

# LAW ON THE ANTI-CORRUPTION AGENCY<sup>1</sup>

## I. GENERAL PROVISIONS

### Article 1

This Law governs the establishment, legal status, competencies, organisation and operation of the Anti-corruption Agency (hereinafter *the Agency*), rules concerning the prevention of conflict of interest in discharge of public office and property disclosure reports of persons holding public office, introduction of Integrity Plans, as well as other issues of relevance to the work of the Agency.

### Meaning of Terms

#### Article 2

For the purpose of this Law the following terms shall mean:

- *corruption* is a state based on an abuse of office or social status and influence, in public or private sector, with an aim to acquire personal benefits for oneself or another;
- *official* is every person elected, appointed or nominated to the bodies of the Republic of Serbia, autonomous province, local self-government unit, bodies of public enterprises and companies, institutions and other organisations the founder of which or member is the Republic of Serbia, autonomous province, local self-government unit and other person elected by the National Assembly;
- *public office* denotes a function in the bodies of the Republic of Serbia, autonomous province, local self-government unit, bodies of the public enterprises and companies, institutions and other organisations the founder of which or member is the Republic of Serbia, autonomous province, local self-government unit as well as functions of other persons elected by the National Assembly and implies managing and decision-making authority, and enactment of general and individual acts.
- *associated person* is a spouse or a common-law partner of the official, lineal blood relative of the official, lateral blood relative to the second degree of kinship, adoptive parent or adoptee of the official, as well as any other legal entity or natural person who may be reasonably assumed to be associated in interest with the official.

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<sup>1</sup> The Law was published in the *Official Gazette of the RS*, no. 97/08 on 27 October 2008 and began being implemented as of 1 January 2010. Amendments to the Law were published in the *Official Gazette of the RS*, no. 53/10 from 29 July 2010 and entered into force on 6 August 2010.

- *private interest* is any kind of benefit or advantage to the official or associated person.
- *conflict of interests* is a situation where an official has a private interest which affects, may affect or may be perceived to affect actions of an official in discharge of office or official duty in a manner which compromises public interest;
- *gift* is money, thing, right and service performed without adequate compensation and any other benefit given to the official or associated person in respect to discharge of public office;
- *protocol gift* is a gift to the official from a foreign state, its body or organisation, international organisation or foreign legal entity, received during a visit or on other similar occasions.

## **II. THE AGENCY**

### **Article 3**

The Agency is an autonomous and independent state body.

The Agency is accountable to the National Assembly of the Republic of Serbia for performance of duties from its purview.

The Agency has the status of a legal entity.

Any procedure before the Agency not regulated by this Law shall accordingly have provisions of the law governing administrative procedure apply to it.

The funds for the operation of the Agency shall be provided in the budget of the Republic of Serbia at the proposal of the Agency, and from other sources, in accordance with the Law.

The Agency autonomously disposes with funds specified in paragraph 5 of this Article, in accordance with the Law.

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### **Seat and organisational units of the Agency**

#### **Article 4**

The seat of the Agency is in Belgrade.

The Agency may establish organisational units outside its official seat.

Organisational units specified in paragraph 2 of this Article do not have the status of a legal entity.

### **Competencies of the Agency**

#### **Article 5**

The Agency:

- supervises the implementation of the National Strategy for Combating Corruption (hereinafter *the Strategy*), the Action Plan for the Implementation of the National Strategy for Combating Corruption (hereinafter *the Action Plan*) and sector action plans;
- institutes proceedings and pronounces measures in case of a violation of this Law;
- deals with issues concerning conflict of interest;
- performs tasks in accordance with the law governing the financing of political parties, i.e. political entities;
- issues opinions and directives for enforcing this Law;
- launches initiatives for amending and enacting regulations in the field of fighting corruption;
- gives opinions related to implementing of the Strategy, Action Plan and sector action plans,
- monitors and organises coordination of the state bodies in the fight against corruption;
- keeps a register of the officials;
- keeps a register of property and income of officials (hereinafter *Property Register*);
- extends expert assistance in the field of combating corruption;
- cooperates with other state bodies in drafting regulations in the field of fight against corruption;
- issues guidelines for developing integrity plans in the public and private sector;
- co-operates with research organisations and civil society organisations in implementing corruption prevention activities;
- introduces and implements education programs concerning corruption, in accordance with this Law;
- keeps separate records in accordance with this Law;
- acts on complaints submitted by legal entities and natural persons;
- acts on reports by civil servants, i.e. employees in organs of the Republic of Serbia, autonomous province, local government and bodies of public enterprises, institutions and other organisations the founder of which is the Republic of Serbia, autonomous province or local government, i.e. bodies of companies the founder of which or member is the Republic of Serbia, autonomous province or local government and employees of state organs and organisations;
- organises research, monitors and analyses statistical and other data on the state of corruption;
- in collaboration with competent state bodies monitors international cooperation in the fight against corruption;

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- performs other tasks set forth by law.

### **Agency Bodies**

#### **Article 6**

The bodies of the Agency are the Board and the Director.

#### **a) The Board**

##### **Article 7**

The Board appoints and dismisses the Director of the Agency, decides on salary increase of the Director, decides on appeals against decisions of the director pronouncing measures in accordance with this Law, adopts the annual report on operation of the Agency which it submits to the National Assembly, performs supervision over the work and property status of the Director, proposes budget funds for operation of the Agency, enacts the Agency Rules of Procedure and perform other tasks set forth under this Law.

The Board may, at the proposal of the Director, establish advisory or working bodies of the Agency.

#### **Election Requirements for a Member of the Board**

##### **Article 8**

A person may be elected member of the Board who meets the general requirements for employment in state administration bodies, holds university degree and has minimum nine years of experience and has not been convicted for a criminal offence making him/her unworthy to discharge the office of member of the Managing Board.

A member of the Board may not be a member of a political party, i.e. political entity and is subject to the same duties and prohibitions applicable to officials under this Act, except the prohibition specified in Article 30 (1) hereof.

#### **Composition of the Board**

##### **Article 9**

The Board shall have nine members.

Members of the Board shall be elected by the National Assembly following the nomination by:

1. the Administrative Committee of the National Assembly;
2. the President of the Republic;
3. the Government;
4. the Supreme Court of Cassation;

5. the State Audit Institution
6. the Protector of Citizens and Commissioner for Information of Public Importance, through joint agreement;
7. the Social and Economic Council;
8. the Bar Association of Serbia;
9. the Associations of Journalists of the Republic of Serbia, in mutual agreement.

A candidate for member of the Board who is nominated by nominators specified in paragraph 1, items 8) and 9) may be from the ranks of the nominators.

#### **Term of Office of a Member of the Board Article 10**

The term of office of member of the Board is four years.

The same person may be elected member of the Board twice at most.

#### **Remuneration for the Work of the Board Member Article 11**

A member of the Board is entitled to monthly remuneration equal to two average monthly net salaries in the Republic of Serbia.

#### **Termination of Office of the Board Member Article 12**

The office of a Board member shall terminate with expiration of the term of office, by resignation, permanent incapacity to discharge office due to illness and on basis of medical findings of a relevant medical institution and by dismissal.

The nominators shall submit nominations for election of a new member of the Board three months prior to expiry of the term of office.

If the office of a Board member terminates prior to the expiry of the term, the nominator is required to submit a list of candidates for a new member to the National Assembly within 30 days from the day of occurrence of circumstances specified in paragraph 1 of this Article.

#### **Dismissal of Board Member Article 13**

A member of the Board shall be dismissed in case of negligent performance of duties, if he/she becomes a member of a political party, i.e. political entity, discredits the reputation or political impartiality of the Agency, if convicted for a criminal offence making him/her unworthy of the office of a member of the Board or if determined that he/she has violated this Law.

The procedure to determine whether there are grounds for dismissal of a member of the Board shall be conducted by the Board.

The procedure referred to in paragraph 2 of this Article may be initiated following the proposal of the Chairperson of the Board, at least three members of the Board, Director of the Agency, as well as the nominator of the relevant member.

Decision on dismissal is passed by the National Assembly at the motion of the Board.

The Board may suspend its member who is undergoing proceedings which shall establish whether grounds for dismissal exist.

#### **Decision Making Article 14**

The Board decides by a majority vote of all its members.

The work of the Board shall be managed by the Chairperson, elected by the members of the Board amongst themselves.

#### **b) Director Article 15**

The Director shall represent the Agency, manage its operation, organise and ensure lawful and efficient discharge of tasks of the Agency, issue decisions on the violation of this law and pronounce measures, give opinions and instructions for the implementation of this law, prepare the annual report on the operation of the Agency, draft the proposal of budget funds for the operation of the Agency, pass general and individual acts, decide on the rights, duties and responsibilities of the Agency staff, enforce decisions of the Board and perform other tasks determined by law.

#### **Election Requirements for the Director Article 16**

The Director may be a person who meets the general requirements for employment in state bodies, holds a degree in law and has a minimum nine years of

experience, is not convicted for a criminal offence making him/her unworthy of the office of the Director.

The Director may not be a member of a political party, i.e. political entity and shall be subjected to the same obligations and limitations which pertain to officials under this Law.

### **Public Competition for Election of the Director** **Article 17**

The Director shall be elected through public competition announced by the Board. The public competition is published in the *Official Gazette of the Republic of Serbia* and at least one public media with a state-wide coverage.

### **Term of Office of the Director** **Article 18**

The term of office of the Director is five years.  
The same person may not be elected more than twice as the Director.

### **Termination of Office of the Director** **Article 19**

The office of the Director shall terminate with expiration of his/her term of office, by resignation, if permanently incapacitated to discharge the office due to illness verified by a relevant medical institution, and by dismissal.

The Board is required to publish a competition for election of a new Director three months before the expiry of the term of office.

If the office of the Director terminates prior to expiry of the term in office the Board is required to announce a competition for election of a new Director, within 15 days from the occurrence of circumstances specified in paragraph 1 of this Article.

### **Dismissal of the Director** **Article 20**

The Director shall be dismissed in case of a negligent performance of duties, if he/she becomes a member of a political party, i.e. political entity discredits the reputation or political impartiality of the Agency, if convicted for a criminal offence making him/her unworthy of the office or if determined which he/she has committed a violation of this Law.

The procedure to determine whether grounds exist for dismissal of the Director shall be conducted by the Board.

The procedure specified in paragraph 2 of this Article shall be initiated following the motion of the Board Chairperson or at least three members of the Board.

### **Deputy Director Article 21**

The Agency shall have a Deputy Director, who shall be elected through public competition.

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The Director shall select a Deputy Director from three proposed candidates from the list determined by the Board.

The Deputy Director is dismissed by the Director.

The term of office of the Deputy Director shall terminate by election of a new Director.

The Deputy Director shall perform tasks within the purview of competencies defined by the Director.

### **Salary of the Director and the Deputy Director Article 22**

The Director is entitled to a salary equal to the base salary of a judge of the Supreme Court of Cassation.

The base salary specified in paragraph 1 of this Article, due to particular complexity of tasks and responsibilities of the position, may be augmented up to 20% by the decision of the Board.

The Deputy Director is entitled to a salary equal to the base salary of an Appellate Court judge.

The Director and the Deputy Director are entitled to a remuneration in lieu of a salary for the period of 6 months beginning on the day of the termination of office, in the amount valid on the day of the termination of office.



The right to the salary specified in paragraph 2 of this Article, shall cease before the expiry of six months if the former director or deputy director concludes an employment contract or retires.

### **Secretariat of the Agency**

#### **Article 23**

The Agency shall have a Secretariat which will be managed by the Director of the Agency.

Principles for internal organisation and job classification in ministries and special organisations shall apply to the internal organisation and job classification of the Agency unless certain operational procedures at the Agency require different type of organisation.

The Director, after obtaining the opinion of the Board and with the approval of the National Assembly committee in charge of administration, shall issue the Rules on Internal organisation and Job Classification of the Agency Secretariat.

### **Status of Secretariat Employees**

#### **Article 24**

The regulations applying to civil servants and nominated officials shall also apply to the Secretariat employees.

The Director may issue a special Code of Conduct for the Secretariat staff.

### **Obligations of Other Bodies and Organisations**

#### **Article 25**

In performing tasks from its purview the Agency shall cooperate with other state bodies and organisations, territorial autonomy and local self-government bodies, public services and other legal entities.

State bodies and organisations, territorial autonomy and local state bodies, public services and other legal entities with administrative authority shall be required to forward within 15 days, at the request of the Agency, all documents and information necessary for the Agency to perform the tasks from its purview.

Other legal persons with duties defined by the Strategy, Action Plan and Sector Action Plans shall also have the duty to forward documents and information specified in paragraph 2 of this Article.

**Reporting**  
**Article 26**

The Agency shall submit an annual report on its operations to the National Assembly, no later than 31 March of the current year for the preceding year.

The report referred in paragraph 1 of this Article also contains a report on implementation of the Strategy, Action Plan and Sector Action Plans.

The Agency may also submit special reports at the request of the National Assembly, or at its own initiative.

The Agency submits the report specified in paragraphs 1 and 3 of this Article to the Government.

**III. CONFLICT OF INTEREST**

**Article 27**

An official shall discharge the duties of public office in a manner which shall not subordinate the public interest to private interest.

An official shall observe the regulations concerning his/her rights and duties and shall secure and maintain the trust of citizens concerning his/her conscientious and responsible discharge of public office.

An official shall avoid creating relations of dependency towards persons which may influence his/her impartiality in discharge of public office and if such relation cannot be avoided or already exists he/she shall undertake everything necessary to protect the public interest.

An official must not use public office to acquire any benefit or advantage for himself or any associated person.

**Prohibition to Discharge Other Public Office**

**Article 28**

An official may hold only one public office unless obligated by law or other regulation to discharge several public functions.

As an exception to paragraph 1 of this Article an official may hold other public office with the approval of the Agency.

An official elected to public office directly by citizens may, without seeking approval from the Agency, hold other public offices to which he/she is elected directly by citizens, except in cases of incompatibility determined by the Constitution.

An official who is elected, nominated or appointed to another public office and who intends to discharge multiple public offices concurrently, is required to request consent from the Agency, within three days from the day of election, nomination or appointment. The official shall attach with the request a positive opinion obtained from the authority electing, nominating or appointing him/her to public office, whilst an official elected to public office directly by citizens shall submit a positive opinion of the relevant body of the authority wherein he/she holds office.

The Agency is required to issue a decision on the complete and proper request specified in paragraph 4 of this Article within 15 days of receiving the official's request. The Agency shall not issue consent for discharge of another public office if discharge of such office compromises discharge of public office held by the official, i.e. if it determines conflict of interest, in which case it shall issue a reasoned decision.

Should the Agency fail to issue a decision on submitted request within the period of time stipulated in paragraph 5 of this Article, the request shall be deemed approved, unless the official is prohibited from concurrent discharging of these two public offices by a separate regulation.

In respect of the official elected, appointed or nominated to another public office contrary to provisions of this Law, the latter office shall terminate in accordance with the Law.

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The decision to terminate office in case specified in paragraph 7 of this Article is made by the authority, i.e. standing body of the authority electing, nominating or appointing the official to the latter office, within eight days from the day of receiving the ruling of the Agency determining that the official is elected, nominated or appointed to another public office contrary to this Law.

For certain categories of officials the Director of the Agency may, by general act, determine other public offices which may be discharged by officials without consent from the Agency specified in paragraph 5 of this Article.

**Holding a Function in Political Party, i.e. Political Entity**  
**Article 29**

An official may perform a role in a political party, i.e. political entity and participate in its activities if this is not to impede an efficient discharge of public office, further provided that such engagement is not prohibited by law.

An official may not use the public resources and public meetings which he/she attends in capacity of official for promotion of any political parties, i.e. political entities.

As an exception to paragraph 2 of this Article, an official may use public resources for personal security if the use of such resources is governed by relevant regulations or decision of the services tasked with security of officials.

An official is required at all times to unequivocally present to his/her interlocutors and the general public whether he/she is presenting the viewpoints of the body in which he/she holds an office or viewpoints of a political party, i.e. political entity.

Provisions of paragraph 4 of this Article shall not apply to officials elected directly by citizens.

### **Engaging in Other Job or Activity Article 30**

An official may not perform other jobs or engagements during his/her tenure in public office which require full-time working hours or full-time employment.

As an exception to paragraph 1 of this Article, an official may engage in research, educational, cultural, humanitarian and sports activities without Agency approval if by doing so he/she does not compromise the impartial discharge and dignity of public office. An official is required to report incomes from these activities to the Agency.

If the Agency determines which engagement or job referred to in paragraph 2 of this Article compromises impartial discharge or dignity of public office, or represents a conflict of interest it shall set a deadline wherein the official is required to cease such engagement or job.

With the exception of engagements or activities specified in paragraph 2 of this Article, the Agency may, at the request of the official, give consent for performing also other engagements or activities. The official shall attach to the request a positive opinion of the authority electing, nominating or appointing him/her to public office. A civil servant holding office is required to attach to the request consent from his/her direct supervisor. The Agency is required to decide on the complete and proper request within 15 days of receiving the request.

If the Agency fails to issue approval within the time-frame stipulated in paragraph 4 of this Article it shall be deemed that it has given approval to perform other engagement or job.

The Director of the Agency may define by general act jobs or engagements for certain categories of public officials which they may engage in without approval referred in paragraph 4 of this Article.

Other law or regulation may also prescribe other jobs or engagements which a public official may not perform during tenure of office.

**Engaging in Other Activities at the Time  
of Assuming Public Office  
Article 31**

An official engaged in other activity at the moment of assuming public office is required to notify the Agency of the other activity within 15 days of assuming public office.

Upon receiving the notification, the Agency shall determine whether performing the activity compromises an unbiased discharge of public office, i.e. represents a conflict of interest.

If the Agency determines that performing the activity specified in paragraph 2 of this Article compromises an impartial discharge of public office, i.e. represents a conflict of interest, it shall issue a decision defining the deadline not exceeding 60 days, wherein the official is obliged to cease to perform this activity.

If the official fails to act within the time-frame specified in paragraph 3 of this Article, the Agency shall conduct proceedings to determine violation of law.

If the Agency fails to notify the official of the existence of a conflict of interest within 30 days from the day it receives the notification specified in paragraph 1 of this Article, it shall be deemed that the official may continue to perform the other activity.

Provisions of this Article do not refer to a member of a managing or supervisory board of a public enterprise and public institutions from the ranks of employees.

The Director of the Agency may stipulate by general act certain categories of officials, i.e. certain activities which do not require submission of notification specified in paragraph 1 of this Article.

**Duty to notify a conflict of interest**  
**Article 32**

When assuming office and during the discharge of public office, the official shall notify his/her direct superior and the Agency, in writing and within eight days, of any doubts over a conflict of interest concerning himself/herself or an associated person.

The Agency may summon the official and request that he/she submits the necessary data for the purpose of obtaining information on the conflict of interest specified in paragraph 1 of this Article.

If the Agency establishes a conflict of interest as specified in paragraph 1 of this Article, it shall accordingly notify the official and the body wherein such official holds public office and propose measures for eliminating the conflict of interest.

Provisions of paragraph 1 and 3 of this Article do not preclude application of provisions on disqualification set forth in other laws governing judicial or administrative procedures.

An individual legal act the adopting of which included an involvement of the official disqualified due to a conflict of interest shall be void.

As an exception to paragraph 5 of this Article, a legal act shall not be void if the official who participated in its adoption reported the conflict of interest in accordance with this Law and if allocating another person to participate in the adoption of the act was not possible.

**Prohibition of Establishing a Business Company or Public Service**  
**During Tenure of Public Office**  
**Article 33**

During tenure of public office an official whose public office requires full time employment or permanent engagement may not establish a business company or public service, nor commence engagement in private occupation, in terms of the law governing entrepreneurship.

An official whose public office demands full time employment or permanent engagement may not hold management, supervisory or representation of private capital in a business company, private institution or other private legal entity.

**Membership in Associations and Bodies of Associations**  
**Article 34**

As an exception to Article 33 (2) hereof an official may hold office in bodies of professional associations. An official may be a member of bodies of other associations if the Agency does not determine a conflict of interest.

Provisions of Article 31 hereof shall accordingly apply to determination of conflict of interest specified in paragraph 1 of this Article.

An official who is a member of an association may not receive reimbursement or gifts deriving from his/her membership in the association, except travel and other costs.

### **Transfer of Managing Rights for Duration of Public Office Article 35**

An official shall, within 30 days of election, appointment or nomination, transfer his/her managing rights in a business company to a legal entity or natural person who is not an associated person, who shall exercise the managing rights on the behalf of the official until termination of the office of the official.

An official may exceptionally transfer his/her managing rights in a business company to another natural person or legal entity who is a founder – member or director of the company wherein the official has managing rights.

An official shall, within five days from the day of the managing rights transfer, submit relevant data on the person to whom the managing rights have been transferred and a proof of the transfer to the competent body of the business company and the Agency. The official shall notify the business company of the reasons for the transfer of the managing rights. The person to whom the official transfers the managing rights shall become an associated person.

An official may not give information, directives and orders to the person to whom the managing rights have been transferred in accordance with provisions of paragraph 2 of this Article, or influence the exercising of rights and duties in the business company through such person. The official is entitled to receive information on business operations of the business company.

Exceptionally, an official owning up to 3% share in a company is not required to transfer his/her managing rights to another legal entity or natural person.

### **Duty to Notify the Agency in Public Procurement Procedure Article 36**

A legal entity with an official owning more than 20% ~~share or interest~~, which by taking part in privatisation, public procurement or other procedure, signs a contract with

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an organ of the Republic, territorial autonomy, local government, other budget spending unit, i.e. other legal entity founded by an organ of the Republic, territorial autonomy or local government or a legal entity with more than 20% of the capital being in public ownership, shall accordingly notify the Agency, within three days from the day of undertaking first actions in the procedure. The legal entity shall also notify the Agency of the final outcome of the procedure within three days of learning of its conclusion.

The Agency shall keep records of the legal entities specified in paragraph 1 of this Article. These records are public.

### **Prohibition of Influence on an Official** **Article 37**

An official shall promptly notify the Agency of any prohibited influence to which he/she has been subjected in the course of discharge of a public office.

The Agency shall notify the competent body of the allegations of the official referred to in paragraph 1 of this Article, to institute disciplinary, misdemeanour and criminal proceedings, in accordance with the Law.

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The body specified in paragraph 2 of this Article shall, within 30 days from the day it receives the notification, inform the Agency of the measures taken.

### **Prohibition of Other Employment or Business Relations** **Following Termination of Public Office** **Article 38**

During the period of two years after termination of public office, the official whose office has terminated may not take employment or establish business relations with a legal entity, entrepreneur or international organisation engaged in activity related to the office the official held, except when approved by the Agency.

The official whose office terminated shall, prior to employment or business relations specified in paragraph 1 of this Article, seek approval of the Agency which shall issue a decision upon this request within 15 days.

Should the Agency fail to issue a decision within the deadline specified in paragraph 2 of this Article, it shall be deemed that approval for employment or business relations has been given.

The prohibition referred in paragraph 1 of this Article, shall not refer to an official elected directly by citizens.



## **IV. GIFTS**

### **Article 39**

An official may not accept gifts in connection to the discharge of public office, except for protocol or other appropriate gifts which may not be in money or securities.

An official is required to hand over the protocol gift to the body competent to manage property in public ownership, unless the value of the gift does not exceed 5% of the value of the average monthly net salary in the Republic of Serbia.

An official may not retain an appropriate gift the value of which exceeds 5% of the average monthly net salary in the Republic of Serbia, i.e. appropriate gifts received during a calendar year the aggregate value of which exceeds one average monthly net salary in the Republic of Serbia.

The criteria for establishing what is deemed an appropriate gift and the duty to report and record thereof is determined by the Agency.

If necessary, the Agency shall establish the value of the gift.

### **Rejecting Gifts Article 40**

An official who has been offered a gift which he/she is not allowed to accept shall reject such offer and inform the one offering the gift that the gift, if accepted, will become public property.

If the official could not reject the gift, he/she shall hand over the gift to the body competent to manage property in public ownership.

The official is required to submit a written report on the event specified in paragraph 1 of this Article to his/her direct superior and the Agency as soon as possible.

### **Duty to Report and Maintain Records of Gifts Article 41**

An official shall report any gift received in connection with discharge of public office to the state or other body, organisation or public service wherein he/she holds public office.

A state or other body, organisation or public service referred to in paragraph 1 of this Article, shall keep separate records of the gifts specified in paragraph 1 of this Article. A copy of the records for the previous year shall be submitted to the Agency, no later than 1 March of the current year.

The Agency shall notify the state or other body, organisation or public service referred in paragraph 1 of this Article of any determined violation of law.

The Agency shall publish a catalogue of gifts for the previous year and notifications specified in paragraph 2 of this Article, by 1 June of the current year.

### **Prohibition of Receiving Gifts by Associated Person** **Article 42**

An associated person may not receive gifts in connection to the discharge of public office of the official with whom such person is associated.

As an exception to paragraph 1 of this Article an associated person may receive a protocol gift.

An official shall not be held responsible if he/she can prove that he/she could not affect the behaviour of the associated person who received the gift or that the gift received is not related to the discharge of his/her public office.

A gift specified in paragraph 1 of this Article shall be subject to provisions of Articles 39 and 41 hereof.

## **V. PROPERTY DISCLOSURE REPORT**

### **Article 43**

The body in which the official holds an office shall notify the Agency that the official has assumed office or that the office has terminated, within seven days from the day of assuming or terminating office. The Agency shall keep a Register of Officials.

An official shall, within 30 days of election, appointment or nomination, submit to the Agency a disclosure report on his/her property and income, or entitlement to use an apartment for official purposes, and on the property and income of spouse or common-law partner, as well as of ~~minors, living in the same household~~ (hereinafter *the Report*), on the day of election, appointment or nomination.

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Should the official fail to submit the report within the deadline specified in paragraph 2 of this Article, the Agency shall accordingly notify the body in which the official is holding public office.

The Report shall also be filed within 30 days from the day of termination of office with the status as of the day of the termination of office.

#### **Extraordinary property disclosure report Article 44**

An official shall file a Report, no later than 31 January of the current year, with the status as of 31 December of the previous year, if any significant changes occurred in respect of data from the Report filed previously.

Significant change specified in paragraph 1 of this Article is any change of data from the Report relating to property which exceeds the average annual net income in the Republic.

An official whose public office terminated is required to file the Report on significant changes relative to data from the previous Report on an annual basis and over a period of two years following the termination of public office.

#### **Officials Not Required to File the Report Article 45**

Provisions of Article 43 (2), (3) and (4) and Article 44 hereof, shall not apply to an official who is a council member, i.e. member of the managing or supervisory board of a public enterprise, institution and other organisation founded by a municipality or town.

The provision in paragraph 1 of this Article shall also refer to an official who is a member of the managing or supervisory board of a public enterprise, institution and other organisation founded by the Republic, autonomous province or the City of Belgrade, if he/she is not entitled to remuneration arising from membership.

Exceptionally, the Agency may demand the official or categories of officials specified in paragraphs 1 and 2 of this Article to file the Report.

#### **Content of the Report Article 46**

The Report shall contain the following data:

- 1) property rights on real estate at home and abroad;

2) property rights on movable property subject to registration with the competent authorities in the Republic of Serbia and abroad;

3) property rights on movables of high value (valuables, valuable collections, art collections, et al.);

4) deposits in banks and other financial organisations, at home and abroad;

5) shares and interests in legal entities and other securities;

6) rights deriving from copyright, patent and similar intellectual property rights;

7) debts (principal, interest and repayment period) and receivables;

8) source and amount of income from discharge of public office, or public functions;

9) entitlement to use an apartment for official purposes;

10) source and amount of other net incomes;

11) other public functions, jobs or activities discharged in accordance with the

Law and other special regulations;

12) membership in civic association bodies;

13) all other data and evidence deemed by the official as relevant for the implementation of this Law.

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The director of the Agency shall specify the content, form and filing procedure of the Report.

### **Property Register Article 47**

The Agency shall keep a Property Register containing all data given in the Report and shall exercise a monitoring of the property of the officials.

The information on salary and other incomes received by the official from the budget and other public sources, and information on the public offices he/she is discharging are public.

In addition to the information referred to in paragraph 2 of this Article, the information concerning the property of the official such as the following is also public:

- ownership right on real estate property at home or abroad, without specifying the address of such property;
- ownership right on a vehicle, without specifying the registration number;
- savings deposits, without specifying the bank and account number;
- right to use an apartment for official purposes.

Information about the property of an official public in accordance with other regulations, as well as other information which may be disclosed with the consent of the official or spouse or common-law partner shall be deemed public information.

The information referred to in paragraphs 2 – 4 of this Article shall be published on the official web site of the Agency.

Information from the report not deemed public may not be used for other purposes except in proceedings deliberating whether a violation of the law has occurred.

#### **Annual Plan of Verification of Property Disclosure Report Article 48**

The Agency checks due filing of Report and accuracy and completeness of information.

The Agency checks as mandatory the accuracy of information in the Report pursuant to the **Annual Verification Plan schedule for a certain number and category of officials.**

To carry out the checks specified in paragraphs 1 and 2 of this Article, the Agency may request from competent authorities to obtain data from financial organisations, business companies and other persons.

#### **Oversight of Property Status of Official Article 49**

Should a discrepancy be revealed in the oversight procedure of the property of the official between the data presented in the Report and actual status or a discrepancy between the increased value of the property of the official and his/her lawful and reported income, the Agency shall establish the cause of such discrepancy and notify the body wherein the official holds office, i.e. other competent bodies.

The Agency may request the official to submit information on property and income of other associated persons within 30 days if there is reasonable doubt that the official is concealing the real value of his/her property.

In the case referred to in paragraphs 1 and 2 of this Article, the Agency shall summon the official or an associated person in order to obtain information on the real value of the property of the official.

The bodies specified in paragraph 1 of this Article shall, within three months of receiving the notice, notify the Agency of the measures taken.

## **VI. PROCEDURE AND DECISION MAKING IN CASE**

## **OF VIOLATION OF THE LAW**

### **Article 50**

The procedure to establish whether there is a violation of this Law and order measures pursuant to this Law shall be initiated and conducted by the Agency *ex officio*.

The procedure referred to in paragraph 1 of this Article is also initiated upon the request of an official, his/her direct superior officer, and may also be initiated on the basis of the report of a legal entity or a natural person.

The Agency shall notify the official specified in paragraph 1 of this Article of the initiation of the procedure.

The Agency may summon the official, an associated person or the person who filed the report initiating the procedure in order to collect information, as well as request that they submit the necessary data, with an aim to establish whether a violation of this Law occurred.

The official must have an opportunity to give a statement in the procedure before the Agency.

The procedure before the Agency is closed to the public.

### **Measures Article 51**

Measures which may be pronounced against an official due to a violation of this Law are caution and public announcement of recommendation for dismissal.

The measure of caution and the measure of public announcement of the decision on the violation of this Law may be pronounced against an official who has been directly elected by the citizens, an official whose public office has terminated or an associated person.

If the person referred to in paragraphs 1 and 2 of this Article fails to comply with the measure of caution within the time period specified in the decision, the measure of public announcement of recommendation for dismissal or public announcement of the decision on the violation of this Law shall be pronounced against him/her.

In case of pronouncing the measure of public announcement of recommendation for dismissal against the official, the Agency shall file an initiative for dismissal to the body which elected, appointed or nominated the official. The competent body shall notify

the Agency of the measures it has taken in view of the pronounced measure of public announcement of recommendation for dismissal, i.e. initiative, within 60 days of pronouncing the measure.

**Decision by the Director**  
**Article 52**

The Director shall issue a decision establishing whether there is a violation of this Law and ordering the measure specified in Article 51 hereof.

An appeal against the decision referred to in paragraph 1 of this Article may be submitted to the Board, within 15 days from the day Director's decision is issued.

**Decision by the Board**  
**Article 53**

The decision of the Board specified in Article 52 (2) is final.  
An administrative dispute may be instituted against this decision.

**Public Announcement of Measures**  
**Article 54**

The Agency shall publicly announce measures pronounced for any violations of this Law, except for the measure of caution.

A rationale of the decision to pronounce the measure of public announcement of decisions regarding any violations of this Law shall be published in the *Official Gazette of the Republic of Serbia* and other media.

The costs of publishing the decision referred to in paragraph 2 of this Article are borne by the official against whom the measure has been pronounced.

**Obligation of Returning Material Gain**  
**Article 55**

If it has been established that an official was discharging other public office, job or activity contrary to the provisions of this Law, the official shall have to pay any material gain acquired in the course of such discharge into the account of the budget of the Republic of Serbia, i.e. territorial autonomy or local government, within 15 days from the day the decision establishing the violation of this Law is received.

**Protection of the Person filing the Report and Other Persons in the  
Procedure  
Article 56**

The person whose report was used to initiate the proceedings or other person who gives a statement in the proceedings referred to in Article 50 hereof may not suffer consequences.

A civil servant, i.e. employee in bodies of the Republic of Serbia, autonomous province, local government and bodies of public enterprises, institutions and other organisations the founder of which is the Republic of Serbia, autonomous province or local government, i.e. bodies of companies the founder of which or member is the Republic of Serbia, autonomous province or local government, who in good faith files a report with the Agency, and justifiably believing, that corruption exists in the body wherein he/she is employed, may not sustain detrimental consequences for doing so.

With an aim to protect the persons specified in paragraphs 1 and 2 of this Article, the Agency shall extend him/her the necessary assistance, in accordance with the Law.

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The Agency shall protect anonymity of persons specified in paragraphs 1 and 2 of this Article.

A specific regulation governing the procedure of extending assistance to person specified in paragraphs 1 and 2 of this Article shall be issued by the Director.

**Notification of Competent Bodies on Violations of this Law  
Article 57**

Once the Agency has established that an official has violated the provisions of this Law, it shall accordingly notify the competent body for the purpose of instituting a disciplinary, misdemeanour or criminal procedure.

Decisions of the Agency shall not prejudice criminal and material accountability of the official.

Bodies referred to in paragraph 1 of this Article shall notify the Agency of the measures taken within 90 days from the day they receive the notification.

**VII. INTEGRITY PLAN**

**Article 58**



The integrity plan shall include legal and practical measures which prevent and eliminate possibilities for the occurrence and development of corruption, in particular:

- assessment of exposure to corruption for a particular institution;
- data on the person responsible for the integrity plan;
  - description of the work process, decision making procedures and identification of activities which are particularly exposed to corruption, as well as tasks and activities, i.e. functions an official may not perform during discharge of public office and manner of control thereof;
- preventive measures for the reduction of corruption;
- other parts of the plan defined in the guidelines.

### **Obligation of Adopting the Integrity Plan Article 59**

An Integrity Plan shall be adopted by state bodies and organisations, territorial autonomy bodies and local state bodies, public services and public companies.

The Agency shall make and publish assessments of integrity, i.e. guidelines for the development and implementation of the Integrity Plan, specifying time frames.

State, territorial autonomy and local government bodies and organisations, public services and public companies shall adopt an Integrity Plan in accordance with the guidelines referred to in paragraph 2 of this Article and notify the Agency thereof.

The Agency shall monitor the adoption and implementation of the Integrity Plan.

State bodies and organisations, bodies of autonomous province and local government, public services and public enterprises are required to submit a report on the implementation of the Integrity Plan at the request of the Agency, within 15 days of receiving the request.

### **Person Responsible for the Preparation and Implementation of the Integrity Plan Article 60**

State bodies and organisations, territorial autonomy and local government bodies, public services and public companies shall appoint a person responsible for the preparation and implementation of Integrity Plan.

The Agency shall provide training for the person responsible for the Integrity Plan.

**Adoption of Integrity Plan by Other Legal Entities**  
**Article 61**

Other legal entities may adopt an Integrity Plan in accordance with the guidelines issued by the Agency.

Upon the proposal of legal entities specified in paragraph 1 of this Article, the Agency may assess the integrity and give recommendations for enhancing integrity.

The Agency shall provide assessment of integrity for legal entities specified in paragraph 1 of this Article at the expense of the legal entities in question.

**VIII. PREVENTION OF CORRUPTION**

**Article 62**

The Agency shall supervise the implementation of the Strategy, Action Plan and sectoral action plans.

Incumbents defined by the Strategy, Action Plan and sector action plans shall forward quarterly reports on their implementation to the Agency.

With an aim to implement the Strategy, the Agency may issue initiatives for amending regulations and make proposals for implementation of measures contained in the Action Plan and sector action plans.

The Agency shall issue opinions regarding the implementation of the Strategy, Action Plan and sector action plans.

**Cooperation in Fighting Corruption**  
**Article 63**

In performing tasks from its purview, the Agency shall cooperate with research organisations, the media and associations.

Cooperation specified in paragraph 1 of this Article pertains to joint activities in the implementation of the Strategy, Action Plan and sector action plans, educational programs, analysing the state of corruption, organising media campaigns and other activities relevant for prevention of corruption.

## **Training Article 64**

The Agency may take part in the preparation of, i.e. prepare corruption-related training programmes in state bodies and organisations, territorial autonomy and local government bodies, public services and other legal entities.

The bodies specified in paragraph 1 of this Article shall carry out training programmes for civil servants and staff in cooperation with the Agency.

The Agency may participate in corruption-related training programmes in the media and private sector.

## **Complaints Article 65**

The Agency shall accept complaints from legal and natural persons, within its purview. The Agency shall not proceed on anonymous complaints.

The Agency may request the plaintiff to provide additional information, explanations and documentation.

The Agency shall notify the plaintiff of the outcome of the complaint.

## **Research Article 66**

The Agency shall perform research on the state of corruption and combating corruption, monitor and analyse statistical data, carry out other analyses and research, and suggest changes in the procedure for processing statistical data relevant for the monitoring of the state of corruption.

## **International Cooperation Article 67**

In cooperation with competent state bodies, the Agency shall monitor, and, if necessary, take part in the coordination of international cooperation activities in combating corruption carried out by state bodies and organisations, territorial autonomy and local government bodies.

The competent state bodies shall notify the Agency of all international cooperation activities in combating corruption.

## IX. RECORDS AND DATA PROTECTION

### Article 68

The Agency shall keep the following records:

- a Registry of public officials
- a Registry of Property
- a list of legal entities in which an official owns over 20% of shares or interests;
- a catalogue of gifts;
- annual financial statements of political parties, i.e. political entities with reports in accordance with the law governing financing of political parties, i.e. political entities.

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The data specified in paragraph 1, lines 1 and 4 of this Article shall be deleted *ex officio* three years after the day public office of the official terminates.

The procedures pertaining to the keeping and storing of records specified in paragraph 1 of this Article shall be determined by the Director of the Agency.

The Agency may also keep other records, in accordance with the Law.

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### Personal Data Protection

#### Article 69

When informing the general public, the Agency shall ensure protection of personal data, particularly the data on officials and related persons regarding situations where no violation of this Law has been established, in accordance with the Law.

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### Restriction of Information

#### Article 70

When informing the general public, i.e. replying to complaints of legal entities and natural persons, the Agency shall restrict such information which may affect the conducting of a proceeding provided under the Law, privacy of persons or any other interest protected under the Law.

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### Compensatory Damages

#### Article 71

In case of a violation of Articles 69 and 70 hereof by the Agency, the result of which damages are caused to an official, related person or other person or body, the Agency shall be held accountable in accordance with the law of obligations.

## **X. PENAL PROVISIONS**

### **Criminal Offence**

#### **Failure to report property or reporting false information Article 72**

An official who fails to report property to the Agency or gives false information about his/her property, with an intention to conceal facts about the property, shall be punished by imprisonment for a period of six months to five years.

#### **Legal Consequences of Conviction Article 73**

The office, i.e. employment of a public official sentenced to imprisonment for the criminal offence referred to in Article 72 hereof shall terminate in accordance with the Law.

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A public official sentenced to imprisonment for the criminal offence referred to in Article 72 hereof shall be banned from assuming public office for a period of ten years from the day the court decision becomes final.

#### **Article 74**

An official shall be fined from 50,000 to 150,000 RSD for the following offences:

- 1) accepting of another public office contrary to Article 28 hereof;
- 2) acting contrary to the provisions of Article 29 (2) and (4) hereof;
- 3) performing of a job or activity contrary to the provisions of Articles 30 and 31 hereof;
- 4) failure to notify in writing his/her immediate superior and the Agency about the facts referred to in Article 32 (1) hereof, when assuming office or in the course of discharging public office;
- 5) acting contrary to the provisions of Article 33 hereof;
- 6) accepting of a reward or gift contrary to Article 34 (3) hereof;
- 7) acting contrary to the provisions of Article 35 hereof;
- 8) acting contrary to provisions of Articles 39 and 40 hereof;
- 9) failure to notify the receiving of a gift (Article 41 (1));
- 10) influencing an associated person to receive a gift in connection with the discharge of public office (Article 42 (3));
- 11) failure to report property in the manner and within deadlines provided under Articles 43 and 44 hereof;

12) failure to pay the material gain specified in Article 55 hereof.

For an offence referred to in paragraph 1 of this Article, the security measure of prohibiting the responsible person from performing specific activities may be ordered against an official for a period of one year.

A fine specified in paragraph 1 of this Article shall be imposed on the responsible person of a state body or organisation, territorial autonomy or local government body, public service or other legal entity discharging public office, if they fail to:

1) submit all the documents and information within the specified deadline (Article 25 (2) hereof);

2) issue decisions on termination of office within the timeframe specified in Article 28 (8) hereof;

3) submit a copy of the record for the previous calendar year within the specified deadline (Article 41 (2));

4) notify the Agency whenever an official has taken or terminated office, within the specified deadline (Article 43 (1)).

#### **Article 75**

A legal entity which, without the approval of the Agency (Article 38 (1)), employs or establishes cooperation with an official whose public office has terminated, shall be consequently fined from 200,000 to 2,000,000 RSD.

For the offence specified in paragraph 1 of this Article, an entrepreneur shall be fined from 100,000 to 500,000 RSD.

For the offence specified in paragraph 1 of this Article, the responsible person of a legal entity and the official whose office was terminated shall be fined from 50,000 to 150,000 RSD.

#### **Article 76**

A legal entity which fails to notify the Agency as required under the provisions of Article 36 (1) hereof shall be fined from 100,000 RSD to 500,000 RSD.

For an offence specified in paragraph 1 of this Article, the responsible person of a legal entity shall also be fined from 10,000 to 50,000 RSD.

### **XI. TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 77**

From the day this Law enters into force, the Law on the Prevention of Conflict of Interest in Discharge of Public Office (*Official Gazette of the Republic of Serbia*, no. 43/04) shall be revoked.

#### **Article 78**

Proceedings opened before the Republic Board for the Resolution of Conflict of Interest with no decision passed by the time this Law is applied, shall be concluded in accordance with the provisions of this Law.

#### **Article 79**

Authorised nominators shall submit to the National Assembly a list of candidates for a membership in the Board of the Agency within 30 days from the day this Law enters into force.

Until such time as the Supreme Court of Cassation becomes operational, the Supreme Court of Serbia shall carry out the powers of this authorised nominator.

The eldest member of the Board shall convene and chair the first session of the Board within 15 days of electing the seventh member of the Board, whereby the Board shall be deemed constituted.

The Board shall adopt the Rules of Procedure within 30 days of convening the first session.

The Board shall elect a Director and a Deputy Director within 60 days of its formation.

#### **Article 80**

The Director shall issue the Rules of Internal Organisation and Job Classification for the Secretariat of the Agency within 60 days of his/her appointment.

The Director shall pass bylaws provided hereof within 60 days of his/her appointment.

#### **Article 81**

As of the first day of application of this Law, the Agency shall take over all the staff of the Republic Board for the Resolution of Conflict of Interest as well as the rights and obligations, cases, equipment, work means and archives necessary to perform the its competencies.

## Article 82

An official holding multiple public offices on 1 January 2010, who failed to opt for the public office he/she would continue to discharge by 1 April is required to notify the Agency, no later than 1 September 2010, of all public offices he/she is discharging.

Upon receiving the notification specified in paragraph 1 of this Article the Agency shall determine whether discharging multiple public offices compromises an impartial discharge of public office, i.e. represents a conflict of interest. If it is determined that discharging multiple public offices compromises an impartial discharge of public office, i.e. represents a conflict of interest, the Agency shall issue a decision defining a deadline of no more than 30 days, wherein the official is required to cease to discharge incompatible offices.

As an exception to paragraph 2 of this Article an official may continue to discharge one public office together with public offices to which he/she is elected directly by citizens, as well as public offices he/she is obliged to discharge under the Law.

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## Article 83

This Law shall become effective within 8 days from the day it is published in the *Official Gazette of the Republic of Serbia* and shall come into force on 1 January 2010.