



POLICY FORUM
ANTI-CORRUPTION, DEMOCRATIC RESILIENCE AND ECONOMIC SECURITY

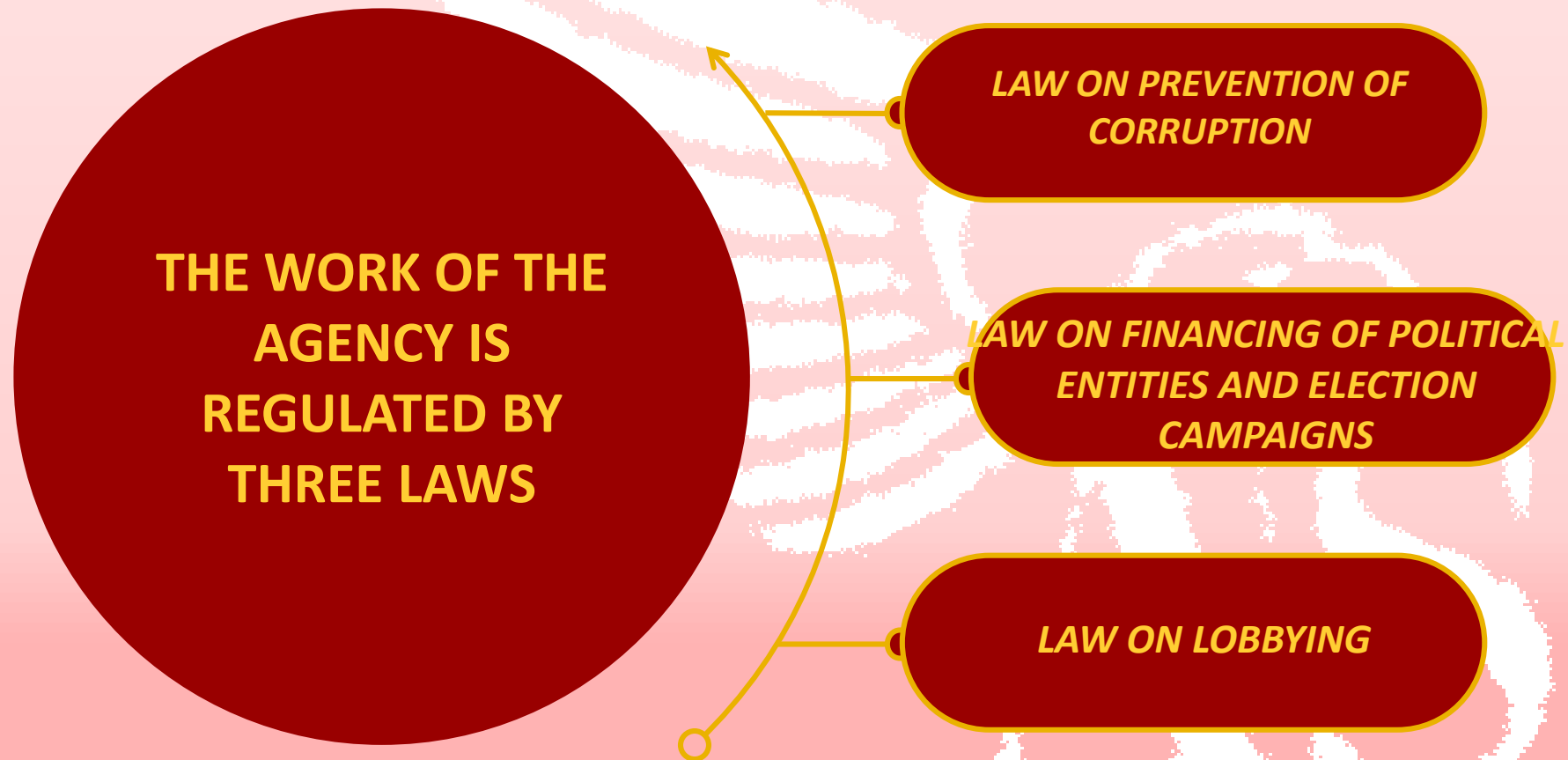
***Experiences and best practices of the
Agency for Prevention of Corruption of Montenegro***

November 9th, 2023

APC

ABOUT THE AGENCY FOR PREVENTION OF CORRUPTION OF MONTENEGRO

- The Agency has been established on January 1, 2016, as a functionally and financially independent and centralized anticorruption institution established by the Parliament, covering various legal competencies.



COMPETENCES OF THE ACP

- ESTABLISHING THE EXISTENCE OF CONFLICT OF INTEREST IN THE EXERCISE OF PUBLIC FUNCTION;
- SUPERVISION OF RESTRICTIONS IN EXERCISE OF PUBLIC FUNCTIONS;
- CONDUCTING CONTROL OF RECEIVING GIFTS, SPONSORSHIPS AND DONATIONS;

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ASSET DECLARATION VERIFICATION;

ISSUING OPINIONS ON THE EXISTENCE OF THREATS TO THE PUBLIC INTEREST INDICATING THE EXISTENCE OF CORRUPTION - RECOMMENDATIONS FOR PREVENTING THREATS TO THE PUBLIC INTEREST AND THE WHISTLEBLOWER PROTECTION;

3

MONITORING ADOPTION AND IMPLEMENTATION OF INTEGRITY PLANS, ASSESSING THE EFFICIENCY AND EFFECTIVENESS OF INTEGRITY PLANS WITH RECOMMENDATIONS;

4

LEGISLATION PROOFING – LAWS AND GENERAL ACTS FOR THE PURPOSE OF THEIR ALIGNMENT WITH INTERNATIONAL ANTI-CORRUPTION STANDARDS;

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SUPERVISION IMPLEMENTATION OF THE LOBBYING ACTIVITIES;

CONTROL OF THE FINANCING OF POLITICAL ENTITIES AND ELECTION CAMPAIGNS;

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• INITIATING MISDEMEANOUR PROCEEDINGS AND ISSUING MISDEMEANOUR WARRANTS;

• EDUCATIONAL, RESEARCH AND OTHER PREVENTIVE ANTI-CORRUPTION ACTIVITIES;

• REGIONAL AND INTERNATIONAL COOPERATION IN PREVENTION OF CORRUPTION.

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ASIA

CORRUPTION PROOFING OF LEGISLATION

In accordance with the Article 79 of the LPC, Agency issues opinions on legislation in terms of identifying risks in provisions that can lead to corruption, such as:

- imprecision of norms;
- wide discretionary powers;
- lack of transparency in certain procedures that could potentially endanger public interest.

Other risks:

- violation of ethics,
 - transparency,
 - damage to the public interest, etc.
- Assessment is carried out for legal texts that are in force, for draft laws as well as for other types of general legal acts, and this competence is exercised by the Agency ex officio or at the request of interested parties.

CORRUPTION PROOFING OF LEGISLATION

- Opinions contain **recommendations for eliminating or reducing the risks to the minimum.**
- Since 2016, the Agency has issued opinions on **65 regulations.** Although the opinions are not legally binding, their impact on decision-makers is more and more noticeable from year to year, and the implementation of improved regulations in certain areas is already having positive effects.
- Some of the acts were **suspended after Agency issued this Opinions.**

ASIK

CORRUPTION PROOFING OF LEGISLATION

Successful examples of the work of the Agency in this competence:

- ✓ *Decision on the method and criteria for solving the housing needs of officials (2019)*
- ✓ *Decision on the establishment of the National Council for the Fight against High Level Corruption (2021)*
- Opinions of the Agency are primarily based on the *Methodology for assessing the risk of corruption in regulations in Montenegro*, which was prepared in 2017 in cooperation with Regional Anti Corruption Initiative (RAI) experts and further developed with the United Nations Development Program (UNDP) in Montenegro.
- *In 2022, the CPL Checklist, i.e. Preliminary Control on the Risks of Corruption, with a list of 23 questions*, to which the proponent of the law would have to answer in the process of drafting the act, after which the Agency, as an evaluator, would make an assessment of the susceptibility of the relevant regulation to corruption.

INTEGRITY PLANS

- As stipulated by the LPC, Article 77, Agency carries out supervision over adoption and implementation of integrity plans of 740 public authorities.
- All integrity plans and reports on their implementation are entered into a special **IT application** which allows the Agency to process and analyze the data, most importantly the intensity of identified risks, and the level of implementation of measures for risk mitigation.
- The Agency prepares annual comprehensive reports on integrity plans, in order to evaluate their quality, implementation and give recommendations for their improvement.
- To measure the impact of integrity plans on the work of public authorities, the Agency in 2017 developed a ***Questionnaire for assessing the efficiency and effectiveness of integrity plans***, - 171 questions, with additional questions for certain sectors.
- The Agency also developed the ***Methodology for assessing the implementation of anti-corruption measures, in cooperation with the UNDP in Montenegro***, which includes the criteria and indicators related to integrity plans.

INTEGRITY PLANS

- With the RAI assistance, Agency developed Corruption risk assessment (CRA) and Corruption Proofing of Legislation (CPL) **guidance with checklists for two sectors – higher education and state-owned enterprises**, a two sectors especially vulnerable to corruption that were selected in a consultative process by the region countries.
- The checklists for both sectors offer a set of questions, which assist the institutions in selecting and implementing appropriate risk mitigation measures.
- Most dominant risks in one of the most vulnerable areas, for expale in public procurement
- The risks that are most prevalent in the field of public procurement in integrity plans are: *insufficient transparency of public procurement, undue influence on the planning and implementation of public procurement, the possibility of favoring certain companies through non-objective scoring of received bids due to friendly and family ties (clientelism, nepotism, cronyism) or conflicts of interest, adjusting technical specifications to the interests of certain companies, non-compliance with prescribed procurement procedures adopted in accordance with the Law on Public Procurement.*

ASSET DECLARATION VERIFICATION

- The Agency verifies income and property reports of public officials and civil servants - police and custom officers and members of their households, according to the ***Annual Verification Plan*** that is adopted at the beginning of every year.
- Cross-checking of data is done the data via special IT platform which enables direct and real time access to the data bases of the:
 - *Ministry of Interior,*
 - *Tax Administration,*
 - *Real Estate Administration,*
 - *Central Registry of Business Entities,*
 - *Central Bank of Montenegro; and*
 - *Securities Commission.*
- Selection of the reports is done by the software through „***random selection functionality***“ which ensures that the officials whose reports will be controlled are selected by the software.

ASSET DECLARATION VERIFICATION

- At the end of 2020, we introduced the practice of the *so-called monitoring the lifestyle of public officials*, with a view of monitoring the increase in the Reports of income and assets of public officials, and potential incompatibilities between the real and reported income and assets.
- For these purposes, Agency uses publicly available data, as well as information from the media, and comparing them with the official databases. In this regard, several cases were referred to the Special State Prosecutor's Office to the further action.
- *International Treaty on Exchange of Data for the Verification of Asset Declarations*

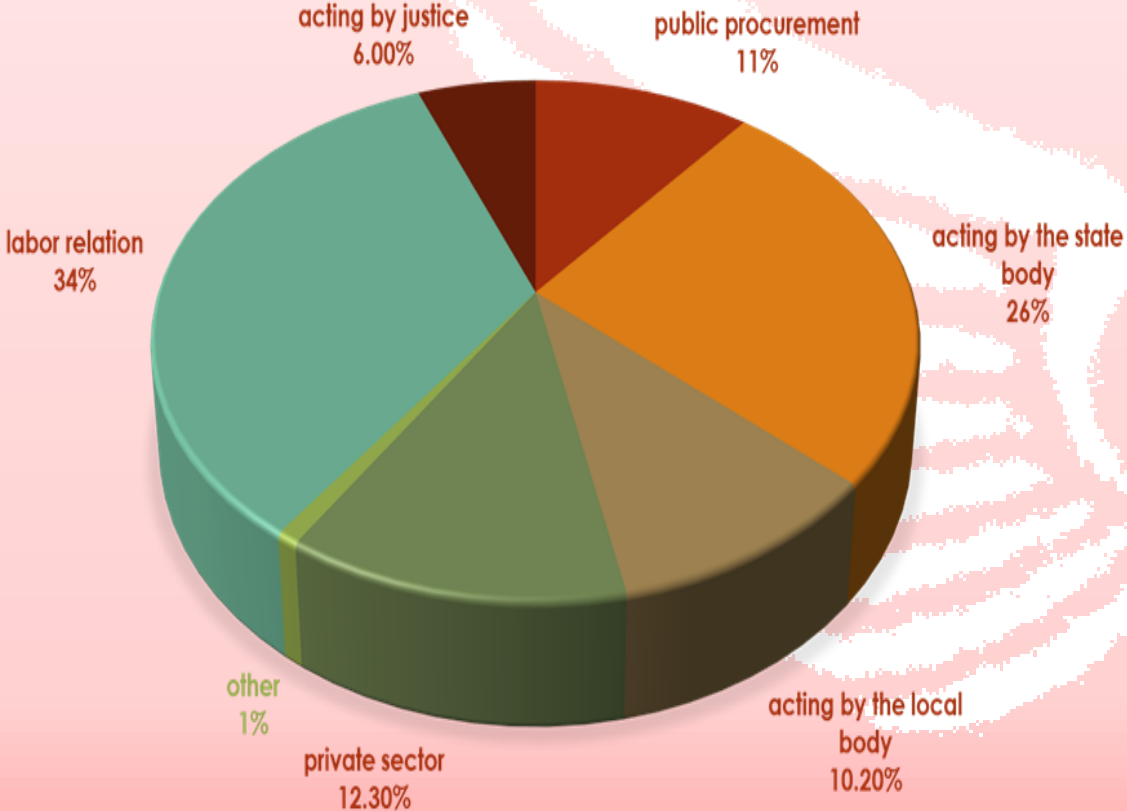
The Treaty, signed in March 2021 in Belgrade by the ministers responsible for the affairs of the judiciary of Montenegro, Serbia and North Macedonia, **aims to strengthen to strengthen cooperation with regard to the disclosure of assets of public officials at the regional and international level cooperation.** It is implemented by the RAI, in partnership with the UN Office on Drugs and Crime (UNODC) and with financial support of the Austrian Development Agency.

WHISTLEBLOWERS

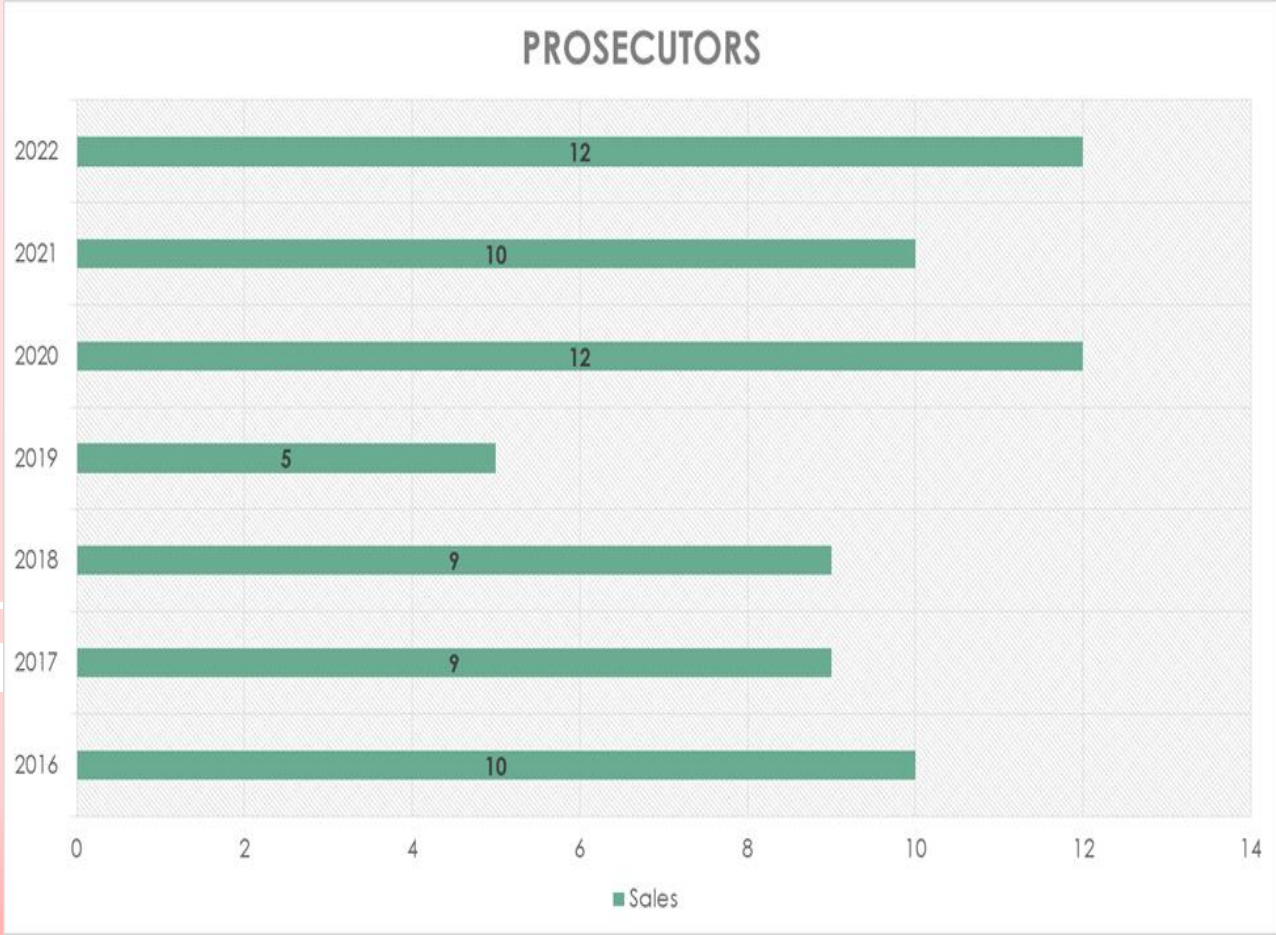
- The Agency acts both upon whistleblowers' reports on endangering public interest and ex officio, and if the allegations from the reports are justified, the Agency **gives an opinion containing a recommendation on what should be done to eliminate and further prevent the damage.**
- If the Agency suspects that a criminal offense which it is to be prosecuted ex officio has been committed, the whole report with all the evidence is submitted to the competent state prosecutor's office, which has the duty to inform the Agency back about the outcome of the proceedings.
- The Agency provides protection to whistleblowers if determined that he/she suffered damage and provides professional assistance, including representation before the courts.
- Since 2016 – 36 requests for protection out of which 12 were approved; 6 cases are ongoing and 2 requests were referred to the Police Directorate (requests for physical protection)

WHISTLEBLOWERS REPORTS BY SECTORS

REPORTS RELATING TO..



PROSECUTORS





THANK YOU FOR YOUR ATTENTION

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