

LAW ON THE CONFLICT OF INTERESTS

(“Official Gazette of the Republic of Montenegro”, No. 42/04, 17/05)

I GENERAL PROVISIONS

Article 1

In order to increase the level of confidence in legitimate and impartial performance of public functions, the present Law shall regulate the existence and manner of avoiding the conflict between public and private interests (hereinafter referred to as: conflict of interests), as well as other issues of importance for the implementation of the present Law.

Scope of the Law

Article 2

The present law refers to public officials and persons connected with them.

For the purpose of the present Law, a public official shall be understood as the person elected by direct and secret vote, person elected or appointed by the Assembly of the Republic of Montenegro (hereinafter referred to as: Assembly), person appointed by the Government of the Republic of Montenegro and the local self-government bodies.

Article 3

A public official shall perform his or her duties impartially, in accordance with the Constitution, law and other regulations, taking into account the ethics of profession and the office he or she holds.

A public official shall not be allowed to give priority to his private interest over a public interest in a way that affects or may affect performance of the public function.

II DEFINITIONS

Article 4

Certain terms, as used in the present Law, shall have the following meaning:

Conflict of interests – there is a conflict of interests when a public official gives priority to a private interest over a public interest so as to gain material benefit or privilege (hereinafter referred to as: benefit) for himself or persons connected to him.

Persons connected with a public official – direct relatives of a public official, collateral relative up to the second degree, relatives through wife’s family up to the first level, a marital or extra-marital partner, adoptive parent or adoptive child, as well as other persons that a public official is personally or professionally connected with.

Gift of considerable value - money, securities or other item that is either received or given, the value of which exceeds the amount of EUR 50.

Service – doing by which conditions for obtaining a benefit are met.

III PROHIBITED CONDUCT

Article 5

A public official shall not be allowed to:

- accept a gift of large value, benefit or a service, except in cases envisaged by the present Law;
- favor citizens on the basis of their political or other affiliation, origin, personal links or links through immediate or broader family;
- abuse information he has acquired during his position in a public office, and
- exert influence over public procurement procedure.

Action to be taken by a public official

Article 6

Should a public official have doubts that the situation of the conflict of interests may arise, he or she shall have the right to report thereon to the Conflict of Interest Commission (hereinafter referred to as: Commission), which shall have to decide whether or not there is a conflict of interest.

Influencing impartiality of a public official

Article 7

A public official shall have the duty to immediately inform the Commission about influence or prohibited action exerted on him or her during the performance of a public office.

Should the Commission find that the action referred to in Paragraph 1 of this Article can contain elements of a criminal offense, it shall immediately report thereon to the competent State Prosecutor.

IV DISCLOSURE FORMS

Submission of disclosure forms

Article 8

It is the duty of a public official to submit disclosure forms on income and property concerning him or herself, his or her spouse, his or her extramarital partner, and his or her children, if they live in the same household (hereinafter referred to as: disclosure forms), within 15 days of the date he or she takes the public office.

During the term of office, it is the duty of a public official to submit such a disclosure form to the Commission annually, by the end of February of each year.

It is the duty of a public official to inform the Commission of every change in his or her property exceeding the amount of 2.000 EUR within 15 days of the day when such a change took place.

After the expiry of the term of office, it is the duty of a public official to submit the disclosure forms to the Commission related to the period of time during which, according to regulations, he or she is entitled to rights and duties arising from such a public office.

Filling in disclosure forms **Article 9**

A public official shall fill in the disclosure form the content of which is set out by the Commission.

A public official shall be responsible for the accuracy of data in the disclosure forms.

An incomplete or wrongfully completed disclosure form shall be returned by the Commission to the relevant public official who must remove, within eight days of receipt, all errors and irregularities that have been noticed.

Register of disclosure forms **Article 10**

The Commission shall keep the Register of disclosure forms on income and property (hereinafter referred to as: Register of disclosure forms) of a public official, his or her spouse or extramarital partner and his or her children, if they live in the same household.

The Commission shall issue a notice of receipt upon entry in the Register of disclosure forms.

The Register of disclosure forms shall be published by the Commission in the media.

At the request of a state authority and local self-government authority, the Commission shall have the duty to immediately forward the data from the Register of disclosure forms.

V INCOME, PROPERTY AND GIFTS

Illegally earned income and property **Article 11**

The income and property that a public official, his or her spouse or extramarital partner and children living in the same household have acquired during his or her term of office, but which have not been reported to the Commission or which have been earned without legal title, shall be considered illegally acquired income or property, for the purpose of

the present law. The Commission shall inform the State Prosecutor of the Republic of Montenegro thereon.

Receiving and disclosure of gifts of considerable value
Article 12

A public official may receive a gift of considerable value in connection with performing of the public office, which shall have to be reported to the Commission within 15 days of the date of receipt of such a gift.

The gift of considerable value shall become state property.

Value of gifts
Article 13

The Commission shall establish the value of the gift according to its market value on the day of receipt of such a gift.

VI PERFORMING OTHER ACTIVITIES

Article 14

A public official may perform other activities, if the Commission has evaluated such performance as not causing the conflict of interests, and if the body that has elected or appointed him or her has given its consent to it.

A public official shall have the duty to disclose to the Commission the income that he or she acquired in performing other activities, pursuant to Article 8 of the present Law.

A public official, when performing public function, may not receive remuneration from other state or international organization or institution, except for travel and other similar costs.

Membership in commercial company boards
Article 15

A public official may not be the member of commercial company boards, except for the assembly of shareholders.

Exceptionally, a public official, other than member of the Government, judge of the Constitutional Court, State Prosecutor and deputy State Prosecutor, may be the member of not more than one commercial company board owned by the state or local self-government bodies.

A public official who owns property titles in a commercial company shall have duty to transfer his or her management rights to other person or a special body, within 15 days of the day he or she takes the office, except to persons referred to in Article 4, paragraph 1, item 2 of the present Law.

Membership in non-governmental organizations and other legal entities
Article 16

A public official may be the member of non-governmental organizations and other legal entities engaged in research, humanitarian, cultural, sports, or other similar activity, but shall not be entitled to any remuneration, except for travel and other similar costs.

VII COMMISSION

Article 17

In order to determine the existence of a conflict of interest, the special Commission referred to in Article 6 of the present Law shall be established.
The Assembly shall establish the Commission.

Membership
Article 18

The Commission shall have its President and four members.

At the proposal of the competent board, the Assembly shall elect the President and other members of the Commission to a five-year term of office, with the possibility of reelection.

The President and other Commission members shall be persons who have proved their impartiality and conscience through their professional, working and moral values. At least one Commission member must have law degree and bar examination certificate.

The President and other Commission members shall be entitled to a remuneration, which shall be determined by the competent board of the Assembly.

Scope of authority of the Commission
Article 19

The Commission shall:

1. establish facts and circumstances relevant for the decision-making;
2. take a decision, accompanied by an explanatory note, on whether there is a conflict of interests or not;
3. establish the value of a gift;
4. keep Register of disclosure forms;
5. adopt Rules of Procedure;
6. carry out other business, as envisaged by the present Law.

The Commission Rules of Procedure shall prescribe in detail the manner of work and other issues of importance for the work of the Commission.

Procedure before the Commission

Article 20

The procedure before the Commission shall be initiated by a public official, state authority, local self-government authority, legal and natural persons and Commission members.

The Commission shall examine every report mentioning the existence of the conflict of interests.

Before the decision is taken, the Commission shall inform in writing the public official of the report and require his or her declaration thereon.

Article 21

A public official shall have to provide a written declaration within 15 days of the day of receipt of the request.

If a public official fails to provide such declaration within the time period referred to in Paragraph 1 of this Article, the Commission shall pass the decision without his or her declaration.

Article 22

The Commission shall propose to the competent authority to remove a public official from office if it finds that there is a conflict of interests or if the public official fails to submit the report referred to in Article 8 of the present Law, or if he or she fails to rectify errors and irregularities referred to in Article 9 of the present Law.

If the Commission finds that a public official has committed a criminal offence, it shall immediately submit a criminal report to the competent state prosecutor.

Funding

Article 23

Funding of the Commission shall be provided by the Budget of the Republic of Montenegro at the proposal of the Commission.

Publicity

Article 24

The decisions on the existence of the conflict of interests taken by the Commission shall be delivered to the media.

The Commission shall submit the report on its work to the Parliament when necessary, at least once a year.

VIII TRANSITIONAL AND FINAL PROVISIONS

Article 25

The Assembly shall establish the Commission within 90 days of the day the present Law comes into force.

Article 26

The Commission shall adopt rules, forms, and its Rules of Procedure within 90 days of the day it is established.

Article 27

Rights, obligations and responsibilities set forth in the present Law shall also refer to the public official who, at the time the present Law comes into force, holds a public office.

The public official referred to in Paragraph 1 of this Article shall submit a disclosure form to the Commission within 15 days of the day rules, forms and Rules of Procedure of the Commission are adopted.

Coming into force

Article 28

The present Law shall come into force on the eighth day of its publication in the “Official Gazette of the Republic of Montenegro”.