion which shall contain a recommendation about what should be done to prevent the threats, as well as the deadline for complying with the recommendation and notifying the Agency thereof, which opinion shall be delivered to the employer and the whistleblower.

If on the basis of the procedure conducted based on the report referred to in Article 56 of this Law, the Agency determines that there is no threat to the public interest that indicates the existence of corruption, the Agency shall inform the whistleblower.

## Complying with the Recommendation of the Agency

### Article 58

An employer to whose work the recommendation referred to in Article 57 paragraph 1 of this Law applies, shall, within the set time period, submit a report on the actions taken to implement the recommendation.

If the employer does not comply with the recommendation referred to in the Article 57 paragraph 1 of this Law within the set time period or fails to inform the Agency thereof, the Agency shall inform the body supervising its work, shall submit a special report to the competent parliamentary committee referred to in the Article 85 paragraph 2 of this Law and inform the public thereof.

### Acting ex officio

#### Article 59

~~The Agency may initiate the procedure for determining the existence of threats to the public interest that indicates the existence of corruption ex officio.~~

## Assistance by the Agency

### Article 59

If, as a result of the harm sustained, the whistleblower initiates a judicial process, the Agency shall, at his request, provide the necessary professional assistance, which includes legal, financial, psychological and other support.

## Actions of the Agency

### Article 60

The provisions of Articles 36 to 39 of this Law shall apply *mutatis mutandis* to actions referred to in Article 56 and ~~59~~ Article 6 paragraph 5 of this Law.

## Obligation to Keep Records

### Article 61

The employer is obliged to keep records of whistleblower reports that contain the following information: number, date of report, first and last name, municipality, residence and address of the whistleblower (if the report is not submitted anonymously), a brief description of threat to the public interest that indicates the existence of corruption that is reported by a whistleblower, the number and date of the notification on the receipt of the report and the measures referred to in the Article 55 of this Law and the number and date of the report on the actions taken to implement the recommendation from the Agency's opinion referred to in the Article 58 of this Law.

## Public Disclosure of the Information

### Article 62

~~A whistleblower may, without first submitting a report referred to in the Article 47 of this Law to the employer, that is, to the Agency, publicly disclose information about threats to the public interest that indicates the existence of corruption, in the event of immediate danger to life, public health, safety, the environment, or danger of damage on a large scale, or if there is an imminent danger of destruction of evidence that indicates a threat to the public interest that indicates the existence of corruption (hereinafter: Public disclosure of the information).~~

A whistleblower may publicly disclose information about threats to the public interest that indicate the existence of corruption if:

1) he previously submitted a report referred to in Article 47 of this Law to the employer, i.e. the Agency, and measures to prevent such threat are not taken within the deadline referred to in Article 55, i.e. Article 57 of this Law

or if

2) the whistleblower has a justified reason to believe that:

- a) the threat the public interest that indicates the existence of corruption represents an obvious danger, as well as in the case of a crisis situation or the risk of irreparable damage;
- b) in the case of reporting to the Agency there is a risk of harm being done, or the chances that the threat to the public interest that indicates the existence of corruption will be prevented are low due to the special circumstances of the case.

### **Assignment of Proceedings to Competent Authorities**

#### **Article 63**

If, in the process of verification of allegations on a threat to public interest that indicates the existence of corruption, the employer, as well as the Agency, suspects that a criminal offence 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 report with the gathered evidence to the competent state prosecutor without delay.

If the employer, or the Agency, receive a whistleblower report which does not fall within their competence, they shall submit it without delay to the competent authority.

The competent authorities referred to in paragraphs 1 and 2 of this Article shall inform the Agency about the outcome of proceedings.

### **3. Protection of Whistleblowers and Compensation for damage**

#### **Conditions for Protection of Whistleblowers**

##### **Article 64**

A whistleblowers shall qualify for protection if he had reasonable grounds to believe that the reported information on threats to the public interest that indicate the existence of corruption was true at the time of submitting the report to the employer, that is, the Agency, that is, at the moment of public disclosing of such information.

The whistleblower is not responsible for the method of obtaining the reported information from paragraph 1 of this article or accessing it, provided that the method of acquisition or access does not constitute a **self standing** criminal offense.

In court proceedings related to a whistleblower report, including proceedings for copyright infringement, breach of data confidentiality, breach of data protection rules, disclosure of trade secrets or claims for compensation for damages arising from employment, the whistleblower bears no responsibility for submitting the report.

In the case of initiation of the procedure referred to in paragraph 3 of this Article, the whistleblower has the right to request suspension of the procedure based on the report, if it is established in that procedure that the conditions referred to in paragraph 1 of this article have been met.

## Prohibition of Inflicting Harm on the Whistleblower

### Article 65

~~The employer may not~~ It is forbidden to cause harm to the whistleblower by direct or indirect action, inaction or omission in the work context, by placing him in disadvantageous position in connection with the submission of report, or public disclosure of information, and in particular if the disadvantage relates to:

- 1) risk to life, health and property;
- 2) inability to obtain employment;
- 3) preventing the acquisition of trainee or volunteer status;
- 4) work outside the employment relationship (actual work);
- 5) prevention of education, training or professional development;
- 6) prevention of promotion at work, performance assessment, acquisition or withdrawal of title;
- 7) deprivation of the means for work that he used;
- 8) prohibition of access to certain data required for the performance of his working duties;
- 9) initiation of disciplinary proceedings and penalties;
- 10) initiation of unjustified actions and proceedings;
- 11) failure to provide working conditions;
- 12) termination of employment;
- 13) suspension;
- 14) termination of business cooperation by terminating service contract or contract on business cooperation;
- 15) failure to convert a temporary employment contract into a permanent one, after the conditions have been met
- 16) reduction or denial of salary and other benefits based on employment relationship;
- 17) denial of sharing in the employer's profits;
- 18) non-payment of reward and severance pay;
- 19) assignment or transfer to another work position;
- 20) unjustified transfer to a work position with less favourable working conditions;
- 21) failure to take measures for protection against harassment ~~by other persons~~;
- 22) failure to refer to mandatory health examinations or referral to examinations for the assessment of work ability, when the conditions for referral to these examinations in accordance with the law are not met;
- 23) early termination or cancellation of a contract for goods or services;
- 24) cancellation of a licence or permit;
- 25) harm material or nonmaterial, including to the person's reputation, particularly in social media, or financial loss, including loss of business and loss of income;
- 26) discrimination;
- 27) mobbing.

## **Compensation of Damage due to Whistleblower Report**

### **Article 66**

Whistleblower has the right to the compensation of damage inflicted due to the submitting of the whistleblower report, or public disclosure, in accordance with the law governing obligations.

## **Judicial Protection**

### **Article 67**

A whistleblower who has suffered damage, or who is at risk of suffering damage in accordance with Article 65 of this Law, shall be entitled to file a lawsuit for the protection of a whistleblower to the competent court.

The lawsuit referred to in paragraph 1 of this Article shall be filed within ~~six months from the date of damage, or knowledge of the possibility of damage~~ the general time limit for unenforceability due to statute of limitations prescribed by the law which regulates contracts and torts.

The Basic Court shall have the jurisdiction in the proceedings for judicial protection referred to in the paragraph 1 of this Article, according to the place where the harmful action was taken or according to the plaintiff's place of domicile.

The proceedings regarding the whistleblower protection lawsuit shall be urgent.

The proceedings regarding the whistleblower protection lawsuit do not have to be preceded by the procedure for amicable resolution of disputes before the Agency for the Amicable Resolution of Labour Disputes or before the Centre for Alternative Dispute Resolution.

The provisions of the law on civil procedure, which govern labour disputes, shall apply *mutatis mutandis* to the proceedings regarding the whistleblower protection lawsuit.

## **Content of the Lawsuit**

### **Article 68**

The lawsuit for the protection of a whistleblower may seek:

- 1) to determine that a harmful act referred to in the Article 65 of this Law has been taken against the whistleblower;
- 2) prohibition of committing and repeating a harmful act (action, inaction or omission);
- 3) eliminating the consequences of a harmful act;
- 4) compensation for material and non-material damage;
- 5) publication of the judgment rendered on such lawsuit in the media, at the expense of the defendant.

## **The Burden of Proof**

### **Article 69**

~~If, during the course of the proceedings, the whistleblower as plaintiff made it likely that a harmful act was taken against him in connection with the submission of a report on a threat to the public interest that indicates the existence of corruption, or public disclosure of information, the burden of proof that the harmful act is not causally linked to the submission of such report, or public disclosure of information, shall be on the employer as a defendant.~~

If, during the course of the proceedings, the whistleblower as plaintiff made it likely that he reported, i.e. publicly disclosed information on a threat to the public interest that indicates the existence of corruption, and that he suffered a harm, the burden of proof that the harmful act

is not causally linked to the submission of such report, or public disclosure of information, shall be on the employer as a defendant.

### **Interim measures**

#### **Article 70**

In the procedure regarding the whistleblower protection lawsuit, the court conducting the procedure may order an interim measure in accordance with the law governing enforcement and securing of claims.

### **Right to Protection of the Whistleblower's Facilitator and Person Related to a Whistleblower**

#### **Article 71**

Whistleblower's facilitator and a person related to a whistleblower shall qualify for protection under the provisions of this Law governing the protection of whistleblowers.

## **4. Award for Reporting Threats to Public Interest that Indicate the Existence of Corruption**

### **Right of Whistleblowers to Reward**

#### **Article 72**

An employer may reward a whistleblower who, by submitting a report, contributed to preventing the threats to public interest that indicate the existence of corruption.

A whistleblower who, by submitting a report on the threats to public interest that indicate the existence of corruption, contributed to the generation of public revenue or income of an employer, where those revenues and income would not have been generated had the report not been submitted, shall be entitled to a cash prize by an employer who generated the revenue or income.

A whistleblower shall acquire the right to reward as of the moment of generation of revenue or income referred to in paragraph 2 of this Article, and if the submission of report 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 as 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 Reward**

#### **Article 73**

In order to exercise the right to award, a whistleblower shall submit a written request to the employer 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 reward shall also determine a deadline for the payment of award that may not 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 74**

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 development 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 its improvement.

The costs 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 75**

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 work of the authority and eliminate doubts about the possibility of the emergence and development of corruption.

##### **Integrity Plan Content**

##### **Article 76**

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 development and implementation of the Integrity Plan.

### **Integrity Manager**

#### **Article 77**

Integrity Manager shall be appointed by the head or the responsible person in an authority.

The authority shall submit to the Agency the decision designating the Integrity Manager within eight days from the date of adoption of the decision.

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

### **Integrity Plan Transparency**

#### **Article 78**

An authority shall adopt the Integrity Plan within six months from the date of establishment and submit it to the Agency within eight days from the date of adoption, in accordance with the rules for the development and implementation of the Integrity Plan.

The 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 79**

Integrity Plan may be amended depending on the needs, development and interests of an authority.

An authority shall once every two years, assess the efficiency and effectiveness of the integrity plan every and submit to the Agency the results of the assessment within eight days from the date of completion of the assessment, in accordance with the rules for the development and implementation of the Integrity Plan.

The authority shall adopt new Integrity Plan once every two years on the basis of the assessment referred to in paragraph 2 of this Article and shall submit it to the Agency within eight days from the date of adoption, in accordance with the rules for the development and implementation of the Integrity Plan.

### **Report on the Implementation of Integrity Plan**

#### **Article 80**

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, in accordance with the rules for the development and implementation of the Integrity Plan.

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 Activity Report of the Agency.

## V. THE AGENCY

### **Responsibilities of the Agency**

#### **Article 81**

The Agency shall:

- establish the existence of conflict of interest in the exercise of public function and take measures for its prevention;
- control restrictions on the exercise of public function;
- conduct control of receiving gifts, sponsorships and donations;
- conduct control of the data from the Report;
- 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 referred to in the Article 79 paragraph 2 this Law;
- adopt acts falling within 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 this 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 this 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 prevention of corruption;
- perform other duties prescribed by the law.

The Agency shall supervise 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 falling within its jurisdiction, the Agency may engage national and international experts or institutions and organizations from the respective fields.

### **Opinions for the Improvement of Prevention of Corruption**

#### **Article 82**

The Agency may, at 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 this 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 offence that is prosecuted ex officio has been committed; or
- the Agency initiates proceedings falling 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 83**

The Agency shall have a status of a legal person.

### **Bodies of the Agency**

#### **Article 84**

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 this Law shall not be subject to illegal or unlawful influence.

### **Election of the Members of the Council**

#### **Article 85**

The Council shall have five members.

Members of the Council shall be elected by the Parliament, at 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.

### **Requirements for the Election of Members of the Council**

#### **Article 86**

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 level of the qualification framework, sub-level VII-1;
- 2) ten years of work experience of which at least five years of work 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 87**

A person may not be elected as a Member of the Council if he, within the last ten years, exercised or exercises function:

- 1) of an MP or councillor;
- 2) of a member of the Government;
- 3) in a political party (party president, member of presidency, their deputies, member of the executive or central committee or other officials in a political party in accordance with the Statute of the entity);
- 4) in the coalition, in terms of the law regulating the financing of political entities and election campaigns.

## **Procedure for the Election of Members of the Council**

### **Article 88**

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 from the call.

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

A non-governmental organization may propose a candidate for a member of the Commission if it is registered with the competent government authority, if its founding act and its Statute contain the activities and objectives in the fight against corruption and it has at least three years of experience in the fight against corruption, if it has implemented during the course of the previous year at least one project in the area of fight against corruption and if it has filed a tax return 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 the founding act 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 the competent committee shall prepare a list of proposed candidates.

The Non-governmental organization representative in the Commission shall be the person proposed by the largest number of non-governmental organizations in the nomination procedure.

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

## **Compiling a List of Candidates**

### **Article 89**

After the expiration of the prescribed deadline for nomination of candidates on the basis of a public competition referred to in Article 88 paragraph 1 of this Law, the Commission shall verify compliance with the requirements of Articles 86 and 87 of this 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 86 paragraph 1 points 2 and 3 of this Law and the interview conducted, compile a list of five candidates for the election of members of the Council, substantiated with a reasoning.

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 fails to 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 90**

A member of the Council 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 86 and 87 of this Law or if he assumes the function referred to in Article 87 of this Law;
- 4) if he violates the provisions of this Law and the Rules of Procedure of the Council.

The reasons for dismissal referred to in paragraph 1 points 2, 3 and 4 of this Article shall be determined by the Council, which shall also notify the competent committee thereof.

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 at the proposal of the competent committee.

An action to the Administrative Court may be filed against the decision on dismissal referred to in paragraph 1 points 3 and 4 of this Article.

The competent committee shall, three months before the expiry 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 88 of this 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 88 of this Law and shall, propose to the Parliament a new member of the Council within 30 days.

## **Responsibilities of the Council**

### **Article 91**

The Council shall:

- 1) announce a competition for the election of the Director of the Agency, elect and dismiss the Director of the Agency;
- 2) adopt the Statute and the act on internal organization and systematization of the Agency, at the proposal of the Director of the Agency;
- 3) adopt the annual work plan of the Agency at the proposal of the Director of the Agency;
- 4) adopt the proposal for the budget and statement of accounts at the proposal of the Director of the Agency;
- 5) adopt rules governing the work of the Agency and the rules for the development and implementation of Integrity Plans at the proposal of the Director of the Agency;
- 6) decide on exclusion of the Director of the Agency;
- 7) adopt Rules of Procedure of the Council;
- 8) give initiatives for improving the work of the Agency to the Director of the Agency;
- 9) at the proposal of the Director of the Agency, submit an Annual Activity Report of the Agency;
- 10) verify data from reports on income and assets of the Director of the Agency;
- 11) 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 development and implementation of Integrity Plans shall be published in the "Official Gazette of Montenegro".

## **The Manner of Work of the Council**

### **Article 92**

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 94 paragraph 7 and Article 96 paragraph 3 of this Law.

The Council shall hold meetings at least twice a month, at which it will decide on matters falling within its competence.

As a rule, the President of the Council shall inform the public on the affairs falling within the competence of the Council.

The Council whose term of office has terminated shall continue to work until the election of a new Council.

## **Remuneration for the Work of the Council Members**

### **Article 93**

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 of the administration body in charge of statistics.

## **The Procedure for the Election of the Agency Director**

### **Article 94**

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 has passed a judicial examination in addition to meeting the requirements referred to in Article 83 of this Law may be elected as the Director of the Agency.

In addition to the restrictions referred to in Article 84 of this 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 requirements referred to in Articles 83 and 84 of this 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 the Director of the Agency by a majority of at least four votes, within 30 days from the expiry of the deadline for applying to the competition.

## **Responsibilities of the Agency Director**

### **Article 95**

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 falling within the jurisdiction of the Agency;
- 4) perform other duties, in accordance with the law.

## **Dismissal of the Agency Director**

### **Article 96**

The 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 Article 94 paragraphs 2 and 3 and of this Law or if he assumes the function referred to in Article 94 paragraph 3 of this Law;
- 4) if he violates the provisions of this 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 for dismissal of the Director of the Agency shall be initiated at the proposal of at least three members of the Council, and the decision on the dismissal of the Director of the Agency shall be passed by the Council by a majority of at least four votes.

An action to the Administrative Court may be filed against the decision on dismissal referred to in paragraph 1 points 3 and 4 of this Article.

## **Statute of the Agency**

### **Article 97**

The Agency shall have a Statute.

The Statute of the Agency shall particularly 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 98**

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 submits it to the competent body of the Parliament.

The competent body of the Parliament shall approve the draft budget of the Agency and submit it to the Government.

Funds approved for the operation and functioning of the Agency shall not amount to less than 0.2% of the current budget.

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

The Agency shall decide independently on the use of funds referred to in paragraph 4 of this Article.

## **Application of other Regulations**

### **Article 99**

The rights, obligations and accountability of employees of the Agency shall be subject to the general labour regulations.

The employees of the Agency shall have a monthly bonus to salary in the amount of 30 %.

## **Code of Ethics and Official Identity Card**

### **Article 100**

The Council shall adopt a special Code of Ethics for the employees of the Agency.

For the purpose of performing their duties and enforcing their powers, the 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 101**

The Council shall submit an annual Activity Report 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 falling within the jurisdiction of the Agency.

The reports referred to in paragraphs 1 and 2 of this Article shall be published on the website of the Agency.

The Agency shall, once a year, submit a report on the procedures based on the whistleblower reports to the competent committee.

Report referred to in the paragraph 1 of this Article may also be submitted in cases where constitutional and legal rights are threatened to a greater degree or significance.

## Handling of Data

### Article 102

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 103

In addition to catalogues and registers referred to in Article 21 paragraph 3, Article 24 paragraph 4 and Article 28 paragraph 1 of this Law, the Agency shall keep:

- records of public officials who were found, by a final or final and enforceable decision, to have violated this Law or special laws governing the responsibilities of the Agency, which contains the following information: serial number, name and surname, personal identity number and function performed by the public official, the number and date of the final or 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 reports by whistleblowers containing the following information: serial number, date of the report, name and surname, municipality, domicile and address of the whistleblower (if the whistleblower is not anonymous), name and seat/address of the ~~authority, company or other legal person, or name and surname of the entrepreneur to whom the report relates~~ **person concerned**, 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 55 of this Law if delivered to the whistleblower, number and date of the opinion of the Agency on 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~~ **employer** to which the report refers, on the actions taken to implement the recommendations set out in 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 this 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 104

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 ensure the protection of confidential information and personal data.

## VI. PENAL PROVISIONS

### **Fines for Misdemeanours 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 105**

A fine ranging from €1,000 to €20,000 shall be imposed on a legal person for a misdemeanour offence if it:

- 1) fails to 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 10 paragraph 3);
- 2) fails to adopt a decision on exclusion of a public official from the discussion and decision-making if the Agency has determined that there is a conflict of interest referred to in Article 10 paragraph 1 of this Law (Article 10 paragraph 5);
- 3) fails to repeal a decision made contrary to Article 10 paragraphs 1 to 4 of this Law, and does not notify the Agency thereof (Article 10 paragraph 6);
- 4) concludes a contract with a company or other legal person in which the public official and a person related to the public official have a private interest (Article 16 paragraph 3);
- 5) fails to 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 21 paragraph 1);
- 6) fails to submit to the Agency a written report on received donations and sponsorships, with a copy of the documentation, by the end of March of the current year for the previous year (Article 24 paragraph 1);
- 7) fails to submit the requested data and information, or does not make available the requested documentation (Article 33 paragraph 2);
- 8) fails to submit the requested data and information, or does not make available the requested documentation (Article 38 paragraph 3);
- 9) fails to notify the Agency of the outcome of the proceedings referred to in Article 40 paragraphs 1 and 2 of this Law (Article 40 paragraph 3);
- 10) fails to 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 this Law relating to the prevention of conflict of interest in the exercise of public functions, restrictions on the exercise of public functions, gifts, sponsorships and donations and reports on income and assets of public officials, as well as of special laws falling within the competence of the Agency, within 60 days from the receipt of that decision containing a written statement of reasons (Article 45 paragraph 2);
- 11) fails to notify the Agency of dismissal, suspension or imposition of disciplinary measure based on negligent discharge of public functions, within 30 days from the date of adoption of the decision (Article 45 paragraph 3);
- 12) fails to verify with the Agency, before deciding on the election, appointment or assignment of a public official, whether the proposed candidate was dismissed for the reasons referred to in Article 45 paragraph 1 of this Law in the last four years prior to the nomination, in his capacity as a public official (Article 45 paragraph 6);
- 13) does not protect the data it learns from the report and uses or discloses it for purposes other than those for which it is needed for further action on that report (Article 51);
- 14) fails to designate a person or the organizational unit for receiving and acting on the whistleblower reports (Article 51);

- 15) does not make the data on designation of the person, that is, the organizational unit referred to in Article 54 paragraph 1 and 2 of this Law easily available in the work environment and by publishing it on its website (Article 54 paragraph 4);
- 16) influences the actions taken by the impartial person, that is, the organizational unit when undertaking actions falling within his competence necessary for the protection of whistleblowers (Article 54 paragraph 6);
- 17) does not forward the report to the person, that is, the organizational referred to in Article 54 paragraph and 2 of this Law without delay and unaltered while protecting the identity of the whistleblower, the person related to a whistleblower and the confidentiality of the data specified in the report (Article 54 paragraph 7)
- 18) fails to deliver to the whistleblower the receipt of report within seven days from the date of submission thereof, and the notification of measures taken on the basis of his report or the outcome of measures taken, within 45 days from the date of submission of the report.
- 19) fails to submit, within the set time period, a report on the actions taken to implement the recommendation referred to in Article 52 paragraph 2 of this Law (Article 53 paragraph 1);
- 20) fails to keep records of whistleblower reports containing information referred to in Article 61 of this Law;
- 21) fails to submit a whistleblower report which does not fall within their competence without delay to the competent authority (Article 63 paragraph 2);
- 22) causes harm to the whistleblower, whistleblower's facilitator and persons related to the whistleblower by direct or indirect action, inaction or omission in the work context, by placing him in disadvantageous position in connection with the submission of report, or public disclosure of information (Article 65);
- 23) initiates unjustified actions and proceedings against whistleblowers, whistleblower's facilitator, persons related to the whistleblower and impartial person (Article 65, paragraph 1 point 10);
- 22) fails to decide within 30 days from the date of submission of the request referred to in Article 73 paragraph 2 of this Law, or does determine a deadline for the payment of the reward or sets a deadline that is longer than six months (Article 73 paragraphs 2 and 3);
- 23) fails to adopt an Integrity Plan (Article 74 paragraph 1);
- 24) submit a decision on the designation of an Integrity Manager to the Agency within eight days from the date of adoption of the decision (Article 77 paragraph 2);
- 25) fails to adopt an Integrity Plan within six months from the date of establishment and submit it to the Agency within eight days from the date of adoption, in accordance with the rules for the development and implementation of the Integrity Plan (Article 78 paragraph 1);
- 26) fails to adopt a new Integrity Plan once every two years and submit it to the Agency within eight days from the date of adoption in accordance with the assessment from paragraph 2 of this Article (Article 79 paragraph 3);
- 27) fails to submit a report on the implementation of Integrity Plan by 15 April of the current year for the previous year (Article 80 paragraph 1).

For misdemeanours referred to in paragraph 1 of this Article, a fine shall also be imposed on the responsible person in the legal person, state authority, state administration body, local government and local self-government body, in the amount ranging from €500 to €2,000.

For misdemeanours referred to in paragraph 1 points 13, 14, 15, 16 and 17 of this Article, a fine in the amount between €500 and €6,000 shall be imposed on the entrepreneur.

**Fines for Misdemeanours by Public Officials****Article 106**

A fine in the amount ranging from €500 to €2,000 shall be imposed on a public official for a misdemeanour offence, if he:

- 1) fails to inform other participants in a discussion of the existence of the private interest, by making a statement before his participation in the discussion, and no later than the commencement of decision-making (Article 10 paragraph 1);
- 2) participates, in the case referred to in Article 10 paragraph 1 of this Law, in a discussion and decision-making (Article 10 paragraphs 4 and 5);
- 3) fails to report to the Agency accurate and complete data on income made by exercising an activity, or tasks referred to in Article 9 paragraphs 1 and 2 of this Law (Article 9 paragraph 3);
- 4) earns membership-based income in more than one working body referred to in Article 11 paragraph 2 of this Law in a single month (Article 11 paragraph 4);
- 5) fails to transfer his management rights in a company, institution or other legal person owned or founded by him to another legal or natural person, within 30 days from the date of election, appointment or assignment to a public function (Article 11 paragraph 1);
- 6) fails to submit to the Agency information on the person to whom he transferred the management rights and the evidence of the transfer of management rights, within five days from the date of transfer of management rights (Article 112 paragraph 3);
- 7) is a president or member of the management body or supervisory body, executive director or member of the management in a public enterprise, public institution or other legal person in more than one public enterprise, public institution or other legal person owned by the state or a municipality (Article 14 paragraph 1 and 2);
- 8) performs work in state administration and local government bodies while performing the function of an MP or councillor (Article 14 paragraph 3);
- 9) earns income or other compensation on the basis of the membership in administrative, management or supervisory bodies referred to in Article 14 paragraphs 2 and 4 of this Law (Article 14 paragraph 5);
- 10) fails to resign from public function when he, while performing a public function, accepts to perform another duty or function referred to in Article 13 and Article 14 paragraphs 1 and 3 of this Law, within 30 days from the beginning of the exercise of other function or duty (Article 15);
- 11) concludes a contract on the provision of services with a public enterprise 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 16 paragraphs 1 and 2);
- 12) receives a gift that is not protocol or appropriate (Article 18 paragraph 1);
- 13) 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 18 paragraph 3);
- 14) fails to prepare or submit, within eight days of the offer made, a written report on the offer referred to in Article 19 paragraph 1 of this Law to the authority in which he exercises a public function (Article 19 paragraph 2);
- 15) in the case referred to in Article 19 paragraph 1 of this Law, where he could not refuse the gift, or return it to the donor, fails to hand over the gift to the authority in which he exercises the public function within five days from the receipt of the gift (Article 19 paragraph 3);

- 16) in the case where the Agency determines that he received gifts, he fails to hand over the gift, or the equivalent monetary value of the gift, at the disposal of the authority where he exercises the function, within five days from receiving Agency's decision (Article 22 paragraph 2);
- 17) concludes a sponsorship agreement in his own name (Article 23 paragraph 1);
- 18) concludes a sponsorship agreement or receives a donation in the name of the authority in which he exercises a public function, which affects or could affect the legality, objectivity and impartiality of work of the authority (Article 23 paragraph 2);
- 19) does not act in accordance with opinion of the Agency within five days of receiving the opinion (Article 23 paragraph 4);
- 20) fails to submit to the Agency a written report on received sponsorships and donations with a copy of documentation concerning those sponsorships or donations, by the end of March of the current year for the previous year (Article 24 paragraph 1);
- 21) fails to repeal the decisions made under the influence of received sponsorship or donation and fails to notify the Agency thereof (Article 24 paragraph 3);
- 22) fails to submit to the Agency a Report on his assets and income, as well as on assets and income of married or common-law spouse, partner in a life partnership of the same sex and children, if they live in the same household, as at the date of his election, appointment, or assignment, within 30 days from assuming the function (Article 25 paragraph 1);
- 23) fails to provide accurate and complete data in the Report (Article 25 paragraph 2);
- 24) during the exercise of a public function, fails to submit the Report once a year by the end of March of the current year for the previous year, or he does not report changes in the Report that relate to an increase in assets of more than €10,000, within 30 days from the date of change or at the request of the Agency in the event of initiation of proceedings referred to in Article 33 paragraph 2 of this Law, within 30 days from the date of receiving the request, or the initiation of proceedings ex officio (Article 25 paragraph 3 points 2 and 3);
- 25) when moving to another public function, as well as in the case of election, appointment, or assignment to another public function, pursuant to Article 14 paragraphs 2 and 4 of this Law, fails to notify the Agency thereof within 30 days from the change (Article 25 paragraph 6);
- 26) fails to provide, at the request of the Agency, detailed information on the grounds of acquiring assets and income within 30 days (Article 33 paragraph 5).

For misdemeanours referred to in paragraph 1 points 13, 14, 16 and 17 of this Article, a protective measure of confiscation of the item – gift, shall be imposed.

For misdemeanours referred to in paragraph 1 points 23, 24, 25 and 27, a fine in the amount ranging from €500 to €1,000 shall also be imposed on a civil servant who is required to submit the Report in line with a special law.

For misdemeanours referred to in paragraph 1 point 13 of this Article, a fine in the amount ranging from €300 to €500 shall also be imposed on the married or 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 related to the public official, or the exercise of public function (Article 18 paragraph 5).

### **Fines for Misdemeanours by Natural Persons**

#### **Article 107**

A fine in the amount ranging from €500 to €2,000 shall be imposed on a natural person for a misdemeanour offence, if he:

~~1) does not to provide reasons for the grounds for suspecting that there is a threat to the public interest that indicates the existence of corruption while submitting a report referred to in Article 47 paragraph 1 of this Law (Article 47 paragraph 2).~~

1) files a whistleblower report containing information that the submitter knew or had to know to be untrue (Article 49 paragraph 2).

### **Fines for Misdemeanours by Persons Whose Public Function Expired**

#### **Article 108**

A fine in the amount ranging from €1,000 to €2,000 shall be imposed on a person whose public function has expired, for a misdemeanour offence, if in the period of one year following the termination of the public function he:

- 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 17 paragraph 1 point 1);
- 2) establishes an employment 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 17 paragraph 1 point 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 17 paragraph 1 point 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 17 paragraph 1 point 4);
- 5) enters into a contractual relationship or other form of business cooperation with the authority in which he exercised a public function (Article 17 paragraph 1 point 5);
- 6) within 30 days from termination of the function, fails to notify the Agency thereof and fails to submit the Report, or fails to submit the Report as at the date of submission of the Report once a year over the course of two years following the termination of function, by the end of March of the current year for the previous year (Article 25 paragraphs 4 and 5).

A fine in the amount ranging from €1,000 to €2,000 shall be imposed on a person whose public function has expired, for a misdemeanour offence, if in the period of two years following the termination of the public function he, for the purpose of obtaining a benefit for himself or another person or to harm another person the findings and information acquired in the exercise of public function, unless that findings and information are available to the public.

In addition to the fine, in case of the misdemeanours referred to in paragraph 1 and 2 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 an Adoption of Secondary Legislation**

#### **Article 109**

The implementing acts for the implementation of this Law shall be adopted within six months from the date of entry into force of this Law.

Until the adoption the implementing acts referred to in paragraph 1 of this Article, the implementing acts adopted on the basis of the Law on the Prevention of Corruption ("Official Gazette of Montenegro", no. 53/14, 42/17 and 73/23) will be applied.

### **Initiated Proceedings to Resolve the Conflicts of Interest**

#### **Article 110**

Initiated proceedings to resolve the conflict of interest, in which no decision was made to enter into force of this Law, will be concluded according to the provisions of the Law that were valid at the time the proceedings were initiated.

### **Initiated Procedures Based on Whistleblower Reports**

#### **Article 111**

Proceedings that were initiated based on whistleblower reports in accordance with the Law on the Prevention of Corruption ("Official Gazette of Montenegro", no. 53/14, 42/17 and 73/23) will be concluded according to the provisions of that Law.

### **Harmonization of rules for the development and implementation of the Integrity Plan**

#### **Article 112**

The rules for the development and implementation of the Integrity Plan, adopted on the basis of the Law on Prevention of Corruption ("Official Gazette of Montenegro", no. 53/14, 42/17 and 73/23) will be harmonized with this Law within 60 days from the date of entry into force of this Law.

### **Harmonization of Acts**

#### **Article 113**

The Statute and act on the internal organization and systematization of the Agency's workplaces, the Code of Ethics of the Agency's employees and other acts of the Agency adopted on the basis of the Law on the Prevention of Corruption ("Official Gazette of Montenegro", no. 53/14, 42/17 and 73/23), will be harmonized with this Law within 60 days from the date of entry into force of this Law.

### **Obligation to Designate an Impartial Person or Organizational Unit for Handling Whistleblower Reports**

#### **Article 114**

Employers referred to in Article 54 paragraphs 1 and 2 of this law shall designate an impartial person, that is, an organizational unit for receiving and acting upon whistleblower reports within 60 days from the date of entry into force of this Law.

### **Delayed Application of Certain Provisions**

#### **Article 115**

The provisions of Article 4 paragraph 3 point 2 and 3 of this Law will apply from the day of Montenegro's accession to the European Union.

### **Repeal of Regulations**

#### **Article 116**

On the day this Law enters into force, the Law on the Prevention of Corruption ("Official Gazette of Montenegro", no. 53/14, 42/17 and 73/23) ceases to be valid.

**Entry into Force and Commencement of Application**  
**Article 117**

This Law enters into force on the eighth day from the day of its publication in the "Official Gazette of Montenegro".

## **I. CONSTITUTIONAL BASIS FOR ADOPTION OF THE LAW**

The constitutional basis for adoption of this Law is enshrined in the provision of Article 16 point 5 of the Constitution of Montenegro which stipulates that a law shall regulate other matters of interest to Montenegro in accordance with the Constitution.

## **II. REASONS FOR ADOPTION OF THE LAW**

The Montenegro's Programme of Accession to the European Union for the year 2024 provides for the adoption of the Proposal for a Law on the Prevention of Corruption with the aim of strengthening the preventive mechanism in the fight against corruption.

The aim of adoption of a new Law on the Prevention of Corruption is to improve the work of the Agency for the Prevention of Corruption, contribute to the elimination of deficiencies observed in practice to date, as well as to generally improve legislative and legal mechanisms by providing adequate preconditions for the most efficient possible suppression and prevention of corruption.

The reason for adopting the law is also to align it with the best international experiences and practices in order to lay down the best legislative solutions, prevent potential corruption, and efficiently enforce the Law in practice.

A functional system for reporting breaches of the public interest that indicate the existence of corruption is an important segment in maintaining a strong democratic society. Persons reporting such breaches are protected by the provisions of the Law on the Prevention of Corruption which regulates the procedure for submitting whistleblower reports, the manner of acting on whistleblower reports, as well as the proceedings on the request for whistleblower protection. These amendments will further expand the scope of substantive application of the law, the rights and obligations of whistleblowers, and provide for a new channel for reporting breaches of the public interest that indicate the existence of corruption (public disclosure of information), and strengthen the system of judicial protection of whistleblowers.

The Proposal for a Law on the Prevention of Corruption has been prepared in accordance with the recommendations made in the Council of Europe analyses, namely: Analysis of parts of the Law on the Prevention of Corruption regulating the establishment and operation of the Agency for the Prevention of Corruption, Analysis of parts of the Law on the Prevention of Corruption regulating the integrity plan and administrative and misdemeanour proceedings, Analysis of parts of the Law on the Prevention of Corruption regulating the conflict of interest, restrictions on the exercise of public functions (incompatibility of functions), reports on income and assets, gifts, donations and sponsorships, as well as the Review of the Legislative Framework of Montenegro on the protection of whistleblowers.

## **III. COMPLIANCE WITH THE EUROPEAN UNION ACQUIS AND RATIFIED INTERNATIONAL CONVENTIONS**

The Proposal for a Law on the Prevention of Corruption contains the provisions which are aligned with the following international documents:

- ✓ Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law
- ✓ Council of Europe Recommendation CM/Rec(2014)7 of the Committee of Ministers to member States on the protection of whistleblowers.

#### **IV. EXPLANATION OF THE BASIC LEGAL CONCEPTS**

The Law has been systematised into seven chapters: Basic Provisions; Prevention of Conflicts of Interest in the Exercise of Public Functions, Restrictions on the Exercise of Public Functions, Gifts, Sponsorships and Donations and Reports on Income and Assets of Public Officials; Whistleblowers; Prevention of Corruption; Agency; Penal Provisions and Transitional and Final Provisions.

The Chapter I. "Basic Provisions" of the Law on the Prevention of Corruption specifies the subject matter of this Law and what is understood by the term "corruption". It is also defined who is considered a "public official" within the meaning of this Law and, when compared to the respective part of the current law, this Law has been expanded in the way that the "public official" means, inter alia, notaries, public enforcement officers and bankruptcy administrators. Bearing in mind that notaries and public enforcement officers are required by special laws to submit a report on assets and income to the Agency, and that they are not recognised as public officials by the same law, this prevents the Agency from carrying out checks and undertaking administrative and misdemeanour actions in connection with the reports of these persons.

Furthermore, for the sake of clarity, the articles referring to the public and private interest of public officials, as well as the article that defines the role of a whistleblower in more detail, are prescribed as separate articles of this Law.

The article setting out definitions, as compared to the current law, contains also definitions of "property", "work-related context", "whistleblower's facilitator", "persons related to whistleblowers", "information on breaches", "employer".

This Law has been harmonised with the Law on Life Partnership of Persons of the Same Sex, in a way that the definition of the partner in a life partnership of persons of the same sex has been included in a definition of person related to the public official, i.e. in a definition of a person related to the whistleblower.

In the Chapter II. "Prevention of Conflicts of Interest in the Exercise of Public Functions, Restrictions on the Exercise of Public Functions, Gifts, Sponsorships and Donations and Reports on Income and Assets of Public Officials", the Law on the Prevention of Corruption lays down time-limits that have been supplemented in comparison with the current law in line with the Council of Europe Analyses, and it also sets out the rights and obligations of officials and the sanctions. The Law defines and regulates the entire system of conflicts of interest, including incompatibility of functions and other standards of prevention in a centralised manner which enables consistency in administration and implementation practice, sets out obligations, rights and sanctions equal for all.

The Law on the Prevention of Corruption contains a comprehensive prohibition of receiving gifts in connection with the exercise of public functions, except for protocol and appropriate gifts.

In relation to the applicable law, the part relating to sponsorships and donations has been supplemented in line with the recommendation made in the Analysis of the Council of Europe in the way that if the Agency, in its opinion on whether something is a sponsorship or donation, has found that a public official has acted or will act contrary to paragraphs 1 and 2 of the article in question, the public official shall be obliged to comply with that opinion within five days from its receipt.

In this chapter, the obligation to submit reports on income and assets of public officials has been defined, and it is new in relation to the current law that, following termination of his public office, a public official is obliged to notify the Agency thereof within 30 days from the date of termination of his office, but not to submit the report as he was obliged to do until now. The obligation of a public official whose office has terminated to submit the report to the Agency once a year for a period of two years following the termination of office, by the end of March of the current year for the previous year, remained in the text of the Law.

It is also new that the report will, from now on, also contain personal information of persons related to the public official.

The proposed law is aligned with Directive (EU) 2015/849 of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, in the way that the public official is now obliged to submit, in the report, data on ownership rights over movable assets the value of which exceeds €10,000 (instead of €5,000), as well as data on cash in the amount exceeding €10,000 (instead of €5,000).

The data from the reports are kept in the register of income and assets of public officials, which is part of an integrated information system of the Agency, and those data are published on the website of the Agency.

Furthermore, the procedure for issuance of opinion at the request of a public official in case of suspected conflict of interest and in relation to restrictions on the exercise of public function has been regulated in detail.

The procedure of deciding whether a public official has violated the provisions of this Law relating to the prevention of conflict of interest in exercising public functions, restrictions on the exercise of public functions, gifts, sponsorships and donations and reports on income and assets of public officials has been prescribed. The procedure is initiated by the Agency, at the initiative 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 authority or municipal body, other legal or natural person. The Agency may also initiate the procedure ex officio, on the basis of its own information or based on anonymous initiatives.

Chapter III. "The Whistleblowers" regulates submission of the report by a whistleblower, internal and external reporting and public disclosure of information, judicial protection of whistleblowers and compensation for damage and award for reporting threats to the public interest that indicate the existence of corruption.

The Law lays down a definition of a "whistleblower" which is aimed at motivating the individuals when they have reasonable grounds for suspecting that there is a threat to the public interest that indicates the existence of corruption to report it. It also prescribes the obligation, when submitting the whistleblower report, to provide reasons for reasonable grounds for suspecting that there is a threat to the public interest that indicates the existence of corruption, thus reducing the possibility of submitting false reports, preventing abuse and ensuring that the protection will not be afforded to a whistleblower if he submits a report containing information about a threat to the public interest that indicates the existence of corruption that he knew was not true. The Law lays down the content of the report, and, in comparison with the current provisions of the law, it has been specified that a report may be submitted by telephone as well. Data protection has been regulated in more detail and it is now explicitly stipulated that the identity of the whistleblower and other information may be disclosed only if that is necessary and proportionate to the obligations prescribed by a special law, as part of investigations conducted by state authorities or within court proceedings. The person or organisational unit, whistleblower's facilitator, person related to a whistleblower and any other person involved in the proceedings on the report are obliged to protect the data and may not

use it or disclose it for purposes other than those necessary for acting further upon the report concerned, thereby strengthening the protection of confidentiality.

Also, the Law regulates clear channels for reporting threats to the public interest that indicate the existence of corruption through internal and external reporting and public disclosure of information.

The Law contains the norms regulating the employer's handling of the report, as well as the employer's obligation to designate, in line with the number of employees, an impartial person who shall act on whistleblower reports, or share responsibilities in respect of the handling of reports. Furthermore, employers are prohibited from influencing the work of the impartial person and the Law stipulates the obligation of a person or organisational unit that is not in charge, if that person or unit receives the report, to forward the report without delay to the person who is in charge of acting upon such report. The Law sets out the actions to be taken by a person or organisational unit in respect of the allegations raised in the report, and the obligation to submit a notification within seven days from the date of submission of that report, or to notify of the measures taken on the basis of his report or the outcome of the measures taken, within 45 days from the date of submission of the report in order to prevent a threat to the public interest that indicates the existence of corruption. The employer is imposed an obligation to keep records of whistleblower reports. The employers are also prohibited from influencing the work of the impartial person and an obligation is imposed on a person who is not in charge, if that person receives the report, to forward the report without delay to the person in charge of acting upon such report.

As regards external reporting, if the whistleblower has not been informed, or is not satisfied with the notification or the measures taken by the employer to eliminate irregularities, he may submit report on threats to the public interest that indicate the existence of corruption to the Agency, and he may also submit it without prior submission of the report to the employer to which the report relates. If, on the basis of the procedure conducted based on the report, the Agency determines that there is a threat to the public interest that indicates the existence of corruption, it will prepare an opinion which shall contain a recommendation about what should be done to prevent the threat, as well as the deadline for complying with the recommendation and notifying the Agency thereof, to be delivered to both the employer and the whistleblower. Where, on the basis of the procedure conducted based on the report, the Agency determines that there has been no threat to the public interest that indicates the existence of corruption, the Agency shall inform the whistleblower thereof. It is prescribed that the Agency is able to initiate, ex officio, the proceedings for determining the existence of threats to the public interest that indicate the existence of corruption.

A conceptual definition of a type of reporting which is new when compared to the current law has been laid down, termed "public disclosure", and specific cases when the information about a threat to the public interest that indicates the existence of corruption can be made available to the public have been prescribed.

The assignment of proceedings to competent authorities has been defined and an obligation has been imposed on the employer or the Agency if they suspect, in the process of verification of allegations on a threat to the public interest that indicates the existence of corruption, that a criminal offence which is prosecuted ex officio has been committed through threats to the public interest that indicate the existence of corruption, to submit the report with the gathered evidence, without delay, to the competent state prosecutor's office.

The whistleblower protection system has been strengthened in the way that a whistleblower who has suffered damage, or who is at risk of suffering damage, is, under the provisions of this Law, entitled to file an action for the protection of the whistleblower to the competent court within six months from the date of damage or learning of the possibility of damage, while the proceedings on the action for the protection of whistleblowers shall be urgent. Furthermore, the new Law stipulates that the proceedings on the action for the protection of whistleblowers do not have to be preceded by the procedure for amicable resolution of disputes before the Agency for the Amicable Resolution of Labour Disputes or before the Centre for Alternative Dispute Resolution. The Law sets out the types of claims that a whistleblower can raise in the

action in judicial protection proceedings against the employer as a defendant, and in the court proceedings for the protection of whistleblowers it lays down the obligation i.e. that the burden of proof that the harmful act is not causally linked to the submission of a report on a threat to the public interest that indicates the existence of corruption, or public disclosure, is on the employer as a defendant. The Law allows the court seized of the matter to order an interim measure in the proceedings for judicial protection of a whistleblower and it prescribes that the motion to order an interim measure may be submitted before, during and after the closure of court proceedings, until the enforcement is carried out.

The Law also provides for the whistleblower's right to reward, its amount and conditions under which it may be received.

The Chapter IV. on "Prevention of Corruption" sets out the obligation of the authorities to adopt the Integrity Plan, and, as compared with the current law, it defines the time period within which the newly established authorities are obliged to adopt the Integrity Plan and submit it to the Agency, bearing in mind that the time period of 90 days from the commencement of application of the current Law has lost its practical relevance as the application commenced on 1 January 2016. It also introduces an obligation for the authorities to adopt a new Integrity Plan once every two years and prescribes a time limit within which the Integrity Plan is to be submitted to the Agency, in view of the fact that the current Law allows, but does not impose an obligation, to amend the Integrity Plan. Furthermore, it prescribes the time limit within which authorities have to submit to the Agency a decision designating integrity manager, so that the Agency would have accurate and updated information on integrity managers in all authorities.

The Chapter V. "Agency" prescribes the jurisdiction of the Agency and of the Council. Furthermore, it stipulates in detail the manner of election of members of the Council, and requirements, restrictions and procedure for the election of the members of the Council.

Furthermore, it stipulates the procedure for the election of the Director of the Agency, his responsibilities, and dismissal of the Director of the Agency. In addition to the requirements set out in the current Law, the Director of the Agency must meet, from now on, one more requirement, namely, to have passed a judicial examination.

The rights, obligations and responsibilities of the employees of the Agency are governed by general labour legislation, in order to comply with GRECO recommendation and, thus, further ensure the independence of the Agency, as that law provides security to the employees through judicial protection.

Chapter VI. "Penal Provisions" defines misdemeanours and fines imposed on natural and legal persons, responsible persons in legal persons, as well as responsible persons in state authorities, administration bodies, local self-government bodies and local government bodies in cases of violations of the provisions of this Law, for the misdemeanours of non-observance of provisions of the law that are listed therein.

Chapter VII. "The Transitional and Final Provisions" stipulates the manner in which the proceedings initiated under the current Law will be completed, the provisions with a delayed effect which will apply after Montenegro's accession to the European Union, as well as the provisions on the entry into force and the commencement of application of this Law.

## **V. ASSESSMENT OF FUNDS NECESSARY FOR THE IMPLEMENTATION OF THE LAW**

It is not necessary to provide additional funds in the Budget of Montenegro for the implementation of this Law.