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Working Group on Prevention

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Key recent developments concerning corruption prevention measures in Montenegro

Article 5 Preventive anti-corruption policies and practices

In April 2015, the Government of Montenegro adopted the IX Report on implementation of the Action Plan for the Strategy for the fight against corruption and organized crime (2010-2014), and, thus, completed the implementation of the II generation of strategic documents in the field of fight against corruption and organized crime in Montenegro. Those included the Strategy and the accompanying action plans for its implementation: AP (2010-2012), Updated AP (2010-2012) and AP (2013-2014). The earlier generation of strategic anti-corruption planning included the Programme for the fight against corruption and organized crime and its AP for the period 2005-2009.

The Strategy 2010 - 2014 encompassed the areas of corruption and organized crime, and within the former identified priority and special risk areas. The Strategy and accompanying APs were developed by representatives of state authorities and local NGOs, while additional support was provided by international partners. The APs set forth clear measures for achievement of the strategic goals, defined authorities and deadlines for their implementation, and clear performance indicators.

Regular semi-annual monitoring and evaluation of results of implementation of the Strategy, i.e. the APs was performed by the National Commission for monitoring of implementation of the Strategy, consisting of the highest representatives of the executive, legislative and judicial power, and civil society. The reports of the National Commission summarize qualitative and quantitative results of the implementation of established measures and objectives. Prior to development of AP 2013-2014, as the second phase of implementation of the Strategy, an independent international expert conducted a Mid-term evaluation of the Strategy, which served as one of the basis for the definition of measures and performance indicators in the said AP.

In addition to the comprehensive national strategy for the fight against corruption, during the Strategy implementation, sector-specific action plans in the areas of health, education and local government have also been adopted.

Upon the expiry of the Strategy 2010-2014, in order to assess the results in achieving the Strategy objectives and measures established by the APs, the Information on the degree of implementation of the APs measures implementing the Strategy 2010-2014, which contains evaluation of progress in all areas covered by the Strategy, and recommendations for

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1 Documents are available on the website of the Directorate for Anti-Corruption Initiative, in section „National Commission” www.antikorupcija.me/ce
future strategic planning and monitoring of results in the subject areas. This document will serve as a basis for an Operational document for the prevention of corruption, which would include the special risk areas defined in the former Strategy, and additional risk areas, in accordance with the findings of the evaluation.

This Operational document, together with the existing Action Plan for Chapter 23 - Judiciary and Fundamental Rights\(^2\), will constitute the strategic response of Montenegro on the issue of fighting corruption in the next four to five years, and its monitoring will be the responsibility of the Working Group for Chapter 23.

With a view to opening negotiations with the European Union on Chapter 23 - Judiciary and Fundamental Rights, in June 2013, the Government of Montenegro adopted the aforementioned Action Plan for Chapter 23. The objectives in this AP were defined bearing in mind the clear recommendations in the Screening report, as well as other recommendations provided in the course of the screening process on compliance of the Montenegrin legal system with the EU acquis. All measures are in line with measures in the relevant national strategic documents, and can be divided into three groups: normative harmonization, strengthening institutional and administrative framework, necessary staff training and raising awareness of citizens, all with the view to implementing the legal framework in the best possible manner and achieving the appropriate standard where necessary. Particular attention was paid to designing measures so that their implementation clearly shows impact of the reforms. AP for 23 was developed through a process of consultations among the main stakeholders, close inter-ministerial cooperation, and public consultations.

AP for 23 includes three sub-areas: Judiciary, Fights against corruption, and Fundamental rights, and an added fourth - Cooperation with NGOs. The sub-area of Fight against corruption encompasses measures for preventing and fighting corruption.

Special attention was paid to the regular monitoring of the implementation of all measures and the degree of achievement of projected objectives. At the operational level, monitoring and reporting on implementation of the measures is in charge of the Working Group for Chapter 23, which consists of representatives of relevant government departments and non-governmental sector. This Working group collects information on realization of measures on quarterly basis, and informs the European Commission thereof every six months. In addition to data on implemented measures, these reports contain information on possible difficulties in their implementation and reasons for failing to implement certain measures in the AP.

In December 2014, the Parliament of Montenegro adopted a set of anti-corruption laws: Law on Prevention of Corruption\(^3\), Law on Lobbying\(^4\), Law on Amendments to the Law on Conflict of Interest, and Law on Financing of Political Parties and Election Campaigns, and has thus completed the legal framework for corruption prevention. Those areas have been significantly improved in line with the EC recommendations. Also, all of the mentioned laws prescribe appropriate sanctions.

\(^2\) Website of the Ministry of Foreign Affairs and European Integration, Action Plans for Chapters 23 and 24
\(^3\) http://www.vicepruzhrskegradnje.gov.me/en/library/action-plans
\(^4\) Website of the Directorate for Anti-Corruption Initiative of Montenegro, Law on Prevention of Corruption:
\(^4\) Website of the Directorate for Anti-Corruption Initiative of Montenegro, Law on Lobbying:
The new Law on Prevention of Corruption prescribes measures for prevention of conflict of public and private interest, restrictions in the exercise of public functions, submission of reports on assets and income by public officials, protection of persons reporting threats to the public interest that indicate the existence of corruption, implementation of integrity plans, as well as other issues of importance to the prevention of corruption. This Law also establishes the Agency for prevention of corruption, which will become operational on 1 January 2016.

With respect to the Law on Amendments to the Law on Conflict of Interest, the following by-laws have been recently adopted in accordance with the latest amendments: Rulebook on procedure before the Commission for Prevention of Conflict of Interest, Rules of Procedure of the Commission, Form of the Income and assets report of public officials (which includes the Form of Statement of public official approving the Commission to access to information on bank accounts and other financial institutions), Form of Record logs of report on income and assets of public official, Form of Record log of gifts, Form of Public catalogue of gifts. These by-laws came into force on 3 April 2015.²

The Law on Lobbying regulate manner and conditions for conducting lobbying activities, the rules on lobbying and other issues of significance for lobbying. Pursuant to the Law, lobbying is an activity which influences the bodies of legislative and executive power at the state and/or local level, state administration bodies, independent bodies, regulatory bodies, public institutions, public enterprises and other legal entities exercising public powers, and/or activity of public interest or have the majority of state ownership, in the process of adopting the regulations and other general acts, within the jurisdiction of those authorities, in order to achieve the interests of a lobbying client, in accordance with the law.

The Law on Financing of Political Parties and Election Campaigns regulates the manner of obtaining and providing funds for regular work and election campaigns of political entities, restrictions and limitations of the use of state property, funds and public authorities in the course of the campaign, and the control, supervision and audit of financing and financial operations of political entities, in order to provide for the legality and transparency of their operations. Political entities, in terms of this Law, are: political parties, coalitions, groups of voters, and candidates for the President of Montenegro.

The adopted Law clearly stipulates competencies for the implementation of its provisions: the control of the funding of political entities and election campaigns, and supervision of the overall implementation of this Law are performed by the State Election Commission (SEC), while the State Audit Institution (SAI) performs the audit of annual consolidated financial statements of political entities whose total income exceeds 10,000 Euros. Furthermore, the Law stipulates, in detail, the procedure for deciding whether the provisions of the Law were violated, and imposing measures in accordance with this Law. The procedure is conducted by the SEC, ex officio, based on own knowledge, or based on the complaint made by a natural or legal person. The manner and procedure for reporting and resolving complaints filed during the election campaign for suspected violations of this Law are to be prescribed in more detail. The Law also stipulates that the control over the financing of political parties and election campaigns will become competence of the Agency for Prevention of Corruption, once the Agency becomes operational on 1 January 2016.

Montenegro is signatory to a number of bilateral, regional and international agreements for combating corruption, and a member of relevant international and regional organizations, with which it cooperates in promoting and developing the measures under this Article of the Convention, as well as in evaluating their effectiveness in practice.

In the past five years, the cooperation of the competent authorities of Montenegro and the United Nations Office on Drugs and Crime (UNODC) has been mainly implemented through the work of the UNCAC Implementation Review Group, and country reviews, and concerns the better implementation of the UNCAC. Appointed government experts, representatives of the Supreme State Prosecutor’s Office and Directorate for Anti-Corruption Initiative (DACI) regularly participate in the work of the IRG since its establishment and the launch of the UNCAC review mechanism. Thus, in the course of the first cycle, they: 1) 2010 to 2011, with colleagues from Laos conducted the country review of the Republic of Croatia, 2) 2011 - 2012, facilitated country review of Montenegro, and 3) 2013 to 2014, with colleagues from Lesotho conducted country review of Nigeria. The country review report for Montenegro contained a list of recommendations for Montenegrin authorities to consider in future legislation updates and practice. Majority of the recommendations have been taken into consideration and implemented during 2013 and 2014. In April 2014, upon the request of the UNODC, Montenegrin authorities provided the Office with detailed information on the implemented recommendations.

With respect to the relevant conventions against corruption of the Council of Europe, Montenegro has undergone three evaluation rounds of the Group of Countries against Corruption (GRECO), in the course of which it received 38 recommendations, of which it fully implemented 34 recommendations, while the remaining four have been assessed as partially implemented. Since the Joint First and Second Evaluation Round, concerning the harmonization of legislation with the Criminal Law Convention on Corruption and the Guiding Principles of the Council of Europe in the fight against corruption, the two remaining partially implemented recommendations, relating to conflict of interest (restrictions for memberships on managing boards and gifts), have been fully implemented in the meantime. As for the Third Evaluation Round, concerning the analysis of the criminal legislation in relation to the Criminal Law Convention against Corruption, and the transparency of political party funding, Montenegro has met preconditions for full implementation of the two remaining recommendations (adoption of Guidelines for the use of public resources for political party activities and election campaigns; and control of financing of political parties and election campaigns by an independent body), by adopting a set of anti-corruption laws in December 2014. The Report on the Fourth Evaluation Round, relating to the prevention of corruption in relation to the MPs, judges and prosecutors, is underway, and will be adopted at the GRECO plenary session to be held in June 2015. *

**Article 6 Preventive anti-corruption body or bodies**

Montenegro currently has a **multifaceted institutional framework**, which consists of few corruption prevention institutions, including: Directorate for Anti-corruption Initiative (DACI), Commission for Prevention of Conflict of Interest (CPCI), State Election Commission, State Audit Institution, Public Procurement Administration, and State Commission for Control of Public Procurement Procedure, Administration for Prevention of Money Laundering and Terrorism Financing, etc. The competencies of these institutions are stipulated by law or governmental decree, and their administrative capacities are strengthened in continuity. These institutions

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have varying degrees of independence, conditional on whether its management is elected by legislative or executive power. Corruption prevention bodies significantly rely on inter-agency cooperation, which is often further reinforced through the Memoranda of Cooperation.

The DACI is the central corruption prevention body, established by the Decree on Organization and Functioning of Public Administration, in 2001. It is a public administration body within the Ministry of Justice. The DACI’s competences include: raising public awareness on corruption and conducting research on the scope, forms, causes and mechanisms of corruption occurrence; monitoring implementation of GRECO recommendations; coordinating implementation of UNCAC; cooperating with competent authorities on preparation and implementation of regulations and programme documents important for preventing and combating corruption, cooperating with NGOs and private sector in combating corruption; cooperating with state authorities in acting upon corruption complaints received by DACI from citizens; collecting and processing the data on reports on corruption complaints for analytical purposes; giving authorization to conduct lobbying activities; certifying and keeping register of lobbyists; acting upon the complaints against lobbyist who violated the law; preparing guidelines for integrity plans in public administration bodies; performing other activities that arise from the memberships in the Regional Cooperation Council in the South Eastern Europe and other international organizations and institutions.

Pursuant to the Law on Prevention of Corruption, the Agency for Prevention of Corruption is being established, and will become operational on 1 January 2016. The Agency’s powers consolidate key corruption prevention competences, including: control of conflict of interest of public officials, income and asset declarations, whistleblower protection, supervision over implementation of integrity plans, supervision of sponsorships and donations, supervision over implementation of the Law on Lobbying, and control of funding of political entities and election campaigns.

According to the Law on Prevention of Corruption, on the day of commencement of work of the Agency, the CPCi and DACI will cease to operate, and the Agency will assume their tasks, employees, as well as rights, obligations, cases, equipment, means of work, documentation, registers and records. This means that, on 1 January 2016, the Agency will have around 23-25 employees (12 DACI, 11- CPCi and 1 - 2 from SEC), and will hire more than new 20 employees. According to Article 95 of the Law, funds for the operation and functioning of the Agency may not be less than 0.2% of the current budget of Montenegro, which provides for its full financial autonomy. The employees of the Agency will have a monthly bonus to the salary in the amount of 30%. The Agency will independently dispose of its funds, in accordance with the time schedule set in the law on budget.

Organizational and functional independence is ensured by Article 81 of the Law. The bodies of the Agency will be the Director and Council of the Agency. Members of the Council shall be elected by the Parliament, on the proposal of the working body responsible for anti-corruption affairs (hereinafter: the competent committee). Members of the Council shall be elected on the basis of a public competition announced by the competent committee. The competent committee shall form a Commission for election of members of the Council (hereinafter: the Commission). On the basis of clearly stipulated conditions for the election of the members of the Council in articles 83 and 84 and other criteria set forth in article 85, the Commission shall prepare a list of five candidates and submit it to the competent committee to propose to the Parliament. Director of the Agency shall be elected by the Council of the Agency, on the basis of

Directorate for Anti-Corruption Initiative of Montenegro: [http://www.antikorupcija.me/en/]
a public competition, and conditions and criteria set forth in articles 83 and 84, as well as article 91 paragraph 3, containing restriction that the Director of the Agency may not be a person who was appointed or designated by the Government of Montenegro or the Parliament as a public official in the last five years. Key competences of the Council and Director are set forth in articles 88 and 92.

Both the CPCI and future Agency have the authority to request from all state bodies and legal entities necessary information and documents, and all of them are obliged to, within the deadline and in the manner determined by the CPCI/Agency, submit the requested data and information, i.e. make available the requested documentation, in accordance with the law.

According to the Law, the CPCI conducts administrative investigations (administrative proceedings) and submits requests for initiating misdemeanour proceedings. Pursuant to the latest amendments to the Law on prevention of conflict of interest from December 2014, under the thorough data verification procedure, the CPCI carries out fourth type of verification to determine the reasons for the disagreement between the increased value of the assets of a public official and their legitimate and reported income.

Concerning the control of lobbying, the Agency for prevention of corruption will also have the option of conducting administrative investigation. Law on Lobbying specifically emphasizes transparency in the lobbying process, by requiring a lobbed person to file an official note on lobbying contact to the Agency within five days from the date he or she was contacted by a lobbyist (article 34); enabling an efficient and complete control over the application of the Law, and a kind of double control, on one hand by examining the official notes on lobbying contacts, and on the other hand by examining the activity reports lobbyists submit to the Agency. lobbed persons is also required to notify the Agency and provide information on any natural and legal persons engaged in illegal lobbying, i.e. lobbyists and legal entities performing lobbying activity contrary to this Law, and based on which in the further process, the Agency files a request for initiating a misdemeanour proceedings or issues a misdemeanour order.

Article 7 Public sector

In terms of systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials, in Montenegro these systems are regulated by law and have been improved and harmonized with international standards and practice, where required. This legislation includes, but is not limited to: Law on State Administration, Law on Civil Servants and State Employees, Decree on organization and operation of public administration, Rulebooks on internal organization and job descriptions, Decree on the mandatory skill tests, detailed criteria and method of evaluation of candidates to carry out the tasks in public administration bodies, Decree on the programme and professional examination for work in public administration bodies, Decree on the criteria and methods for evaluation of civil servants and state employees, Decree on the criteria for classification of jobs of civil servants into titles with levels and categories, Decree on the types and procedure for awarding civil servants and state employees, Decree on the type, detailed contents, method of preparation, adoption and methodology for development of programmes of vocational training and professional development of civil servants and state employees, Law on salaries of civil servants and state employees.

The Law on Civil Servants and State Employees from 2011 prescribes mandatory adoption and implementation of integrity plans in the public sector. Based on the risk assessments of
certain jobs for the emergence and development of corruption and other forms of biased action of civil servants and state employees on certain jobs, public administration bodies adopt integrity plans that includes measures to prevent and eliminate such risks, in accordance with the guidelines issued by the administration body in charge of anti-corruption activities.

Since January 2013, when the Law entered into force, a total of 62 institutions, out of 102 required by the Law to adopt integrity plans, have adopted their integrity plans, 88 integrity managers have been appointed, while another 14 institutions are in the process of drafting and adopting their integrity plans.

As for the legislative and administrative measures for establishing criteria concerning nomination and election for a public office, the latest improvements of legislation have been made in the judiciary, in accordance with the latest amendments to the Constitution of Montenegro from 2013.

New Law on the Judicial Council and rights and duties of judges and Law on State Prosecutor’s Office were both adopted by the Parliament adopted in February 2015. Both laws comply with the relevant documents of the Council of Europe, United Nations and European Union, as well as the expert opinions from the European Commission and Venice Commission.

The new Law on the Judicial Council and the rights and duties of judges now contains all provisions concerning the rights and duties of judges and the Judicial Council, as the autonomous and independent body whose primary authority is to appoint and dismiss judges and ensure independence and autonomy of courts and judges. The Law establishes a unified system of election of judges at the national level, which is transparent and merit-based. It also introduces the system of periodic assessment of the work of judges and career development based on merit; regulates the procedure for lasting transfer of judges from one court to another on a voluntary basis, and revises the procedure for disciplinary responsibility of judges. The new provisions guarantee the highest level of institutional and personal independence of the judiciary.

The new Law on Public Prosecutor’s Office has been amended with respect to the procedure of election of members of the Prosecutorial Council, establishing a unified system of appointment of public prosecutors and deputy public prosecutors at the national level; introduces the system for periodic assessment of the work of state prosecutors and their deputies, as well as the career development based on merit; and improves criteria for greater voluntary mobility of deputy public prosecutors.

Measures to increase transparency in the funding of candidates for election to public office and political party funding, and conflict of interest, see information concerning the latest amendments to the relevant laws provided with respect to article 5 of the Convention above.

Article 8 Codes of conduct for public officials

Codes of Ethics for all categories of public officials, as well as public servants and state employees, have been adopted: Code of Ethics of public servants and state employees§, Code of Judicial Ethics, Code of Ethics of Prosecutors and Code of Ethics of the MPs. The latter was the last one to be adopted in December 2014.

The first Law on the prevention of conflicts of interest in Montenegro was adopted in 2004, when the Commission for determining conflicts of interest was established as well. A new more comprehensive law, including improved and expanded jurisdiction of the Commission, were adopted in 2008, and has since been continuously improved in line with international standards and practice. The Law on Prevention of Conflict of Interest in Montenegro regulates the limitations in the exercise of public functions, reporting on income and assets, and other measures to prevent conflicts of public and private interests, as well as other matters of importance for the application of this Law, in order to create and maintain the citizens' trust in conscientious and responsible discharge of public functions. The latest amendments to the Law on Prevention of Conflict of Interest were adopted in December 2014, and provide improvements concerning the limitations in the exercise of public functions; prescribe in more detail the contents of the income and assets declaration, and prescribe other measures that will enable efficient detecting and sanctioning the cases of conflict of interest.

The obligation to report corruption and manners of reporting corruption and protection of civil servants and public officials, as well as citizens, who report corruption have been prescribed earlier by: Law on Civil Servants and State Employees (in 2008), Labour Law (in 2011), Professional instructions for reporting corruption to the Police Directorate⁹ (in 2008).

The new Law on Prevention of Corruption, which enters into force on 1 January 2016, contains a comprehensive legal framework for the protection of whistleblowers. Part III of the Law (articles 44-70), inter alia, stipulates the following, in detail: filing corruption reports by a whistleblower to a public authority, company, other legal person or entrepreneur (hereinafter: authority/company); the contents of the report; data confidentiality; actions or proceedings of the authority/company: designation of persons for receiving and acting upon reports in those authorities/companies; notifications on measures taken; reporting corruption to the Agency for the Prevention of Corruption (hereinafter: the Agency); acting of the Agency upon the report and ex officio; opinion and recommendations of the Agency; protection of whistleblowers' identity and rights; filing criminal charges and assignment of proceedings to competent authorities for protection of whistleblowers; obligations of the Agency with respect to the whistleblower's right to protection; the burden of proof; third parties involvement; assistance by the Agency; termination of damage, and award for whistleblowers.

Concerning the channels for reporting corruption, the DACI has established a mechanism that allows citizens to report corruption, via phone, email, online application, in person, anonymously or not (since 2006). Also, another 11 state authorities have mechanisms for reporting corruption, including: Customs Administration (2005), Ministry of Health (2008), Police Directorate (2009), Judicial Council (2009), Ministry of Education (2011), Supreme State Prosecutor's Office, Public Procurement Administration, Investment and Development Fund, Administration for Games of Chance and National Commission for monitoring of implementation of the Strategy for fight against corruption and organized crime. Each of the institutions has employees designated to receive corruption complaints and act upon them, and inform citizens who submitted the complaint on the action taken.

Article 10 Public reporting

Transparency in the public administration in Montenegro is guaranteed by a number of laws and by-laws. Here mentioned are the most prominent ones. According to the Law on State

Administration, the work of public administration bodies is public. Citizens have access to data, documents, reports and information owned by public administration bodies, except in the cases specified by law (article 4 of the Law). Furthermore, the same Law, in Chapter VIII—Public administration and citizens, stipulates obligations of public authorities in the exercise of the rights and duties of citizens. Also see information on regulations concerning the participation of individuals and groups outside the public sector in the decision-making processes, discussed with reference to article 13 of the Convention.

Free access to information in Montenegro was first regulated by the Law on Free Access to Information in 2005, ever since it has been continuously improved, and the last time in 2012. The Law prescribes the manner and procedure for exercising the right to access information held by public authorities. According to this Law, all domestic and foreign natural and legal persons have the right to access to information without having to declare reasons and explain the interest behind the request.

In addition to the access to information upon request, the Law also stipulates the obligation of the authorities to provide a proactive approach to information, by disclosing on their respective websites, among other: instructions to access to information; public registers and public records; work programmes and plans; reports and other documents on work and situation in the areas under their jurisdiction; drafts, proposals and final texts of strategic documents, and plans and programmes for their implementation; drafts and proposals of laws and other regulations, as well as the opinions of experts on those regulations; individual acts and contracts on allocation of funds from public funds and on disposal of state property; lists of civil servants and state employees, including their titles; lists of public officials and their salaries and other incomes related to the exercise of public functions; decisions and other individual acts that are relevant to the rights, duties and interests of third parties; information to which access has been granted upon request. When publishing information, public authorities are required to adequately protect personal information, in accordance with the law.

In terms of facilitating public access to the competent decision-making authorities, the Parliament of Montenegro adopted the new Law on Administrative Proceeding (LAP) in 2014, which will enter into force on 1 January 2016. The Law promotes a modern, service-oriented concept of the administrative proceedings, which is directed towards the efficient exercise of the rights and legal interests of citizens and other entities before the public law bodies.

Strategic novelties in the LAP include, in particular: 1) a significantly larger scope of the subject matter of the LAP, including, beside the standard, administrative action, also administrative contracts, provision of services in the general interest, as well as other forms of administrative activities; 2) principles, especially the principle of legality and justified expectations of the parties, the principle of proportionality, the principle of active assistance to the party, the principle of obtaining data ex officio, the right of the party to be heard, the right to inspect documents; 3) communication of authorities and parties in the proceedings; 4) improvement of legal protection of parties in the case of silence of the administration, and increase in the number of legal remedies. Also, there are significant novelties in terms of implementing administrative activities in one place, adopting decisions, justifying extensions of deadline for the adoption of decisions, while regulating legal consequences of silence of administration, etc.

The main objectives of the Law are to: simplify and accelerate administrative proceedings; reduce the costs of the proceedings for all participants; modernize the procedural mechanisms of the LAP; create conditions and openness to the use of modern information and
communication technologies for provision of administrative services (i.e. e-government); provide for more efficient protection of the public interest and individual interests of citizens and legal persons in administrative matters; provide for easier and better exercise and protection of legality, as well as freedoms and the rights of citizens in the process of direct application of regulations in administrative matters.

The new LAP complies with the European principles and requirements of the European administrative procedure.

One of the prominent competences of the Directorate for Anti-Corruption Initiative is to raise public awareness about corruption and conduct research on the extent, forms, causes and mechanisms of corruption; collect data on corruption complaints from authorities who receive them from citizens, and process collected data for analytical purposes. In addition to the information on implementation of the tasks, the DACI regularly proactively publishes all other information relevant for the prevention and suppression of corruption.  

Article 11 Measures relating to the judiciary and prosecution services

In addition to the new regulations relevant to the prevention of corruption in the judiciary in Montenegro mentioned above in relation to article 7 of the Convention, it should be noted that the rules on conflict of interest stipulated by the Law on Prevention of Conflict of Interest apply to judges and prosecutors.

Additionally, in 2014, new Code of Judicial Ethics has been adopted, and it establishes ethical principles and rules of conduct of judges, aimed at maintaining, affirming and improving the dignity and reputation of judges and judiciary. The Code of Judicial Ethics contains provisions to ensure independence and impartiality of the judicial function, including matters of gifts, confidentiality, and incompatibility of functions, conflicts of interest, and other. The Conference of Judges has established the Commission for monitoring implementation of the Code of Judicial Ethics, to which any person can refer for an opinion on whether certain conduct of a judge is in accordance with the Code of Judicial Ethics.

Also, in 2014, integrity plans have been adopted and are implemented in all courts of Montenegro (18).

New Code of Ethics for Prosecutors has also been adopted in 2014. The implementation of the Code is monitored by the Commission for the Code of Ethics for State Prosecutors, to which any person can refer for an opinion on whether certain conduct of a prosecutor is in accordance with the Code of Ethics for Prosecutors. Furthermore, in 2014, the Supreme Public Prosecutor’s Office has adopted and is implementing integrity plan.

Pursuant to the measures from the AP for Chapter 23, judges and prosecutors regularly participate in seminars aimed at strengthening integrity of members of the Judicial and Prosecutorial Council, for judges, presidents of courts and public prosecutors and their deputies, based on the integrity programme covering issues of corruption, protection of reputation, conflict of interest, as well as training courses on the codes of ethics of judges and state prosecutors.

10 The DACI website: http://www.antikorupcija.mc/en/
It should be noted here that Montenegro has in place the Law on education of judges and prosecutors (2006), which regulates the manner and types of education of judges and public prosecutors, as well as persons preparing for discharging such functions, and other matters of importance. According to this Law, and the annual and special training programmes, conducted by the Centre for Judicial Training (a separate organizational unit of the Supreme Court), judges and prosecutors in Montenegro undergo a series of trainings that aim to enable them to discharge their functions autonomously, impartially, professionally and efficiently, in accordance with the ethical standards of the professions.

Integrity, objectivity and independence of judges and prosecutors are also guaranteed by the provisions of other legislation governing this area: Law on Courts, Law on Judicial Council and Rights and Duties of Judges (2014), Law on State Prosecutor’s Office (2014), and Law on Special State Prosecutor’s Office (2014).

Article 13 Participation of society

Measures to promote active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption, are provided, among others, in the following regulations: Law on State Administration, Decree on detailed manner and procedure for cooperation between state authorities and non-governmental organizations, Decree on the procedure and manner of conducting public discussion in the preparation of legislation, Law on Free access to Information, Law on NGOs.

Pursuant to article 80 of the Law on State Administration, the ministries and administration bodies are obliged to ensure cooperation with NGOs, in particular through:
1) consulting the non-governmental sector when developing strategy and analysis of the situation in a given area, preparing draft laws and proposal for laws and other regulations, and adoption of by-laws governing the exercise of the citizen rights and freedoms;
2) enabling participation in working groups for consideration of issues of common interest or normative regulation of relevant issues;
3) organizing joint public debates, round tables, seminars and other joint activities;
4) informing about the contents of the work programmes of public administration bodies.

The manner and procedure for establishing such cooperation, as well as the criteria and procedure for the election of NGO representatives in working groups and other working bodies of the Government and public administration bodies, is established by the Government.

Office for Cooperation with NGOs was established in 2007, as an organizational unit of the General Secretariat of the Government of Montenegro. The task of the Office is to promote and coordinate the work of state bodies with NGOs, adhering to the principles of partnership, transparency, accountability, mutual communication and independence of NGOs, to initiate and organize education of civil servants on issues of importance to the cooperation with NGOs and civil participation, and to cooperate with NGOs, their coalitions and networks, international organizations and institutions on matters falling within the jurisdiction of the Office. The Office also performs professional and administrative tasks for the Council for Cooperation between the Government and NGOs.

The Office, which has been involved in drafting almost all regulations, materials and documents related to NGOs, and which coordinated the preparation of the Strategy for Cooperation of the Government of Montenegro and NGOs.
Council for Cooperation between the Government and NGOs has been constituted in January 2011, and consists of a president and 24 members (12 representatives of state bodies and 12 NGO representatives, who were elected on the basis of public call and proposals from NGOs). The President of the Council is a representative of the Government, while the deputy president is a representative of a NGO. The Council is tasked to monitor the implementation of the Strategy for Cooperation between the Government and NGOs and the Action Plan for its implementation, to provide opinions on legislation and other documents relating to the work and activities of NGOs, to define recommendations for improving cooperation between the Government and NGOs, and encourage dialogue between the two sectors. The Council informs the Government at least once a year about its work and issues of importance to cooperation of state bodies and NGOs.

Contact persons in ministries and other public administration bodies are a specific mechanism of horizontal cooperation with NGOs, as of 2007. The Decree on the manner and procedure for cooperation between state authorities and NGOs formally and legally established commitments of heads of state administration bodies to designate contact persons for cooperation with NGOs in their respective ministries/administration bodies.

As noted in relation to Article 5 UNCAC above, the representatives of NGOs are participating in the development and monitoring of implementation of the national anti-corruption strategy and action plans, as well as Working groups for negotiating chapters 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom and Security).

In terms of measures to ensure familiarity of the citizens with relevant anticorruption authorities and to provide access to those authorities, to report, including anonymously, all the cases which can be considered as a crime in accordance with the UNCAC, see information provided in relation to Article 8 UNCAC, concerning the channels for reporting corruption.

Furthermore, the DACI continuously carries out anti-corruption campaigns aimed at raising public awareness about corruption and promoting channels for reporting corruption. Current campaign is titled “Not a cent for bribe”, and has been so far the biggest and most comprehensive anti-corruption campaign in Montenegro. In addition to raising public awareness about corruption, the objective of the campaign is to encourage more citizens to report corruption to the competent authorities. The campaign was launched at the end of 2012, under a Twinning project IPA 2010. The campaign has included design and distribution of leaflets and posters, design and installation of billboards and city-lights, production and broadcast of video and audio clips on electronic media. The DACI also invited other state authorities and several NGOs to take part in the campaign by distributing the campaign material.
Administration for the Prevention of Money Laundering and Terrorist Financing

(Measures undertaken in relation to the Article 14 – Measures to prevent money laundering of the UN Convention against Corruption)

Article 14, paragraph 1, items (a) and (b)

The Administration for the Prevention of Money Laundering and Terrorist Financing of Montenegro was established in 2003, as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering. It is designated as an administrative financial investigation unit. Its main task is to collect, process/analyse and disseminate to the competent state authorities data and information on the suspicions of money laundering, terrorist financing or related criminal offences.


Article 4 of the LPMLTF defines the reporting entities that are obliged to undertake the measures for detecting and preventing money laundering and terrorist financing.

Reporting entities

Article 4.

1) Measures for detecting and preventing money laundering and terrorist financing shall be taken before, during and after the conduct of any business of receiving, investing, exchanging, keeping or other form of disposing of money or other property, or any transactions for which there is a suspicion of money laundering or terrorist financing.

2) Measures from paragraph 1 of this Article shall be undertaken by business organizations, legal persons, entrepreneurs and natural persons conducting activities (hereinafter referred to as: reporting entities), as follows:

1) banks and other credit institutions, and foreign banks' branches;
2) financial institutions;
3) payment service providers;
4) post offices;
5) companies for managing investment funds and branches of foreign companies for managing investment funds;
6) companies for managing pension funds and branches of foreign companies for managing pension funds;
7) stock brokers and branches of foreign stock brokers;
8) legal persons licensed by Securities and Exchange Commission for carrying out custody and depository activities, excluding banks;
9) life insurance companies and branches of foreign life insurance companies;
10) insurance intermediation companies and insurance representation companies in the port related to life insurance;
11) organizers of lottery and special games of chance;
12) exchange offices;
13) pawnshops;
14) companies issuing electronic money;
15) humanitarian, non-governmental, religious and other non-profit organizations;
16) sport organizations;
17) other business organizations, legal persons, entrepreneurs and natural persons engaged in an activity or business of:
- sale and purchase of claims;
- factoring and forfeiting;
- auditing, independent auditor, accounting and providing tax advice services;
- providing services of founding legal persons and other business organizations, as well as business and fiduciary services;
- third persons’ property management;
- issuing and performing operations with payment and credit cards;
- financial leasing;
- investment, trade and intermediation in real estate trade;
- performing construction works;
- elaborating construction projects;
- motor vehicles trade;
- vessels and aircrafts trade;
- safekeeping;
- issuing warranties and other guarantees;
- crediting and credit intermediation;
- granting loans and intermediation in contracting granting loans;
- marketing and consulting activities related to business activities and other managing activities;
- providing catering and tourism services;
- purchase and trade in secondary raw materials;
- multi-level sale;
- organizing and conducting biddings, trading in works of art, precious metals and precious stones and precious metals and precious stones products, as well as other goods, when the payment is made in cash in the amount of at least € 7,500, in one or more linked transactions.

(3) The Government of Montenegro (hereinafter: the Government) may, by a regulation, define other reporting entities that shall undertake the measures from paragraph 1 of this Article if, considering the nature and manner of carrying out activities or business, there is a risk of money laundering or terrorist financing.

(4) The Government may define by a regulation reporting entities that are not obliged to undertake the measures and actions prescribed by this Law when performing certain part of business or activity in case they carry out activities on an occasional or very limited basis and that are related to low risk of money laundering and terrorist financing.

The LPMLTF provides for the duties and obligations of the reporting entities, such as conducting the customer due diligence measures (in particular, identifying and verifying a customer’s identity; identifying the beneficial owner of a customer and verifying his identity; obtaining data on the purpose and nature of a business relationship or purpose of transaction and other data in accordance with the Law; monitoring regularly the business activities that a customer undertakes with the reporting entity and verifying their compliance with the nature of a business relationship and the usual scope and type of customer’s affairs) – Article 8 of the LPMLTF; developing the risk analysis -Article 7; refusal to establish a business relationship and execute a transaction – Article 12 etc. Also, Articles 78-79 and 80-81 provide for type and content of the records that are to be kept by the reporting entities and lawyers and notaries respectively.

A significant step in the anti-corruption efforts of the Administration was made in 2007, when the definition of both domestic and international politically exposed
persons was introduced in the amended Law. This was followed by the obligation for reporting entities to conduct enhanced customer due diligence measures for this kind of clients (the measures are defined in the Article 33 of the existing LPMLTF).

The lists of PEPs are published on the website of the Administration - the one containing the domestic PEPs is taken over from the website of the Commission for Prevention of Conflict of Interests, and the other, referring to the foreign PEPs is redirected from the site of the Ministry of Foreign Affairs and European Integration.

In addition, according to the Guidelines for developing risk analysis, when entering into business relationships or executing transactions, reporting entities need to determine if the clients are PEPs, which is done by requesting them to fill a form for identifying PEPs (Questionnaire for identifying politically exposed persons). This form is also published on the website of the APMLTF.

Article 60 of the LPMLTF defines that the APMLTF, after estimating that there is a suspicion of money laundering or terrorist financing, can require state authorities or public powers holders to provide data, information and documentation necessary for detecting money laundering or terrorist financing. State authorities and public powers holders shall provide the requested data, information and documentation to the Administration without delay, and not later than eight days after the day of receiving the request, or enable, without compensation, direct electronic access to the requested data and information.

According to the Article 64, when there is a suspicion of money laundering or terrorist financing regarding a certain transaction or person, the Administration may, upon a written and grounded initiative of the Court, State Prosecutor, administrative authority competent for police affairs, National Security Agency, competent tax authority, administration authority competent for the customs affairs (hereinafter: Customs authority), administration authority competent for anticorruption and other competent state authority, as well as a competent authority from a foreign country, initiate the procedure for collecting and analyzing data, information and documentation.

Besides, Article 65 provides for the obligation of the APMLTF to, when it evaluates on the basis of data, information and documentation obtained in accordance with this Law that in relation to certain transaction or certain person there is a suspicion of money laundering or terrorist financing, inform the competent authority in written form accompanied with necessary documentation about the reasons for suspicion.

Moreover, Article 66 states that, when the APMLTF evaluates that in relation to a transaction or person there is a suspicion of committing other criminal acts that are prosecuted ex officio, it shall inform in written the competent authorities without delay.

Also, the APMLTF has signed memoranda on cooperation with all the relevant state authorities (Police Directorate, Customs Administration, Insurance Supervision Agency, Central bank, Tax Administration, Basic Court in Podgorica, State Auditing Institution...) in order to strengthen the coordination and cooperation processes in the field of combating ML/TF.

Articles 68-73 define the terms and conditions for international cooperation, i.e. requesting/providing information from/to foreign counterparts, spontaneous provision
of data and information, as well as acting upon the initiative/submitting an initiative for a temporary suspension of transaction (for 72 hours). The APMLTF exchanges data and information with all the members of Egmont Group through the Egmont secure web. In case a suspicion in money laundering, corruption, terrorist financing or other criminal act arises, the Administration, upon the request of a foreign financial intelligence unit, has a power to order the suspension of a transaction for 72 hours. Also, in case the Administration estimates that a transaction is related to some criminal act, it is empowered by the LPMLTF to request a foreign correspondent agency to temporarily suspend the transaction.

So far, the APMLTF has signed Memoranda of Understanding with 32 foreign financial intelligence units.

**Article 14, par. 2**

The Customs Administration shall submit to the APMLTF information on every cross-border transport of money, checks and bearer securities, precious metals and precious stones, in value or amount of 10,000 € or more, within 3 days following the cross-border transport, pursuant to the Article 74 of LPMLTF.

In accordance with the above Law, Customs Administration is obliged to submit to the APMLTF information on every cross-border transport of money, checks and bearer securities, precious metal and precious stones, in the value or amount lower than 10,000 €, if there is a suspicion of money laundering or terrorism financing.

Information on every cross-border transport of money, checks and bearer securities, precious metals and precious stones is submitted using the special form – Reporting form of customs authority, which contains, among other things, information on reason for suspicion of money laundering or terrorism financing, and whether the transport of cash was reported to the customs authorities.

Pursuant to the Article 77 of the LPMLTF, Customs Administration shall inform the APMLTF on annual basis, but not later than the end of January of the current year, for the previous year, on its observations and undertaken measures in relation to suspicious transactions on money laundering or terrorism financing.

Articles 82 and 83 of the LPMLTF prescribe the records, which the Customs Administration is obliged to keep, as well as its contents. The Customs Administration shall keep the records for 11 years after its collection, and such information is being destroyed after the expiry of that deadline.

Customs Administration and APMLTF concluded the Agreement on cooperation, signed on 20/10/2004, for the purpose of implementing the Law on Prevention of Money Laundering and Terrorism Financing, as well as establishing the channels of communication, coordination, cooperation and data exchange, necessary for detecting and preventing money laundering and performing all other obligations stipulated by the law.

**Article 14, par. 3**

Article 34 of the LPMLTF defines the terms and conditions for executing wire transfers. According to this Article, a reporting entity that is a payment service provider shall
obtain accurate and complete data on a payer and enter them into a form or message accompanying wire transfer, sent or received in any currency that is the subject of the wire transfer. The wire transfer shall be accompanied with these data when passing through the payment chain. Also, a payment service provider, that is an intermediary service provider or payee, shall refuse to execute funds transfer if the data on payer are not complete and/or shall require payer data supplement in the shortest possible period of time.

The content and type of data accompanying electronic funds transfer, the other activities of the payment service provider, as well as the exceptions in collecting data when executing funds transfer that represents insignificant risk for money laundering and terrorist financing are more closely defined in the Rulebook on content and type of payer's data accompanying electronic funds transfer.

**Article 14, par. 4**

The Administration is committed to playing a role in the international fight against money laundering and terrorist financing and to fulfilling the obligations under the various international treaties to which the Government of Montenegro is a signatory. The Administration strictly ensures that the AML/CFT legal framework, its policy and practice are in compliance with the recommendations of the Financial Action Task Force and the Committee of Council of Europe - Moneyval, the EU Directives on money laundering and terrorist financing, Egmont principles, and all other existing AML/CFT international standards.

Also, the APMLTF has great technical assistance provided by the international organizations, such as UNDP and OSCE. Also, a huge support is received from the experts of relevant international institutions through their evaluations of our system, constructive comments, recommendations and suggestions.

**Article 14, par. 5**

The legal basis for the cooperation, both national and international, is presented above, under Article 14, paragraph 1, items (a) and (b).

The APMLTF regularly attends the relevant workshops, conferences and seminars. During 2014 our representatives participated at various events dedicated to the fight against corruption, ML/TF, organized crime, illegal cross border funds transfer, seizure and confiscation of proceeds of crime, currency fraud, financial investigations techniques etc.

With the view of achieving better regional cooperation/financial and investigative data exchange at the Second Regional Conference of FIU's Heads, held in Podgorica 23-25th April 2008, the representatives of FIUs from Montenegro, Albania, Serbia, Croatia, Slovenia and Bosnia and Herzegovina, signed the Regional Protocol on the Fight Against Money Laundering and Financing of Terrorism.

The Regional Conference is held annually and each time hosted by another country from the region.
Also, the APMLTF is actively involved in the work of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), Egmont Group and Euro-Asian Group, and it repeatedly participates in their plenary and working-group meetings.