



MONTENEGRO
COMMISSION FOR PREVENTION OF CONFLICT OF INTEREST

Conflict of interest of public officials in Montenegro (legal basis and practical evidence)

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COMMISSION FOR PREVENTION OF CONFLICT OF INTEREST
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Commission for Prevention of Conflict of Interest



- ▶ Commission for Determination of Conflict of Interest (2004)
- ▶ Commission for Prevention of Conflict of Interest (2009)
- ▶ Elected by the Parliament as independent body for the period of 5 years;
- ▶ President and 6 members;

Commission for Prevention of Conflict of Interest



- ▶ Annual Report to the Parliament of Montenegro
- ▶ Competencies:
- ▶ Existence of the conflict of interest is established by the Commission, and measures for preventing conflict of interest are undertaken by the Commission.
- ▶ **Opinions** on existence of the conflict of interest and **decisions** on violation of provisions of Law given or passed by the Commission are **binding** for public official.
- ▶ Public official violate Law when does not behave in accordance with the opinion of the Commission or with the obligations prescribed by Law, or behaves in a manner violating prohibitions and rules referring to prevention of conflict of interest prescribed by law and other regulations defining the conflict of interests in specific areas.

Law on Prevention of Conflict of Interest



- ▶ Law on Prevention of Conflict of Interest (Official Gazette of MNE no. 01/09) entered into the force on January 17th 2009;
- ▶ 58 articles (the old one 28 articles);
- ▶ Aim : creating and maintaining the trust of citizens into conscientious and responsible exercise of public functions;
- ▶ Commission implements the Law.
 - Binding decisions and opinions for public officials.
 - Violation of the Law, established in the final and legally valid decision, is considered as unconscientiously performance of public function, of which the Commission informs the authority that the public official is exercising public function in as well as the authority competent for election, i.e. appointment of the public official, with the view of possible initiating of the dismissal procedure.



Definition of public official



- ▶ Every person elected directly in elections;
- ▶ Every person elected or appointed by the Parliament of Montenegro, or person whose election is confirmed by the Parliament of Montenegro;
- ▶ Person appointed by the President of Montenegro;
- ▶ Person elected, appointed or nominated by the Government of Montenegro, or whose election is confirmed by the Government of Montenegro;



Definition of public official

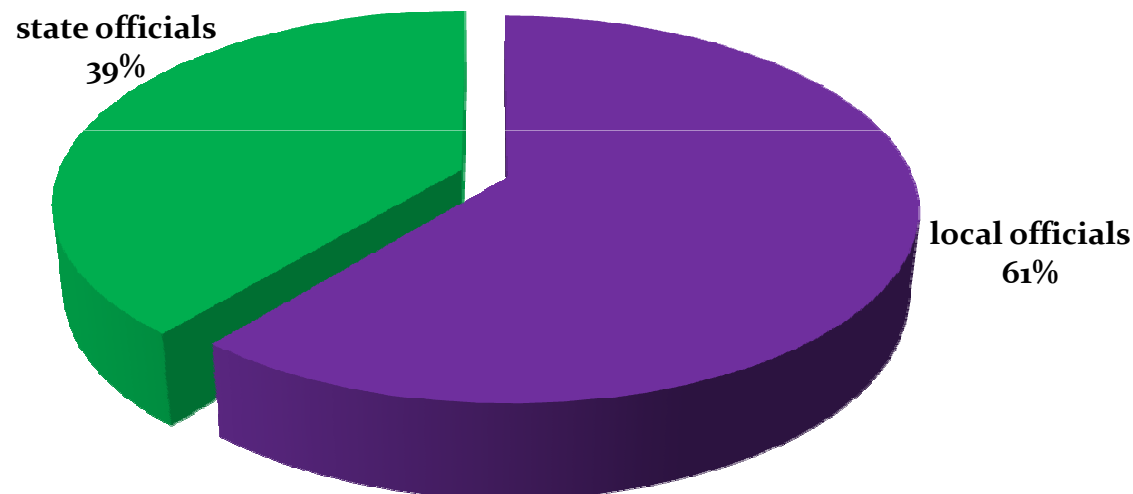


- ▶ President and member of the Judicial Council, Court President and judge elected by the Judicial Council, President and member of the Prosecutors' Council, State Prosecutor Deputy, and director of the Broadcasting Agency;
- ▶ Person appointed by, or whose appointment is approved by the Assembly or the Mayor of the Capital, Historic Capital or municipality.



Public officials

- ▶ On December 31st 2010, Montenegro had 2892 public officials, out of that 1128 (39%) state officials and 1764 (61%) local officials.



Restrictions

- ▶ **Exercise of other public activities**
- ▶ **Management rights in companies**
 - Owner or founder of company-transfer of the right to unrelated person
 - Member of the managing board- resignation from the public function

Restrictions

- ▶ **Performing executive and other functions in a company**
 - Public official can not be a president or member of any management or supervisory board or an executive director or member of management in any company.

- ▶ **Exercising public functions in public companies and public institutions**
 - Public official can not be a president or member of any management or supervisory board, executive director or member of management of a public company, public institution or any other legal entity.
 - Exception- except for the member of the Government, judge of the Constitutional Court, State Prosecutor and Deputy State Prosecutor

Restrictions

▶ Services Contracts

- Public official can not conclude any contract on provision of services with a public company.
- Public official can not conclude any contract on provision of services with any company which is in a contractual relation with the Government or local government unit, during the exercise of his/her public function, unless the value of such a contract is less than 500 € per year.

Restrictions

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

Restrictions



► Restrictions after termination of public function

◦ At least 1 year after the termination of public function, a public official can not:

1. appear before the authority where he exercised the public function in the capacity of a representative or attorney of a legal entity that has establishing contractual relations with such an authority;

2. represent entity before the authority where he exercised the public function, in case in which he/she participated in decision making;

3. perform the activities of management or auditing in the legal entity where, at least a year before the end of public function, his/her duties were connected to supervisory or control activities;

4. enter into contractual relations or any other form of business cooperation with the authority where he exercised his public function;

5. use, for the purpose of own benefit or for the purpose of harming other person, the information and notifications which he/she obtained during the execution of public function unless the information and notifications are available for public;

Restrictions

- ▶ **Prohibition of accepting gifts**
- ▶ Public official can not accept money, securities, or precious metal regardless of their value.
- ▶ Public official can not accept gifts, apart from protocolary gifts and appropriate gifts of a small value (50 Euros).
- ▶ Protocolary gifts, regardless of their value, shall become the property of the state, i.e. of the local government.
- ▶ Public official offered a gift he may not accept, shall refuse the offer or, i.e. he shall inform the gift presenter that he cannot accept it.
- ▶ The accepted gifts and their value are entered into the records of gifts kept at the body the public official exercises his function in.
- ▶ The authority is obliged to provide the print from records of gifts that it is keeping and submit it to the Commission by the end of February of the following year for the previous year.

Reports on Income and Property



- ▶ **Submission of Reports on Incomes and Property** (his /her property and incomes, as well as the property and income of his/her spouse and children if they live in the same household):
 - 1) Within 15 days on taking the public office, according to the day of being elected, appointed or nominated.
 - 2) Once a year, by the end of February of the current year for the previous year,
 - 3) In case of any change in data contained in Report, in terms of the increase in property exceeding 5,000 €, within 15 days from the day of such a change;
 - 4) Within 15 days upon termination of the public function,
 - 5) One year on termination of his/her term of office, according to the state of affairs on the day of submitting the Report.
- ▶ Public official is obliged to provide the accurate data in the Report.

Reports on Income and Property



- ▶ Personal data of public official and members of his family (name and surname, the unique identity number, place of permanent i.e. temporary residence and the address, education level and title);
- ▶ Data regarding the public function he exercises
- ▶ Data on property and incomes, particularly:
 - ownership rights over immovable assets and the right to lease immovable assets for the period of time exceeding one year, in the country and abroad;
 - ownership rights over movable assets which are required to be registered with competent authorities (motor vehicles, vessels, aircrafts, arms etc);
 - deposits in banks and other financial organizations, in the country and abroad;

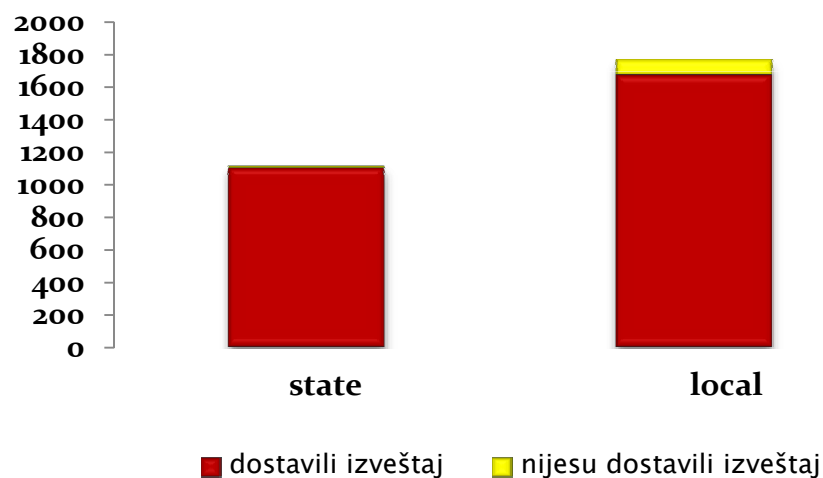
Reports on Income and Property



- shares and parts in legal entities;
- cash and securities of value exceeding 5,000 euros;
- copyrights, patent rights and similar intellectual and industrial property rights;
- debts (principal, interest and term of payment) and claims;
- source and amount of incomes from working in academic institutions, educational institutions, institutions of culture, and sport institutions;
- membership in steering committees and supervisory boards of public companies, institutions and other legal entities with state or municipality capital share and in academic, humanitarian, sport, or similar associations;

Reports on Income and Property

- ▶ On December 31st 2010, 2799 or 96,8 % public officials submitted Reports on Income and Property for 2009/10, out of that state officials - 1120 or 99,3%, and local officials 1679 or 95,2%.



THANK YOU FOR YOUR ATTENTION!

