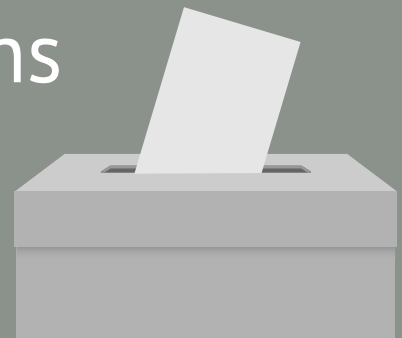


The new Law on Political Entity and Election Campaign Financing 2020:

Compliance of Montenegro
with recommendations



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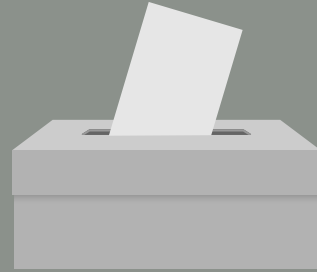


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1 Summary

In March 2019, MANS published a paper “Political finance reforms in Montenegro: Proposals for legislative reform”. [1] This March 2019 paper reviewed the new Law on Financing of Political Entities and Election Campaigns (**LFPEEC**), in force since 1 January **2015**.

The Parliament adopted an entirely new LFPEEC in December 2019. It is the purpose of this paper to review the compliance of the **LFPEEC 2020** with the recommendations provided by the March 2019 paper. The status of compliance with the recommendations is as follows:

No.	Recommendation Topic	Implementation status
1	Legislative loophole: funding of media campaigns	Not implemented
2	Oversight powers	Not implemented
3	Active oversight	<i>Implemented</i>
4	Complaints management	<i>Partially implemented</i>
5	Analytical cards	<i>Implemented</i>
6	Analytical cards	<i>Implemented</i>
7	Record keeping and evidence	Not implemented
8	Internal regulations	Not implemented
9	Financial reports	Not implemented
10	Accountability for reporting	Not implemented

[1] <http://www.mans.co.me/wp-content/uploads/2019/06/PFReforms.pdf>.

11	Media discounts	<i>Implemented</i>
12	Interim reports	Not implemented
13	Additional offence: lack of cooperation	<i>Implemented</i>
14	Additional offence: lack of submitting documents	Not implemented
15	Statutes of limitations	<i>Partially implemented</i>
16	Criminal offences	Not implemented
17	Criminal offences	Not implemented
18	Criminal offences	Not implemented
19	Reimbursement of public funds	Not implemented
20	Reimbursement of public funds	Not implemented
21	Additional offence: false accounting	Not implemented
22	Additional offence: false accounting	<i>Implemented</i>
23	Additional offence: false accounting	Not implemented
24	Whistleblower protection	Not implemented
25	Foreign funding	Not implemented

Out of 25 recommendations, 17 (=68%) remain **not implemented**, 6 (=24%) are implemented, and 2 (8%) partially implemented.

As the result of a precursory review, one can observe on a **positive note** that the Law 2020 introduces a number of innovative and commendable features, such as:

- The level of **transparency** has increased through a number of provisions;
- Political finance supports the political representation of the underrepresented **gender** (the new clause will currently come mostly to the advantage of the governing DPS);
- Some new limitations on **income** and **expenditures** are introduced;
- In total, the number of **offences** has increased significantly.

However, the most striking **weakness** of Law 2020 is that sanctions remain almost entirely administrative and are in many cases restrained to minimal fines, and pale in their lack of deterrence, if compared internationally.

It should also be noted that the Law 2020 is even **weaker** than the Law 2015 in some regards. Three **offences** as foreseen by the Law 2015 are **missing** in the Law 2020: Art. 55 no. 13 of Law 2015 (failure to distribute funds), Art. 55 no. 22 of Law 2015 (use of official car for campaign purposes), and Art. 57 no. 7 of Law 2015 (use of official car for campaign purposes).

Furthermore, it is insufficient that the statutes of limitations are only extended from two to three years, falling short of respective recommendations. The shortness of three years is evident if one looks at the auditing cycle prescribed by Art. 55 para. 3 of Law 2020: “The State Audit Institution shall **audit**, within a **four-year period**, the annual consolidated financial statements of all political parties represented in parliament at national and local level.” This means, on average, all parties are audited every four years. All irregularities detected that are already 3-4 years old by the time of the audit will have run out of statutes of limitations.

This aside, a certain lack of **transparency** of the legislative reform is worrying and puts the **democratic legitimization** of the Law 2020 in question:

- The Law 2020 **copies** a high number of provisions from Law 2015. However, an outside reader can distinguish old and new provisions only by creating a time-consuming synopsis of both laws. Furthermore, almost all articles from the old law have a **new number** under Law 2020, creating further confusion among practitioners and interested citizens.
- The **explanatory notes** do not relate to **concrete articles**, but remain largely abstract. This leaves the reader to find out for him/herself where exactly these changes are.
- The explanatory notes do **not** document **all changes**, but only a few. For example, the fact that new offences are introduced is omitted in the explanatory notes as well as the fact that some offences from the Law 2015 disappeared.

In light of the above, one can assume that lawmakers voting on the Draft Law 2020 had no fair chance of knowing or being able to find out what they were voting on.

2

Terms of Reference

In March 2019, MANS published a paper “Political finance reforms in Montenegro: Proposals for legislative reform”. [2] This March 2019 paper reviewed the new Law on Financing of Political Entities and Election Campaigns (**LFPEEC**), in force since 1 January 2015. To this end, the March 2019 paper took into account various standards and technical papers by the Council of Europe and the OSCE/ODIHR. Despite several advancements by the new Law, the March 2019 paper noted a number of serious shortcomings regarding foreign funding, sanctions, enforcement powers of the Agency (for Prevention of Corruption), accountability of the Agency to the public, transparency, and statutes of limitations.

The Parliament adopted an entirely new LFPEEC in December 2019. It is the purpose of this paper to review the compliance of the **LFPEEC 2020** with the recommendations provided by the March 2019 paper. In addition, this paper touches on a selection of new issues standing out in a precursory review.

[2] By Tilman Hoppe, <http://www.mans.co.me/wp-content/uploads/2019/06/PFreforms.pdf>.

3

Transparency of the legislative reform

The new LFPEEC 2020 has about 17,500 words (in English), while the previous LFPEEC 2015 had about 11,000 words (in English). This is an **increase** in words of almost **60%**. However, it remains quite **opaque**, what where exactly innovations are hiding behind this significant growth in size.

3. 1 Old text with new numbers

At first sight, a large number of articles remains unchanged in text. However, the numbers of most articles have changed. This creates an unnecessary **confusion** in comparing the old and new law. It is usual practice in many countries to insert new articles by letter numbers (Article 1a, Article 1b, etc.) or by superscript numbers (Article 1¹, Article 1², etc.) or similar. By this, practitioners can easily identify where new articles have been inserted, while at the same time being able to find all remaining articles under their old, familiar numbers.

3. 2 Synopsis

By and large, numbers of articles of the Law 2020 correspond to the Law 2015 as follows:

Law 2015	Law 2020	Comment/key change
1	1	
2	2	<i>With significant amendments</i>
	3	New
3	4	
4	5	
5	6	
6	7	
	8	New
7	9	
8	10	
9	11	
10	12	
11	13	
	14	New
12	15	
13	16	<i>With significant amendments</i>
	17	New
	18	New
	19	New
14	20	
15	21	
16	22	
17	23	
18	24	
	25	New
	26	New

Law 2015	Law 2020	Comment/key change
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19	27	
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20	28	
----	----	--

21	29	
----	----	--

22	30	
----	----	--

	31	
--	----	--

	31	New
--	----	------------

23	32	
----	----	--

23	32	New
----	----	------------

24	33	
----	----	--

	34	
--	----	--

	34	New
--	----	------------

25	35	
----	----	--

26	36	
----	----	--

27	37	
----	----	--

28	38	
----	----	--

	39	
--	----	--

	39	New
--	----	------------

29	40	
----	----	--

30	41	
----	----	--

31	42	
----	----	--

32	43	
----	----	--

33	44	
----	----	--

34	45	
----	----	--

35	46	
----	----	--

35	46	<i>With significant amendments</i>
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36	47	
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37	48	
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37	48	<i>With significant amendments</i>
----	----	------------------------------------

38	49	
----	----	--

38	49	<i>With significant amendments</i>
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39	50	
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40	51	
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Law 2015	Law 2020	Comment/key change
41	52	
42	53	
	54	New
43	55	
44	56	
45	57	
46	58	
47	59	
48	60	<i>With significant amendments</i>
	61	New
49	62	
50	63	
51	64	
52	65	
53	66	
54	67	
55	68	
56	69	
57	70	
58	71	<i>Statutes of limitations: 3 years instead of 2 years</i>
59	72	
60	73	
63	74	<i>61-62 of Law 2015 concern the transition of competencies from the State Election Commission to the Agency</i>
	75	New
64	76	
65	77	

3. 3 Explanatory notes

Members of the governing faction in Parliament submitted an official justification of the new Law to Parliament. The justification comprises 5,700 words (see Annex). However, the justification does not contain any guidance on which **article concretely** was changed and in which way. For example, in Germany for each new article of law an explanation is given explaining the intended changes by this article – if need be paragraph-by-paragraph, how it relates to concerns and recommendations, and how it should be interpreted. Thus, the last amendments to the German law regulating political finance contain a general justification followed by an article-by-article explanation. [3] Moreover, the official justification submitted by the legal drafters repeats explanations on all articles which remain unchanged (instead of simply focusing on all novelties or treating them separately). All in all, the **justification** is significantly **non-transparent**.

This aside, the justification is also unclear on the following:

“Moreover, the working version of the Draft Law was sent to OSCE/ODIHR experts with the aim of receiving their opinions on the agreed proposals, alternative provisions and open issues contained in the text of the proposed provisions.”

What was the **outcome** of this consultation? Did OSCE/ODIHR approve of the proposals?

Furthermore, the explanatory notes state that it was the intention of the legislator “to implement all OSCE/ODIHR recommendations regarding the 2016 parliamentary elections and the 2018 presidential elections”. However, the explanatory notes do not specify which recommendation is implemented **concretely** through which new article.

[3] <http://dipbt.bundestag.de/dip21/btd/18/068/1806879.pdf> (in German), article-by-article explanations starting on page 13.

The novelties introduced as per the official justification are (quotes from the justification with emphasis added):


- An important novelty is an **audit** by the State Audit Institution, based on the assessed risk and criteria from the Guidelines on the Methodology of Performing Financial and Regularity Audits, as well as the obligation of the State Audit Institution to audit, over a four-year period, the annual consolidated financial statements of all political parties represented in parliaments at national and local level.
- The novelty in this section refers to the payment of **membership fees**, which have to be paid by political party members from their current account, as well as to the payment of contributions, which can be received exclusively through the transfer account of a political entity. It also prohibits acquiring a stake or shares in a company, as well as gaining income from a promotional or commercial activity.
- A significant novelty is the introduction of new criteria for the mechanism of **budgetary funds** allocation for financing the ordinary activities of political entities in the parliament and municipal assemblies, in such a way that 20% of planned funds goes in equal amounts to political entities that have won seats in the Parliament and municipal assemblies respectively.
- It is stipulated that additional budgetary funds for regular financing of **women's** organizations in political parties in the Parliament and municipal assemblies will be distributed. This novelty is a significant step towards strengthening the promotion of the under-represented gender, that is, increasing the participation of women in political life.
- As for the financing of ordinary activities of political entities from private sources, the novelty is the increased amount that can be paid by a **natural person or a legal entity** on an annual basis.

- Novelties in this chapter refer to election **campaign** financing using the funds from an **ordinary account**. In other words, a political entity that has funds in its ordinary account may decide to use the funds raised for its ordinary activities for election campaign purposes, based on a separate decision submitted to the Agency, provided that the funds must be paid into a special account for election campaign financing.
- An important novelty in this chapter is the obligation on political entities which start election campaign and open the special transfer account before the electoral list is confirmed, to **repay** the **unspent funds** to the payers in proportion to the amount paid or pay them to the state budget [...].
- The novelty here concerns increased amounts that can be paid by a **natural or legal entity** on an annual basis.
- The novelty in this section is prohibition to make a **promise** or give assurances of political or any other consideration **in return**, privilege or personal benefit to a natural or legal entity for the purpose of obtaining financial, material or non-monetary support for a political entity.
- The novelty is the prohibition on **companies** founded or majority owned by the **state** or **local government** unit, except in certain cases, to give machinery and equipment to third parties for use without a special decision and without a remuneration for services agreement, for a period of six months before the time planned for holding elections.
- The novelty refers to the prohibited introduction of new or one-off **electricity subsidies** and subsidies for the payment of utility services in the year in which regular elections are held, and in the case of early elections, in the period between the date of calling an election up to two months from the determination of final election results.
- Another novelty is the prohibition of **liabilities write-offs** by virtue of pardoned VAT, other taxes and parafiscal charges, in the period between the date of calling an election up to two months from the determination of final election results.

- Another novelty is that this Law imposes a new obligation on the **Agency** to introduce regular, **proactive checks** of compliance with laws by state authorities, public administration bodies, local government bodies, local administrative bodies, public enterprises, public institutions, state funds and companies that are wholly or partially owned by the state or local government units.
- An obligation is also introduced on **political entities** to regulate the mode in which **internal control** of financial operations will be carried out, as well as to designate a person responsible for financial operations, set forth the mode in which an entity member examines the revenues and expenditures of the entity and adopt a financial plan and work plan by the end of the current year for the following year.
- The novelty is an obligation to **audit**, within a **four-year period**, the annual consolidated financial statements of all political parties represented in parliaments at the national and local level respectively.
- The novelty refers to the extension of the **statute of limitations** on misdemeanour prosecution. Misdemeanour proceedings cannot be instituted if three years have elapsed since the day on which the misdemeanour was committed. Another novelty is that time-barred misdemeanour prosecution takes place in each case after the expiry of six years as of the day on which the misdemeanour was committed.

3.4 Challenges for implementation

As per Art. 72 of the Law 2020, "implementing regulations for the present Law shall be adopted by the Agency within 60 days as of the date of entry into force of this Law. Pending the adoption of secondary legislation set out in paragraphs 1 and 2 of this Article, the secondary legislation enacted based on the Law [2015] [...] shall apply." For political parties, the deadline is 90 days to "align their activities with this Law" (Art. 73).



The Draft Law was passed with the votes of the governing coalition. It was published in the Official Gazette No. 3/2020 on 23 January 2020. According to its Art. 77, the new “Law shall enter into force on the eighth day following that of its publication in the Official Gazette of Montenegro”, i.e. Friday, 31 January 2020. Thus, secondary legislation has to be adopted by about 1 May 2020. Political parties will have time until about 30 May 2020.

The lack of transparency of which articles changed and which did not will make it unnecessarily difficult to implement the legislation. This aside, it seems risky if not messy to have **secondary legislation** on the old Law 2015 in force: It would be a surprise if it would tally with the Law 2020 as well.

3. 5 Parliamentary procedure

According to NGO-reports, the **debate** on the Draft Law lasted **35 minutes**. [4] This seems short, not least given the importance of the issue for all political parties inside and outside Parliament, and for the state of corruption in Montenegro, while the concrete scope of reform was rather unclear from the explanatory notes.

[4] MANS statement of 22 January 2020, <http://www.mans.co.me/en/it-is-unacceptable-for-the-government-to-amend-electoral-laws-on-its-own/>.

4

Foreign funding

4.1 Legislative loophole: funding of media campaigns

The March 2019 paper gave the following

Recommendation 1: Article 24 para. 3 of the LFPEEC is amended by a sentence 2 as follows:

"For other states, companies and legal entities outside the territory of Montenegro, and for natural persons and entrepreneurs who do not reside in Montenegro, the prohibition applies also outside this period."

The respective Article 33 of Law 2020 has remained unchanged. The recommendation is not implemented.

4.2 Oversight powers

The March 2019 paper gave the following

Recommendation 2: Art. 45 LFPEEC should be amended by new paras. 6-7 as follows:

"(6) Data in para. 2 includes data falling under business and other secrets banking data, data from the Administration for the Prevention of Money Laundering, data from domestic and foreign open sources (including for-pay-databases).

(7) The Agency can exchange data in direct contact with foreign authorities to the extent they cooperate with the Agency. The Agency can request assistance from other authorities on international data exchange, in particular tax authorities and judicial authorities."

Art. 45 para. 5 LFPEEC should be amended by a sentence 2 as follows:

"The Agency may confiscate data and documents held back by private natural or legal persons without due justification as per [existing set of rules on administrative/investigative confiscation]."

The respective Article 57 of Law 2020 has remained unchanged. The recommendation is not implemented.

5

Abuse of state resources

5.1 Active oversight

The March 2019 paper gave the following

Recommendation 3: Art. 35 LFPEEC should be amended by a sentence 2:

“The special act shall foresee regular proactive verifications of compliance by public bodies. Public authorities and their subunits are selected for such compliance audits based on risk, random, and similar criteria.”

Article 46 para. 2 and 3 of Law 2020 implement this recommendation as follows:

“*The special act set out in paragraph 1 of this Article shall regulate regular, **proactive checks** of compliance with laws by state authorities, public administration bodies, local government bodies, local administrative bodies, public institutions, state funds and business organisations that are wholly or partially owned by the state or local government units.*

*The entities set out in paragraph 2 of this Article shall be selected for compliance audit based on **risk**, by a **random** selection system or based on some other criterion in compliance with law or a separate law.”*

Recommendation 3 is implemented.

5. 2 Complaints management

The March 2019 paper gave the following

Recommendation 4: Art. 44 LFPEEC shall be amended by a para. 5:

“(5) The agency shall inform the public about all complaints and their outcome, including but not limited to the alleged category of violation, the public body concerned, the date of the alleged violation, the substantiation of the complaint, efforts undertaken by the Agency, the outcome, and the file number of the complaint (‘public registry of complaints’). Data shall be published online, through a single searchable website, free of charge, indexable and downloadable in full as machine-readable open data. New complaints are put on the public registry within 10 working days. The public registry of complaints is updated every two months regarding efforts undertaken by the Agency and the outcome.”

Art. 56 of Law 2020 does not implement this recommendation. However, it introduces the following paragraphs 3-5:

“*The Agency shall decide to initiate or not to initiate procedure upon a complaint submitted by a natural or legal entity.*

The Agency shall inform the complainant in writing of its decision to initiate or not to initiate the procedure under a report and it shall submit its decision to the complainant with a statement of reasons, within 15 days from the date of submission of the report.

The Agency shall guarantee anonymity to the complainant set out in paragraph 2 of this Article.”

Paragraph 3 clarifies explicitly that the Agency has to take a decision upon a complaint. The deadline is 15 days upon submission of the report. The decision has to be reasoned. Instead of informing the public as proposed in above recommendation 4, the Agency has to inform the complainant. Anonymity is guaranteed. However, the reference to paragraph 1 of Article 56 is somewhat unclear: Shall the Agency label an inquiry based on an anonymous report as an “ex officio” investigation? All in all, paragraphs 3-5 of the new Article 56 bring noteworthy improvements. However, it is important to keep in mind that the transparency aspect of this recommendation remains largely non-implemented. Recommendation 4 is partially implemented.

5.3 Analytical cards

Recommendation 5: Art. 28 LFPEEC is amended by a new paragraph 4 as follows:

“The analytical cards should provide information at least on the following categories of information: Budget line, transaction number, Recipient/supplier including the registration number in case it is a legal entity, amount, date.”

Art. 46 para. 4 of Law 2020 implements this recommendation.

Recommendation 6: Art. 29 LFPEEC should be amended by a new para. 4 as follows:

“State and local budget consumer units as per para. 1 of this Article includes public enterprises or other businesses or legal persons exercising public authority, i.e. activities of a public interest or state-owned, as defined in Article 3 of the Law on Prevention of Corruption.”

The new paragraph 3 of Art. 38 of Law 2020 implements this recommendation:

“The prohibition set out in paragraph 1 of this Article shall also apply to legal entities exercising public competences or activities of public interest based on contracts with the competent authority and to business organisations owned by the state or local government units in compliance with the law governing corruption prevention.”

6 Transparency

6. 1 Record keeping and evidence

Recommendation 7: Art. 37 LFPEEC should be amended by new para. 6 as follows:

“The political entity shall hold accounting records and supporting documentation for ten years, including but not limited to contracts, invoices, receipts, and banking statements. In case records and documentation are missing, the political entity carries the burden of proof for their existence in all civil and administrative proceedings.”

Art. 48 of Law 2020 does not implement this recommendation. It delegates the regulation of this question to the Ministry of Finance, as did the previous Law 2015 (without requiring a ten-year archiving period).

6. 2 Internal regulations

Recommendation 8: Art. 38 LFPEEC should be amended by a new sentence 2 in para. 1, and a new para. 3 as follows:

“(1) [...]. Sentence 1 of this paragraph includes agreements between components of political entities on the division of responsibilities relating to financing.

(3) The political entity submits the documents referred to in paragraphs 1 and 2 of this Article to the Agency within seven days from their adoption. The Agency shall publish documents referred to in paragraphs 1 and 2 of this Article on its website, within seven days from the day of receipt.”

Art 2 para. 3, Art. 13 para 6, and Art. 24 para 4 and 6 of Law 2020 contain new regulations in this regard. However, only information on the responsible person is published but not any of the above-mentioned documents. Art. 48 of Law 2020 does not implement this recommendation.

6.3 Financial reports

Recommendation 9: A new Art. 9a LFPEEC (concerning all reporting) should be inserted as follows:

*“Article 9a, Minimum accounting and reporting standards
(1) Accounting as required by this law shall follow the [tbd] standard.
(2) Income accounting shall cover: [...]
(3) Expenditure accounting shall cover: [...]
(4) The asset and liability statement shall cover: [...]
(5) An explanatory part shall be appended to the asset and liability statement which must cover the following items, in particular: [tbd].”*

Law 2020 does not implement this recommendation.

6.4 Accountability for reporting

Recommendation 10: The new Art. 9a LFPEEC (concerning all reporting) should include a para. 6 as follows:

“(6) Financial reports and statements due under this law need to be signed by the chairperson and the responsible person (in case of political parties) or by the candidate and the responsible person (in case of candidates). The aforementioned persons shall, by their signature, affirm that the information in their statements of accounts has been given truthfully and to the best of their knowledge and belief.”

It should be recalled that without a clear definition who is (at minimum) responsible for financial reports, there is no or little accountability. The same is true, if the responsible person is just a front person, which can easily be “sacrificed” to criminal liability. In other words: financial compliance is a responsibility of the top, not of “just any” designated person. The German law for example defines exactly who signs the financial reports (Political parties: chairperson and board member responsible for finances = responsible person). [5] Law 2020 does not implement this recommendation.

[5] § 23 para. 1 sentence 2 German Law on Political Parties: “Their statements of accounts shall be signed by the chairperson and an Executive Committee member responsible for financial matters and elected by the party convention, or by an Executive Committee member elected by a body responsible, under the statutes, for the party’s financial matters. These Executive Committee members shall, by their signature, affirm that the information in their statements of accounts has been given truthfully and to the best of their knowledge and belief.”, English translation: <https://www.bundestag.de/blob/189734/2f4532b00e4071444a62f360416cac77/politicalparties-data.pdf>.

6. 5 Media discounts

Recommendation 11: Art. 13 para. 3 LFPEEC should be amended by sentence 2-4 as follows:

“The list must be exhaustive and enable an outsider to calculate the price of any advertising service based solely on the list. The list has to be submitted on the first day of the election campaign at the latest. Media services not having submitted their list or having submitted a list not complying with this article by this deadline are prohibited from providing media advertising services to political entities for the duration of that campaign.”

Art. 16 of Law 2020 implements this recommendation, in particular in para. 4-11.

6. 6 Interim reports

Recommendation 12: Art. 39 LFPEEC should be amended by a new para. 6 as follows:

“A political entity shall prepare an interim report on the origin, the amount and structure of the funds from public and private sources received and expended during the period from the day of calling the election until the day it submits the electoral list to the electoral commission. Paragraphs 1-5 of this Article apply appropriately.”

Art. 50 of Law 2020 does not implement this recommendation.

7

Sanctions

7.1 Additional offence: lack of cooperation

Recommendation 13: Art. 45 LFPEEC should be amended by a new para. 8 as follows:

“(8) Any person who fails to cooperate or fails to provide any information and documents required by the Agency within the set time limits, including in electronic form, shall be liable to a fine from 500 € to 2,000 €. An entrepreneur shall be fined by a fine from 200 € to 4,000 €.”

Art. 57 of Law 2020 does not contain a respective sanction. However, the following new offences apply in this regard: Art. 64 no. 20 (for legal entities), Art. 68 no. 43 (for state entities), Art. 70 no. 10 (for individuals). Recommendation 13 is implemented.

7.2 Additional offence: lack of submitting internal documents

Recommendation 14: Art. 53 LFPEEC should be amended by a new para. 18a as follows:

“(18a) fails to submit the documents referred to in paragraphs 1 and 2 of this Article to the Agency within seven days from their adoption (Art. 38 para. 1 and 2).”

Art. 66 of Law 2020 does not implement this recommendation.

7.3 Statutes of limitations

Recommendation 15: In Article 58 para. 1 LFPEEC “two years” should be replaced by “*four years*”, and in Article 58 para. 2 LFPEEC “*four years*” should be replaced by “*eight years*”.

Art. 71 of Law 2020 increases the duration to three and six years (emphasis by author):

“*Misdemeanour procedure in cases of misdemeanours set out in Articles 64 - 70 of this Law may not be initiated if **three years** have elapsed as of the date when the misdemeanour was committed.*
*Time-barred misdemeanour prosecution shall take place in each case after the expiry of **six years** as of the date when the misdemeanour set out in Articles 64 - 70 of this Law was committed.*”

Recommendation 15 is **implemented partially**. The shortness of three years is also evident if one looks at the auditing cycle prescribed by Art. 55 para. 3 of Law 2020: “The State Audit Institution shall **audit**, within a **four-year period**, the annual consolidated financial statements of all political parties represented in parliament at national and local level.” This means, on average, all parties are audited every four years. All irregularities detected that are already 3-4 years old by the time of the audit will have run out of statutes of limitations.

7.4 Criminal offences

Recommendation 16: For cases where significant amounts are concerned, the offences in Art. 53 and 56 LFPEEC need to be complemented by criminal sanctions. Thus, a new Art. 425 “*Illegal Political Financing*” should be inserted into the Criminal Code, reflecting the thresholds and sanctions in Art. 244 of the Criminal Code (“*Fraud*”) through the following two paragraphs (the exact wording would need to be adapted to Montenegrin standards of criminal legislation):

“(1) Anyone, who in the course of political financing,

- a. raises funds from private sources beyond the legal limit,*
- b. exceeds the costs of an election campaign beyond the legal limit,*
- c. provides or receives material and financial assistance and in-kind contributions from prohibited sources,*
- d. exerts pressure on legal entities, companies and natural persons in raising contributions or any other activity related to the election campaign or financing of political entities, or*
- e. fails to return the funds to the Budget of Montenegro in case private funding exceeds legal limits, and the funds or value exceed 3,000 €, shall be punished by a fine or a prison term up to three years.*

“(2) Where the funds or value exceed 30,000 €, the perpetrator shall be punished by a prison term from one to eight years.”

Recommendation 17: Art. 158 no. 3 Criminal Procedure Code (“*Criminal offenses for which secret surveillance measures can apply*”) should be amended after “abuse of office” with “illegal political financing”.

Recommendation 18: In Art. 137 para. 1 Criminal Code “425” should be added after “424”.

Law 2020 does not implement these recommendations. It should be noted though, That Article 193v of the Criminal Code vaguely defines an offence as proposed by recommendation 16.

7.5 Reimbursement of public funds

Recommendation 19: Art. 11 LFPEEC should be amended by new para. 11 and 12 as follows:

“(11) The Agency shall reclaim the payment of funds referred to in paragraph 4 of this Article to a political entity, if they detect inaccuracies in the statement of accounts. The reclaimed sum shall be twice the amount of the wrongly stated sum.

(12) A political entity which has accepted funding prohibited under the provisions of Chapter IV, shall be liable to pay three times the amount of the illegally obtained sum of money or value.

(13) The Agency shall, by an administrative act, determine the political entity’s liability to pay the respective amount to the budget from where it was disbursed. The administrative act must be adopted within ten years from the disbursement of funds.”

Law 2020 does not implement this recommendation. While Art. 60 of Law 2020 provides many more details on the forfeiture of state funding (as compared to the Art. 48 of Law 2015), it does not introduce any forfeiture of a multiplied sum:

Law 2015

Law 2020

Article 48 Measures

Article 60 Measures

The Agency shall pronounce the measures of warning to a political entity if it ascertains the shortcomings which can be removed in the procedure of control.

Where it finds, during its control, shortcomings which can be remedied, the Agency shall impose a measure of warning to the political entity.

Should the political entity fail to act upon the warning measure, until the expiry of the deadline defined in the decision, or should the violation of this Law occur, which shortcomings cannot be removed, the Agency shall file a motion for initiation of a misdemeanour procedure before the competent court.

*Where the political entity fails to act upon the warning by the expiry of the time limit defined in the decision, **which may not be shorter than 10 nor longer than 30 days**, or where a violation of this Law whose shortcomings cannot be remedied is at issue, the Agency shall file an application to initiate a misdemeanour procedure before the court of appropriate jurisdiction.*

In case of violation of the Law referred to in Article 11 paragraph 10, Article 14 paragraph 4 and Article 20 paragraph 4 of this Law, the Agency shall adopt a decision on temporary suspension of transfer of budget funds to the political entity until the adoption of the final decision in the misdemeanour procedure.

*In cases of violation of the provisions of this Law relating to election campaign financing, the Agency may impose on the political entity measures of **total or partial forfeiture** of the right to a transfer of budgetary funds for election campaign financing set out in Article 20 of this Law or the measure of suspending the transfer of budgetary funds for election campaign financing, in compliance with and in the manner laid down by this Law.*

Where the political entity fails to submit a report within the prescribed time limits and pursuant to the prescribed mode, fails to open a transfer account in the election campaign or to submit a decision designating the responsible person, the Agency shall impose to the political entity a measure suspending the transfer of budgetary funds for covering election campaign expenditure.

Law 2015

Law 2020

Suspension of the transfer of budgetary funds for covering election campaign expenditure set out in paragraph 4 of this Article shall last until the duly fulfilment of obligation, and at the latest until the expiry of the time limit for closing the special transfer account in the election campaign set out in Article 25 of this Law.

If the obligation is not duly fulfilled by the time limit laid down for closing the special account set out in Article 25 of this Law, the Agency shall impose on that political entity the measure of complete loss of budgetary funds for covering election campaign expenditure.

The Agency may pronounce the measure of partial or full loss of entitlement to budget funds for financing of the election campaign costs to a political entity in case when the funds for financing of the election campaign costs are not used for financing of the election campaign costs, in accordance with Article 13 of this Law, as well as in case of acquiring of funds contrary to Article 18 and 22 of this Law.

The Agency shall impose the measure of complete forfeiture of the right to budgetary funds for covering election campaign expenditure to a political entity in case of conviction of the political entity for a misdemeanour set out in Article 66, paragraph 1, items 1, 6, 20, 29 and 40 of this Law.

The Agency shall impose on the political entity the measure of partial loss of the corresponding amount of budgetary funds for covering election campaign expenditure, if that political entity exceeds the maximum amount allowed under Article 18 of this Law.

Law 2015

Law 2020

The measure of partial loss of budgetary funds for covering election campaign expenditure shall be imposed to the extent that the maximum allowed amount set out in Article 18 of this Law has been exceeded.

Where the amount exceeding the maximum allowed amount is greater than the corresponding amount of budgetary funds for covering election campaign expenditure, the Agency shall impose on such a political entity the measure of complete loss of budgetary funds belonging to that political entity in compliance with Article 20 of this Law for covering the election campaign expenditure.

In cases of violation of the provisions of this Law relating to financing ordinary activities of political entities, the Agency may impose on the political entity measures of suspension of the budgetary funds transfer for ordinary activities financing or the measure of loss of such funds, in compliance with and in the manner laid down by this Law.

Where the report on the financing of ordinary activities of the political entity is not submitted, the Agency shall impose on the political entity a measure suspending the transfer of budgetary funds for covering the ordinary activities of the political entity.

Law 2015

Law 2020

Temporary suspension of the transfer of budgetary funds for financing ordinary activities to such a political entity shall last until the proper fulfilment of the obligation, but at the longest until the end of the budgetary year in which the political entity is obliged to submit a report for the previous year to the competent authority.

If the obligation set out in paragraph 12 of this Article is duly fulfilled by the end of the budgetary year at the latest, the temporary suspension of the transfer of funds set out in paragraph 13 shall terminate on the day of fulfilment, and the funds shall be paid to the political entity without a reduction.

If the obligation set out in paragraph 12 of this Article is not duly fulfilled by the end of the budgetary year, the political entity shall lose the entitlement to be transferred budgetary funds for financing ordinary activities for that budgetary year, in the amount due to it, in compliance with Article 13 of this Law, from the date of expiry of the time-limit for submission of the report by the end of the budgetary year.

The decision on the forfeiture of rights set out in paragraph 15 of this Article shall be taken by the Agency.

Article 61 [no title in original]

Decision of the Agency referred to in paragraph 4 of this Article is final and an administrative dispute cannot be instituted against that decision.

The decision of the Agency set out in Article 60 of this Law shall be final and an administrative dispute may be instituted against that decision.

Law 2015

Decision referred to in paragraphs 3 and 4 of this Article shall be submitted by the Agency to the Ministry and the local administration body, respectively.

Article 49 Consistent Application

Funds raised contrary to this Law shall be seized in accordance with the Law on Misdemeanours.

Law 2020

The Agency shall submit the decision set out in Article 60 of this Law to the Ministry or to the local administrative authority.

Article 62 Relevant application

Funds raised in contravention to this Law shall be seized in compliance with the Law on Misdemeanours.

Recommendation 20: Art. 20 LFPEEC should be amended by new para. 5-7 as follows:

“(5) The Agency shall reclaim the payment of funds referred to in paragraph 3 of this Article to a candidate, if they detect inaccuracies in the statement of accounts. The reclaimed sum shall be [twice] [6] the amount of the wrongly stated sum.

(6) A candidate which has accepted funding prohibited under the provisions of Chapter IV, shall be liable to pay three times the amount of the illegally obtained sum of money or value.

(7) The Agency shall, by an administrative act, determine the candidate’s liability to pay the respective amount to the budget from where it was disbursed. The administrative act must be adopted within ten years from the disbursement of funds.”

Law 2020 does not implement this recommendation. There is no requirement for double or multiple reimbursement nor has the deadline been adapted respectively.

[6] Omitted in the original recommendation.

7.6 Additional offence: false accounting

Recommendation 21: Art. 245 para. 1 Criminal Code should be amended by adding “*budget funds for financing election campaign costs*” after “*subsidy*”.

Law 2020 does not implement this recommendation.

Recommendation 22: Art. 53 LFPEEC should be complemented with a new number 27 as follows:

“[A fine shall be imposed on a political entity, if it] submits a statement of accounts and consolidated financial statement which do not reflect the income or expenditures of the political entity correctly, and the deviation amounts in total to more than 500 €” (the offence would apply to the responsible person as well, Art. 53 para. 2 LFPEEC).

Art. 66 no. 47 of Law 2020 by and large addresses this recommendation. It implements this recommendation.

Recommendation 23: The new Art. 425 “*Illegal Political Financing*” Criminal Code (see above at 7.4) should contain a para. 3 as follows:

“(3) The responsible person in a political entity who submits a statement of accounts and consolidated financial statement which do not reflect the income or expenditures of the political entity correctly, and the deviation amounts in total to more than 3,000 € shall be punished by a fine or a prison term up to three years.

“(4) Where the funds or value exceed 30,000 €, the perpetrator shall be punished by a prison term from one to eight years.”

Law 2020 does not implement this recommendation.

7.7 Whistleblower protection

Recommendation 24: Art. 2 LPC should be amended by adding “including violations of the Law on Financing of Political Entities and Election Campaigns”.

Art. 56 of Law 2020 obliges the Agency to “guarantee anonymity to the complainant set out in paragraph 2 of this Article.” However, whistleblower protection is something different: It is in principle not anonymous, as only a known person can usually be protected. Hence, Law 2020 does not implement this recommendation.

7.8 Foreign funding

Recommendation 25: Art. 57 LFPEEC should be amended by a new no. 2a as follows:

*“[A fine shall be imposed on a natural person, if s/he] **provides** material and financial assistance and in-kind contributions from: other states, companies and legal entities outside the territory of Montenegro, natural persons and entrepreneurs who do not have the right to vote in Montenegro, anonymous donors, public institutions, legal entities and companies with the share of state-owned capital, trade unions, religious communities and organizations, non-governmental organizations, casinos, bookmakers or other providers of games of chance (Article 24 paragraph 1)”.*

Law 2020 does not implement this recommendation.

8

Reform issues beyond the 2019 Assessment

8.1 Gender equality

The Law 2020 contains a new provision in Art. 13 distributing state funds based on gender equality:

“*[T]he remaining 20% shall be distributed in equal amounts to political entities in the Parliament and municipal assemblies, in proportion to the number of elected representatives of the underrepresented gender.*”

The provision aims to address the underrepresentation of women in the Montenegrin Parliament: Less than a **third** (29.63%) of MPs are **women**. [7] It is worth noting that the governing party **DPS** has the highest share of women MPs (37%), as opposed to – for example – the DF (29%) or the SDP (25%). [8] While the rationale of Art. 13 of Law 2020 is still a commendable one, the introduction of this provision will favour in particular the DPS. This puts an additional possible financial motive into the picture.

8.2 Transparency

The new Law 2020 contains a number of commendable improvements increasing transparency (emphasis by author):

***Art. 5 para. 2:** The Agency shall develop a record of the control results, which shall be submitted to the controlled entity and published on the Agency's **webpage**.*

[7] <https://www.osce.org/mission-to-montenegro/440630>; <https://www.ipu.org/parliament/ME>.
[8] <https://engnews24h.com/minority-women-are-a-rarity-in-the-parliament-of-montenegro/>.

Article 13 para. 5: *The amount of funds set out in paragraph 4 of this Article, as well as the amount of outstanding funds for financing the ordinary activities of political entities, shall be published by the Ministry and the local administrative body on its **webpage**, by the fifth of the month for the previous month.*

Article 16 para. 3: *Political entities shall submit to the Agency a **report** on media advertising during the election campaign, within **seven days** before the election day.*

Article 16, para. 7-11: *Entities which fail to **submit** to the Agency a **price list** of election advertising in compliance with the time limit set out in paragraph 6 of this Article shall be prohibited from providing media advertising services during the election campaign.*

*The price for all services provided to political entities shall be specified in nominal terms in the **price list** provided to the Agency.*

*The **price list** set out in paragraph 6 of this Article shall not be changed during the election campaign.*

*Entities providing media advertising services during an election campaign shall **submit** to the Agency the contracts they have concluded with political entities regarding the election campaign within five days from the date of contract conclusion.*

*The Agency shall **publish** the **price lists** and **contracts** set out in paragraphs 6 and 10 of this Article on its **webpage**, within five days from the date of receipt.*

Article 40: *The information set out in paragraphs 5 and 6 of this Article shall be published on the **webpages** of institutions collecting them and shall be submitted on a **seven-day** basis to the Committee and the Agency.*

Article 46 para. 4 and 5: *The subledger cards set out in Articles 38, 40 and 41 of this Law shall provide **precise and complete information** on the following categories at least: budgetary line, transaction number, recipient / payer, as well as the registration number for the legal entity (tax identification number - TIN), amount and date.*

*All acts, information and documents set out in Articles 38, 39, 40, 41, 43 and 44 of this Law, submitted by the authorities and legal entities to the Agency, shall be published by the Agency on its **webpage** within **three days** from the date of submission.*

However, the new transparency does **not** extend to **all areas** needed. For example, in Art. 41 para. 3 of Law 2020 decisions allocating and paying funds still are not published on the website of the Agency, as was already the case with Art. 30 para. 3 of Law 2015:

Article 41 para. 3: The information set out in paragraphs 1 and 2 of this Article, as well as all decisions allocating and paying the funds shall be submitted every week to the Committee and the Agency.

In this regard it should also be noted that Art. 50 para. 5 of Law 2020 only foresees submission of **bank statements** to the Agency, but not their publication on the website.

Another example is Art. 38 para. 5 of Law 2020. While the prohibition on additional spending during election campaigns now extends to state-owned companies (Art. 38 para. 3 of Law 2020), the obligation for publishing subledger cards does not (Art. 38 para. 5 of Law 2020).

8.3 Income

As a commendable feature, the new Law 2020 introduces the following explicit prohibition:

Article 8: It shall be prohibited for a political party to acquire a stake or shares in a business organisation. A political entity may not obtain income from a promotional or commercial activity.

Art. 15 para. 4 and 5 of Law 2020 – while doubling the thresholds for each donation – introduces a new cap for all private donations combined:

(4) A natural entity may pay a maximum of 5,000 EUR, while a legal entity may pay a maximum of 20,000 EUR annually for the financing of a political entity.

(5) The funds set out in paragraph 4 of this Article shall not exceed the total amount of funds that political entities may use for their ordinary activities and for covering election campaign expenditure.

However, the cap in para. 5 seems to **contradict** the cap in para. 1 of Art. 15:

The amount of funds from private sources raised by the political entity for ordinary activities in the current calendar year may amount up to 100% of the funds belonging to it from budgetary funds, in compliance with Article 13, paragraph 4 of this Law.

The cap in para. 1 rather means that private sources can amount to about **50%** of the overall budget, while para. 5 seems to suggest they can amount to about **100%** of the overall budget. This contradiction needs clarification.

New prohibitions on **quid pro quo** donations (Art. 34), and on the use of **state funds** (Art. 38 para. 3) are also commendable features of Law 2020.

On 24 April 2020, Parliament adopted an addition to Art. 40 para. 3 (addition underlined):

It shall be prohibited to allocate social welfare benefits in the year in which local or parliamentary elections are held from the current budgetary reserve from the state and local level, except in the cases of state of war, state of emergency, epidemics or pandemics.

On the one hand, political finance laws must prevent “gifts” in exchange for votes. Such gifts would be financed from the budget but benefit the political party politically responsible for that “gift”. Such gifts thus function as a third-party donation to the party’s campaign (and are thus counted here under the headline of “income”). On the other hand, it might be necessary under extraordinary circumstances to deviate from this rule. All in all, the addition is an acceptable result of balance both needs.

8.4 Expenditures

Art. 17 para. 1 of Law 2020 effectively **finishes** with the strict **separation** of financing ordinary activities and election campaign activities. Thus, the separate accounts only serve the purpose of tracking expenditures and monitoring compliance with spending limits. In principle, there is no international standard requiring financing for ordinary activities and campaign activities to be separate. In Germany for example, there are no separate accounts for ordinary and campaign financing. The Council of Europe Technical Paper of 2017 observed in this regard: “From a wider perspective, the separation of income for ordinary activities from income for election campaigns – in addition to being ambiguous legally – lacks a sound rationale”. [9]

This aside, Art. 19 of Law 2020 introduces commendable new limitations on campaign expenditures (prohibition on personal use). Furthermore, Art. 24 para. 5-7 of Law 2020 bring welcomed clarifications on the distinction of political entities in coalitions.

8.5 Synopsis of offences

The following is the result of a precursory review of the penal provisions in both laws. “Essentially same” either means that provisions by and large address the same issue, or are even worded the same (disregarding differences in English translations). “New” means, that the provision is either entirely new, or is at least put in a new context.

In total, the number of **offences** has increased significantly in order to sanction the increased number of obligations under the new Law 2020. However, the most striking **weakness** of Law 2020 is that sanctions remain almost entirely administrative and are in many cases restrained to minimal fines, and pale in their lack of deterrence, if compared internationally. It should also be noted that the Law 2020 is even **weaker** than the Law 2015 in some regards. Three **offences** as foreseen by the Law 2015 are **missing** in the Law 2020: Art. 55 no. 13 of Law 2015 (failure to distribute funds), Art. 55 no. 22 of Law 2015 (use of official car for campaign purposes), and Art. 57 no. 7 of Law 2015 (use of official car for campaign purposes).

8. 5. 1 Art. 64 of Law 2020

Law 2015	Law 2020	Comment
Article 51	Article 64	
A fine from 5,000 euros to 20,000 euros shall be imposed for a misdemeanour on a legal entity, if:	Legal entities shall be punished for a misdemeanour with a fine ranging from 5,000 EUR to 20,000 EUR, if they:	Essentially same
1) it fails to adopt the decision on contribution and fails to submit it to the recipient of the contribution (Article 6 paragraph 4)	1) fail to issue a decision on the contribution and submit it to the contribution recipient (Article 7, paragraph 5);	Essentially same
2) it pays more than 10,000 euros per annum for financing of the political entity (Article 12, paragraph 4);	2) pay more than 20,000 EUR annually for the financing of a political entity (Article 15, paragraph 4);	Same (adapted to new threshold)
3) provides services of media advertising of the election campaign and fails to submit to the Agency the price list of election advertising (Article 13 paragraph 3);	3) provide election campaign media advertising services without submitting to the Agency the price list of media advertising services during the election campaign, within ten days from the date of calling an election (Article, 16 paragraph 6);	Same (adapted to new deadline)
	4) act in contravention to Article 16, paragraph 7 of this Law;	New– reflects the amendments to Art. 16
	5) fail to set the price for all services provided to political entities in the price list submitted to the Agency (Article 16, paragraph 8);	New– reflects the amendments to Art. 16
	6) change the price list set out in Article 16, paragraph 6 of this Law during the election campaign (Article 16, paragraph 9);	New– reflects the amendments to Art. 16

Law 2015	Law 2020	Comment
	7) provide media advertising services during an election campaign but fails to submit to the Agency the contracts concluded with political entities regarding the election campaign, within five days as of the date of contract conclusion (Article 16, paragraph 10);	New – reflects the amendments to Art. 16
4) makes a payment or a contribution in the amount exceeding 10,000 euros for the financing of election campaign (Article 21 paragraph 3)	8) make a payment or a contribution of more than 20,000 EUR for election campaign financing (Article 29, paragraph 3);	Same (adapted to new threshold)
5) in the period from the day of calling until the day of holding of the elections, runs a media and public campaign on behalf or for the needs of political entities (Article 24 paragraph 3);	9) conduct a media and public campaign on behalf or for the needs of political entities in the period from the date of calling an election until the election day (Article 33, paragraph 3);	Essentially same
6) acts contrary to Article 24 paragraph 5 of this Law;		Art. 24 para. 5: “ Legal entities, companies and entrepreneurs and related natural persons which, based on a contract with the competent bodies, in accordance with the Law, performed affairs of public interest or concluded a contract in the public procurement procedure , in the period of two years preceding the conclusion of the contract, for the duration of the business relationship, as well as two years after the termination of the business relationship shall not give contributions to the political entities. Now applies only to natural persons (Art. 70 para. 6 of Law 2020: “A fine of 500.00 EUR to 2,000 EUR shall be imposed on a natural entity for a misdemeanour, if he [...]”) even though the corresponding Art. 33 para. 5 of Law 2020 addresses legal entities as well.

Law 2015	Law 2020	Comment
7) makes a contribution to a political entity against which the tax authority initiated the procedure of compulsory collection by adoption of the conclusion on compulsory collection of tax (Article 24 paragraph 6);	10) make a contribution to a political entity, while being subject of an enforced collection procedure initiated against them by the tax authority by issuing a decision on the enforced collection of tax liability (Article 33, paragraph 6);	Essentially same
8) makes a contribution to a political entity, whereas it did not meet the outstanding obligations towards the employees for a period of three months (Article 24 paragraph 7);	11) make a contribution to a political entity but have not settled their outstanding liabilities to their employees for a period of three months (Article 33, paragraph 7);	Essentially same
9) exerts pressure on legal entities, companies and natural persons on the occasion of raising contributions or any other activity related to the election campaign or financing of political entities (Article 25);	12) promise financial, material or non-monetary support to a political entity for the purpose of a political or any other consideration in return, privilege or personal benefit (Article 34, paragraph 1);	Same (adapted to lower threshold – promise instead of pressure)
	13) make contributions in cash or in the form of products or services through third parties (intermediaries) (Article 34, paragraph 2);	New– reflects the new Art. 34 para. 2 of Law 2020.
	14) act in contravention to Article 38, paragraph 3 of this Law;	Note: Art. 38 para. 3: “The prohibition set out in paragraph 1 of this Article shall also apply to legal entities exercising public competences or activities of public interest based on contracts with the competent authority and to business organisations owned by the state or local government units in compliance with the law governing corruption prevention.

Law 2015	Law 2020	Comment
<p>10) in the period from the day of calling until the day of holding of the elections, as well as one month after the elections, arrange for debt write-off to citizens, including bills for electricity, water as well as bills for all types of municipal services (Article 31);</p>	<p>15) writes-off debts of citizens, including bills for electricity, water and for all types of public services in the period from the date of calling an election until the election day, as well as one month following the elections (Article 42, paragraph 1);</p>	<p>Essentially same</p>
<p>11) fails to publish on seven-day basis on its web site all issued travel orders of official cars, from the day of calling until the day of holding of the elections (Article 32 paragraph 3);</p>	<p>16) fail to publish on the webpage on a weekly basis all issued travel orders for the use of official vehicles, from the date of calling an election until the election day (Article 43, paragraph 3);</p>	<p>Essentially same</p>
<p>12) fails to submit to the Agency, at the weekly level, travel orders referred to in Article 32 paragraphs 3 of this Law (Article 32 paragraph 4);</p>	<p>17) fail to submit to the Agency on a weekly basis the travel orders set out in Article 43, paragraph 3 of this Law (Article 43, paragraph 4);</p>	<p>Essentially same</p>
<p>13) in the period from the calling until the day of holding of the elections, employs a person for a fixed term or concludes a temporary service contract contrary to Article 33 paragraphs 1 of this Law;</p>	<p>18) in the period from the date of calling an election until the election day, employs a person for a fixed-term or hires a person under a contract of contingent and casual work in contravention to Article 44, paragraph 1 of this Law;</p>	<p>Essentially same</p>
<p>14) fails to submit all the decisions on employment adopted in line with the laws governing labour relations, rights and obligations of civil servants and state employees and obligation relations, with complete supporting documents to the Agency within three days from the day of adoption of the decision (Article 33, paragraph 2);</p>	<p>19) fail to submit to the Agency all decisions on employment taken in line with the laws governing labour relations, rights and obligations of civil servants and state employees and contractual relations, with the complete supporting documents, within three days as of the date of decision issuance (Article 44, paragraph 2);</p>	<p>Essentially same</p>

Law 2015	Law 2020	Comment
<p>15) fails to submit the requested data and notifications, i.e. fails to make possible the insight into the requested documentation in accordance with the law within the deadline and in the manner determined by the Agency (Article 45 paragraph 3).</p>	<p>20) within the time limit and in the manner decided by the Agency, fail to submit the requested information and notifications or enable the examination of the requested documents in compliance with law (Article 57, paragraph 3);</p>	<p>Essentially same</p>
	<p>21) fail to act in compliance with Article 57, paragraph 4 of this Law.</p>	<p>Art. 57 para. 3-4 of Law 2020: “The bodies, legal and natural entities set out in paragraph 2 of this Article shall, within a period of maximum 15 days and in the manner decided by the Agency, submit the requested information and notifications i.e. enable the examination of the requested documents in compliance with law. If the bodies, legal and natural entities set out in paragraph 2 of this Article fail to act within the time limit and in the manner set out in paragraph 3 of this Article, they shall immediately inform the Agency of the reasons for such a situation.”</p>
<p>For the misdemeanour referred to in paragraph 1 of this Article, the responsible person in the legal entity shall also be fined by a fine from 500 euros to 2,000 euros.</p>	<p>Responsible persons in legal entities shall also be punished with a fine ranging from 500.00 EUR to 2,000 EUR for a misdemeanour set out in paragraph 1 of this Article.</p>	<p>Essentially same</p>

8. 5. 2 Art. 65 of Law 2020

Law 2015	Law 2020	Comment
Article 52	Article 65	
<i>A fine from 5,000 euros to 20,000 euros shall be imposed for a misdemeanour on a political entity, if:</i>	<i>A political entity shall be fined with a fine ranging from 5,000 EUR to 20,000 EUR for a misdemeanour if it:</i>	<i>Essentially same</i>
<i>1) it fails to submit to the Agency and fails to publish the amount of price and possible discount in price for media advertising of the election campaign (Article 13 paragraph 2)</i>	<i>1) fails to submit to the Agency a report on media advertising during the election campaign, within seven days before the election day (Article 16, paragraph 3);</i>	<i>Essentially same</i>
	<i>2) fails to submit the report set out in Article 16, paragraph 3 in compliance with Article 16, paragraph 4 of this Law;</i>	New
	<i>3) fails to transfer to its ordinary account unused funds remaining in the special account for election campaign financing after the settlement of all liabilities (Article 17, paragraph 6);</i>	New
<i>2) fails to transfer surplus funds for financing of the election campaign, raised from private sources, to the permanent gyro account of the political entity or political entities, in line with the mutual agreement (Article 18, paragraph 4);</i>	<i>4) fails to transfer the excess funds for election campaign financing raised from private sources to the permanent transfer account of a political entity or political entities in compliance with their mutual agreement (Article 24, paragraph 8);</i>	<i>Essentially same</i>
<i>3) fails to return funds into the budget of Montenegro, and local self-government budget respectively, in case that the total amount of funds on the permanent gyro account exceeds the amount referred to in Article 12 paragraphs 1 and 2 of this Law (Article 18, paragraph 5);</i>	<i>5) fails to repay the funds to the budget of Montenegro or the budget of the local government if the total amount of funds in the permanent transfer account of a political entity exceeds the amount set out in Article 15, paragraphs 1 and 2 of this Law (Article 24, paragraph 9);</i>	<i>Essentially same</i>

Law 2015	Law 2020	Comment
	6) fails to repay the funds unspent to the payers in proportion to the amount paid or pay them to the state budget, if it abandons the submission of the electoral list, withdraws the electoral list, if the competent election commission issues a decision dismissing the electoral list submitted by it or, if the competent election commission issues a decision refusing to proclaim the electoral list submitted by it (Article 26, paragraph 1);	New
	7) acts in contravention to Article 26, paragraph 2 of this Law;	New
	8) acts in contravention to Article 26, paragraph 3 of this Law;	New
4) fails to designate a person responsible for the purposeful spending of funds and submitting of reports (Article 19, paragraph 1);	9) fails to designate a person responsible for earmarked spending of funds and submission of reports on the day following the day of the electoral list confirmation (Article 27, paragraph 1);	Essentially same
5) the signature of the responsible person is not deposited with an institution authorized for payment operations (Article 19 paragraph 2);	10) fails to deposit the signature of the responsible person with the institution authorised for payment operations (Article 27, paragraph 3);	Essentially same
6) it fails, within three days from the designation of the person referred to in Article 19 paragraph 1 of this Law, to notify the Agency and the State Audit Institution or of any change relating to the status of that person (Article 19 paragraph 3);	11) fails to inform the Agency within three days from the date of designating the person set out in Article 27, paragraph 1 of this Law, including of any change relating to the status of that person (Article 27, paragraph 4);	Essentially same

Law 2015	Law 2020	Comment
	<p>12) uses the premises of state authorities, public administration bodies, local government bodies, local administrative bodies, public institutions, state funds and business organisations founded and/or majority or partially owned by the state or local government unit for the preparation and implementation of campaign activities, unless the same conditions are provided to all participants in the election process (Article 36, paragraph 1);</p>	<p>New</p>
<p>7) distributes the promotional material of a political entity in state bodies, state administration bodies, local self-government bodies, local administration bodies, public companies, public institutions, state funds and companies founded and/or owned in major part or partly by the state or a local self-government unit (Article 26 paragraph 2).</p>	<p>13) distributes promotional materials and collects support signatures for submitting the electoral list of a political entity and submitting a nomination for Montenegrin presidential elections to state authorities, public administration bodies, local government bodies, local administrative bodies, public institutions, state funds and business organisations founded by or majority or partially owned by the state or local government unit (Article 36, paragraph 2).</p>	<p>Essentially same</p>
<p>For the misdemeanour referred to in paragraph 1 of this Article, the responsible person in the political entity shall also be fined by a fine from 500 euros to 2,000 euros.</p>	<p>The responsible person in the political entity shall also be punished for the misdemeanour set out in paragraph 1 of this Article with a fine ranging from 500.00 EUR to 2,000 EUR.</p>	

8. 5. 3 Art. 66 of Law 2020

Law 2015	Law 2020	Comment
Article 53	Article 66	
<i>A fine from 10,000 euros to 20,000 euros shall be imposed for a misdemeanour on a political entity if it:</i>	<i>Political entities shall be fined with a fine ranging from 10,000 EUR to 20,000 EUR for a misdemeanour if they:</i>	<i>Essentially same</i>
<i>1) fails to raise the private sources referred to in Article 6 of this law through a corresponding gyro account (Article 6 paragraph 12);</i>	<i>1) fail to raise funds from private sources set out in Article 7, paragraph 1 of this Law through the appropriate transfer account (Article 7, paragraph 11);</i>	<i>Essentially same</i>
	<i>2) acquire a stake or shares in a business organisation (Article 8, paragraph 1);</i>	New
	<i>3) acquire income from a promotional or commercial activity (Article 8, paragraph 2);</i>	New
	<i>4) use budgetary funds for the personal needs of candidates of a political entity (Article 9, paragraph 3);</i>	New
<i>2) raises funds from private sources for the regular operation in the current calendar year in the amount exceeding 100% of funds belonging to it from the budget funds in accordance with Article 11 paragraph 4 of this Law (Article 12 paragraph 1);</i>	<i>5) raise funds from private sources for ordinary activities in the current calendar year in an amount higher than 100% of the funds belonging to them from budgetary funds, in compliance with Article 13, paragraph 4 of this Law (Article 15, paragraph 1);</i>	<i>Essentially same</i>
<i>3) raises funds from private sources in the amount exceeding 10% of total funds referred to in Article 11 paragraph 1 of this Law if it is not entitled to budget funds (Article 12 paragraph 2);</i>	<i>6) where they are not entitled to budgetary funds, raise funds from private sources in the amount greater than 10% of the total funds set out in Article 13, paragraph 1 of this Law (Article 15, paragraph 2);</i>	<i>Essentially same</i>

Law 2015	Law 2020	Comment
4) fails to adopt a decision on the amount of membership fee for the current year at the latest by the end of January of the current year and fails to submit it to the Agency (Article 12 paragraph 3);	7) fail to submit to the Agency the decision on the amount of membership fee for the current year, by the end of January of the current year at the latest (Article 15, paragraph 3);	Essentially same
5) costs of the election campaign exceed the amount of funds referred to in Articles 14 and 17 of this Law (Article 13 paragraph 4);	8) the funds set out in Article 15, paragraph 4 of this Law exceed the total amount of funds that may be used by political entities for their ordinary activities and for covering election campaign expenditure (Article 15, paragraph 5);	Essentially same
	9) election campaign expenditure exceeds the amount set out in Article 20, paragraph 1 of this Law (Article 16, paragraph 12);	New
	10) use funds in their ordinary account raised for the ordinary activities for the election campaign in contravention to Article 17, paragraph 1 of this Law;	New
	11) pay the funds set out in Article 17, paragraph 1 of this Law into a special account for election campaign financing set out in Article 23, paragraph 1 of this Law (Article 17, paragraph 2);	New
	12) pay their own funds into a special account for election campaign financing after the date of the special account's closing (Article 17, paragraph 3);	New

Law 2015	Law 2020	Comment
	13) use funds paid into the special account for election campaign financing in contravention to Article 17, paragraph 4 of this Law;	New
	14) use funds from the special account which were collected for election campaign financing in contravention to Article 18, paragraph 1 of this Law;	New
	15) spend funds from the special account set out in Article 24, paragraph 1 of this Law, in the amount exceeding the maximum allowed amount established by this Law, following a decision of the competent election commission confirming the electoral list of the political entity (Article 18, paragraph 2);	New
	16) use the funds from the special account set out in Article 24, paragraph 1 of this Law which were raised for election campaign financing, in contravention to Article 19, paragraph 1 of this Law;	New
	17) use the funds set out in Article 19, paragraph 1 of this Law to cover the personal expenses of a political entity, or of a candidate on the electoral list submitted by the political entity and his family members (Article 19, paragraph 2);	New
	18) raise funds for election campaign financing from private sources in contravention to Article 23, paragraph 1 of this Law;	New

Law 2015	Law 2020	Comment
6) pays in an amount exceeding the thirty-fold amount of funds belonging to it in the sense of Article 14 paragraph 2 of this Law for financing of costs of the election campaign for the election of MPs and councillors (Article 17 paragraph 2);	19) pay an amount exceeding thirty-fold amount of the funds belonging to them within the meaning of Article 20, paragraph 2 of this Law for covering election campaign expenditure for parliamentary and municipal assembly elections (Article 23, paragraph 2);	Essentially same
7) fails to open a separate gyro account for the purpose of raising funds for financing of the election campaign with an institution authorized for payment operations of which it shall inform the Agency (Article 18 paragraph 1);	20) for the purpose of raising funds to cover election campaign expenditure, fail to open a special transfer account with an institution authorised for payment operations, at the latest on the day following the day of election list confirmation (Article 24, paragraph 1);	Essentially same
	21) fail to inform the Agency within three days from the date of opening the special transfer account (Article 24, paragraph 1);	New
8) uses the separate gyro account referred to in Article 18 paragraph 1 of this Law for other purposes (Article 18 paragraph 1);	22) use the special transfer account set out in Article 24, paragraph 1 of this Law for other purposes (Article 24, paragraph 1);	Essentially same
	23) start the election campaign before confirmation of the electoral list and fails to open a special account set out in Article 24, paragraph 1 of this Law (Article 24, paragraph 2);	New
9) fails to pay all the funds intended for the financing of election campaign into the account referred to in Article 18 paragraph 1 of this Law and fails to pay for all the costs of the campaign via that account (Article 18 paragraph 2);	24) fail to pay all funds intended for election campaign financing into the account set out in Article 24, paragraph 1 of this Law and fails to carry out all payments of election campaign expenditure from that account until the closing of the special account (Article 24, paragraph 3);	Essentially same

Law 2015	Law 2020	Comment
	25) fail to close the special transfer account set out in Article 24 of this Law within 90 days from the date of announcing final election results (Article 25, paragraph 1);	New
	26) fail to inform the Agency within three days from the date of closing the special transfer account (Article 25, paragraph 1);	New
	27) within three days from the date of closing the special transfer account, fail to submit to the Agency proof of its closure (Article 25, paragraph 1);	New
10) raises funds from private sources for financing of costs of the election campaign in the amount exceeding the total amount of funds referred to in Article 20 paragraph 1 of this Law (Article 21 paragraph 2);	28) raise funds from private sources to cover election campaign expenses in the amount greater than the total amount of funds set out in Article 28, paragraph 1 of this Law (Article 29, paragraph 2);	Essentially same
11) fails to open a separate gyro account for the purpose of raising funds for financing of the election campaign with an institution authorized for payment operations (Article 22 paragraph 1);	29) for the purpose of raising funds to cover election campaign expenditure, the candidate fails to open a special transfer account with an institution authorised for payment operations, at the latest on the day following the day of nomination confirmation or of adopting the list of candidates (Article 30, paragraph 1);	Essentially same
	30) fail to inform the Agency within three days from the date of opening the special transfer account (Article 30, paragraph 1);	New

Law 2015	Law 2020	Comment
12) uses the separate gyro account referred to in Article 22 paragraph 1 of this Law for other purposes (Article 22 paragraph 1);	31) use the special transfer account set out in Article 30, paragraph 1 of this Law for other purposes (Article 30, paragraph 1);	Essentially same
	32) start the election campaign before the nomination confirmation or before adoption of the list of candidates and fail to open the account set out in Article 30, paragraph 1 of this Law before the election campaign begins (Article 30, paragraph 2);	New
13) fails to pay all the funds intended for the financing of election campaign into the account referred to in Article 22 paragraph 1 of this Law and fails to pay for all the costs of the campaign via that account (Article 22 paragraph 2);	33) fail to pay all funds intended for election campaign financing into the account set out in Article 30, paragraph 1 of this Law (Article 30, paragraph 3);	Essentially same
	34) fail to make all payments for election campaign expenditure from the account set out in Article 30, paragraph 1 of this Law (Article 30, paragraph 3);	New
14) costs of the election campaign exceed the amount of funds referred to in Articles 20 and 21 of this Law (Article 22 paragraph 4);	35) election campaign expenditure of a political entity exceeds the amount set out in Articles 28 and 29 of this Law (Article 30, paragraph 5);	Essentially same
	36) fail to close the special transfer account set out in Article 30 of this Law within 90 days from the date of announcing final election results (Article 31, paragraph 1);	New

Law 2015	Law 2020	Comment
	37) fail to inform the Agency within three days from the date of closing the special transfer account (Article 31, paragraph 1);	New
	38) within three days from the date of closing the special transfer account, fail to submit to the Agency proof of its closure (Article 31, paragraph 1);	New
15) receives material and financial assistance and in-kind contributions from: other states, companies and legal entities outside the territory of Montenegro, natural persons and entrepreneurs who do not have the right to vote in Montenegro, anonymous donors, public institutions, legal entities and companies with the share of state-owned capital, trade unions, religious communities and organizations, non-governmental organizations, casinos, bookmakers or other providers of games of chance (Article 24 paragraph 1);	39) receive material and financial aid and non-monetary contributions from: other states, business organisations and legal entities outside the territory of Montenegro, natural entities and entrepreneurs that do not have the right to vote in Montenegro, anonymous donors, public institutions, legal entities and business organisations with government equity, trade unions, religious communities and organizations, non-governmental organizations, casinos, betting houses and other games of chance organizers (Article 33, paragraph 1);	Essentially same
16) borrows from natural persons (Article 24 paragraph 4);	40) borrow from natural entities (Article 33, paragraph 4);	Essentially same
17) exerts pressure on legal entities, companies and natural persons in raising contributions or any other activity related to the election campaign or financing of political entities (Article 25);	41) promise or give assurances of political or any other consideration in return, privilege or personal benefit to a natural or legal entity for the purpose of obtaining financial, material or non-monetary support (Article 34, paragraph 1);	Essentially same
	42) make contributions in cash or in the form of products or services through third parties (intermediaries) (Article 34, paragraph 2);	New

Law 2015	Law 2020	Comment
	43) conceal private sources of financing and amounts raised from private sources of financing (Article 34, paragraph 3);	New
18) fails to keep accounting records of incomes, property and expenditures by origin, amount and structure of incomes, property and expenditures (Article 37, paragraph 1);	44) fail to keep accounting records of revenues, assets and expenditures by origin (separately for funds from public and private sources), the amount and structure of revenues, assets and expenditures, in compliance with a Ministry's regulation (Article 48, paragraph 1);	Essentially same
19) fails to submit the statement of accounts and consolidated financial statement to the administrative body in charge of keeping a single register of taxpayers and the State Audit Institution and the Agency, not later than by 31 March of the current year for the previous year (Article 37 paragraph 2);	45) fail to submit the final statement of account and the annual consolidated financial statement to the administrative body responsible for keeping the single register of taxpayers, State Audit Institution and the Agency, at the latest by 31 March of the current year for the previous year (Article 48, paragraph 2);	Essentially same
20) fails to submit, as supporting documents, to the State Audit Institution and the Agency, the financial statements and reports on assets of all legal entities and companies it founded or in which it possesses an ownership share (Article 37 paragraph 3);	46) fail to submit to the State Audit Institution and the Agency as supporting documents the financial statements and asset declarations of all legal entities and business organisations it founded or in which it has an ownership stake, which include both the election campaign and ordinary activities (Article 48, paragraph 3);	Essentially same
	47) fail to state accurate and complete information in the statement (Article 48, paragraph 4);	New
21) fails to govern by its acts the manner of performing the internal control of financial operation (Article 38 paragraph 1);	48) fail to regulate in its acts the manner of performing internal control over financial operations (Article 49, paragraph 1);	Essentially same

Law 2015	Law 2020	Comment
<p>22) fails to designate a person responsible for financial operation, fails to prescribe the manner of gaining insight by a member of the entity into incomes and expenditures of the entity and fails to adopt a financial plan and program of work by the end of the current year for the next year (Article 38 paragraph 2);</p>	<p>49) fail to designate a person responsible for financial operations, fail to laid down the manner in which an entity member examines the revenues and expenditures of the entity and fail to adopt a financial plan and program of action by the end of the current year for the following year (Article 49, paragraph 2);</p>	<p>Same</p>
<p>23) within 30 days from the day of holding of the elections, fails to submit to the Agency the report of the origin, amount and structure of the funds from public and private sources raised and expended for election campaign (Article 39 paragraph 1);</p>	<p>50) fail to submit to the Agency with supporting documents a report on the origin, amount and structure of funds from public and private sources raised and spent on the election campaign, within 30 days as of the election day (Article 50, paragraph 1);</p>	<p>Same</p>
<p>24) fails to submit the report referred to in Article 39 paragraph 1 of this Law in hard copy and electronic forms on a form defined by the Agency (Article 39, paragraph 2);</p>	<p>51) fail to submit the report set out in Article 50, paragraph 1 of this Article in paper and electronic form, on a form laid down by the Agency (Article 50, paragraph 2);</p>	<p>Same</p>
	<p>52) where a joint election campaign is run for multiple elections held on the same day, fail to submit to the Agency an integrated report on the origin, amount and structure of the funds raised and spent, within 30 days as of the election day (Article 50, paragraph 3);</p>	<p>New</p>

Law 2015	Law 2020	Comment
<p>25) fails to submit along with the reports referred to in Article 39 paragraphs 1 and 3 of this Law the bank statements showing all incomes and expenses from these accounts in the period from their opening up to the date of filing the statements with documentation (Article 39 paragraph 5);</p>	<p>53) fail to submit attached to the reports set out in Article 50, paragraphs 1 and 3 of this Law, bank statements showing all revenues and expenditures from these accounts, in the period from their opening until the day of filing the report with documents (Article 50, paragraph 5);</p>	<p>Same</p>
<p>26) fails to submit to the Agency a report on the contributions of legal and natural persons on a fifteen-day basis, during the election campaign (Article 42 paragraph 1);</p>	<p>54) during the election campaign, fail to submit to the Agency a report on the contributions of legal and natural entities on a fifteen-day basis (Article 53, paragraph 1);</p>	<p>Same</p>
	<p>55) fail to submit to the Agency an interim report on the election campaign expenditure five days before the election day (Article 54, paragraph 1);</p>	<p>New</p>
	<p>56) during the election campaign, fail to keep and regularly update the records of funds raised from private sources and election campaign expenditure (Article 58, paragraph 1);</p>	<p>New</p>
	<p>57) at the request and within the time limit determined by the Agency, but not longer than three days, fail to submit the information that the Agency needs in order to perform the tasks falling under its competence (Article 58, paragraph 3).</p>	<p>New</p>
<p>For the misdemeanour referred to in paragraph 1 of this Article, the responsible person in a political entity shall also be fined by a fine from 500 euros to 2,000 euros.</p>	<p>The responsible person in the political entity shall also be punished for the misdemeanour set out in paragraph 1 of this Article with a fine ranging from 500.00 EUR to 2,000 EUR.</p>	<p>Same</p>

8. 5. 4 Art. 67 of Law 2020

Law 2015	Law 2020	Comment
Article 54	Article 67	
A fine from 500 euros to 2,000 euros shall be imposed on the responsible person of the Agency, if it:	The responsible person of the Agency shall be fined with a fine ranging from 500.00 EUR to 2,000 EUR if he:	Essentially same
	1) fails to develop a record of the control results, and fails to submit it to the controlled entity and publish it on the Agency's webpage (Article 5, paragraph 2);	New
1) fails to publish on its website the decision on the amount of membership fee of a political entity for the current year, at the latest seven days from the day of receipt of the decision (Article 12, paragraph 3);	2) not later than within seven days from the date of receipt of the decision on the amount of membership fee of a political entity for the current year, fails to publish it on its webpage (Article 15, paragraph 3);	Essentially same
	3) fails to lay down the form of the report set out in Article 16, paragraph 4 of this Law and fails to publish it on its webpage and submit it to political entities (Article 16, paragraph 5);	New
	4) fails to publish, within five days from the date of receipt, the price lists and contracts set out in Article 16, paragraphs 6 and 10 of this Law on its webpage (Article 16, paragraph 11);	New
	5) fails to issue a decision on the amount of funds that a political entity may spent on election campaign financing within three days as of the day of electoral list confirmation (Article 18, paragraph 3);	New

Law 2015	Law 2020	Comment
	6) fails to be mindful of the protection of personal data contained in the submitted information and documents set out in Article 40, paragraphs 1 and 2 of this Law (Article 40, paragraph 8);	New
	7) fails to submit to the Committee immediately upon receipt the travel orders set out in Article 43, paragraph 3 of this Law, which are submitted to the Agency on a weekly basis (Article 43, paragraph 4);	New
2) fails to publish on its website the submitted documents referred to in Article 33 paragraph 2 of this Law within seven days from the day of submission (Article 33 paragraph 3);	8) fails to publish the submitted acts set out in Article 44, paragraph 2 of this Law on its webpage within seven days as of the date of submission thereof (Article 44, paragraph 3);	Essentially same
3) fails to publish on its website all documents referred to in Article 37 paragraphs 2 and 3 of this Law within seven days from the day of receipt (Article 37 paragraph 5);	9) fails to publish on its webpage the submitted acts, information and documents set out in Articles 38, 39, 40, 41, 43 and 44 of this Law, submitted by the authorities and legal entities to the Agency, within three days from the day of submission thereof (Article 46, paragraph 5);	Essentially same
	10) fails to publish on its webpage, within seven days from the day of receipt, all the documents set out in Article 48, paragraphs 2 and 3 of this Law (Article 48, paragraph 6);	New
4) fails to publish on its website the reports referred to in Article 39 of this Law within seven days from the day of receipt (Article 40);	11) fails to publish on its webpage the reports set out in Article 50 of this Law, within seven days from the date of receipt thereof (Article 51);	Essentially same

Law 2015	Law 2020	Comment
5) fails to publish on its website the reports referred to in Article 41 paragraph 1 of this Law within seven days from the day of receipt (Article 41 paragraph 2);	12) fails to publish on its webpage the reports set out in Article 52, paragraph 1 of this Law, within seven days from the date of receipt at the latest (Article 52, paragraph 2);	Essentially same
6) fails to publish on its website the report referred to in Article 42 paragraph 1 of this Law within seven days from the day of receipt (Article 42 paragraph 3).	13) fails to publish on its webpage the report set out in Article 53, paragraph 1 of this Law, within seven days from the date of receipt (Article 53, paragraph 3);	Essentially same
	14) fails to publish on its webpage the report set out in Article 54, paragraph 1 of this Law, within 24 hours from the date of receipt (Article 54, paragraph 3);	New
	15) fails to decide to initiate or not to initiate procedure upon a complaint submitted by a natural or legal entity (Article 56, paragraph 3);	New
	16) fails to inform the complainant in writing of its decision to initiate or not to initiate the procedure under a report within 15 days from the date of submission of the report (Article 56, paragraph 4).	New

8. 5. 5 Art. 68 of Law 2020

Law 2015	Law 2020	Comment
<i>Article 55</i>	<i>Article 68</i>	
<i>A fine from 200 euros to 2 000 euros shall be imposed on the responsible person in a state body, state administration body, local self-government body, local administration body, public company, public institution, state fund and legal entity founded and/or owned in major part or partly by the state or a local self-government unit, if it:</i>	<i>A fine in the amount of 200.00 EUR to 2,000 EUR shall be imposed for a misdemeanour on the responsible person in a state body, state government body, local government body, local administrative body, public institution, state fund and business organisation founded and/or majority or partly-owned by the state or local government unit if he:</i>	<i>Essentially same</i>
<i>1) fails to provide the budget funds for financing of regular operation of the political entities in the Parliament of Montenegro in accordance with Article 11 paragraph 1 of this Law;</i>	<i>1) fails to provide budgetary funds for financing the ordinary activities of political entities in the Assembly in compliance with Article 13, paragraph 1 of this Law;</i>	<i>Essentially same</i>
<i>2) fails to provide the funds for financing of regular operation of the political entities in the municipal assemblies in accordance with Article 11 paragraph 2 of this Law;</i>	<i>2) fails to provide funds for financing the ordinary activities of political entities in the municipal assembly in compliance with Article 13, paragraph 2 of this Law;</i>	<i>Essentially same</i>
<i>3) fails to provide the funds for financing of regular operation of the political entities in the municipal assemblies in accordance with Article 11 paragraph 3 of this Law;</i>	<i>3) fails to provide funds for financing the ordinary activities of political entities in the municipal assembly in compliance with Article 13, paragraph 3 of this Law;</i>	<i>Essentially same</i>
<i>4) fails to transfer funds referred to in Article 11, paragraph 4 of this Law to the political entities on monthly basis, by the fifth day of each month for the previous month (Article 11, paragraph 7);</i>	<i>4) fails to transfer funds set out in Article 13, paragraph 4 of this Law to political entities on a monthly basis, by the fifth of the month for the previous month (Article 13, paragraph 8);</i>	<i>Essentially same</i>

Law 2015	Law 2020	Comment
	5) fails to publish on its webpage, by the fifth of the month for the previous month, the amount of funds set out in Article 13, paragraph 4 of this Law, as well as the amount of outstanding funds for financing the ordinary activities of political entities (Article 13, paragraph 9);	New
5) it fails to suspend payment of funds referred to in Article 11 paragraph 4 of this Law to a political entity, if within the timeframe envisaged in Article 37 of this Law it fails to submit the consolidated financial statement for the previous year (Article 11, paragraph 8);	6) fails to suspend the payment of funds set out in Article 13, paragraph 4 of this Law to a political entity, if it failed to submit the annual consolidated financial statement for the previous year within the time limit set out in Article 48 of this Law (Article 13, paragraph 10);	Essentially same
	7) fails to provide budgetary funds for financing the ordinary activities of women's organizations in political entities in the Parliament in compliance with Article 14, paragraph 1 of this Law;	New
	8) fails to provide budgetary funds for financing the ordinary activities of women's organizations in political entities in the municipal assembly in compliance with Article 14, paragraph 2 of this Law;	New
	9) fails to provide budgetary funds for financing the ordinary activities of women's organizations in political entities in the municipal assembly in compliance with Article 14, paragraph 3 of this Law;	New

Law 2015	Law 2020	Comment
	<p>10) fails to transfer funds set out in Article 14, paragraph 4 of this Law to political entities on a monthly basis, by the fifth of the month for the previous month, to the sub-account of the women's organization (Article 14, paragraph 7);</p>	<p>New</p>
	<p>11) fails to publish on its webpage, by the fifth of the month for the previous month, the amount of funds set out in Article 14, paragraph 4 of this Law, as well as the amount of outstanding funds for financing the ordinary activities of women's organizations in political entities (Article 14, paragraph 8);</p>	<p>New</p>
	<p>12) fails to suspend the payment of funds set out in Article 14, paragraph 4 of this Law to a political entity, if it failed to submit the annual consolidated financial statement for the previous year within the time limit set out in Article 48 of this Law, containing a separate report on the mode and purpose of spending the funds set out in Article 14 of this Law (Article 14, paragraph 9);</p>	<p>New</p>
<p>6) fails to adopt the decision on the amount of the budget funds referred to in Article 12 paragraph 1 of this Law by 31 January of the current year at the latest and fails to submit it on its web site within 7 days from the day of adoption of the decision (Article 12, paragraph 5);</p>	<p>13) fails to issue a decision on the amount of budgetary funds set out in Article 15, paragraph 1 of this Law, not later than by 31 January of the current year and fails to publish it on its webpage within seven days from the date of decision issuance (Article 15, paragraph 6);</p>	<p>Essentially same</p>

Law 2015	Law 2020	Comment
7) fails to provide the budget funds for financing election campaign for MPs and councillors in accordance with Article 14 paragraph 1 of this Law;	14) fails to provide budgetary funds for covering the election campaign expenditure set out in Article 16, paragraph 1 of this Law for parliamentary and municipal assembly elections in compliance with Article 20, paragraph 1 of this Law;	Essentially same
8) fails to distribute the funds referred to in Article 14, paragraph 1 of this Law in the amount of 20% in equal amounts to political entities, within eight days from the expiry of the deadline for submission of election lists (Article 14, paragraph 2);	15) fails to distribute 20% of the funds set out in Article 20, paragraph 1 of this Law to political entities in equal amounts, within eight days from the expiry of time limit for submission of electoral lists (Article 20, paragraph 2);	Essentially same
9) fails to distribute the funds referred to in Article 14, paragraph 1 in the amount of 80% to the political entities in proportion with the number of seats awarded (Article 14, paragraph 3);	16) fails to distribute 80% of the funds set out in Article 20, paragraph 1 of this Law to political entities that won seats, in proportion to the number of seats won (Article 20, paragraph 3);	Essentially same
10) fails to distribute the funds referred to in Article 14 paragraph 3 of this Law within seven days from the day when the political entities submit to the Agency the reports on funds raised and expended on the election campaign with the supporting documentation referred to in Article 37 of this Law (Article 14, paragraph 4);	17) fails to distribute the funds set out in Article 20, paragraph 3 of this Law within ten days from the date when the political entities submit to the Agency the reports on funds raised and spent for the election campaign with the supporting documents set out in Article 50 of this Law (Article 20, paragraph 4);	Essentially same

Law 2015	Law 2020	Comment
11) fails to transfer funds referred to in Article 14 paragraph 3 of this Law to the political entities, following the notification by the competent election commission on the number of seats awarded and notification of the Agency on meeting the conditions referred to in Article 14 paragraph 4 of this Law (Article 15 paragraph 1);	18) fails to transfer the funds set out in Article 20, paragraph 3 of this Law to political entities, upon receipt of notification from the competent election commission on the number of seats won and notification from the Agency on the fulfilment of the requirements set out in Article 20, paragraph 4 of this Law (Article 21, paragraph 1);	Essentially same
12) fails to publish on its website the act on the transfer of funds referred to in Article 15, paragraph 1 of this Law with the supporting documentation within seven days from the day of adoption (Article 15, paragraph 2);	19) fails to publish on its webpage the act on the transfer of funds set out in Article 21, paragraph 1 of this Law, with appropriate documents, within seven days from the date of its issuance (Article 21, paragraph 2);	Essentially same
13) fails to distribute funds in accordance with Article 20 paragraph 1 of this Law;		Sanction is missing
14) fails to provide the budget funds for financing of the costs of the election campaign for the election of the President of Montenegro in accordance with Article 20 paragraph 1 of this Law;	20) fails to provide budgetary funds for financing the campaign expenditure of candidates running for Montenegrin presidential elections in compliance with Article 28, paragraph 1 of this Law;	Essentially same
15) fails to distribute the funds referred to in Article 20 paragraph 2 item 2 and paragraph 2 items 2 and 3 of this Article following the announcement of final results of the elections and within the deadline of 7 days from the day of submission of the report on funds raised and expended on the election campaign with the supporting documents referred to in Article 39 of this Law to the Agency (Article 20, paragraph 4);	21) fails to distribute the funds set out in Article 28, paragraph 2, item 2, and paragraph 3, items 2 and 3 of this Law after proclaiming final election results, and within seven days from the date of delivery to the Agency the reports on funds raised and spent for the election campaign with the supporting documents set out in Article 50 of this Law (Article 28, paragraph 4);	Essentially same

Law 2015	Law 2020	Comment
<p>16) conducts paid-for advertising in Montenegro which could in any way place into a more favourable position the political entities or their representatives during the election campaign (Article 27);</p>	<p>22) performs paid advertising in Montenegro that may in any way show favouritism toward political entities or their representatives during the election campaign (Article 37);</p>	<p>Essentially same</p>
<p>17) monthly consumption in state and local budget consumption units exceeds the average monthly consumption in the previous 6 months from the day of calling until the day of holding of the elections, except for in the cases of emergency situations, in accordance with the law (Article 28, paragraph 1);</p>	<p>23) monthly spending in state and local budgetary spending units exceeds the average monthly spending in the previous six months from the date of calling an election until the election day, except in cases of emergency, in compliance with law (Article 38, paragraph 1);</p>	<p>Essentially same</p>
<p>18) elections are held in the first half of the year and monthly consumption in budget consumption units exceeds the amount determined by the monthly consumption plan defined by the Ministry or the local administration body at the beginning of the fiscal year (Article 28, paragraph 2);</p>	<p>24) if elections are held in the first half of the year, and monthly spending in budgetary spending units exceeds the amounts specified by the monthly spending plan adopted by the Ministry or local administrative body at the beginning of the fiscal year (Article 38, paragraph 2);</p>	<p>Essentially same</p>
	<p>25) if monthly spending in public enterprises, legal entities exercising public competences or activities of public interest on the basis of contracts with the competent authority and business organisations owned by the state or local government units in compliance with the law governing corruption prevention exceeds the average monthly spending over the previous six months from the date of calling an election until the election day, except in cases of emergencies in compliance with law (Article 38, paragraph 3);</p>	<p>New</p>

Law 2015	Law 2020	Comment
	<p>26) if monthly spending in state institutions for performing social welfare and child care activities and in state and local authorities in charge of agriculture exceeds the average monthly spending in the last six months of the previous year (Article 38, paragraph 4);</p>	<p>New</p>
<p>19) from the day of calling until the day of holding of the elections, as well as one month following the holding of the elections, fails to publish on its web site, on a seven-day basis, the analytical cards from all the accounts in their possession and fails to submit it to the Interim Committee (Article 28, paragraph 3);</p>	<p>27) from the date of calling an election until the election day, as well as one month following the election day, fails to post weekly on its webpage subledger cards from all the accounts in their possession (Article 38, paragraph 5);</p>	<p>Essentially same</p>
<p>19) from the day of calling until the day of holding of the elections, as well as one month following the holding of the elections, fails to publish on its web site, on a seven-day basis, the analytical cards from all the accounts in their possession and fails to submit it to the Interim Committee (Article 28, paragraph 3);</p>	<p>28) from the date of calling an election until the election day, as well as one month following the election day, fails to submit subledger cards from all the accounts in their possession to the Committee and the Agency on a weekly basis (Article 38, paragraph 5);</p>	<p>Essentially same</p>

Law 2015	Law 2020	Comment
	<p>29) for a period of six months before the time limit for holding elections, counting the date on which elections were held in the current term as the time limit for holding elections, gives their machinery and equipment to third parties for use without a special decision and without a remuneration for services agreement, except in cases of eliminating damage caused by natural disasters, fires or preventing an outbreak of communicable diseases (Article 39, paragraph 1);</p>	<p>New</p>
	<p>30) fails to publish all decisions, contracts and orders for the use of machinery and equipment beyond their core business activity on the official webpage and submit them to the Agency and the Committee within three days from the date of their issuance (Article 39, paragraph 2);</p>	<p>New</p>
	<p>31) pays or awards one-off cash assistance in contravention to Article 40, paragraph 1 of this Law;</p>	<p>New</p>
	<p>32) monthly spending on social welfare benefits under the competence of the local government unit, in compliance with the law governing the rights and activities of social welfare and child care, exceeds 20% of the average monthly spending on these benefits in the third quarter of the previous budgetary year (Article 40, paragraph 2);</p>	<p>New</p>

Law 2015	Law 2020	Comment
	<p>33) awards social welfare benefits in the year in which local or parliamentary elections are held, from the current budgetary reserve from the state and local level (Article 40, paragraph 3);</p>	<p>New</p>
<p>20) fails to publish the data referred to in Article 29 paragraphs 1 and 2 of this Law on its web site and fails to submit it on a fifteen-day basis to the Interim Committee and the Agency (Article 29, paragraph 3);</p>	<p>34) fails to publish the information set out in Article 40, paragraphs 5 and 6 of this Law on its webpage and fails to submit them to the Committee and the Agency on a weekly basis (Article 40, paragraph 7);</p>	<p>Essentially same</p>
<p>21) fails to publish the data referred to in Article 30 paragraphs 1 and 2 of this Law on its web site and fails to submit it on a fifteen-day basis to the Interim Committee and the Agency (Article 30);</p>	<p>35) fails to publish on its webpage, on a weekly basis, statements from the State Treasury, as well as the subledger card on the expenditure of funds from the budgetary reserve in the period from the date of calling an election until the election day (Article 41, paragraphs 1 and 2);</p>	<p>Essentially same</p>
	<p>36) fails to submit, on a weekly basis, the information set out in Article 41, paragraphs 1 and 2 of this Law, as well as all decisions awarding and paying the funds, to the Committee and the Agency (Article 41, paragraph 3);</p>	<p>New</p>
	<p>37) introduces new or one-off electricity subsidies and subsidies for the payment of utility services in the year in which regular elections are held, and in the case of early elections, in the period between the date of calling an election up to two months from the determination of final election results (Article 42, paragraph 2);</p>	<p>New</p>

Law 2015	Law 2020	Comment
	38) writes off liabilities by virtue of pardoned value added tax, other taxes and parafiscal charges, in the period between the date of calling an election up to two months from the determination of final election results (Article 42, paragraph 3);	New
22) uses the official car in the period of the election campaign, except in cases of official duty (Article 32, paragraph 1);		Sanction is apparently missing in the new Law 2020.
23) fails to publish on the web site, on a seven-day basis, all issued travel orders for official cars, from the day of calling until the day of holding of the elections (Article 32, paragraph 3);	39) fails to publish on the webpage on a weekly basis all issued travel orders for the use of official vehicles, from the date of calling an election until the election day (Article 43, paragraph 3);	Essentially same
24) fails to submit to the Agency, on a weekly basis, the travel orders referred to in Article 32 paragraph 3 of this Law (Article 32, paragraph 4);	40) fails to submit to the Agency on a weekly basis the travel orders set out in Article 43, paragraph 3 of this Law (Article 43, paragraph 4);	Essentially same
25) in the period from calling until the day of holding of the elections, employs a person for a fixed term, or concludes temporary service contract contrary to Article 33 paragraph 1 of this Law;	41) in the period from the date of calling an election until the election day, employs a person for a fixed-term or hires a person under a contract of contingent and casual work in contravention to Article 44, paragraph 1 of this Law;	Essentially same

Law 2015	Law 2020	Comment
<p>26) fails to submit all decisions on employment adopted in accordance with the laws governing the labour relations, rights and obligations of civil servants and state employees and obligation relations, with complete supporting documentation to the agency within three days from the day of adoption of the decision (Article 33, paragraph 2);</p>	<p>42) fails to submit to the Agency all decisions on employment taken in line with the laws governing labour relations, rights and obligations of civil servants and state employees and contractual relations, with the complete supporting documents, within three days as of the date of decision issuance (Article 44, paragraph 2);</p>	<p>Essentially same</p>
<p>27) fails to submit within the deadline and in manner determined by the Agency the requested data and notifications, i.e. fails to provide insight into the requested documentation in line with the Law (Article 45, paragraph 3).</p>	<p>43) within the time limit and in the manner decided by the Agency, fails to submit the requested information and notifications or enable the examination of the requested documents in compliance with law (Article 57, paragraph 3).</p>	<p>Essentially same</p>

8. 5. 6 Art. 69 of Law 2020

Law 2015	Law 2020	Comment
Article 56	Article 69	
A fine from 1,000 euros to 2,000 euros shall be imposed for the misdemeanour on a candidate for the presidential elections if s/he:	A fine ranging from 1,000 EUR to 2,000 EUR shall be imposed for a misdemeanour on a candidate running for Montenegrin presidential elections, if he:	Essentially same
	1) raises funds from private sources in contravention to Article 29, paragraph 1 of this Law;	New
1) fails to return the funds to the Budget of Montenegro if the funds for financing of the election campaign raised from private sources exceed the amount referred to in Article 21 paragraph 2 of this Law (Article 22, paragraph 3);	2) fails to repay the funds to the budget of Montenegro if the funds for election campaign financing raised from private sources exceed the amount set out in Article 29, paragraph 2 of this Law (Article 30, paragraph 4);	Essentially same
2) fails to designate a person responsible for purposeful spending of funds and submission of reports (Article 23, paragraph 1);	3) fails to designate the person responsible for earmarked spending of funds and submission of reports on the day following the day of his nomination confirmation or finalization of the list of candidates (Article 32, paragraph 1);	Essentially same
3) fails to deposit the signature of the responsible person with the institution authorized for payment operations (Article 23, paragraph 2);	4) fails to deposit the signature of the responsible person with the institution authorised for payment operations (Article 32, paragraph 2);	Essentially same

Law 2015	Law 2020	Comment
<p>4) fails to notify the Agency within three days from the day of designation of the person referred to in Article 23 paragraph 1 of this Law and of every change related to the status of that person (Article 23, paragraph 3);</p>	<p>5) fails to inform the Agency within three days from the date of designating the person set out in Article 32, paragraph 1 of this Law, and of any change relating to the status of that person (Article 32, paragraph 3);</p>	<p>Essentially same</p>
<p>5) fails to compile a report on origin, amount and structure of raised and expended funds from public and private sources for the election campaign and fails to submit it to the Agency with the supporting documentation, within 30 days from the day of holding of the elections (Article 39, paragraph 1);</p>	<p>6) fails to develop a report on the origin, amount and structure of funds from public and private sources raised and spent on the election campaign, and fails to submit it to the Agency, with supporting documents, within 30 days as of the election day (Article 50, paragraph 1);</p>	<p>Essentially same</p>
<p>6) fails to submit along with the reports referred to in Article 39 paragraphs 1 and 2 of this Law the bank statements showing all incomes and expenditures from these accounts, in the period from their opening until the day of filing of the reports with the documentation (Article 39, paragraph 5);</p>	<p>7) fails to submit attached to the reports set out in Article 50, paragraphs 1 and 3 of this Law, bank statements showing all revenues and expenditures from these accounts, in the period from their opening until the day of filing the report with the documents (Article 50, paragraph 5);</p>	<p>Essentially same</p>
<p>7) fails to submit to the Agency the report on incomes and assets for him/herself, the spouse or partner and children if they live in a shared household, within 15 days from the day of candidacy (Article 41, paragraph 1).</p>	<p>8) fails to submit to the Agency an income and asset declaration for himself, his spouse or common-law partner and children if they live in the same household, within 15 days as of the date of submission of nomination, in the manner and on a form laid down by the Agency (Article 52, paragraph 1).</p>	<p>Essentially same</p>

8. 5. 7 Art. 70 of Law 2020

Law 2015	Law 2020	Comment
Article 57	Article 70	
A fine from 500 euros to 2,000 euros shall be imposed for the misdemeanour on a natural person, if:	A fine of 500.00 EUR to 2,000 EUR shall be imposed on a natural entity for a misdemeanour, if he:	Essentially same
	1) pays a membership fee at the monthly level exceeding the amount of 10% of the average monthly net salary in Montenegro for the previous year (Article 7, paragraph 2);	New
1) s/he pays more than 2,000 euros per annum for financing of a political entity (Article 12 paragraph 4);	2) pays more than 5,000 EUR annually for the financing of a political entity (Article 15, paragraph 4);	Essentially same
2) makes the payment or a contribution amounting to more than 2,000 euros for financing of the election campaign (Article 21 paragraph 3);	3) makes a payment or a contribution of more than 5,000 EUR for election campaign financing (Article 29, paragraph 3);	Essentially same
3) was convicted by a final judicial decision for a criminal offense with the elements of corruption and organized crime, and finances a political entity (Article 24 paragraph 2);	4) was finally convicted of a criminal offence with elements of corruption and organized crime and is financing a political entity (Article 33, paragraph 2);	Essentially same
4) in the period from the day of calling until the day of holding of the elections, runs a media and public campaign on behalf and for the needs of political entities (Article 24 paragraph 3);	5) conducts a media and public campaign on behalf or for the needs of political entities in the period from the date of calling an election until the election day (Article 33, paragraph 3);	Essentially same

Law 2015	Law 2020	Comment
	<p>6) makes a contribution to a political entity, while being related to legal entities, business organisations and entrepreneurs who, based on an agreement with the competent authorities, in compliance with law, performed activities of public interest or concluded an agreement in the public procurement procedure, for a period of two years prior to the contract conclusion, during the term of that business relationship, as well as two years after the termination of that business relationship (Article 33, paragraph 5);</p>	<p>New</p>
<p>5) makes a contribution to a political entity against which the tax authority initiated the procedure of compulsory collection by adoption of a conclusion on compulsory collection of tax (Article 24 paragraph 6);</p>	<p>7) makes a contribution to a political entity which is subject of an enforced collection procedure initiated by the tax authority by issuing a decision on enforced tax liability collection (Article 33, paragraph 6);</p>	<p>Essentially same</p>
<p>6) exerts pressure on legal entities, companies and natural persons on the occasion of raising contributions or any other activity related to the election campaign or financing of political entities (Article 25);</p>	<p>8) promises financial, material or non-monetary support to a political entity for the purpose of a political or any other consideration in return, privilege or personal benefit (Article 34, paragraph 1);</p>	<p>Essentially same</p>
<p>7) uses the official car in the period of election campaign, except for the cases of official duty (Article 32 paragraph 1);</p>		<p>Sanction is apparently missing in the new Law 2020.</p>

Law 2015	Law 2020	Comment
8) engaged during working hours in the activities of the election campaign (Article 33 paragraph 4);	9) is engaged, during working hours, on the election campaign activities (Article 44, paragraph 4);	Essentially same
9) fails to submit, within the deadline and in the manner defined by the Agency, the requested data and notifications, i.e. does not make possible insight into the requested documentation in accordance with the law (Article 45 paragraph 3).	10) within the time limit and in the manner decided by the Agency, fails to submit the requested information and notifications or enable the examination of the requested documents in compliance with law (Article 57, paragraph 3).	Essentially same
For the misdemeanour referred to in paragraph 1 item 2 of this Article, an entrepreneur shall be fined by a fine from 200 euros to 4,000 euros.	Entrepreneurs shall be punished for the misdemeanour set out in paragraph 1, item 3 of this Article with a fine ranging from 200.00 EUR to 4,000 EUR.	Essentially same

8.5.8 Conclusion

There is a high number of **new offences** reflecting a number of new obligations and prohibitions in the Law 2020. Three **offences** as foreseen by the Law 2015 are **missing** in the Law 2020: Art. 55 no. 13 of Law 2015 (failure to distribute funds), Art. 55 no. 22 of Law 2015 (use of official car for campaign purposes), and Art. 57 no. 7 of Law 2015 (use of official car for campaign purposes).

8.6 Editorial issues

It seems as if the **reference** in Art. 7 para. 5 of Law 2020 should be to “paragraph 3”, not “paragraph 4” as indicated.

There are two different **deadlines** in Art. 26 para. 3 and Art. 50 para. 1 of Law 2020 for essentially one and the same thing: A report on campaign financing. In Art. 26, the deadline is 20 days, in Art. 50, it is 30 days.

9

Annex:

Explanatory Statement

[Unofficial translation into English of the Montenegrin original]

Official Justification of the LFEEPC 2020

I. CONSTITUTIONAL BASIS FOR ADOPTING THE LAW

The constitutional basis for adoption of the Law on Political Entity and Election Campaign Financing is enshrined in Article 16, item 5 of the Constitution of Montenegro, which stipulates that laws also regulate other matters of interest to Montenegro, in accordance with the Constitution.

II. REASONS TO ADOPT THE LAW

Working Committee 5 of the Committee for Comprehensive Reform of Electoral and Other Legislation, tasked with drawing up amendments to the Law on Political Entity and Election Campaign Financing, was established in accordance with the goals and tasks set forth by the Decision establishing the Committee for Comprehensive Reform of Electoral and Other Legislation. The Working Committee 5 has decided in its meetings which working methodology and principles to follow, with the aim of making the most effective use of the overall environment in which next election cycles will be held, strengthening public confidence in the electoral process, as well as improving the transparency of financing of political entities and election campaigns, and reached an agreement to start drafting the new Law on Political Entity and Election Campaign Financing. Furthermore, in order to conduct a comprehensive reform of electoral and other legislation, and to implement all OSCE/ODIHR recommendations regarding the 2016 parliamentary elections and the 2018 presidential elections, in accordance with the current Constitution of Montenegro, inter alia, it was planned to increase transparency and professionalism of institutions involved in the election process, including the Anti-Corruption Agency and the State Audit Institution.

The law currently in force was analysed in three different respects: financing of ordinary activities and financing of election campaign (Articles 1-24); prohibitions and restrictions (Articles 24-36); and financial operations of political entities, supervision and penal provisions (Articles 36-65). The members also reached an agreement to submit to the Committee a systematically arranged set of provisions, including individual opinions of all members and associate members, in the event of failure to reach an agreement. Work that ensued led to a systematic, comparative presentation of the proposed amendments by Articles, which were submitted by MPs of Democratic Montenegro, members of the previous Working Group that worked on the drafting of amendments to this Law, Centre for Democratic Transition, Anti-Corruption Agency, State Audit Institution and Women's Political Network of Montenegro. In this way, differences in the submitted proposed provisions were arranged systematically, in order to try to find the points of balance for agreeing on the draft amendments. At a special session, in presence of representatives of the Anti-Corruption Agency and the State Audit Institution responsible for the implementation of these statutory provisions, the Working Committee examined the applicability of certain provisions, in an effort to reach the final and improved text. Representatives of these state institutions presented detailed explanations of the proposed statutory provisions to the Committee, a considerable part of which was accepted.

After ten sessions, Working Committee 5 adopted the working version of the Draft Law on Political Entity and Election Campaign Financing, which was submitted to the Committee for Comprehensive Reform of Electoral and Other Legislation, with an annotation explaining that the working version of the Draft Law contains the agreed proposed provisions, including alternative systematically arranged proposals, as well as some open issues. Moreover, the working version of the Draft Law was sent to OSCE/ODIHR experts with the aim of receiving their opinions on the agreed proposals, alternative provisions and open issues contained in the text of the proposed provisions.

III. ALIGNMENT OF THE LAW WITH THE ACQUIS COMMUNAUTAIRE AND RATIFIED INTERNATIONAL CONVENTIONS

There are no relevant EU regulations or ratified international conventions that this Law has to comply with.

IV. EXPLANATION OF THE BASIC LEGAL CONCEPTS

Aimed at achieving the legality and public nature of operations of political entities, and strengthening the trust of citizens in the electoral process, this Law governs the mode of acquisition and provision of financial resources for ordinary activities and election campaigns of political entities, prohibitions and restrictions concerning the use of state property, funds and public competences in the course of campaigns, as well as the verification, supervision and audit of financing and financial operations of political entities. Among other things, this Law sustains gender equality requirements regarding the allocation of budgetary funds for financing the ordinary activities of political entities in the Parliament and municipal assemblies in proportion to the number of elected representatives of the under-represented gender. The Law additionally regulates verifications of political entity and election campaign financing and supervision of the implementation by the Anti-Corruption Agency. An important novelty is audit by the State Audit Institution, based on the assessed risk and criteria from the Guidelines on the Methodology of Performing Financial and Regularity Audits, as well as the obligation of the State Audit Institution to audit, over a four-year period, the annual consolidated financial statements of all political parties represented in parliaments at national and local level.

The Law is divided into ten chapters: I. Basic provisions; II. Financing the ordinary activities of political entities; III. Financing campaigns for parliamentary and city council elections; IV. Financing the election campaign of candidates running for Montenegrin presidential elections; V. Prohibitions and restrictions; VI. Financial operations of political entities; VII. Report submission and publishing; VIII. Supervision; IX. Penal provisions; and X. Transitional and final provisions. All of these chapters represent thematically and functionally rounded units, which govern specific fields within the Law.

I. Basic provisions

Basic provisions include the scope of this Law, definition of political entities (political party, coalition, group of voters and candidates running for Montenegrin presidential elections), as well as definition of an election campaign as a set of activities of a political entity carried out from the date of calling an election until the date on which the final election results are announced. It also defines ordinary activities as a set of political entity's activities not related to the election campaign. The Law also stipulates in this section that sources of financing may be public and private, while the Anti-Corruption Agency is in charge of verifying the financing. Public sources are funds allocated from the budget of Montenegro and the budget of local self-government, while private sources include membership fees, contributions, legacies and borrowings from banks and other financial institutions in Montenegro. The novelty in this section refers to the payment of membership fees, which have to be paid by political party members from their current account, as well as to the payment of contributions, which can be received exclusively through the transfer account of a political entity. It also prohibits acquiring a stake or shares in a company, as well as gaining income from a promotional or commercial activity.

Budgetary funds may be used to finance ordinary activities of political entities and election campaign expenditure. Budgetary funds to finance ordinary activities pertain to political entities that participate in elections and win at least one Member of Parliament or councillor seat. Budgetary funds to cover campaign expenditure for parliamentary and city council elections, as well as Montenegro's presidential elections pertain to entities that have submitted confirmed and declared electoral lists, or a nomination for Montenegro's presidential elections.

Provision of business premises for parliamentary groups by the Parliament of Montenegro and provision of business premises for the ordinary activities of parliamentary political entities were also regulated. They will be provided by the body in charge of property, while the funds for the business premises of city council political groups and for the remuneration of secretaries of city council political groups will be provided by the assembly of the local government unit or the body in charge of property.

II. Financing the ordinary activities of political entities

This chapter defines the costs of ordinary activities of political entities as the costs arising from the performance of ordinary activities. A significant novelty is the introduction of new criteria for the mechanism of budgetary funds allocation for financing the ordinary activities of political entities in the parliament and municipal assemblies, in such a way that 20% of planned funds goes in equal amounts to political entities that have won seats in the Parliament and municipal assemblies respectively. The remaining 60% of funds are distributed in proportion to the total number of MP and councillor seats they have at the time of distribution, and the last 20% are distributed in equal amounts to political entities in the Parliament and municipal assemblies, in proportion to the number of elected representatives of the under-represented gender. It is stipulated that additional budgetary funds for regular financing of women's organizations in political parties in the Parliament and municipal assemblies will be distributed. This novelty is a significant step towards strengthening the promotion of the under-represented gender, that is, increasing the participation of women in political life. It is important that the Ministry and local administrative body will transfer the funds in question on a monthly basis to the political entity, by the fifth of the month for the previous month, and that the amount of allocated funds as well as the amount of outstanding funds have to be published by the Ministry and the local administrative body on their websites, also by the fifth of the month for the previous month.

As for the financing of ordinary activities of political entities from private sources, the novelty is the increased amount that can be paid by a natural person or a legal entity on an annual basis.

III. Financing the campaigns for parliamentary and city council elections

This chapter defines election campaign expenditure as the costs of a political entity arising out of the conduct of election campaign in the territory for which elections were called, and related to: campaign rallies, commercials and promotional material, media presentation, announcements and publications, public opinion polls, engagement of authorised representatives of the political entity within the extended composition of the bodies in charge of conducting elections, overheads and general administration, as well as transportation costs in the election campaign period. It is also stipulated that when two or more political entities submit a joint list, the total costs incurred by that political entity also include the costs of all individual political entities that submitted the list from the start of the campaign until the date of the list submission.

Novelties in this chapter refer to election campaign financing using the funds from an ordinary account. In other words, a political entity that has funds in its ordinary account may decide to use the funds raised for its ordinary activities for election campaign purposes, based on a separate decision submitted to the Agency, provided that the funds must be paid into a special account for election campaign financing. Where after the settlement of all liabilities unused funds remain in the special account for election campaign financing, the political entity has to transfer the funds to its ordinary account before closing the special account. Use of funds raised to finance the election campaign from the special account is limited solely to covering election campaign expenditure.

Budgetary funds for covering campaign expenditure for parliamentary and city council elections are provided in the year in which regularly scheduled elections are held in the amount of 0.25% of the total planned budgetary funds, reduced by the funds of the capital budget and state funds budget (current budget), for the year for which the budget is being adopted. Out of that amount, a total of 20% of the funds is distributed to political entities in equal amounts, within eight days from the expiry of the time limit for electoral lists submission, while 80% is distributed to political entities that have won seats, in proportion to the number of seats won. The amount of funds raised by political entities from private sources for covering campaign expenditure for parliamentary and city council elections may not exceed the thirty-fold amount of funds pertaining to them in accordance with this Law. Political entities may raise funds from private sources for covering election campaign expenditure only during the election campaign.

An obligation is stipulated on political entities to open a special transfer account. Additionally, all funds intended for election campaign financing are to be paid into that account and all payments of election campaign expenditure are to be made from that account. Where two or more political entities submit a joint list (a coalition), all the funds intended for election campaign financing are to be paid into the special account of one of the political entities jointly designated by these political entities, of which they have to inform the Agency. The second case concerns groups of voters as a political entity, whose transfer account is to be opened by a natural person jointly designated by them, based on a mutual agreement submitted to the Agency. It also stipulates the obligation to close the special transfer account, and to submit evidence of the closure of such an account to the Agency.

An important novelty in this chapter is the obligation on political entities which start election campaign and open the special transfer account before the electoral list is confirmed, to repay the unspent funds to the payers in proportion to the amount paid or pay them to the state budget, in cases where they: abandon the electoral list submission, withdraw the electoral list, if the competent election commission issues a decision dismissing the electoral list they have submitted, if the competent election commission issues a decision refusing to proclaim the electoral list they have submitted.

A political entity has to designate the person responsible for the targeted spending of funds and submission of reports on the day following the day of the electoral list confirmation. The Law also provides for the accountability of the responsible person of a group of voters, and the responsible person in a coalition for submitting reports and for compliance with the obligations, prohibitions and restrictions set forth in this Law.

IV. Financing the election campaign of candidates running for Montenegrin presidential elections

Funds in the amount of 0.07% of the total planned budgetary funds for the year for which the budget is being adopted are provided for covering part of the election campaign expenditure of candidates running for Montenegrin presidential elections. These funds are distributed as follows: where only one election round is held, a total of 20% of the funds goes to all the candidates whose nomination has been confirmed in equal amounts, while 80% goes to the candidates which have won more than 3% of votes, proportionally to the percentage of votes received. Where two election rounds are held, a total of 20% of the funds goes in equal amounts to all the candidates whose nomination has been confirmed, 40% goes to the candidates that have won more than 3% of votes, in proportion to the percentage of votes received and 40% to both candidates, proportionally to the percentage of votes received. These funds are distributed after the final election results are announced, within seven days from the date of delivering to the Agency reports on the funds raised and spent for the election campaign, with supporting documents.

The amount of funds from private sources raised by a candidate running for Montenegrin presidential elections to finance the election campaign cannot exceed the total amount of funds intended for financing the campaign from public sources and these can only be raised during the election campaign. The novelty here concerns increased amounts that can be paid by a natural or legal entity on an annual basis. Likewise, for the purpose of raising funds to cover election campaign expenditure, a candidate running for Montenegrin presidential elections has to open a special transfer account with an institution authorised for payment operations, and such an account cannot be used for any other purposes. All funds intended for election campaign financing and all payments of election campaign expenditure are to be carried out from that account. As an exception, there is an obligation to open a special account if the candidate starts the election campaign before having his nomination confirmed, or before the list of candidates is finalised. Furthermore, it is stipulated that election campaign expenditure must not exceed the amount of funds pertaining to the candidate from private and public sources. The special account has to be closed within 90 days from the date of declaring the final election results, with a notification and proof of account closure having to be submitted to the Agency. Candidates running for Montenegrin presidential elections have to designate the person responsible for the targeted spending of funds and submission of reports, as well as to make sure that person's signature is deposited with the institution authorised for payment operations.

V. Prohibitions and restrictions

Political entities are prohibited from receiving material, financial aid and non-monetary contributions from: other states, companies and legal entities outside the territory of Montenegro, natural persons and entrepreneurs that do not have the right to vote in Montenegro, anonymous donors, public institutions, legal entities and companies having government equity, trade unions, religious communities and organizations, NGOs, casinos, betting houses and other games of chance organisers. Persons finally convicted of a criminal offence with elements of corruption and organized crime are prohibited from financing political entities. Moreover, political entities may not borrow from natural persons.

Likewise, legal entities, companies and entrepreneurs and related legal and natural persons that, based on an agreement with the competent authorities, performed activities of public interest or concluded a contract in the public procurement procedure, are prohibited from making contributions to political entities for a period of two years prior to the contract conclusion, for the duration of that business relationship, as well as two years after the termination of that business relationship. Contributions may not be given by a natural person or legal entity that is undergoing a forced collection procedure initiated by the tax authority, nor by a legal entity that has not settled its outstanding liabilities to its employees for three months.

The novelty in this section is prohibition to make a promise or give assurances of political or any other consideration in return, privilege or personal benefit to a natural or legal entity for the purpose of obtaining financial, material or non-monetary support for a political entity. Contributions from third parties (intermediaries) and concealing private sources of financing and amounts raised from private sources of financing are prohibited.

The Law prohibits exerting any form of pressure on legal entities, companies and natural persons when collecting contributions. It is prohibited to use state assets unless the same conditions are provided to all participants in the electoral process, as well as to distribute promotional materials and collect support signatures for submitting the electoral list and nomination in state authorities, public administration bodies, local government bodies, local administrative bodies, public enterprises, public institutions, state funds and companies founded by or majority or partially owned by the state or local government unit. Likewise, paid advertising in Montenegro by state authorities and local government bodies, public enterprises, public institutions and state funds, which may in any way show favouritism toward political entities or their representatives during the election campaign is prohibited.

The Law further stipulates a restriction on using state assets by prohibiting state and local budgetary spending units, except for the State Election Commission and municipal election commissions, monthly spending exceeding the average monthly spending over the previous six months in the period from the date of calling an election until the date of the election.

Where elections are held in the first half of the year, budgetary spending units are prohibited from spending on a monthly basis more than the amounts specified by the monthly spending plan adopted by the Ministry or local administrative body at the beginning of the fiscal year. Additionally, from the date of calling an election until the date of the election, as well as one month following the date of the election, all budgetary spending units at national and local level have to publish every week on their websites the subledger cards from all the accounts in their possession and submit them to both the Interim Committee and the Agency.

The novelty is the prohibition on companies founded or majority owned by the state or local government unit, except in certain cases, to give machinery and equipment to third parties for use without a special decision and without a remuneration for services agreement, for a period of six months before the time planned for holding elections. All decisions, contracts and orders concerning the use of machinery and equipment beyond their core business activity have to be published on the official website and submitted to the Agency and the Interim Committee.

The Law defines the transparency of social benefits and budget expenditures.

It includes a ban on debt relief. In the period from the date of calling an election until the date of the election, as well as one month after the election, legal entities founded, partially or majority owned by the state or local government unit are prohibited from relieving debts of citizens, including bills for electricity, water and all types of public services. The novelty refers to the prohibited introduction of new or one-off electricity subsidies and subsidies for the payment of utility services in the year in which regular elections are held, and in the case of early elections, in the period between the date of calling an election up to two months from the determination of final election results. Another novelty is the prohibition of liabilities write-offs by virtue of pardoned VAT, other taxes and parafiscal charges, in the period between the date of calling an election up to two months from the determination of final election results.

With the exception of protected persons, public officials may not use official vehicles in the election campaign period, except in cases of official duty.

Employing and temporarily hiring employees is restricted as follows: from the date of calling an election until the date of the election, persons may exceptionally be employed on a fixed-term basis and hired under a contract of contingent and casual work so as to ensure unimpeded and regular functioning of state authorities, public administration bodies, local government bodies, local administrative bodies, public enterprises, public institutions and state funds, only based on a decision of the competent body of these entities and where so planned by the job descriptions act. All the employment decisions have to be submitted to the Agency, which publishes them on its website. The prohibition concerns the engagement of public officials, employees in state authorities, public administration bodies, local government bodies, local administrative bodies, public enterprises, public institutions and state funds in the election campaign activities during working hours, except for MPs and councillors.

It is specifically stipulated that the Agency will regulate the mode of verifying the application of the provisions from the Prohibitions and Restrictions chapter by way of a separate act. Another novelty is that this Law imposes a new obligation on the Agency - to introduce regular, proactive checks of compliance with laws by state authorities, public administration bodies, local government bodies, local administrative bodies, public enterprises, public institutions, state funds and companies that are wholly or partially owned by the state or local government units. All of the afore-mentioned entities are to be randomly selected for a compliance audit based on risk.

The subledger cards have to contain accurate and complete information at least on the following categories: budget line, transaction number, recipient / payer, and registration number in cases of legal entities (tax identification number - TIN), amount and date. In addition, within three days from the date of submission, the Agency publishes on its website all acts, information and documents submitted.

VI. Financial operations of political entities

This chapter defines that the revenues received by a political entity are subject to taxation, except for membership fees and contributions. The political entity has to keep accounting records of revenues, assets and expenditures by origin (separately for the funds from public and private sources), the amount and structure of revenues, assets and expenditures, in accordance with the regulation which will be adopted by the Ministry of Finance within 30 days from the date of entry into force of this Law.

Political entities are to submit the final statement of account and the annual consolidated financial statement to the administrative body in charge of keeping the single register of taxpayers, State Audit Institution and the Agency, at the latest by 31 March of the current year for the previous year, together with the financial statements and reports on assets of all legal entities and companies they had established or in which they hold an ownership stake, including election campaigns and ordinary activities.

With reference to the above, a political entity has to provide accurate and complete information and submit them in paper and electronic form on a template adopted by the Ministry. The Agency publishes them on its website, within seven days from the day of their receipt.

An obligation is also introduced on political entities to regulate the mode in which internal control of financial operations will be carried out, as well as to designate a person responsible for financial operations, set forth the mode in which an entity member examines the revenues and expenditures of the entity and adopt a financial plan and work plan by the end of the current year for the following year.

VII. Report submission and publishing

This chapter defines the obligation of political entities to draw up a report on the origin, amount and structure of funds from public and private sources raised and spent on the election campaign, and to submit it to the Agency, with supporting documents, within 30 days as of the date of the election. The report is submitted in printed and electronic form, using a template adopted by the Agency and showing the total amount of funds raised, separately for budgetary funds and funds from private sources. In addition to these reports, bank statements are also submitted, showing all revenues and expenditures from these accounts, in the period from their opening until the day of filing the report with the documents.

A candidate running for Montenegrin presidential elections submits to the Agency his income and asset declaration, but also that of his/her spouse or common-law partner and children, if they live in the same household, within 15 days as of the date of submission of nomination, in the manner and on a form set forth by the Agency. Political entities have to submit to the Agency, every two weeks during the election campaign, a report on the contributions of legal and natural persons, using the form set forth by the Agency.

The Agency has to publish all these reports on its website no later than seven days from the date of their receipt.

Five days before the date of the election, political entities submit to the Agency, on a form set forth by the Agency, an interim report on election campaign expenditure. The Agency has to publish it on its website within 24 hours from the moment of its receipt.

VIII. Supervising the enforcement of this Law by the Agency

The Agency supervises the enforcement of this Law, within the limits of its competences set forth therein, while the State Audit Institution audits the annual consolidated financial statements of political entities based on assessed risk and criteria from the Instructions on the Methodology for Performing Financial and Regularity Audits. The novelty is an obligation to audit, within a four-year period, the annual consolidated financial statements of all political parties represented in parliaments at the national and local level respectively.

The Agency initiates *ex officio* the procedure of deciding whether a breach of this Law exists and of imposing measures in accordance with this Law, based on its own findings or reports filed by natural or legal entities, of which it takes a decision and informs in writing the person who filed the report. The Agency guarantees anonymity to persons filing reports. The Agency sets forth the manner and procedure of filing reports and resolving complaints submitted during the election campaign on suspicion of breaches of this Law and informs the political entity of the initiation of procedure.

It is further stipulated that procedure before the Agency is to be conducted by the Agency director through the person authorised by the Agency. The authorized employee has to obtain, *ex officio*, the information and notifications concerning the facts necessary for conducting the procedure and decision-making, official records of which are kept by the competent state authorities, public administration bodies, local administrative bodies and local government bodies, or public enterprises, companies, institutions or other natural and legal entities. The afore-mentioned entities are obliged to submit the requested information and notification and to produce the requested documents for examination, in accordance with law and within the time limit and in the manner decided by the Agency.

For the purpose of carrying out verifications and supervision, during the election campaign political entities have to keep and regularly update records of the funds raised from private sources and election campaign expenditure, while the Agency has to regularly collect information on all the activities of political entities during the election campaign concerning the funds spent to cover the election campaign expenditure.

The Agency verifies and supervises the calculation of non-monetary contributions, paid-for media advertising, prohibition of political entity financing or running campaigns on behalf of political entities and other prohibitions and restrictions set forth in law. Following that, the Agency is tasked with drawing up a report and publishing it on its website, 60 days from the date on which final election results are announced.

Where the Agency obtains, during verification or supervision, information indicating to irregularities or breaches of law, it is under an obligation to submit a report or a motion with the competent body. Where the Agency finds, during its verifications, shortcomings that can be eliminated, it imposes warning measures to the political entity. The Agency files an application to initiate a misdemeanour procedure before the court of appropriate jurisdiction if the political entity fails to act upon the warning measure, or where a breach of this Law whose shortcomings cannot be eliminated is at stake.

In cases of breaches of provisions of this Law relating to election campaign financing, the Agency may impose on the political entity the measure of total or partial forfeiture of the right to a transfer of budgetary funds for election campaign financing or the measure suspending the transfer of budgetary funds for election campaign financing, in accordance with and in the manner set forth in this Law.

The Agency may impose on the political entity the measure suspending the transfer of budgetary funds for financing its ordinary activities or the measure depriving the political entity of such funds, in accordance with and pursuant to the modality set forth in this Law, in cases of breaches of provisions of this Law relating to the financing of ordinary activities of the political entity.

All the aforementioned Agency decisions related to the warning measures are final and an administrative dispute may be initiated against them. The Agency also submits these decisions to the Ministry or to the local administrative authority.

Funds raised contrary to this Law are to be confiscated in accordance with the Law on Misdemeanours. The State Audit Institution audits the annual consolidated financial statements, based on which it issues an opinion and recommendations to eliminate irregularities and it takes other measures, in accordance with this Law and the law governing the rights, obligations and mode of operation of that institution.

IX. Penal provisions

Penal provisions set forth misdemeanours and fines for: legal entities (ranging from 5,000 to 20,000 EUR); responsible persons in legal entities (from 500.00 to 2,000 EUR); political entities (from 5,000 to 20,000 EUR and 10,000 to 20,000 EUR); responsible persons in political entities (from 500.00 to 2,000 EUR); responsible person in the Agency (from 500.00 to 2,000 EUR); responsible persons in a state authority, state administration body, local government body, local administrative body, public enterprise, public institution, state fund and company founded by and / or majority or partially owned by the state or local government unit (from 200.00 to 2,000 EUR); candidate running for Montenegrin presidential elections (from 1,000 to 2,000 EUR); natural person (from 500.00 to 2,000 EUR); and for entrepreneurs (from 200.00 to 4,000 EUR).

The novelty refers to the extension of the statute of limitations on misdemeanour prosecution. Misdemeanour proceedings cannot be instituted if three years have elapsed since the day on which the misdemeanour was committed. Another novelty is that time-barred misdemeanour prosecution takes place in each case after the expiry of six years as of the day on which the misdemeanour was committed.

X. Transitional and final provisions

Transitional and final provisions define the time limit for the adoption of secondary legislation for the implementation of this Law by the State Election Commission, Ministry of Finance and the Anti-Corruption Agency (30 days from the date of entry into force of this Law). It is stipulated as an obligation of political parties that they need to align their operations with this Law within 90 days from the date of its entry into force.

The Ministry and local administrative body are obliged to pay all the calculated but outstanding funds from the budget of Montenegro and the budget of local government which have not been transferred to political entities before the entry into force of this Law, and within 30 days from the date of entry into force of the this Law at the latest.

Upon expiry of the term of the Interim Committee, the duties falling within its competence will be taken over by the parliamentary working body in charge of anti-corruption.

All the afore-mentioned chapters of this Law represent thematically and functionally rounded units, which govern specific fields within the Law.

V. ESTIMATED FINANCIAL RESOURCES NEEDED TO IMPLEMENT THE LAW

Additional funds are not needed from the budget of Montenegro for the implementation of this Law.

**April
2020**





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