

Title:

SERVING PRIVATE INTEREST

Law on Conflict of Interest enforcement in 2008 and process of adoption of the new law

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and process of adoption of the new law

SERVING PRIVATE INTEREST

Podgorica, 2009

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1. INTRODUCTION

Purpose of this publication is to highlight lack of political will for quality regulation and application of regulations in the area of conflict of interests among which the key role has the law on combat against corruption at highest levels.

The publication consists of four chapters which document the process of drafting, deliberation and adoption of the set of Bills, major objections to the text of the present Law, examples in practice and statistical data on application of the Law.

Data of the I Chapter show that Parliamentary majority has adopted, under the pressure of the public, three versions of the Law which were subject to deliberation of MPs in an unusual procedure, they were modified and adjusted to their own interests, despite recommendations of not only international organizations but also of the President of the state.

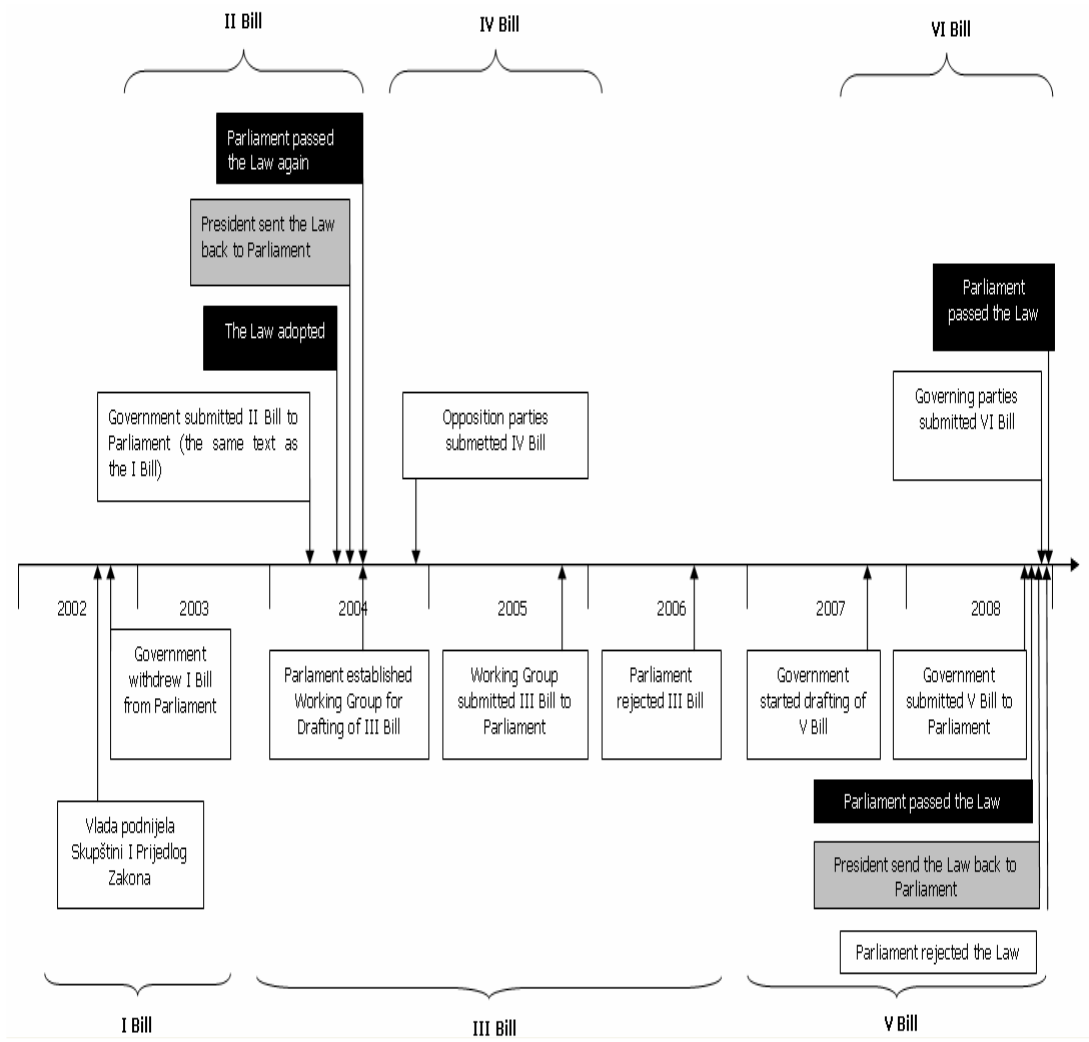
II Chapter highlights in compliance of the new Law and international standards and recommendations referring to definition of public officials, membership of MPs in managing boards and independence of the body supervising enforcement of the Law.

III Chapter presents case studies which highlight most frequent problems occurring during enforcement of the Law on Conflict of Interests which have been recognized and reported as of the beginning of 2005.

First case study refers to definition of public official and shows that thanks to decisions of the Commission for Conflict of Interests, reached on the basis of the criteria which have not been defined by the Law a number of high state officials has been continuously performing several public functions. Second case study illustrates actions of the Commission for Conflict of Interests in the cases when public officials submit inaccurate data on income and property, and common practice of the Commission to justify public officials' violations of the Law by calling upon their lack of knowledge or forgetfulness. Third case study shows how the Commission, in the case when public officials are violating the Law by performing duties of members in several managing boards and receiving fees for performing of these duties, evaluates actions of these public officials as violations of the Law, but at the same time, the Commission also states that the public officials have "ceased to perform actions contrary to the Law".

Fourth Chapter presents statistical data on the structure of the initiatives for establishment of conflict of interests and the decisions that the Commission for Conflict of Interests has reached in the period from the beginning of enforcement of the Law until the end of 2008. This Chapter contains information on case law that MANS has created on the basis of reexamination of individual decisions of the Commission for Conflict of Interests.

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the views of the donor.*



Graph 1: Hronological view of creation, revision and adoption of all Law proposals regulating conflict of interests of public officers

2. CHRONOLOGY OF PASSING THE LAW

2. CHRONOLOGY OF PASSING THE LAW

This chapter contains a description of the process of drafting, consideration and passage of six bills that regulate conflict of interests in the period from 2002 to 2008. The actions of the executive and the legislative branches in all the phases of this process show that there is no elementary political will to regulate the area of conflict of interest in a quality manner. The parliamentary majority, under the public pressure, passed three versions of the law, which were deliberated by MPs in an unusual procedure, significantly modified and tailored to their own interests, despite the recommendations of international organizations, and even of the President of the state himself.

2.1. I Bill¹

At the outset of 2002, the Government submitted the Bill on the Prevention of Conflict of Interests for deliberation to the Parliament. According to the Parliament's statements, the Government withdrew the Bill the same year in June in order to prepare amendments. According to the Government's statements, the Bill has never been withdrawn from the parliamentary procedure.

2.2. II Bill

After publication of the MANS research findings, which showed that Government members assumed membership in a series of managing boards of business companies, the Bill was "found"; therefore, 20 months after withdrawal of the *Bill I* from the parliamentary procedure, Government submitted the new Bill, which was identical to the previous one in terms of the content, to Parliament in April 2004.

Only after a series of public calls from MANS, the Speaker of Parliament Ranko Krivokapic included the bill on the parliamentary agenda², while MPs tried to avoid the debate, claiming that the bill should be withdrawn from the procedure and further improved, which was a recommendation of all parliamentary committees. However, the bill was deliberated due to the alleged media pressure, and all the MPs who spoke about that topic claimed that they would vote for the adoption of the bill, although they had been aware that its application was not possible.

After the final passage of the Law, MPs submitted 27 amendments, which were accepted by the bill proposer, and which significantly degraded the quality of the Law. Such amended Law was passed on 21 April 2004, and no MP voted against the Law.

After the enactment of the Law, the President of Montenegro Filip Vujanović rejected to sign the Law, which, according to the Constitution, represents a precondition for the enforcement of the law. The President returned the Law to Parliament with an explanation that enabling public officials to be members of the managing boards of business companies is not in line with the provision defining the conflict of public and private interests.

¹ Detailed information on the process of deliberation and passage of the first four bills can be found in the MANS publication "In the Net of Private Interests", which can be found on the following website: www.mans.co.me/korupcija/konflikt_interesa/publikacija.htm

² According to the Rules of Procedure of the Parliament, the Speaker of Parliament convenes the sitting of Parliament and proposes the agenda at the same time.

According to the Montenegrin Constitution, at the request of the President, the Parliament is obliged to reconsider the law, and if it is readopted, President is obliged to sign and proclaim the law

On 16 June 2004, MPs readopted the Law that enabled public officials to remain in one managing board, explaining that it is better to have a bad law than to have none. For that reason, at the same sitting, they established a Working Group for drafting a new, better law.

2.3. Bill III³

The Working Group, which was established by Parliament on 16 June 2004 at the time when the second version of the Bill was passed (Bill II), held the first meeting four months after its formation, in October 2004.

The Working Group was working on the new Bill for eight months, while the Chair of the Commission Krsto Pavićević,⁴ was constantly complaining of obstructions in the work of the Working Group, which culminated when Parliamentary Service rejected to give professional assistance during the drafting of the final version of the Bill. In October 2005, the Working Group submitted the third version of the Bill (III Bill) to Parliament that kept it stuck in the parliamentary procedure for eight months more until it was introduced in the agenda.

Only after MANS had put media pressure on the Speaker of Parliament Ranko Krivokapić⁵, the third bill (III Bill) was introduced in the agenda of the parliamentary sitting.

On its last working day, on 31 July 2006⁶, Parliament considered the III Bill on the Prevention of Conflict of Interests and rejected to pass it with majority of votes of both governing parties' MPs and the opposition ones.

At this sitting, Parliament also concluded that Government should draft the new Bill on the Prevention of Conflict of Interests in order to come up with an adequate legal solution.

2.4. IV Bill

The opposition MPs⁷ drafted the new, IV Bill on the Prevention of Conflict of Interests, which has never been introduced on the agenda, due to opposing of the members of the governing coalition.

³ Detailed information on the process of deliberation and passage of the first four bills can be found in the MANS publication "In the Net of Private Interests", which can be found on the following website address: www.mans.co.me/korupcija/konflikt_interesa/publikacija.htm

⁴ The MP of the Citizens Party, which is a member of the governing coalition and which had one MP in the last 22nd convocation of the Parliament of the Republic of Montenegro.

⁵ Same as during the passage of the II Bill.

⁶ According to the Rules of Procedure, Parliament is obliged to finish with regular session on 31 July.

⁷ The opposition MPs of the Socialist Peoples' Party, Vuksan Simonović and Dragiša Pešić; for more details go to <http://www.snp.co.me/strana.asp?kat=1&id=1586>

2.5. V Bill

2.5.1. Drafting of the V Bill

After three years of waiting for the Government to start drafting the new Bill, on 5 October 2007, MANS established a working group composed of the representatives of Parliament, which, based on the analysis of the regional legislation, started drafting the new Bill⁸.

Immediately after the establishment of the MANS working group, Government announced that they would start working on the new Bill; consequently the MANS working group stopped its work and submitted the new Bill to Government.

Only on 29 May 2008, the Montenegrin Government drafted the Bill on the Prevention of Conflict of Interests in Performing Public Functions, and sent it to be discussed on the public debate⁹. During the period of the public discussion, MANS initiated 52 amendments to the Draft Law¹⁰, but the Government, however, decided to adopt almost identical text at the sitting on 16 October 2008.

2.5.2. Introduction in the Parliamentary Agenda

Only 33 days later on 17 November 2008, the Montenegrin Parliament officially introduced in the procedure the new Bill, which had happened just one-day before the Speaker of Parliament scheduled the sitting without the new Bill on its agenda. MANS appealed to the Speaker of Parliament to introduce the new Bill into the agenda.

According to the announcement from the Speaker's Cabinet, the new Bill will be discussed at the first next sitting, because the agenda of the already scheduled sitting was agreed on earlier. However, at the Government's proposal, the agenda was updated later with the two other bills¹¹, which were submitted to Parliament after the Bill on Conflict of Interests.

Afterwards, on 25 November 2008, MANS organized performance in front of the building of Parliament in which "ministers" begged for the money from MPs and citizens, for according to the official data on their incomes and property¹², they live on the verge of poverty.



⁸ For more details visit: www.mans.co.me/korupcija/konflikt_interesa/izrada_novog_zakona.htm

⁹ The procedure with which the Government establishes the final form of the new Bill on Conflict of Interests is composed of the following steps: Government establishes the Draft Law and sends it to public discussion; comments are gathered during the public discussion, and the relevant ministry integrates them in the body text of the law and submits the final version to Government, which determines a bill and sends it to Parliament for deliberation and discussion.

¹⁰ Comments on the Draft Law are available at: www.mans.co.me/korupcija/konflikt_interesa/izrada_novog_zakona.htm

¹¹ Proposed amendments to the Law on Protection of Undisclosed Data and Amendments and Changes to the Law on Waste Management.

¹² For more detailed information visit: www.mans.co.me/korupcija/konflikt_interesa/kartoni.htm

After the MANS media campaign, the Speaker of Parliament put the new Bill on the agenda of the sitting scheduled on 10 December 2008.

2.5.3. Deliberation of the Bill at parliamentary committees

In accordance with the Rules of Procedure of the Montenegrin Parliament, each new law is to be considered at the parliamentary committees¹³, prior to the plenary debate.

The debate on the Bill on the Prevention of Conflict of Interests was conducted at the Committee for Constitutional Affairs and Legislation, as well as at the Committee for Political System, Judiciary and Administration. The Committee for International Affairs and European Integration considered the Bill's conformity with the international standards, only after MANS had put public pressure on the Chair of the Committee to call for the sitting. The MANS representatives participated in all the sittings of the Committee and gave their comments on the body text of the Bill, out of which none was accepted¹⁴.

The Committee for Constitutional Affairs and Legislation concluded that from the aspect of conformity with the Constitution and legal order, there were no obstacles for the bill to be adopted. The Committee for Political System, Judiciary and Administration also passed the conclusion with which it proposes to Parliament to adopt the law.

The Committee for International Affairs and European Integration held the debate on the bill, but without deciding on it, with an explanation that it would make the decision after the Government would submit responses to the observations¹⁵, during the deliberation of the announced amendments to the text of the bill¹⁶. However, the new sitting at which the Committee was supposed to reach a final agreement on the bill, has never been held.

2.5.4. Amendments and Debate

After it was clear that there has been no will at the Government and MPs of the governing coalition to essentially improve the new Bill on Prevention of Conflict of Interests, in cooperation with five MPs¹⁷, representatives of different party caucuses, MANS submitted 29 amendments to the text of the bill. Other MPs submitted five more amendments.¹⁸

¹³ The following committees are obliged to give their opinion on each bill: Committee on Constitutional Affairs and Legislation, which assesses whether a bill is in accordance with the Constitution and legal order of Montenegro; the lead committee, which assesses the purpose of the bill, the quality of its norms and other meritory issues (different committees depending on the topic being considered, in this case it is the Committee for Political System, Judiciary and Administration); and the Committee for International Affairs and European Integration which evaluates conformity with EU legislation and ratified international acts.

¹⁴ More detailed information on the content of the objections are given in the Chapter III.

¹⁵ Observations with regards to non-conformity of the Bill with international standards and recommendations are given in the Chapter 3.

¹⁶ More detailed information on amendments are given in the following Chapter 2.5.4.

¹⁷ Aleksandar Damjanović – Socialist Peoples' Party, Vaseļ Siništaj – Albanian Alternative, Branka Bošnjak – Movement for Changes, Andrija Popović – Liberal Party, Jovanka Matković – Serb List.

¹⁸ Three amendments were submitted by MPs from the governing coalition Đorđije Pinjatić and Zoran Jelić, and two amendments by an opposition MP Miloš Bigović.

Proposed amendments were submitted to the Parliament just before the plenary debate and referred to the definition of the following: public official, membership in the managing boards of public companies, the independence of the Commission for Prevention of Conflict of Interests and penalty policy.

Procedure for Passing Laws in Parliament

According to the parliamentary Rules of Procedure, after the debate on a bill is finished at the committees, the bill is sent to the plenary sitting for a general debate, i.e. debate on the significance and reasons for enacting the law and general legal norms.

During the general debate, MPs can submit amendments to the debated bill.

At the end of this general debate, Parliament decides on the bill by accepting it or rejecting it.

If Parliament accepts the bill in general, after getting the committees' opinions on amendments,¹⁹ Parliament proceeds with detailed debate, i.e. concrete norms from the bill and submitted amendments.

At the end of detailed debate, MPs vote first on amendments and only at the end on the law in its entirety.

According to Rules of Procedure, three hours to the maximum are allotted both to the general debate and detailed debate.

Plenary sitting at which the Law on the Prevention of Conflict of Interests was deliberated, was held on 11 December 2008.

The Speaker of Parliament decided to put together general debate and detailed debate, and in that way to limit the time for debate maximally to three hours form possible six as it is stipulated by Rules of Procedure.

During the very plenary debate, the Speaker told Chairs of the Committee for Constitutional Affairs and Legislation and the Committee for Political System, Judiciary and Administration to hold committee sittings and consider amendments at the same time when the plenary was underway. It was the first time for the current convocation of Parliament to hold simultaneously three sittings, one plenary and two committee sittings.

"I wonder how we are going to hold the committee sitting when a representative of the proposer is to give its opinion on the proposed amendments, at the time when all the MPs who asked for the floor would like that she is present during the debate."

Džavid Šabović, Chair of the Committee for Political System, Judiciary and Administration

¹⁹ Committees are obliged to consider all the submitted amendments to the law following the same principle that was used for the law. While the Committee for Constitutional Affairs and Legislation assesses whether the amendments are in accordance with the Constitution and the legal system, the lead committee deals with the essence of amendments, assesses quality of the proposed solution and debates on the results of its adoption.

At a half an hour long sitting, the Committee for Constitutional Affairs and Legislation assessed that 12 out of 29 MANS' amendments were not in line with the Constitution and legal order.

The Committee for Political System, Judiciary and Administration, held an hour-long sitting at which it deliberated 34 amendments in total and partially accepted one amendment.

The Committee for International Affairs and European Integration neither held the sitting nor gave its opinion on the Bill, nor amendments.

„Dear Mr. President of Parliament, you probably don't know the fact that the Committee for International Affairs and European Integration has not finished yet the debate on this very important bill. You know very well that one of key issues in the European Commission Annual Report on Montenegro's progress toward the European Union refers to the issue of conflict of interests, and we have established a full attitude about it, naturally in the context of anti-corruption.

As expected, we conducted a very substantial debate. I have to say that at that Committee sitting we could hear some opinions that recommendations of certain international institutions are not binding for Montenegro at all, apart from the section called the legal order of the European Union, Conventions and similar. We conducted a wider debate, we were told that there would be about thirty amendments to be debated and we were determined to see the fate of those amendments in order to finally make up our minds, not only about whether it is in line with Conventions ratified in Parliament, but simply whether it represents a positive incentive for Montenegro on its future road to the European Union.“

Predrag Bulatović, member of the Committee for International Affairs and European Integration

„I am fully informed about this open issue. We will get an answer during the debate, and I believe even before the vote takes place, so that we could have the answer from the Government before detailed and general debates, and thus get that element for the final decision-making.“

Ranko Krivokapić, Speaker of the Parliament of Montenegro

After the Presidents' address, MPs continued the debate, but the Committee has never held the new sitting and formed the opinion on the question of conformity of the Bill with the international standards and recommendations.

The law was adopted on 15 December 2008 exclusively with votes of the governing coalition MPs, while all 29 amendments were rejected.

2.5.5. President Rejects to Sign the Law

According to the Constitution of Montenegro, President proclaims laws, which were passed in Parliament, by ordinance. The President has right to send the law back to Parliament for a new decision-making process. If Parliament readopts the law, President is obliged to sign it.

On 16 December 2008, MANS sent an open letter to the President of Montenegro Filip Vujanović, in which they appeal to him to return the Law to Parliament for a new decision-making process.

The President of Montenegro rejected to sign the Law, with an explanation that there is an internal collision of norms within the Law, because it proclaims that public officials can receive a compensation for their membership in managing boards, but not for their membership in scientific, humanitarian, sports or similar associations..

Skupština Crne Gore

Predsjedniku
Gospodinu Ranku Krivokapiću

Na osnovu člana 94. stav 1 Ustava Crne Gore, upućujem Skupštini na ponovno odlučivanje Zakon o sprečavanju sukoba interesa u vršenju javnih funkcija koji je usvojen na šestoj sjednici drugog redovnog zasjedanja, dana 15. decembra 2008. godine.

Smatram da je nužno ponovno razmatranje ovog zakona iz sledećih razloga:

U odredbi člana 9 ovog zakona propisano je da javni funkcioner ne može biti predsjednik ili član organa upravljanja i nadzornog organa, izvršni direktor, član menadžmenta javnog preduzeća, javne ustanove ili drugog pravnog lica osim u jednom javnom preduzeću ili javnoj ustanovi u kojima je država, odnosno opština vlasnik više od 51% kapitala. U istom članu u odredbi stava 2 propisuje se da javni funkcioner može biti predsjednik ili član organa upravljanja i nadzornog organa, naučnih, humanitarnih, sportskih ili sličnih udruženja, bez prava na naknadu ili primanje poklona, izuzev naknade putnih ili drugih troškova.

Uvjerenja sam da u ovom zakonu postoji unutrašnja kolizija ove dvije odredbe istog člana. Naime, u odredbi stava 1 člana 9 ovog zakona propisuje se mogućnost da javni funkcioner bude, u nekom od označenih svojstava, u jednom javnom preduzeću ili javnoj ustanovi u kojima je država ili opština vlasnik više od 51% kapitala. U odredbi stava 2 istog člana kao uslov da javni funkcioner bude u, naučnom, humanitarnom, sportskom ili sličnom udruženju propisuje se da ne može imati pravo naknade ili primanja poklona, kao i da mu pripada samo pravo naknade putnih i drugih troškova. Procjenjujem da ove dvije odredbe imaju jasnu koliziju jer na nejednak način tretiraju angažman javnog funkcionera u javnim preduzećima ili ustanovama i naučnim, humanitarnim, sportskim i sličnim udruženjima. Jasno je da koliziju unutar navedenog člana zakona treba otkloniti, a uz poštovanje suštine ovog zakona.

Iz označenih razloga procjenjujem nužnim da se o Zakonu o sprečavanju sukoba interesa u vršenju javnih funkcija ponovo odlučuje.

Filip Vujanović

Podgorica, 18. decembar 2008. godine

The Decision of the President of Montenegro by which the Law on Prevention of Conflict of Interests is returned to Parliament for a new decision-making process, 18 December 2008

2.5.6. Parliament Rejects the Law

The Constitution stipulates that when Speaker of Parliament returns the Law for a new decision making process, it is considered at the first next parliamentary sitting.

At the parliamentary sitting held on 26 December 2008, Parliament rejected to readopt the Bill, which was returned by the President of Montenegro, and no MP voted for its adoption.

2.6. VI Bill

According to an earlier parliamentary practice²⁰, the text of the law, returned by the President for a new decision-making process, cannot be amended, instead the Parliament decides on the Law in the form in which it was adopted for the first time and it can only accept or reject it.

On the agenda of the same sitting at which Parliament decided on the Law returned by President, there was one more, the sixth Bill on the Prevention of Conflict of Interests, which was submitted by two MPs from the governing coalition.²¹

The bill submitted by MPs was identical to the government's bill, apart from the provision, which envisions that officials can receive compensations for their membership in managing boards, as well as for membership in scientific, humanitarian, sports and similar associations.

Proposers of the sixth Bill (VI Bill) assessed that the amended text provides for conformity of the law with recommendations of the President of Montenegro.

"...This internal collision of norms was corrected, but I am not sure that it was done in the best way ..."

Filip Vujanović, the President of Montenegro in the TV IN show – Živa istina, 30 January 2009

The Committee for Constitutional Affairs and Legislation and the Committee for Political System, Judiciary and Administration stated that they had already established their opinion on the identical text of the bill, and that consequently there was no need to debate it again. The Committee for International Affairs and European Integration did not consider this issue.

MANS submitted the identical amendments to this bill, and none of them was accepted.

MP of the governing party Predrag Bošković²², submitted an amendment, which allows MPs to be members of managing boards of all the companies in which the state has any percentage of ownership, and not only in those in which it has 51% of ownership, as it was previously envisioned by the bill. That amendment was passed by the votes of MPs of the governing coalition.

The new Law on Prevention of Conflict of Interests was adopted on 27 December 2008, and MANS appealed the President of Montenegro to return even this Law to Parliament.

The President decided to proclaim the Law and it was enforced on 17 January 2008.

²⁰ It is not precisely defined by the Constitution what Parliament should do when the President sends a law back for a decision-making process, instead it only defines the deadlines for the decision making of the President and Parliament. Parliament established a practice of actions on the laws returned by the President in 2004, when the President returned then Law on the Prevention of Conflict of Interests. For more details, go to the following website: http://www.mans.co.me/korupcija/konflikt_interesa/publikacija/1_Hronologija.pdf

²¹ Miodrag Vuković, who is at the same time the Chair of the Committee for International Affairs and European Integration and Chief of the Democratic Party of Socialist party caucus, and Ivan Brajović, a member of the Committee for International Affairs and European Integration and Chief of the Social Democratic party caucus.

²² Predrag Bošković is a member of the Coal Mine in Pljevlja in which the state owns 31.11% of shares.

3. MAJOR OBJECTIONS TO LEGAL SOLUTIONS

3. MAJOR OBJECTIONS TO LEGAL SOLUTIONS

This Chapter presents two major objections to the text of the Law on Prevention of Conflict of Interests particularly highlighting incompliance with international standards and recommendations. The analysis has shown that the new Law was not harmonized with the UN Convention on Combat Against Corruption in the part referring to definition of public officials, neither with recommendations of the European Commission and the Council of Europe which refer to membership of MPs in managing boards and independence of the body which supervises implementation of the laws.

3.1. Definition of public official

The Law on Prevention of Conflict of Interests defines under which conditions a person is considered public official, that is, who is obliged to report on incomes and assets and observe other legal norms.

According to the definition from the old Law, a person can become holder of public function only as a result of adequate election process, that is, nomination.²³ This legal solution required arbitrary explanations of the Commission for Conflict of Interests which interpreted whether the persons are public official or not.

In practice, the problems most often occurred in the cases of members of the Government and judges who are banned by the Constitution to perform other public functions; however, the Commission stated that membership in a certain body is a public function, but that these functions should not be considered public if they are performed by the members of the Government and judges, even regardless the fact that they are appointed in the same way. The Commission has also stated very often that certain functions are not public because they are performed only occasionally and no special fees are paid to the persons who perform them, and disregarded the fact that based on performance of these functions these persons have gained public powers and made decisions of public interest such as privatization of public companies.²⁴

Prime Minister of the Government, Milo Đukanović, during his previous mandate performed five other functions: Minister of Defense, President of the Council for Privatization, President of the National Council for Sustainable Development, Member of the Council for European Integration and President of the Managing Board of the Agency for Promotion of Foreign Investments. He was appointed to each of these functions by the Government, and the Commission for Conflict of Interests stated that none of these is a public function.

The new Law includes the list of functions which are considered public, but also gives a broader definition of the term "public official". Apart from the criteria defining manner of election, that is,

²³ The Law on Conflict of Interests, June 2004, Article 2: "This Law refers to public officials and persons related to them. Public official in the sense of this Law is the person elected by direct and secret voting, the person elected or nominated by the Parliament of the Republic of Montenegro (hereinafter: the Parliament), the person nominated or appointed by the Government of the Republic of Montenegro and the person elected or nominated by the local self-governance".

²⁴ More information: http://www.mans.co.me/korupcija/konflikt_interesa/publikacija.htm

appointment, according to the new Law, the person must have powers to decide about rights and duties in order to be considered public official²⁵, but it is not clear whether this refers to temporary, that is, unpaid functions as well, and thus this definition in this respect is not harmonized with the UN Convention on Combat Against Corruption (UNCAC).

Definition from the Law on Prevention of Conflict of Interests:

"Also, another person elected, appointed or nominated by the organs from Paragraph 1 of this Article, who make decisions on rights, duties or interests of physical or legal entities or public interest, other than the person nominated by the President of Montenegro in accordance with special regulations referring to defense and military operations, shall be considered public official."

Amendment of MANS:

"Public official in the sense of this Law is every holder of legislative, executive, judiciary or other function either s/he was nominated, elected or appointed to that function by the Parliament of Montenegro, Government or local self-governance, regardless of whether this function is permanent or temporary, regardless of whether this person is paid for its performance or not, regardless of whether this person is performing it professionally or occasionally, as well as all other responsible persons in institutions which have public authorization or provide public services."

3.2. Membership of MPs in managing boards in public companies

According to the old Law on Conflict of Interests, public official was allowed to be a member of one managing board of the state owned company, which was supported by the explanation that in this way material status of MPs with the lowest salaries in the region was improved²⁶. This legal solution has been subject to critics of the international community as of 2005.

"The Law on Conflict of Interests has been implemented with difficulties and it includes some problematic provisions which allow Members of Parliament to be members of managing boards of public companies. The Law should be harmonized with international standards".

European Commission, 2005 Montenegro Progress Report

In practice, the Government nominates members of managing boards of the state owned companies, which subsequently refers to nomination of representatives of the Parliament to the

²⁵ The Law on Prevention of Conflict of Interests, December 2008, Article 3, Paragraph 2: "Also, another person elected, appointed or nominated by the organs from Paragraph 1 of this Article, who make decisions on rights, duties or interests of physical or legal entities or public interest, other than the person nominated by the President of Montenegro in accordance with special regulations referring to defense and military operations, shall be considered public official."

²⁶ European legal instruments do not prohibit membership of MPs in managing boards of the companies, Vuković said and added that salaries of Montenegrin MPs are twice as low as the lowest salaries of their colleagues in the region". - Miodrag Vuković, President of the Committee for International Relations and European Integration (daily "Pobjeda", 9 Dec 2008)

positions which bring them considerable fees and other benefits. In that way executive authorities can make directly decisions about finances of representatives of legislative authorities which have mandate to supervise work of the government.

Out of all MPs of Montenegrin Parliament, only one from the opposition enjoys benefits coming from membership in managing board and almost half of MPs of the governing coalition receive monthly fees in the amount of above 15,000 €²⁷.

The new Law allows MPs to be members of one managing board of the company in which the state has a certain percentage of shares.

According to the Bill, MPs can be members of managing boards of public companies in which the state has 51% ownership or more.

At the session of the Parliament, MP of the governing coalition Predrag Bošković submitted the amendment which allows public officials to be members of managing boards of all the companies in which the state has ownership, regardless percentage of shares. That amendment was passed by the votes of MPs of the governing coalition. Bošković is President of the Managing Board of the Coal Mine in Pljevlja in which the state has 31% of shares. The amendment was passed by the votes of MPs of the governing coalition.

MANS has submitted the amendment prohibiting public officials to be members in managing board and defining special limitations for public officials who have participated in activities relating to privatization and granting of subsidies.

3.3. Independence of the Commission for Conflict of Interests

According to the old Law on Conflict of Interests, the Commission for Conflict of Interests was established by the Parliament, but the Law did not define detailed criteria and procedures for election of members of the Commission, but instead only defines that these persons must have professional, working and moral qualities²⁸.

Slobodan Lekovic was elected President of the Commission who was, before appointment to this position, councillor of the governing coalition in the local Parliament of municipality of Podgorica.

In practice, the Parliament elects persons who are proposed by the Administrative Committee. However, the Law does not define the institutions which propose members of the Commission

²⁷ Out of total of 42 MPs of the governing coalition, 20 of them were in 22 managing boards of public companies, and out of 39 opposition MPs, one is in managing board receiving monthly fee in the amount of 50€.

²⁸ The Law on Conflict of Interests, June 2004, Article 18, Para 3: "President and members of the Commission are the persons who have proved with their professional, working and moral qualities their impartiality and consciousness. At least one member of the Commission must have a Law School diploma with passed judicial exam"; Article 17: " In order to establish conflict of interests Commission from Article 6 of this Law is established as independent body. The Commission is established by the Parliament.

and the President of Administrative Committee²⁹ has a discretion right to propose list of candidates at the session of that Parliamentary body.

European Commission and the Council of Europe have highlighted the problem of political influence on the Commission for Conflict of Interests and subsequently impact on decision-making of this body, but the new Law has anyway kept the same solution.

“There is a concern in regard to independence of this Commission.”

European Commission, 2008 Montenegro Progress Report

“GRECO recommends to determine the manners for reduction of possible political influence on decision-making of the Commission for Establishment of Conflict of Interests.”

Report on assessment of anti-corruption measures and activities for Montenegro - GRECO

MANS has submitted the amendment according to which members of the Commission should be proposed by the following institutions: two members with the Law School diploma by the Judicial Council, and two members, barristers, by the Barrister Chamber; one member should be proposed by Montenegrin Academy of Science and Arts, one, elected from the teaching staff, by the Law School of the University of Montenegro and one by nongovernmental sector. President of the Commission should be elected from the Commission members in the first session by simple majority vote of the Commission members.

President of the Committee for Political System, Judiciary and Administration has highlighted this problem but the amendment submitted by MANS has been rejected and the previous solution has been preserved.

“...The issue is not how the Commission is elected, since this is done by the Parliament at proposal of the authorized Parliamentary working body, but the fact that it is not written who should propose members of the Commission to that working body is an issue...”

Džavid Šabović, President of the Committee for Political System, Judiciary and Administration

²⁹ President of Administrative Committee of the Parliament is Radivoje Nikčević, MP of the governing Democratic Party of Socialists who is also member of 2 managing boards of public companies. More information: http://www.mans.co.me/Parlament/finansijski_karton_poslanika/Radivoje_Nikcevic.htm

4. APPLICATION OF THE LAW ON CONFLICT OF INTERESTS – CASE STUDIES

4. APPLICATION OF THE LAW ON CONFLICT OF INTERESTS – CASE STUDIES

The following set of case studies, presented in this Chapter, highlights the most frequent problems occurring during enforcement of the Law on Conflict of Interests, which have been recognized since the beginning of 2005. The newly adopted Law does not provide any satisfying solutions for resolution of these problems.

First case study shows that a group of high state officials has been continuously performing several public functions because the Commission for Conflict of Interests reaches decisions on the basis of the criteria which have not been prescribed by the Law. The old Law provided a general definition of public function which defined public function only in the light of the manner of election, that is, nomination to that position, while the new Law also provides a list of public officials. However, the new Law's definition does not state whether functions which are not performed professionally (full time) should be considered public functions, neither whether functions, for which no fees are foreseen, should be considered public, and thus this definition can be interpreted in different ways. Convention of the United Nations on Combat against Corruption prescribes that functions of this kind should be considered public if public powers arise from their performing.

According to the old Law on Conflict of Interests, undeclared assets will be considered illegally acquired, which the Commission is obliged to report to the state prosecutor. Second case study shows that many public officials remained unpunished for not declaring their assets because the Commission has estimated that submission of these data can be justified by public officials' forgetfulness and their lack of information, which happened only after the MANS's submission of complaints. The new Law does not include provision according to which undeclared assets should be considered illegally acquired neither it sets out the duty of the Commission to inform the Prosecutor's Office about it, but instead it prescribes lower categories of fine for such violations.

Third case study shows that the Commission reaches decisions in the same way either referring to membership in managing boards or undeclared assets of forgetful public officials, who are allowed, according to the old and the new Law, to perform functions of members of managing boards in business companies, which they are paid enormous fees for. The Study shows that even in the cases of special regulations defining prohibition of performance of certain functions in more details, the Commission does not want to deal with their interpretations.

4.1. Case study 1 – Definition of public function

"Prime Minister and member of the Government may not perform duty of the Member of Parliament or any other public function neither may s/he professionally perform any other duty".

Article 104 of the Constitution of Montenegro

"Judge may not perform duty of the Member of Parliament or any other public function neither may s/he professionally perform any other duty."

Article 123 of the Constitution of Montenegro

“State Prosecutor and Deputy State Prosecutor may not perform duty of the Member of Parliament or any other public function neither may s/he professionally perform any other duty.”

Article 138 of the Constitution of Montenegro

“Public official in the sense of this Law shall mean the person elected in direct secret voting, the person elected or appointed by the Parliament of the Republic of Montenegro (hereinafter referred to as: the Parliament), the person who is nominated or appointed by the Government of the Republic of Montenegro and the person elected or nominated by the local self-governance.”

Article 2, Paragraph 2,
Law on Conflict of Interests from 2005

“Also, another person elected, appointed or nominated by the organs from Paragraph 1 of this Article, who make decisions on rights, duties or interests of physical or legal entities or public interest, other than the person nominated by the President of Montenegro in accordance with special regulations referring to defense and military operations, shall be considered public official.”²³

Article 3, Paragraph 2 of the valid Law on
Prevention of the Conflict of Interests from 2008

“Public official” shall mean: (i) any person holding a legislative, executive, administrative or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person’s seniority; (ii) any other person who performs a public function, including for a public agency or public enterprise, or provides a public service, as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party; (iii) any other person defined as a “public official” in the domestic law of a State Party. However, for the purpose of some specific measures contained in chapter II of this Convention, “public official” may mean any person who performs a public function or provides a public service as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party;

Article 2, Paragraph a) of the UN Convention against Corruption

President of the Administrative Court and President of the Republic Electoral Commission

Parliament of Montenegro nominated President of the Administrative Court, **Branislav Radulović** to the position of the President of the Republic Electoral Commission (RIK) in December 2003.

²³ List of public officials from Article 3, Paragraph 1 in Annex.

Constitution of Montenegro stipulates that judges may not perform other public functions, and the Law on Conflict of Interests stipulates that public function, among other things, is acquired by nomination by the Parliament. MANS had submitted the initiative stating that Radulović was performing two public function.

The Commission reached a decision that function of the President of the Republic Electoral Commission is not public because this function "is not performed professionally".

"Republic Electoral Commission is a professional organ which conducts the procedure of elections of Councillors and Members of Parliament and given the nature of the activities they perform and the fact that this is not a full time duty, according to the Commission, membership of a judge in the bodies in charge of conducting of the procedure of elections is not the function which is contrary to judicial function. Also, having in mind provisions of the Law on Election of Councillors and Members of Parliament, members of electoral commissions and the Republic Electoral Commission, due to the nature of duty they are performing, shall not be considered public officials neither may they perform these duties professionally, but instead they are the persons who are expected to engage their capacities to enable legality of elections".

From the Decision of the Commission for Conflict of Interests, August 15th 2006

MANS has submitted the request for reexamination of the first instance Decision of the Commission, indicating that the Law on Conflict of Interests defines the term "public function" solely in the light of the manner of nomination, and there are no grounds in none of the Articles suitable to introduce criteria of professional performance of the function, which would be the basis for diversification of public functions.

The Commission is obliged to enable enforcement of the Law on Conflict of Interests whose area of application is defined by Article 2 of the Law which gives a definition of the term "public official", and according to the Law, the Commission does not have the mandate to interpret in its decisions nature of the organ or description of duties in individual institutions or bodies, but is obliged to determine solely in terms of the manner of election and appointment of the person whether this person in public official or not.

From the Request for reexamination of the first instance Decision of the Commission for Conflict of Interests

The Commission confirms the first instance Decision and MANS submits complaint to the Administrative Court. The Court makes a decision that MANS does not have the right to initiate the court procedure, because it is not a party in dispute, but only a public official who the decision of the Commission refers to can do it.

The Supreme Court annuls the decision of the Administrative Court and reaches the decision that MANS has the right to go to the second instance procedure. The Administrative Court has not reached a new decision yet in accordance with the view of the Supreme Court.

KOMISIJA ZA UTVRĐIVANJE KONFLIKTA INTERESA, na osnovu člana 19 Zakona o konfliktu interesa („Službeni list RCG“, br. 42/04 i 17/05) i člana 30 Pravila o postupku pred Komisijom za utvrđivanje konflikta interesa („Službeni list RCG“, br. 72/04), postupajući po Inicijativi NVO Mreža za afirmaciju nevladinog sektora – MANS od 24. jula 2006. godine za utvrđivanje da je Branislav Radulović, predsjednik Upravnog suda RCG, prekršio Zakon o konfliktu interesa, nakon provedenog postupka, na sjednici održanoj 15. avgusta 2006. godine, donijela je

ODLUKU

UTVRDUJE SE da Branislav Radulović, predsjednik Upravnog suda RCG nije prekršio Zakon o konfliktu interesa, zbog obavljanja i dužnosti predsjednika Republičke izborne komisije.

Obrazloženje

NVO Mreža za afirmaciju nevladinog sektora – MANS podnijela je 24. jula 2006. godine Komisiji za utvrđivanje konflikta interesa Inicijativu za pokretanje postupka za utvrđivanje da je Branislav Radulović, predsjednik Upravnog suda RCG prekršio Zakon o konfliktu interesa, na način što i pored funkcije predsjednika Upravnog suda obavlja i funkciju predsjednika Republičke izborne komisije i pozivajući se na odredbe člana 2 stav 2 Zakona o konfliktu interesa i člana 106 Ustava Republike Crne Gore smatra da je funkcija člana i predsjednika Republičke izborne komisije javna funkcija, te da sudija ne može vršiti drugu javnu funkciju.

Postupajući po Inicijativi NVO MANS, Komisija je, u cilju utvrđivanja činjenica i okolnosti potrebnih za donošenje odluke, provela postupak u smislu čl. 22 i 23 Pravila o postupku pred Komisijom za utvrđivanje konflikta interesa, a na sjednici održanoj 15. avgusta 2006. godine izvela dokaze uvidom u:

- Zakon o izboru odbornika i poslanika («Službeni list RCG» br.16/00 i 9/01);

Republic Electoral Commission is a professional organ which conducts the procedure of elections of councillors and Members of Parliament and given the nature of the activities they perform and the fact that this is not a full time duty, according to the Commission, membership of a judge in the bodies in charge of conducting of the procedure of elections is not the function which is contrary to judicial function.

spvođenje izbora određeni su izborne komisije (opštinske i Republička izborna komisija) i birački odbori, sa ovlaštenjima i nadležnostima navedenim u Zakonu. Saglasno pomenutom zakonu, Republička izborna komisija je stručni organ koji sprovodi postupak izbora odbornika i poslanika, pa imajući u vidu prirodu posla koji vrše, kao i činjenicu da se dužnost ne obavlja profesionalno po ocijeni Komisije članstvo sudije u organima za sprovođenje izbora nije funkcija koja je nespoiva sa sudijskom funkcijom.

Saglasno pomenutom Zakonu, Republička izborna komisija je stručni organ koji sprovodi postupak izbora odbornika i poslanika.

Takode, polazeći od odredaba Zakona o izboru odbornika i poslanika, članovi izbornih komisija, pa i Republičke izborne komisije, zbog prirode posla koju vrše, nijesu funkcioneri, niti te poslove obavljaju profesionalno, već se radi o licima koja svojom stručnošću treba da omoguće zakonitost izbora.

Decision of the Commission for Conflict of Interests which prescribes that Branislav Radulović, President of the Administrative Court does not violate the Law on Conflict of Interests

Following the same principle, many other officials were also members of several managing boards, including:

- President of the Supreme Court Vesna Medenica and the Supreme State Prosecutor Ranka Čarapić perform functions of members of the National Commission for Implementation of the Action Plan for enforcement of the Program of Combat against Corruption and Organized Crime and they were nominated to these positions by the Government.
- Minister of Justice Miraš Radović and General Secretary of the Government Žarko Šturanović perform functions of the members of the Forum for Political Coordination of Administrative Reform which they were nominated to by the Government.
- Minister of Tourism and Environment Predrag Nenezić, and Minister of Maritime Affairs, Traffic and Telecommunications Andrija Lompar perform functions of the members of the Commission for Cooperation with UNESCO which they were nominated to by the Government.
- President of the Supreme Court Vesna Medenica and the Supreme State Prosecutor Ranka Čarapić perform functions in the National Council of European Integration which they were elected to by the Parliament.

4.2. Case study 2 – Declaration of Assets

“A public official shall be responsible for the accuracy of the data given in the Declaration of Assets Statement.”

Article 9, paragraph 2, The Law on Conflict of Interests from 2005

“A public official shall be fined for violation of the Law with the fine at the amount ranging from fifteen fold to twenty fold amount of the minimum wage in Montenegro, if he or she:

8) does not submit the Declaration of Assets Statement to the Commission on Conflict of Interests in the prescribed time or if he or she does not report the accurate data in the Declaration Statement. (Article 19 paragraphs 1 and 2).”

Article 49, paragraph 1, item 8 of Law on the Prevention of Conflict of Interests from 2008

Dragan Liješević, the Director of the Public Company “Parking servis” from Budva, has forgotten to declare 23 apartments of the overall area of about 750m², over 300m² of garage premises and business premises of 27 m². Liješević has also forgotten to declare 18 lots of land over 80,000 m² of the overall area, which are owned as the common property, as well as over 400 m² of the apartment building and 400 m² of land used as common property.

After the submission of the MANS initiative on 13 July 2008, the Commission on Conflict of Interests determined that Liješević violated the Law on Conflict of Interests for not reporting the accurate data in the Declaration of Assets Report. However, after we had submitted our initiative, he declared his assets to the Commission and thus he avoided violation of the Law.

MANS initiated the Request for Reconsideration of the First Instance Decision to the Commission, stating that the Decision was not passed in accordance with the Law on Conflict of Interests.

“The justification that this omission was made due to the lack of knowledge that the allegedly heritable property shall also be declared, can not be the argument for violation of the Law on Conflict of Interests.

Since it is clear that Dragan Liješević omitted to declare the data on his full property in his Declaration of Assets Statement, which was submitted to the Commission, the Commission is obliged to inform the Supreme State Prosecutor of Montenegro thereon in order to determine whether the property was acquired in a legal manner.

Namely, the Law on Conflict of Interests does not contain “remedial measures” for public officials, but precisely proscribes deadlines for the declaration of assets and actions of the Commission in the case if the information given in the Declaration of Assets Statement does not correspond to the real property conditions.”

The Excerpt from the Request for Reconsideration of the Decision of the Commission on Conflicts of Interest, 6 August 2008

On 5 September 2008, the Commission on Conflict of Interests passed the Decision with which it rejects the Request for Reconsideration of its First Instance Decision, with the explanation that the Request for Reconsideration of the First Instance Decision does not contain new facts or circumstances.

The Commission stated that, it was not obliged to undertake any measures or actions stipulated by the Law at the request of the claimant, especially not the ones that refer to informing the State Prosecutor on the illegally acquired property.

On 15 October 2008, MANS filed charges to the Administrative Court against such second-instance Commission's decision, because of wrong application of the material law, and because of not fully established factual state. The procedure has been still underway at the Administrative Court.

KOMISIJA ZA UTVRĐIVANJE KONFLIKTA INTERESA, na osnovu člana 19 Zakona o konfliktu interesa („Službeni list RCG“, br. 42/04, 12/05 i 17/05) i člana 30 Pravila o postupku pred Komisijom za utvrđivanje konflikta interesa („Službeni list RCG“, br. 72/04), postupajući po Inicijativi NVO Mreža za afirmaciju nevladinog sektora - MANS broj 4123/06 (naš broj 2417) od 13. juna 2008. godine za utvrđivanje da je Dragan Liješević, direktor JP “Parking servis” Budva, prekršio Zakon o konfliktu interesa, nakon provedenog postupka, na sjednici održanoj 25. jula 2008. godine, donijela je

ODLUKU

UTVRĐUJE SE :

- 1) da je Dragan Liješević, direktor JP “Parking servis” Budva, kao javni funkcioner prekršio Zakon o konfliktu interesa, jer u Izvještaju o prihodima i imovini za 2007. godinu nije naveo tačne podatke, neprijavljivanjem nepokretne imovine.
- 2) da je Dragan Liješević, direktor JP “Parking servis” Budva, kao javni funkcioner otklonio postupanje suprotno Zakonu o konfliktu interesa.

The Decision of the Commission on Conflicts of Interests which prescribes that Dragan Liješević, Director of the Public Company „Parking servis“ Budva, does not violate the Law on Conflicts of Interests

Following the same principle, many other officials also „have forgotten“ to declare their assets, including:

- The Prime Minister of the Montenegrin Government, Milo Đukanović, has forgotten to declare his business premises over 400m².
- The Deputy Prime Minister of the Montenegrin Government, Vujica Lazović, has forgotten to declare 19 lots of land over 100.000 m² of the overall surface.
- The State Prosecutor, Ranka Čarapić, has forgotten to declare 28 lots of land over 100.000m².
- The Member of Parliament, Niko Martinović, has forgotten to declare 37 lots of land over 30.000 m² of the overall surface.
- The Deputy Mayor of the Bar Municipality, Zdravko Gvozdenović, has forgotten to declare 85 lots of land over 170.000 m² of the overall surface.

4.3. Case study 3 – Managing Boards

“ A public official may not be a member of a business company board, except for the Assembly of shareholders.

Exceptionally, a public official, other than a member of Government, judge of the Constitutional Court, the State Prosecutor and Deputy State Prosecutor, may be the member of not more than one business company board owned by the state or local government organ.

A public official who holds ownership rights in a business company is obliged to transfer his or her management rights to other person or a special body, within 15 days from the day of the beginning of his or her term of office, with the exception of the person referred to in Article 4, paragraph 1, item 2 of the Law.”

Article 15 of the Law on Conflict of Interests from 2005

“A public official may not be the chair or member of the managing or oversight organ, the executive director, a member of the management of a public company, public institution or any other public entity.

Exceptionally, a public official, other than a member of Government, judge of the Constitutional Court, the State Prosecutor and Deputy State Prosecutor, may be the chair or a member of managing or oversight organ, the executive director, a member of management of a public company or public institution owned by the state or the local government.

A public official may be the chair or a member of the managing and oversight organ of scientific, humanitarian, sports and similar associations. “

Article 9 of the Law on the Prevention of Conflict of Interests from 2008

“ 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 declared 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.”

Article 11 of the Law on Conflict of Interests from 2005

“The Chair, Deputy Chair and members of the Council, as well as their kins of the first line of ascent may not perform any duty, hold shares or any other commercial interest in companies (business company) that are being privatized, except for the shares acquired in the process of a mass voucher privatization, based on the old currency saving and property transformation.”

Article 4 of the Decision of the Government of Montenegro on the Scope and Composition of the Council for Privatization, 19 April 2007

1.1. Nastaviće se sa sprovođenjem objavljenih tendera za sljedeća društva:

- 1.1.1. „Jadransko brodogradilište“ AD Bijela,
- 1.1.2. N.I.G. „Pobjeda“ AD Podgorica,
- 1.1.3. „Montepranzo-Bokaprodukt“ AD Tivat.

1.2. Na osnovu donijetih odluka Savjeta za privatizaciju nastaviće se priprema tendera za sljedeća društva:

- 1.2.1. „Duvanski kombinat“ AD Podgorica,
- 1.2.2. Institut „Dr Simo Milošević“ AD Igalo,
- 1.2.3. „Elektroprivreda Crne Gore“ AD Nikšić – male hidroelektrane,
- 1.2.4. Elektroindustrija „Obod“ AD Cetinje.

The Decision on the Privatization Plan for 2008, passed at the Government session on 6 March 2008

The Government has nominated Ramo Bralić to the position of the member of the Council for Privatization along with two other public positions – member of managing boards of the Institute “Dr Simo Milošević” Igalo and „Hemomont” from Podgorice.

The Decision on the Scope and Composition of the Council for Privatization prevents the members of the Council from being in the managing structures of the companies, which are being privatized, while the Privatization Plan for 2008 anticipates the sale of the Institute “Dr Simo Milošević” Igalo.

According to the Law on Conflict of Interests, a public official may be a member of only one managing board of a business company.

At the MANS initiative, the Commission determined that Bralić had violated the Law. However, the Commission also noted that, upon the submission of the initiative, Bralić declared his membership in the afore-mentioned managing boards and resigned from one of two positions and in that way he remitted illegal action. Although Bralić has never reported the incomes he acquired based on his engagement in three public positions, the Commission has never determined the exact amount of money he gained from holding three public posts and has never informed the State Prosecutor thereof.

KOMISIJA ZA UTVRĐIVANJE KONFLIKTA INTERESA, na osnovu člana 19 Zakona o konfliktu interesa («Službeni list RCG», br. 42/04, 12/05 i 17/05) i člana 30 i 32 Pravila o postupku pred Komisijom za utvrđivanje konflikta interesa («Službeni list RCG» br. 72/04) postupajući po Inicijativi NVO Mreža za afirmaciju nevladinog sektora - MANS od 22. jula 2008. godine za utvrđivanje da je Ramo Bralić, član Savjeta za privatizaciju, prekršio Zakon o konfliktu interesa, nakon provedenog postupka, na sjednici održanoj 03. oktobra 2008. godine, donijela je

O D L U K U

UTVRĐUJE SE:

1) Da je Ramo Bralić, član Savjeta za privatizaciju, kao javni funkcioner, prekršio Zakon o konfliktu interesa, na način što je obavljao dužnost člana u dva Upravna odbora .

2) Da je Ramo Bralić, član Savjeta za privatizaciju, kao javni funkcioner, otklonio postupanje suprotno Zakonu o konfliktu interesa.

The Decision of the Commission for Conflicts of Interests which prescribes that Ramo Bralić, a member of the Council for Privatization, does not violate the Law on Conflict of Interests

Following the same principle, many other officials were also members of several managing boards, including:

- Minister of Tourism and Environment Protection, Predrag Nenezić – 3 Managing Boards.
- Mayor of the Bar Municipality, Žarko Pavićević – 3 Managing Boards.
- Minister of Health, Labor and Social Welfare Miodrag Radunović, while he was MP – 3 Managing Boards.
- Member of Parliament, Rajko Kovačević – 2 Managing Boards.
- Member of Parliament, Zarija Franović – 2 Managing Boards.

5. STATISTICAL INDICATORS

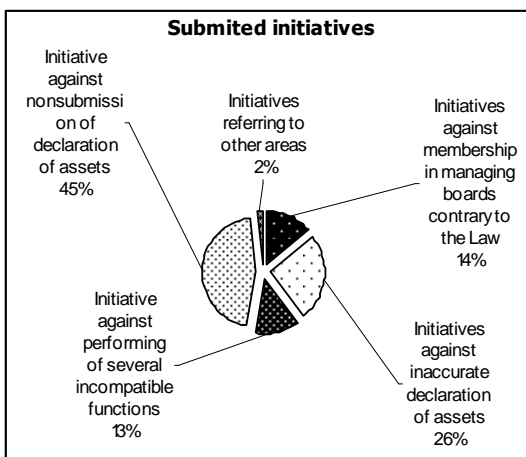
5. STATISTICAL INDICATORS

Statistical data presented in this Chapter show the structure of initiatives for establishment of conflict of interests and the decisions which the body in charge of enforcement of the Law has reached as of the beginning of its enforcement till the end of 2008. At the beginning of implementation of the Law, most initiatives referred to membership in managing boards and incompatibility of public functions, while only recently inaccurate data presented in declaration on assets of public officials were particularly highlighted, that is, nonsubmission of declaration on assets. Data show that in most of the cases it was found that the law was not violated even though public officials have declared the "forgotten" property and income only after submission of the initiatives.

5.1. Initiatives submitted to the Commission for Conflict of Interests

As of the beginning of application of the Law on Conflict of Interests till the end of 2008, MANS submitted to the Commission 629 initiatives against public officials on the basis of many grounds:

- 91 initiatives against membership in managing boards contrary to the Law;
- 165 initiatives against inaccurate data in declaration of assets ;
- 79 initiatives against performance of incompatible functions;
- 281 initiatives against nonsubmission of declaration on assets;
- 13 initiatives against other violations of the Law on Conflict of Interests.



Graph 2: Initiatives submitted to the Commission for Conflict of Interests in the period 2005 – 2008

In 2005 MANS submitted 14 initiatives out of which 12 referred to memberships of public officials contrary to the Law and one to inaccurate data presented in declaration of assets and to performing of incompatible functions. In 2007, 48 initiatives were submitted, out of which 37 were against membership in managing boards contrary to the Law, 9 against performing of incompatible functions, and 2 initiatives referring to other areas.

In 2007 MANS submitted 74 initiatives out of which 7 against membership in managing boards contrary to the Law, 57 against inaccurate data presented in declaration of assets and 9 against performing of incompatible duties and one initiative which refers to other areas.

In 2008 we submitted 493 initiatives out of which 35 against membership in managing boards contrary to the Law, 107 initiatives against inaccurate data presented in declaration of assets, 60 initiatives against incompatible functions, 281 initiative against nonsubmission of declaration of assets and 10 initiatives based on other grounds.

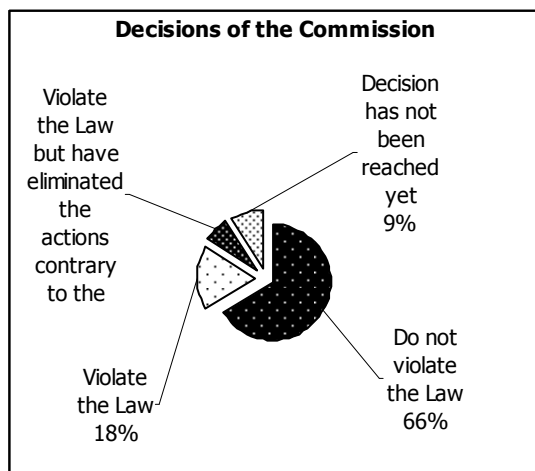
Year	Initiatives against membership in managing boards contrary to the Law		Initiatives against inaccurate declaration of assets		Initiative against performing of several incompatible functions		Initiative against nonsubmission of declaration of assets		Initiatives referring to other areas		Total number of initiatives submitted
	In no.	In %	In no.	In %	In no.	In %	In no.	In%	In no.	In%	
2005	12	86%	1	7%	1	7%	0	0%	0	0%	14
2006	37	77%	0	0%	9	19%	0	0%	2	4%	48
2007	7	9%	57	77%	9	12%	0	0%	1	2%	74
2008	35	7%	107	22%	60	12%	281	57%	10	2%	493
Total	91	14%	165	26%	79	13%	281	45%	13	2%	629

5.2. Decisions of the Commission at initiatives against conflict of interests

As of the beginning of application of the Law on Conflict of Interests until the end of 2008, the Commission for Conflict of Interests reached total of 575 decisions at MANS's initiatives:

- 421 decisions stating that public officials do not violate the Law,
- 41 decisions that public officials violate the Law,
- 113 decision that public officials have violated the Law but that in the meantime they eliminated the actions contrary to the Law.

Decisions for 54 more initiatives of MANS are still pending.



Graph 3: Decisions of the Commission for Conflict of Interests in the period 2005 – 2008

At MANS's initiatives from 2005, the Commission for Conflict of Interests reached 14 decisions in total, and all decisions of the Commission stated that the public officials in question did not violate the Law. In 2006, 48 decisions were reached, out of which according to 37 decisions public officials did not violate the Law and according to 11 decisions, public officials violated the Law.

In 2007, out of 74 decisions reached by the Commission, according to 27 public officials did not violate the Law, according to 13 decisions they violated the Law, and according to 34 decisions public officials violated the Law, but in the meantime they eliminated the actions contrary to the Law.

In 2008, the Commission reached, after the submission of our initiatives, 439 decisions, while the process for 54 initiatives is still underway. Out of 439 decisions, the Commission reached 343 decisions according to which public officials did not violate Law, according to 17 decisions they violated the Law, and according to 79 decisions public officials violated the Law but in the meantime eliminated the actions contrary to the Law.

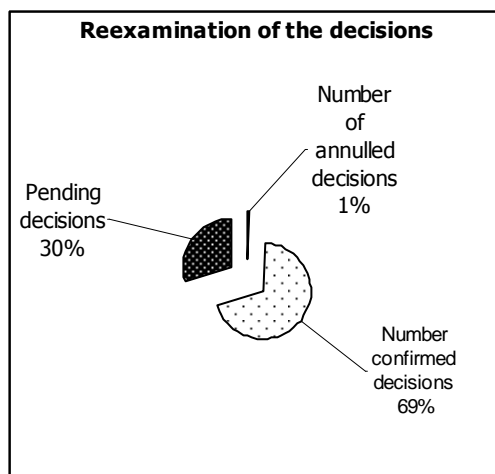
Year	Do not violate the Law		Violate the Law		Violate the Law but have eliminated the actions contrary to the Law.		Decision has not been reached yet		Total
	In no.	In%	In no.	In %	In no.	In %	In no.	In %	
2005	14	100%	0	0%	0	0%	0	0%	14
2006	37	77%	11	23%	0	0%	0	0%	48
2007	27	36%	13	18%	34	46%	0	0%	74
2008	343	70%	17	3%	79	16%	54	11%	493
Total	421	67%	41	7%	113	18%	54	8%	629

5.3. Requests for reexamination of the decisions of the Commission

In the period from 2005 till the end of 2008, MANS submitted total of 178 requests for reexamination of the first instance decisions of the Commission for Conflict of Interests.

The Commission adopted 124 decisions out of which 123 confirmed their first instance decisions and in one case they annulled their first instance Decision.²⁴

For 54 requests for reexamination of the first instance decisions the process is still underway.



Graph 4: Second instance Decisions of the Commission for Conflict of Interests in the period 2005 – 2008

In 2005 MANS submitted 3 requests for reexamination of the first instance decisions of the Commission, and in all cases the Commission confirmed their first instance decision, which was also the case in 2006 when MANS submitted 7 requests for reexamination, when the Commission confirmed again their first instance decisions.

²⁴ Commission has changed its first instance decision stating that public official Vuka Golubović is violating the Law on Conflict of Interests into the new Decision, which prescribes that this public official is not violating the Law.

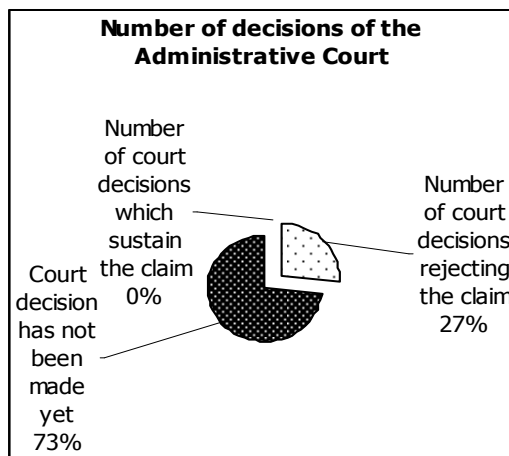
In 2007 MANS submitted to the Commission 34 requests for extraordinary reexamination of the first instance decisions, and in all 34 cases, the Commission has decided to confirm its own decisions. In 2008, the Commission annulled one of its decisions for the first time, while in the cases of 79 requests for reexamination it decided to confirm its first instance decisions, while the procedure for 54 requests is still underway. In 2008, MANS submitted 134 requests for reexamination of the first instance decisions of the Commission.

Period	Number of claims for reexamination	Number of annulled decisions	Number confirmed decisions	Pending decisions
2005	3	0	3	0
2006	7	0	7	0
2007	34	0	34	0
2008	134	1	79	54
Total	178	1	123	54

5.4. Complaints to the Administrative Court for annulment of the Decisions of the Commission

MANS submitted 111 complaints to the Administrative Court in the observed period of time and requested annulment of the decisions of the Commission for Establishment of Conflict of Interests.

The Administrative Court has reached 27 court decisions so far which confirm decisions of the Commission and 74 are still pending.



Graph 5: Decisions of the Administrative Court in the period 2006 – 2008

The Administrative Court rejected all the complaints submitted by MANS in 2006 with explanation that MANS does not have the right to submit complaints because its rights or interests based on the Law have not been violated. In 2006 MANS submitted 6 complaints to the Administrative Court and the Court Decisions confirmed all the decisions of the Commission for Conflict of Interests. Five complaints submitted to the Administrative Court this year referred to incompatibility of public functions, while one referred to the problem of definition of public official.

After delivering Decision of the Administrative Court, MANS submitted the request for extraordinary reexamination of the court decision to the Supreme Court which annulled the Decision of the Administrative Court with the following explanation:

“State of the facts presented in the reexamine decision is vague, it is not understandable and it is contradictory since it states that after reaching of the final administrative decision, in the procedure initiated at request of the party, that party has lost legitimacy to conduct the litigation.”

From the Court Decision of the Supreme Court, September 14, 2007

After that Decision of the Supreme Court, every following case was rejected with explanation that “the organ against whom complaints were filed²⁵ has acted properly.

Year	Number of complaints filed	Number of court decisions which sustain the claim	Number of court decisions rejecting the claim	Court decision has not been made yet
2006	6	0	6	0
2007	13	0	11	2
2008	92	0	11	71
Total	111	0	27	74

Total of 13 complaints submitted in 2007 and in 11 cases decisions of the Commissions were confirmed and two court decisions have not been reached yet. Six complaints referred to incompatibility of public functions, five complaints referred to inaccurate data presented in declaration on assets reported to the Commission, one complaint referred to membership in managing boards contrary to the Law while one complaint referred to the problem of definition of public official.

In 2008 MANS filed 92 complaints and the Administrative Court confirmed decisions of the Commission. Court Decisions have not been reached at 71 complaints yet. Due to inaccurately declared assets 61 complaints were filed to the Commission, 25 complaints were filed due to incompatibility of public functions, 4 complaints due to membership in managing boards contrary to the Law while the remaining two complaints are based on other legal grounds.

The longest procedure before the Administrative Court refers to the case of Vesna Ratković, Director of the Directorate for Anti-Corruption Initiative, which lasted nine months. Namely MANS filed the complaint to the Administrative Court on April 11th 2008, while the Administrative Court reached the Decision on January 21st 2009.

The shortest procedure before the Administrative Court refers to the case of Jusuf Kalamperović, which lasted a month. Namely MANS filed the complaint to the Administrative Court on April 11th 2008, while the Administrative Court reached the Decision on May 14th 2008. It took the Administrative Court about 5 months to reach decisions at complaints we have filed against conflicts of interests, which is absolutely a too long period of time to reach a decision. Due to this, Liješević will not bear consequences for violation of the Law even though the data he had submitted to the Commission had been inaccurate until MANS submitted its initiative.

²⁵ Commission for Conflict of Interests

ANNEXES

Annex 1 - Law on the Conflict of Interests

I GENERAL PROVISIONS

Article 1

With the purpose of raise confidence in legitimate and impartial performance of public functions, this law shall identify the conflict of public and private interests (hereinafter referred to as: conflict of interests) and govern the ways of avoiding the conflict of interests, as well as other issues relevant for the implementation of this law.

Scope of implementation

Article 2

This law refers to public functionaries and persons connected to them.

A public functionary, as used in this law, shall be understood to mean the person elected by direct and secret vote, person elected by the Parliament of the Republic of Montenegro (hereinafter referred to as: Parliament), or appointed by the Government of the Republic of Montenegro, as well as a mayor, that is the president of the local council.

Article 3

A public functionary shall perform his duties impartially, in accordance with the Constitution, law and other regulations, taking into account the ethics of his profession and the office he holds. A public functionary shall not be allowed to give priority to his private interest over a public interest in a way that affects or could affect his performance of the public function.

II DEFINITIONS

Article 4

Certain terms, as used in this law, shall have the following meaning:

Conflict of interests – there is a conflict of interests when a public functionary 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 to a public functionary – direct relatives of a public functionary, 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 functionary is personally or professionally connected to.

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

Service – activity allowing for conditions for obtaining of benefit.

III IMPERMISSIBLE CONDUCT

Article 5

A public functionary is not allowed to:

- accept a gift of large value, profit or a service, except in cases envisaged by this 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 functionary found in a conflict of interests

Article 6

Should a public functionary have doubts that there is a conflict of interests, he shall report that to the Committee for the Conflict of Interest (hereinafter referred to as: Committee) in order for Committee to decide whether he/she is position of conflict of interest.

Influencing impartiality of a public functionary

Article 7

A public functionary has the duty to immediately inform the Committee of such an influence or impermissible action carried out during his performance of a public office.

Should the Committee find that the action referred to in Para. 1 of this Article can be qualified as a criminal offense, it shall immediately report that to the Prosecutor General.

IV DISCLOSURE FORMS

Submission of disclosure forms

Article 8

It is the duty of a public functionary to submit disclosure forms on his income and property for himself, his spouse, his extramarital partner, and his children living in the same household (hereinafter referred to as: disclosure forms) within 15 days of the date he entered upon a public office.

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

It is the duty of a public functionary to inform the Committee of every change in his property exceeding the amount of EUR 2000 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 functionary to submit the disclosure forms to the Committee related to the period of time during which, according to regulations, he is entitled to rights and duties arising from such a public office.

Filling out disclosure forms

Article 9

A public functionary shall fill out the disclosure form the content of which is set out by the Committee.

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

An incomplete or wrongfully completed disclosure form shall be returned by the Committee to the relevant public functionary who must remove, within eight days of receipt, all errors and irregularities.

Register of disclosure forms

Article 10

The Committee shall keep the Register of disclosure forms on income and property of a public functionary, his spouse or extramarital partner and his children living in the same household (hereinafter referred to as: Register of disclosure forms)

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

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

At the order of a state authority and local government authority, the Committee shall immediately present it with 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 functionary, his spouse or extramarital partner and his children living in the same household have acquired during his term of office but have not been reported to the Committee, or is not covered by appropriate documentation, shall be considered illegally acquired income or property, as used in this law. The Committee shall inform the Prosecutor General of the Republic of Montenegro of that.

Receipt and disclosure of gifts of considerable value

Article 12

A public functionary can receive a gift of considerable value that he is obliged to disclose to the Committee 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 Committee shall establish the value of the gift according to its market value on the day of receipt of such a gift.

VI HOLDING OF OTHER POSITIONS

Article 14

If the Committee has previously found that it does not cause a conflict of interests, a public functionary shall be allowed to hold another position following the approval of the authority that has elected and appointed the public functionary.

Pursuant to Article 8 of this law, a public functionary shall have the duty to disclose to the Committee the income acquired in an additional position.

For the work done in a public function, a public functionary shall not be allowed to receive fees from other state or international organization or institution, except for travel and other similar costs.

Membership in company boards

Article 15

A public functionary cannot be a member of a company board, except shareholders Assembly.

Exceptionally, a public functionary, except Government members, judges of the Constitution court, judges, state prosecutor and deputy state prosecutor, can be a member of a the board in a company whose owner is the state but shall not be entitled to any fee, except to travel and other similar costs.

A public functionary who is the owner of a company shall have to transfer his management rights to other person within 15 days of the day he enters upon office, except to persons stated in article 4, paragraph 1, line 2 or other body.

Membership in non-governmental organizations and other legal entities

Article 16

A public functionary can be a 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 fees, except for travel and other similar costs.

VII COMMITTEE

Article 17

A special Committee referred to in Article 6 of this law shall be set up as an independent body for the establishment of conflict of interests.

The Committee shall be set up by the Parliament.

Committee members

Article 18

The Committee shall have five members, of whom one shall perform the function of the president.

Committee members shall be elected by the Parliament at the proposal of the proper parliamentary board for the five year term of office, with the possibility of reappointment.

Committee members shall be persons who have proved their impartiality and conscience through their professional and moral values. At least one Committee member must be a holder of law degree and bar examination certificate.

Committee members are entitled a fee for their work, defined by proper parliamentary board.

Scope of authority of the Committee

Article 19

The Committee shall:

- establish facts and circumstances relevant for the decision;
- take a decision, accompanied by an explanatory note, on whether there is a conflict of interests in a given case;
- establish the value of a gift;
- keep Register of disclosure forms;
- adopt Rules of Procedure;
- carry out other work, as envisaged by this law.

The Committee Rules of Procedure shall prescribe in greater detail the work procedure and other issues relevant for the work of the Committee.

Procedure before the Committee

Article 20

The procedure before the Committee shall be initiated by a public functionary, state authority, local government authority, legal and physical entities or Committee members.

The Committee shall examine every report on the potential conflict of interests.

Before the decision is taken, the Committee shall inform in writing the public functionary of the report and require of him to declare himself.

Article 21

A public functionary shall have to declare himself in writing within 15 days of the day of receipt of such a request.

If a public functionary fails to declare himself within the time period referred to in Para. 1 of this Article, the Committee shall pass the decision without such declaration.

Article 22

The Committee shall propose to the proper authority to remove a public functionary from his office if it finds that there is a conflict of interests or if the public functionary fails to submit the report referred to in Article 8 of this law, or if he fails to remove errors and irregularities concerning Article 9 of this law.

If the Committee finds that a public functionary has committed a crime, he shall immediately submit a report to the state prosecutor in charge.

Funds for the work of the Committee

Article 23

Funds for the work of the Committee shall be provided by the Budget of the Republic of Montenegro at the proposal of the Committee.

Transparency of the work of the Committee

Article 24

The Committee decisions on the conflict of interests shall be delivered to the media.

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

VIII TRANSITIONAL AND CONCLUDING PROVISIONS

Article 25

The Parliament shall set up the Committee within 90 days of the day this law comes into force.

Article 26

The Committee shall adopt rules, forms, and Rules of Procedure within 90 days of the day it is set up.

Article 27

Rights, obligations, and responsibilities constituted by this law shall also refer to a public functionary who is holding a public office at the time this law comes into force.

A public functionary referred to in Para. 1 of this Article shall submit a disclosure form to the Committee within 15 days of the day rules, forms and Rules of Procedure are adopted.

Coming into force

Article 28

This law shall come into force on the eighth day of its publication in the "Official Gazette of the Republic of Montenegro".

Annex 2 - Current Law on preventing conflict of interest in exercising public functions

I. BASIC PROVISIONS

Subject of the Law

Article 1

In the aim of creating and maintaining the trust of citizens into conscientious and responsible exercise of public functions, this Law defines the restrictions in exercising the public functions, submission of reports on revenues and property, other measures for prevention of conflict of public and private interest as well as the other issues relevant for execution of this Law.

Conflict of interest

Article 2

A public official shall exercise his public function in such a manner as not to give priority to his private interest over the public interest or to cause a conflict between public and private interest.

Conflict of interests arises if a private interest of a public official affects or may affect public official's impartiality in exercising public function.

Public Official

Article 3

For the purposes of this Law, the term public official shall have the following meaning:

1. Every person elected directly in elections (President of Montenegro, Member of the Parliament of Montenegro, Councillor, Mayor and Municipality President);
2. every person elected or appointed by the Parliament of Montenegro, or person whose election is confirmed by the Parliament of Montenegro (Speaker and Deputy Speaker of the Parliament, Prime Minister and member of Montenegrin Government, Constitutional Court President and judge, Supreme State Prosecutor and State Prosecutor, Supreme Court President, Protector of human rights and freedoms and his Deputy, Governor i.e. President and member of the Council of the Central Bank of Montenegro, President and member of the Senate of the State Auditing Institution, President and member of the Securities Commission, President and member of the Commission for prevention on conflict of interests, President and member of the Board of the Regulatory Agency for Energy Sector, director of a public company and public institution established by the Parliament of Montenegro, or the management body of which is elected and appointed by the Parliament of Montenegro, Secretary General of the Parliament of Montenegro and his deputy);
3. Person appointed by the President of Montenegro (ambassador of Montenegro and head of Montenegrin diplomatic representative office abroad);
4. Person elected, appointed or nominated by the Government of Montenegro, or whose election is confirmed by the Government of Montenegro (deputy Minister and secretary of a Ministry, Secretary General of the Government of Montenegro, head and deputy head of a public administration body, President and judge of Misdemeanour Court of Montenegro and regional misdemeanour body, Head of the State Protocol, Director of

the National Tourism Organization, the Director of the Agency for Restructuring of the Economy and Foreign Investments, President and a member of the Council of Electronic Communications and Postal Services, director of any fund established by the state, the President and members of the Commission for Control of Public Procurement Procedure, director of public institution established by the state, president and member of management bodies, as well as director of public company or any other business organization, regulatory body or other legal entity not incorporated in this item and specially established by the Government of Montenegro;

5. President and member of the Judicial Council, Court President and judge elected by the Judicial Council, President and member of the Prosecutors' Council, State Prosecutor Deputy, and director of the Broadcasting Agency;
6. Person appointed by, or whose appointment is approved by the Assembly or the Mayor of the Capital, Historic Capital or municipality (President and Secretary of the Assembly, Vice-president of the municipality, Chief Administrator, agency director, manager, head of any local government body, President and member of a management body, i.e. body managing a public service established by the assembly).

Public official shall be considered other person elected, appointed or person whose election is confirmed by the bodies defined in the paragraph 1 of this Article, who decides on rights, obligations or interests of physical or legal entities, or decides on public interest, except the person appointed by the President of Montenegro in accordance with the regulations and acts relating to defence and military issues.

Independent body

Article 4

Existence of the conflict of interest is established by the Commission for Prevention of Conflict of Interest (hereinafter referred to as Commission), and measures for preventing conflict of interest are undertaken by the Commission, as an independent body.

Opinions on existence of the conflict of interest and decisions on violation of provisions of this Law given or passed by the Commission in accordance with this law shall be binding for public official.

It is considered for public official to violate provisions of this law in case when he/she does not behave in accordance with the opinion of the Commission or with the obligations prescribed by this law, or he/she behaves in a manner violating prohibitions and rules referring to prevention of conflict of interest prescribed by this law and other regulations defining the conflict of interests in the areas governed by these regulations.

Definition

Article 5

In this Law, the terms set out below shall have the following meanings:

1. *public interest* shall be material and non-material interest in well-being and prosperity of all citizens under equal conditions;
2. *private interest* shall mean the ownership or other material or non-material interest of a public official;

3. *ownership interest* – shall mean every interest of a public official in a business organization that exceeds the amount of ten minimum salaries in Montenegro;
4. *benefit* shall mean property or property rights and other material and non-material rights;
5. *Related person* shall mean a direct relative of a public official, collateral relative up to the second degree, in-laws up to the first degree, spouse or partner in extra-marital relation, adoptive parent or adopted child;
6. *gift of higher value* shall include money, things, rights and services provided without any appropriate compensation, as well as any other benefit provided to a public official or to related person exceeding the amount of € 50;
7. *public company* shall be a company in which the state, municipality, Historic Capital or Capital (hereinafter referred to as municipality) have at least 25% of equity;
8. *company* shall be every company except a public company as defined herein;
9. *Authority* shall mean a state body, public administration body, municipal body, a public company, a public institution, regulatory or other body or commission where a public official exercises or used to exercise his function.

II. RESTRICTIONS IN EXERCISING PUBLIC FUNCTIONS

1. General restrictions

Exercise of other public activities

Article 6

A public official may be engaged in scientific, teaching, cultural, art and sports activities and may acquire revenues from copy, patent and similar rights, intellectual and industrial property.

Public official is obliged to report the revenues from paragraph 1 of this article to the Commission.

The membership of a public official, appointed or elected, in permanent or provisional working bodies or mixed commissions, established by an authority, shall not be considered as an exercise of two or more public functions within the meaning of this Law.

Management rights in companies

Article 7

A person who is the owner, i.e. founder of a public company, other company, institution or any other legal entity shall, within 15 days from his/her election, appointment or nomination to the public function, transfer his/her management rights in such entities to any other legal or physical entity unrelated to himself/herself, so that such a person can exercise such management rights on his own / her own right and on behalf of the public official by the time of termination of his public function.

In case that the company or other entity referred to in the paragraph 1 hereof has a management body established in which the public official, as a member of such a body, exercises his management rights, transfer of such management rights implies resigning from the membership of such a management body according to the law.

Public official shall within five days from the day of transfer of his management rights, deliver to the Commission the data of the person he transferred the rights to as well as the evidence of the management rights transfer.

The person, the public official transferred his management rights to, shall become a person connected with the public official as defined in the Article 5, item 5 hereof.

Performing executive and other functions in a company

Article 8

A public official shall not be a president or member of any management or supervisory board nor shall he be an executive director or member of management in any company.

Person elected, appointed or nominated to public function shall within 15 days from the day of being elected, appointed or nominated to the public function shall resign from his duty referred to in the paragraph 1 hereof.

Exercising public functions in public companies and public institutions

Article 9

Public official shall not be a president or member of any management or supervisory board, executive director or member of management of a public company, public institution or any other legal entity.

Exceptionally, public official, except for the member of the Government, judge of the Constitutional Court, State Prosecutor and Deputy State Prosecutor, may be a president or a member of the management or supervisory board, executive director or a member of management board of public company, public institution or any other legal entity in a public company or public institution in which the state, i.e. local government is owner.

Public official may be a president or a member of management or supervisory body of scientific, humanitarian, sports and similar associations.

Duty to resign

Article 10

The public official who, while exercising a public function, accepts to perform other duty or function referred to in the Article 8 paragraph 1 and Article 9 paragraph 1 hereof, shall resign from the public function within 15 days from the day of beginning exercising such other function.

Services Contracts

Article 11

A public official shall not conclude any contract on provision of services with a public company.

A public official shall not conclude any contract on provision of services with any company which is in a contractual relation, that is which performs any activity for the Government or local

government unit, during the exercise of his/her public function, unless the value of such a contract is less than 500 € per year.

Statement on presence of conflict of interests

Article 12

If, within the authority in which he/she exercises a public function, public official takes part in dispute and decision-making on matters in which he/she or related person has interest in, he/she shall notify, by way of Statement on presence of private interest, other participants in the dispute and decision-making prior to his/hers taking part in the dispute and not later than the beginning of decision-making.

By way of an exemption, the commitment to provide statement from paragraph 1 hereof does not refer to members of the Parliament and councillors or to public officials exempted by way of Rules on Exemption prescribed by special law or similar act.

An authority, in which public official exercises public function, shall enter the Statement on presence of private interest into the Record and ask the Commission for the opinion on this matter.

In case from paragraph 1 hereof, a public official shall not participate in dispute or decision-making until the Commission does not provide the opinion on presence of conflict of interests.

Restrictions after termination of public function

Article 13

At least one year after the termination of his/her public function, a public official shall not:

1. appear before the authority where he exercised the public function in the capacity of a representative or attorney of a legal entity that has or is establishing contractual that is business relations with such an authority;
2. represent a legal or physical entity before the authority where he exercised the public function, in case in which he/she participated in decision making;
3. perform the activities of management or auditing in the legal entity where, at least a year before the end of his/her public function, his/her duties were connected to supervisory or control activities;
4. enter into contractual relations or any other form of business cooperation with the authority where he exercised his public function;
5. use, for the purpose of his/her own or another person's benefit or for the purpose of harming other person, the information and notifications which he/she obtained during the execution of public function unless these information and notifications are available for public;

2. Receiving and reporting of gifts

Prohibition of accepting gifts

Article 14

A public official shall not accept money, securities, or precious metal regardless of their value.

A public official shall not accept gifts, apart from protocolary gifts and appropriate gifts of a small value.

Gifts given by representatives of other states and international organization given during receiving and paying visits, as well as other gifts presented in similar occasions shall be considered protocolary gifts.

The gifts the value of which does not exceed 50 €, shall be considered appropriate gifts of small value. If a public official receives more than one gift from the same presenter during one year, the total of all gifts will be considered the full value.

Prohibition, i.e. restrictions referred to in the paragraphs 1 and 2 hereof shall refer to the members of the family of the public official referred to in article 19 paragraph 1 hereof.

Gift value is estimated according to its market value on the day of its acceptance.

Refusing a gift

Article 15

The public official offered a gift he may not accept, shall refuse the offer or, i.e. he shall inform the gift presenter that he cannot accept it.

The public official shall be obliged to submit a written report about the event referred to in the paragraph 1 hereof within the shortest possible time to the body in which he/she performs the public function.

If the public official, in the case referred to in the paragraph 1 hereof, was unable to refuse the gift or return the gift to the gift presenter, he/she shall hand over the gift to the body in which he/she performs the public function. The gifts handed over shall become state property as of the day of being handed over.

Managing gifts

Article 16

The accepted gifts and their value shall be entered into the records of gifts kept at the body the public official exercises his function in.

The gifts record referred to in the paragraph 1 hereof shall not contain the gifts the value of which does not exceed 30 €.

If it is established that the appropriate gift is of the value higher than the one referred to in Article 14 paragraph 4 hereof, such a gift shall be handed over to the body in which the public official exercises public function and it shall become the property of the state, i.e. of the local government.

Protocolary gifts, regardless of their value, shall become the property of the state, i.e. of the local government.

Management of gifts referred to in the paragraph 1, 3, and 4 hereof, keeping records of gifts, as well as other issues concerning the restrictions and duties in accepting gifts related to exercising of a public function, shall be defined by the Commission.

Records of gifts

Article 17

The authority from Article 16 paragraph 1 hereof is obliged to provide the print from records of gifts that it is keeping and submit it to the Commission by the end of February of the following year for the previous year.

If in reviewing the records referred to in the paragraph 1 hereof, the Commission establishes that a violation has occurred, it shall notify such a finding to the body that submitted these records.

The Commission shall prepare a public catalogue of gifts accepted in the previous year and publish it on its website.

Illegal accepting of gifts

Article 18

When the Commission is informed that a public official accepted gifts in a manner contrary to this Law, it shall inform the authority the public official exercises his function in and the body in charge of election i.e. appointment of the public official.

If the authorities referred to in the paragraph 1 hereof, confirm the opinion of the Commission that the public official accepted gifts contrary to this Law, such a conduct of the public official shall be considered a violation of the provisions hereof. The Commission shall make a Decision in that respect.

In the case referred to in the paragraph 2 hereof, the public official shall return the gift or the equivalent value of the gift in money.

III. REPORTS ON INCOMES AND PROPERTY

Submitting reports on incomes and property

Article 19

Within 15 days on taking the public office, a public official shall submit to the Commission a report on his /her property and incomes, as well as the property and income of his/her spouse and children if they live in the same household (hereinafter: Report), according to the day of being elected, appointed or nominated.

Public official is obliged to provide the accurate data in the Report.

In the course of exercising the public function, public official shall submit the Report:
-once a year, by the end of February of the current year for the previous year,

-in case of any change in data contained in the Report, in terms of the increase in property exceeding 5,000 €, within 15 days from the day of such a change;

Upon expiry of his term of office, public official shall submit report to the Commission within 15 days upon termination of the public function, and one year on termination of his/her term of office, according to the state of affairs on the day of submitting the Report.

Data to be reported

Article 20

The Report shall contain:

- 1) Personal data of public official and members of his family referred to in the Article 19, paragraph 1 hereof (name and surname, the unique identity number, place of permanent i.e. temporary residence and the address, education level and title);
- 2) data regarding the public function he exercises and
- 3) data on property and incomes, particularly:
 - ownership rights over immovable assets and the right to lease immovable assets for the period of time exceeding one year, in the country and abroad;
 - ownership rights over movable assets which are required to be registered with competent authorities (motor vehicles, vessels, aircrafts, arms etc);
 - deposits in banks and other financial organizations, in the country and abroad;
 - shares and parts in legal entities;
 - cash and securities of value exceeding 5,000 euros;
 - copyrights, patent rights and similar intellectual and industrial property rights;
 - debts (principal, interest and term of payment) and claims;
 - source and amount of incomes from working in academic institutions, educational institutions, institutions of culture, and sport institutions;
 - membership in steering committees and supervisory boards of public companies, institutions and other legal entities with state or municipality capital share and in academic, humanitarian, sport, or similar associations;

More detailed contents of the Report and the form for submitting data shall be defined by the Commission..

Register of incomes and property

Article 21

Data from the report shall be registered into the Register of income and property kept by the Commission.

Data referred to in the paragraph 1 hereof shall be available to the public.

Commission shall define the manner of keeping the register of incomes and property.

IV. PROCEDURE

1. Giving of the opinion

Giving opinion upon the request of public official in the case of suspicion of a conflict of interests

Article 22

Should a public official have any doubts that he/she might be in the situation of conflict of interests, he/she shall be obliged to undertake all measures aimed at eliminating the conflict of interests, in accordance with the Law, and he/she shall report the suspicion to the Commission, which shall give its opinion.

A public official whose public function has been terminated may submit a request to the Commission for the purpose of obtaining opinion on existence of a conflict of interests referred to in Article 134 hereof.

A public official or a public official whose public function has been terminated shall be obliged to present accurate data on possible conflict of interests in the request for obtaining opinion referred to in paragraphs 1 and 2 hereof.

A public official may require from the Commission to give its opinion within an adequate deadline in order to be able to exercise and protect his/her rights and interests or to exercise his/her duties that the opinion has been required for.

Rule on confidentiality of the procedure

Article 23

The procedure upon the request referred to in Article 22 hereof is confidential.

By way of an exemption, if a public official does not act upon the opinion of the Commission, the opinion shall be made public.

2. Procedure for identifying violation of the provisions hereof

Initiating the procedure

Article 24

The procedure for deciding on whether there has been a violation hereof, shall be initiated by the Commission upon the request of the authority where the public official is performing or has performed his/her public function, the authority responsible for election, i.e. appointment of a public official, other state body or municipal body, other legal or physical entity.

The procedure may be initiated by the Commission ex officio.

Form and contents of the initiative

Article 25

Initiative referred to in Article 24, paragraph 1 hereof, shall be submitted in written form and shall contain: name, surname and address of the public official; name of the function he/she exercises; more detailed factual data with the evidence of existence of conflict of interests or other violations of the provisions hereof that the person submitting the request possesses or is familiar of; possibly the names of the persons that may confirm the allegations of the initiative, if the person submitting the request knows such persons; the name, surname and address of the physical entity, i.e. the name and the registered office of the legal entity which submits the request.

By way of an exemption, the request may be given in verbal form and recorded in the minutes with the authorized member of the Commission.

Complementing and modifying the initiative and procedure upon the initiative

Article 26

If the initiative is not made in accordance with Article 25, paragraph 1 hereof, or if it is not intelligible or if it does not contain all the required items in order to proceed upon such a request, the Commission shall invite the person submitting such an initiative to complement the initiative, i.e. to correct the initiative within the term defined by the Commission, which shall not exceed eight days.

If the person submitting the initiative does not act upon the Commission's request to complement or modify the initiative, the Commission shall reject that initiative as improper.

Statement of public official

Article 27

The Commission shall inform the public official in written form about the initiating of the procedure, i.e. about the properly received, complemented, or modified initiative, and require the public official to submit a written statement regarding the allegations contained in the initiative within 15 days from the day of receipt of the initiative.

If the public official does not provide his/her statement in the manner and within the deadline referred to in paragraph 1 hereof, the Commission shall continue the procedure according to this Law.

Procedure before the Commission shall be conducted by an authorized Commission member.

Establishing facts and circumstances

Article 28

All the facts and circumstances relevant for decision-making ought to be established in the procedure.

The authorized Commission member shall be obliged to, ex officio, obtain data and information about the facts, necessary for conducting the procedure and decision-making, of which official records are kept by the competent state body, public administration bodies and municipal bodies, or by public companies, companies, institutions or other types of legal entities.

Bodies and legal entities referred to in paragraph 2 hereof shall be obliged to submit the requested data and information to the Commission, within the deadline set up by the Commission.

Presentation of evidence

Article 29

The authorized Commission member, in charge of conducting the procedure, shall ex officio order the presentation of the evidence, if he/she considers it necessary for establishing the facts and circumstances relevant for decision-making, all in accordance with the general administrative procedure rules.

Hearing

Article 30

The authorized Commission member in charge of conducting the procedure shall, upon the request of the participants in the procedure or if he/she considers it necessary, order a hearing to take place.

Statements

Article 31

In the procedure before the Commission, the person submitting the initiative shall be obliged to present the facts that his/her initiative is based upon in a true and precise manner.

As a rule, the person submitting the initiative and the public official in the procedure shall make their statements in verbal form, and they may make the statements in written form as well.

In case that more comprehensive expert explanation is required, the authorized Commission member may order to the participant in the procedure to submit a written statement as well, and define a deadline for submitting such a statement.

The participant in the procedure may request to be allowed to make a written statement.

Protection of rights of the participants in the procedure

Article 32

The public official and other participants in the procedure ought to be allowed to exercise and protect their rights and legal interests, which is under the responsibility of the authorized Commission member.

Delivering writs to the Commission

Article 33

After the procedure is completed and evidence presented, the authorized Commission member shall deliver all the writs to the Commission necessary for decision-making.

Decision making in the Commission

Article 34

The Commission shall make their decision determining whether the public official violated the provisions hereof by his/her act, activity, or omission. The Commission shall make such a decision in its session, without the presence of the public, not later than 15 days from the day of the closure of the procedure conducted according to this Law.

Participants in the procedure may take part in the Commission's session.

Decision referred to in paragraph 1 hereof ought to be substantiated.

Delivering the decision

Article 35

Decision of the Commission shall be delivered to the public official, to the person submitting the initiative, as well as to the authority that the public official performs his/her public function in or to the authority competent for election, i.e. appointment of the public official, if such authorities were not the entities submitting the initiative, not later than five days from the day on which it was passed.

Decision review

Article 36

Within eight days from the receipt of the decision, the public official and the person submitting the initiative may submit a request for decision review to the Commission.

The request referred to in the paragraph 1 hereof shall contain the reasons for the need to review or change the decision.

The Commission shall decide upon the request for the decision review within 30 days from the day of submission of the request.

Decision of the Commission upon the request referred to in the paragraph 1 hereof is final.

Administrative procedure may be initiated against the final decision of the Commission.

Application of the rules of general administrative procedure

Article 37

Unless otherwise provided for under this Law, provisions of the law governing the general administrative procedure shall apply to the procedure of establishing the existence of violation hereof.

Legal effect of the decisions

Article 38

Violation of the provisions hereof, established in the final and legally valid decision, shall be considered unconscientiously performance of public function, of which the Commission shall

inform the authority that the public official is exercising his/her public function in as well as the authority competent for election, i.e. appointment of the public official, with the view of possible initiating of the dismissal procedure.

If the public official is dismissed due to unconscientiously performance of public function referred to in paragraph 1 hereof, the authority competent for election, i.e. appointment or nomination of the public official shall inform the Commission about the dismissal.

The public official dismissed due to the violation hereof may not perform the duties of civil servants and public employees within the period of four years from the date of dismissal.

Before making any decision on the election, appointment or nomination of a public official, the authorities competent for the appointment or nomination referred to in Article 3 hereof shall be obliged to check with the Commission if the proposed candidate was dismissed from any position of a public official defined in Article 3 hereof in the period of last four years preceding the candidacy.

If in any of the stages of the procedure, the Commission has doubts that a public official committed a criminal offence prosecuted ex officio, the Commission shall, without any delay, file a criminal charge to the State Prosecutor.

Reimbursement of material damage

Article 39

Violation of the provisions hereof, established in the final and legally valid decision, shall be considered unconscientiously performance of public function, of which the Commission shall inform the authority that the public official is exercising his/her public function in as well as the authority competent for election, i.e. appointment of the public official, with the view of possible initiating of the dismissal procedure.

If the public official is dismissed due to unconscientiously performance of public function referred to in paragraph 1 hereof, the authority competent for election, i.e. appointment or nomination of the public official shall inform the Commission about the dismissal.

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If in any of the stages of the procedure, the Commission has doubts that a public official committed a criminal offence prosecuted ex officio, the Commission shall, without any delay, file a criminal charge to the State Prosecutor.

V. COMMISSION

Competences

Article 40

The Commission shall have the competences of:

1. conducting the procedure and making decisions regarding any violation of the provisions hereof;
2. giving its opinion on the existence of a conflict of interests;
3. establishing the value of the gift referred to in Article 14, paragraph 6 hereof;
4. passing rules and rules of procedure for the operation of the Commission, upon the proposal of the President of the Commission;
5. giving its opinion on draft laws, other regulations and general acts, if the Commission considers it necessary for the purposes of preventing conflict of interests;
6. launching the initiative for amendments to the laws, other regulations and general acts for the purposes of their alignment with European and other international standards in the field of anti-corruption initiative and transparency of business operations;
7. submitting a request for initiating misdemeanour procedure;
8. performing other activities in compliance with this Law;

Rules of procedure for the operation of the Commission shall define in details the method of work and other issues of importance for the operation of the Commission.

Composition of the Commission

Article 41

The Commission shall have a President and six members.

The president and members of the Commission shall be elected by the Parliament of Montenegro (hereinafter referred to as: "Parliament") upon the proposal of the competent Parliamentary working body, for the period of five years, without the possibility of re-election.

Persons who have proved their impartiality and conscientiousness by their professional work and moral qualities may be elected to the positions of the President and members of the Commission and at least one member of the Commission shall have a law degree and judicial exam passed.

Position of a Commission member

Article 42

The president and members of the Commission shall not be members of any political party.

The president of the Commission shall perform his duty professionally and shall be entitled to a salary to the amount equal to the salary defined for the Protector of Human Rights and Freedoms.

Members of the Commission shall be entitled to a compensation for their work, which shall be defined by the Parliamentary working body.

Termination of duties in the Commission

Article 43

Duties of the president and members of the Commission shall terminate upon the expiry of the term of office that the president or members were elected to, as well as upon a resignation or dismissal.

The president and member of the Commission shall be dismissed in the following cases:

1. unconscientious or biased performance of the duties that he/she has as a member of the Commission;
2. becoming a member of a political party body;
3. a final court verdict sentencing him/her for a criminal or any other punishable offence which makes him/her unworthy of performing the duty of a Commission member;
4. if the Commission establishes that, as a public official, he/she did not act in the manner required by this Law.

Existence of the reason for dismissal referred to in paragraph 2 hereof shall be established by the Commission in its session, and inform the Parliament thereof.

The President or member of the Commission shall not perform his/her duties until the Parliament shall pass the dismissal decision.

Administrative service

Article 44

The Commission shall establish the administrative service (hereinafter referred to as: "administrative service") for performing expert and administrative matters.

Administrative service shall be headed by the secretary.

The secretary shall be appointed and dismissed by the Commission.

The Rulebook on internal organization and systematization of the administrative service shall be adopted by the Commission, with the previous opinion given by a competent working body of the Parliament of Montenegro.

Rights of the persons employed in Administrative service

Article 45

Regulations on civil servants and public employees shall apply to the rights, obligations and duties of the persons employed in the administrative service of the Commission.

Resources of the Commission

Article 46

Resources for the operation of the Commission shall be provided from the Budget of Montenegro.

Public nature of the operation of the Commission

Article 47

Decisions of the Commission regarding the existence of a conflict of interests shall be published on the Commission's web site and delivered to the media.

The Commission shall submit reports on its work to the Parliament, if appropriate, at least once a year.

Ensuring data protection

Article 48

When informing the public, the Commission shall ensure protection of personal data from possible abuses, particularly the data of public officials and persons connected with public officials.

Decision establishing that a public official did not violate provisions hereof, i.e. data related to passing of such a decision shall not be published without a consent of the public official that such a decision and data refer to.

VI. PENALTY PROVISIONS

Article 49

A fine in the amount of fifteen to twenty minimum salaries in Montenegro shall be imposed on the public official for violating the provisions of the law if:

1. the public official does not report any income acquired by performing scientific, educational, cultural or sport activities, or from copyrights, patent rights, and other related intellectual and industrial property rights to the Commission (Article 6, paragraph 2);
2. the public official, who is the owner or founder of a public company, other company, institution or any other legal entity, does not transfer his/her managerial rights in such entities to any other legal or physical entity that is not connected with him/her, within 15 days from the day of being elected, appointed or nominated to the public function, (Article 7, paragraph 1);
3. the public official does not resign from the function of the President or the member of the management body or supervisory body, executive director or member of the management in the company, within 15 days from the day of being elected, appointed or nominated to the public function (Article 8, paragraph 2);
4. the public official does not resign from the public function, when in exercising public function accepts to perform other duty, i.e. function of the president or member of the management body or supervisory body, executive director or member of the management in the company, public company, public institution, or other legal entity with a capital share owned by the state or municipality, within 15 days from the day of starting other function or duty (Article 10);
5. the public official concludes any contract on provision of services with a public company or any contract on provision of services with other company which is under a contractual relation with the Government or municipality i.e. which performs any activity for the

Government or municipality, unless the value of such a contract is less than € 500 per year (Article 11);

6. the public official accepts money, securities or precious metal, regardless of their value, a gift, except the protocolary and appropriate gift of small value (Article 14, paragraphs 1 and 2);
7. the public official does not return a gift or equivalent money value of the gift, in case when the authority in which the public official performs public function and body competent for election and appointment of the public official confirm the opinion of the Commission that the public official accepted gifts contrary to the provisions hereof (Article 18, paragraph 3);
8. the public official does not submit the report to the Commission in due time, or does not present accurate data in the report (Article 19, paragraphs 1 and 2).

A fine in the amount of five to twenty minimum salaries in Montenegro shall be imposed on family member of the public official for violation referred to in paragraph 1, item 7.

Along with the fine imposed for violations referred to in paragraph 1, items 7 and 8, and paragraph 2 hereof, a safeguard measure of seizure of objects – gifts shall be imposed as well.

Article 50

A fine in the amount of five to twenty minimum salaries in Montenegro shall be imposed on a public official for violation, if:

1. he/she does not submit to the Commission data on person to whom he/she transferred managerial rights and evidence on transfer of managerial rights, within five days following the day of transfer of managerial rights (Article 7, paragraph 3);
2. he/she does not hand over the gift that he/she could not refuse nor return to the gift-giver or to the authority in which he/she performs the public function (Article 15, paragraph 3).

A safeguard measure of seizure of objects – gifts shall be imposed for violations referred to in paragraph 1, item 2 hereof.

Instead of the fine for violation referred to in paragraph 1, item 1 hereof, a warning may be issued.

Article 51

A fine in the amount of five to twenty minimum salaries in Montenegro shall be imposed on person whose public function terminated, if within one year from the termination of the public function:

1. appears before the authority where he exercised his public function in the capacity of a representative or attorney of a legal entity that has or is establishing business relations with such an authority (Article 13, point 1);
2. represents a legal or physical entity before the authority where he exercised his public function, if as a public official he participated in decision making in that particular case; (Article 13, point 2);

3. performs the activities of management or auditing in the legal entity where, at least a year before the end of his public function, his duties were connected to supervisory or control activities (Article 13, point 3);
4. Enters into contractual relations or any other form of business cooperation with the authority where he exercised his public function, two years before termination of the public function in that management body (Article 13, point 4);
5. Uses , for the purpose of getting benefit for themselves or somebody else, or for the purpose of causing damage to another person, knowledge and information acquired in the performance of public office, unless those information and knowledge are available to the public (Article 13, point 5).

Along with the punishment for the offences from the paragraph 1 of this article, another safeguard measure shall be imposed as well - the prohibition on performing of duties lasting from six months up to one year.

VII. TRANSITIONAL AND FINAL PROVISIONS

Article 52

Within 90 days from the day of entering this Law into effect, the Parliament shall establish the Commission from the Article 41 of this law.

Prior the Commission referred to in the paragraph 1 hereof is established, its duties according to this Law shall be performed by the Commission for establishing conflict of interests

Article 53

Within 90 days from the day of being established, the Commission shall pass the Rulebook, Rules of procedure and other enactments in accordance with this Law.

Article 54

The Commission shall take over, within 30 days following its establishment, the official premises, cases and other documentation, equipment, funds for operation and other means used by the Commission for establishing conflict of interests.

Article 55

The Commission shall take over, within thirty days after its establishment, the employees from the administrative service of the Commission for establishing conflict of interests.

The employees referred to in the paragraph 1 hereof that are not assigned duties according to the document on organization and job descriptions of the Administrative service shall exercise their labour rights and rights stemming from labour according to the regulations regulating rights and obligations of civil servants and state employees.

Article 56

A public official who, before entering into effect this Law, was not obliged to submit Report on his/her incomes and property to the Commission according to the Law on Conflict of Interests,

shall submit the Report referred to in the Article 19, paragraph 3, point 1 hereof within 15 days from the day of coming into effect of the by-law referred to in the Article 21, paragraph 3 hereof.

Article 57

By coming into effect of this Law, the Law on Conflict of Interest ("Official Journal of Montenegro" No. 42/04 and 17/05) shall cease to be in effect.

Article 58

This law shall come into effect on the eighth day after its publishing in the "Official Journal of Montenegro".