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PREVENTIVE MECHANISMS FOR SUPPRESSING CORRUPTION IN THE STATE PROSECUTOR'S OFFICE

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INTRODUCTION

CORRUPTION AS A HANDICAP OF THE SYSTEM

Corruption is any abuse of official, business or social influence in order to gain personal benefit or benefit for another. Corruption manifests itself in various forms depending on political, economic, social, historical, moral and other conditions.

In the conditions of today's predominance of the capitalist cultural and social pattern in relation to others, it is clear that making a profit can be understood as an imposed goal. We are aware that it is easier to make a profit by disobeying certain legal and ethical norms that should aim to suppress and deter corruption.



CORRUPTION IN THE STATE PROSECUTOR'S OFFICE OF MONTENEGRO

One of the cases refers to the special state prosecutor who is charged with creating a criminal organization under Art. 401a st. 2 in connection with para. 1 and 6 of the Criminal Code of Montenegro and four criminal offenses of abuse of official position from Article 416 para. 1 of the Criminal Code of Montenegro, which were charged to him by the order on the investigation of the Special State Prosecutor's Office of Montenegro.

Article 416 of the **Criminal Code of Montenegro** stipulates the following:

- An official who by unlawfully exploiting his official position or authority, exceeding the limits of his official authority or failing to perform his official duty obtains a benefit for himself or another, causes damage to another or seriously violates the rights of another, shall be punished by imprisonment from six months to five years.
- If the commission of the offense referred to in paragraph 1 of this article resulted in the acquisition of property benefits in the amount of over three thousand euros, the perpetrator shall be sentenced to imprisonment of one to eight years.
- If the value of the acquired property benefit exceeds the amount of thirty thousand euros, the perpetrator will be punished with imprisonment from two to twelve years

CORRUPTION IN THE STATE PROSECUTOR'S OFFICE OF MONTENEGRO

The former secretary of the Supreme State Prosecutor's Office is charged on the suspicion that, as a member of the criminal organization of a Montenegrin businessman, he committed the criminal offense of exerting illegal influence .

He was arrested on suspicion of trying to influence special prosecutors in the investigations conducted against the aforementioned businessman and members of his criminal organization.

In one audio recording, the authenticity of which has not yet been confirmed, the Montenegrin businessman warns the former secretary of the Supreme State Prosecutor's Office that he will publish other recordings that show that the businessman bribed the prosecutors with his money to release some of the suspects from the investigation in order to divert the prosecutor's investigation.

Among other things, Bizmisen states in the audio recording that the supreme state prosecutor took money from him.



LAW ON THE STATE PROSECUTOR'S OFFICE

The State Prosecutor and the head of the State Prosecutor's Office are disciplinary responsible for light, serious and the most serious disciplinary violations.

Among the more serious disciplinary offences, there is also a violation related to:

- on **the illegal acquisition of property benefits** by the state prosecutor.
- **uses the prosecutor's office** to pursue his private interests and the interests of his family or persons close to him;
- **accepts gifts or does not submit information on assets and income** in accordance with the regulations governing the prevention of conflicts of interest.

Disciplinary sanctions are warning, fine, ban on promotion and dismissal.


A fine in the amount of 20% to 40% of the state prosecutor's salary for a period of three to six months and a ban on advancement are imposed for more serious disciplinary violations.

LAW ON THE STATE PROSECUTOR'S OFFICE

At the request of the Prosecutor's Council, the State Prosecutor's Office is obliged to submit an annual report as well as all data within its jurisdiction.

Article 3 of the Law on State Prosecutor's Office stipulates that the work of the State Prosecutor's Office may not be carried out under anyone's influence and no one may influence the State Prosecutor in the performance of his duties.

According to Article 4 of the Law on the State Prosecutor's Office, the function of the state prosecutor is carried out impartially and objectively based on the principles of legality and equality.



The Law on the State Prosecutor's Office **does not stipulate** that the violation of the Code of Ethics for State Prosecutors constitutes a disciplinary offense, that is, the basis for determining the prosecutor's disciplinary responsibility.



CODE OF PROSECUTORIAL ETHICS

State prosecutors will perform their duties:

- a) Legally and professionally, in accordance with the Constitution, laws and the Rulebook on Internal Business, taking care at the same time of the timely and accurate performance of the duties of the State Prosecutor, i.e. the duties entrusted to him;
- b) paying particular attention to the respect and protection of basic human rights established by the Constitution, the law and the Convention on the Protection of Human Rights and Fundamental Freedoms;
- c) always respecting the dignity of others, regardless of who the person is and regardless of their status, as well as without discrimination in terms of religion, gender, sexual orientation, national and regional origin, belonging to an ethnic group, skin color, age or any other on what other basis
- d) objective, impartial and independent of public judgment and opinion and external influences;
- e) in such a way that the legality and regularity of their decisions can be checked and that the reasons for which the decision was made can always be established;
- f) respecting the deadlines in the course of the procedure, with due observance of the rules on priorities in resolving cases, striving to resolve received cases of the same degree of urgency according to the order of admission to work;
- g) investing daily efforts in their professional training and education.



The Law on State Prosecution and the Code of Ethics for State Prosecutors **do not distinguish between** some disciplinary offenses for which more severe sanctions can be imposed, such as a ban on promotion and violations of the Code. Thus, some disciplinary offenses and violations of the Code overlap significantly, and the same behavior can be interpreted as both a disciplinary offense and a violation of the Code.

PREVENTION OF CORRUPTION

REPORT ON ASSETS AND INCOME

A **public official** is an elected, appointed or appointed person in a state body, state administration body, judicial body, local self-government body, local government body, independent body, public institution, public enterprise or other business entity.

Pursuant to the Law on the Prevention of Corruption, public officials, including **state prosecutors**, are required to submit to the **Agency for the Prevention of Corruption**, within 30 days from the day of taking office, a report on their assets and income, as well as on the assets and income of their spouses and non-marital partners. others, as well as the property and income of children if they live in a joint household, according to the situation on the day of election, appointment, or appointment. The public official is obliged to provide accurate and complete information on the Report. During the exercise of public office, he submits a report once a year by the end of March of the current year for the previous year.

In order to verify data, a public official can give consent to the Agency for access to the account of banking and other financial institutions, in accordance with the law governing banking operations.



The law **should provide** for the obligation that the children of public officials submit a report on assets and income to the Agency, regardless of whether they live in the same household with their parents, in order to avoid abuses.

HOW TO REMOVE CORRUPTION IN THE JUSTICE SYSTEM OF MONTENEGRO?

Is *vetting reform* a solution for the judicial system in Montenegro?

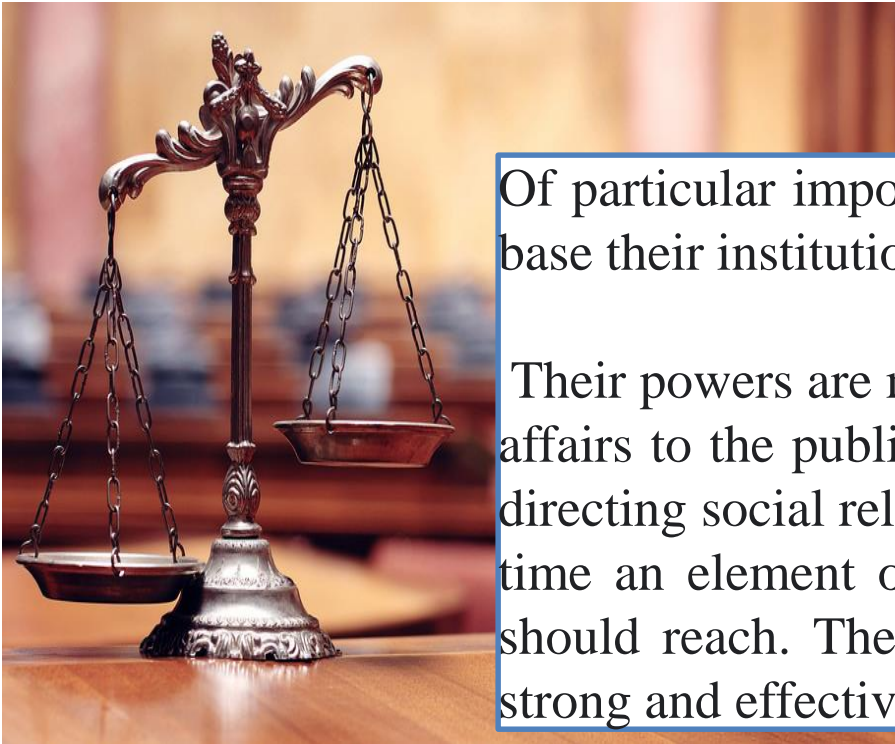
The introduction of the vetting reform in Montenegro would entail checking the origin of the property of judges and state prosecutors as well as their family members, as well as the existence of their connections with criminal structures. If judicial officials were compromised, they would be relieved of their duties, and their case would be taken over by the state prosecutor's office. The only way to avoid this scrutiny would be for the state prosecutors to resign.

This reform removed 45% of judicial officials from the judicial system in neighboring Albania, and a large number of prosecutors resigned to avoid scrutiny.



CONCLUSION

IS IT POSSIBLE TO SUPPRESS CORRUPTION IN THE SYSTEM?



Of particular importance are bodies such as the Anti-Corruption Agency, which do not base their institutionalized authority on coercion and repression.

Their powers are mainly based on issuing warnings and presenting the observed state of affairs to the public, which in systems with strong social control is the optimal way of directing social relations and forming an anti-corruption awareness, which is at the same time an element of prevention, but also a goal that strategies, action plans and laws should reach. They must be accepted by the society in which they will encourage a strong and effective anti-corruption awareness.

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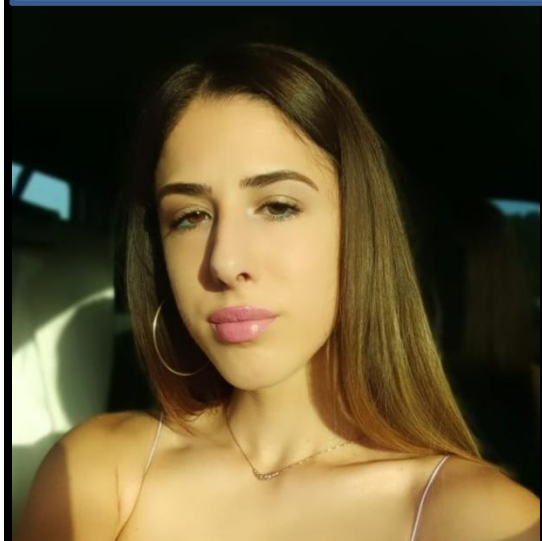
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**THANK YOU FOR
ATTENTION**