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**Agency for Prevention of Corruption**  
**Sreten Radonjić, Director**

Podgorica, 12 March 2018

**Subject:** Request for initiating the procedure against Zoran Jelić, Member of the Senate of the State Audit Institution, for determining the violation of the Law on Prevention of Corruption with regard to completeness and accuracy of the data disclosed in the income and assets reports and for determining conflict of interest in the exercise of public functions and restrictions in the exercise of public functions

Dear Mr. Radonjić,

Pursuant to the Article 31 of the Law on Prevention of Corruption, Institute Alternative hereby submits the request for initiating the procedure against Zoran Jelić, Member of the Senate of the State Audit Institution, for determining violation of the Law on Prevention of Corruption with regard to **completeness and accuracy of the data disclosed in the income and assets reports** and for **determining conflict of interest in the exercise of public functions and restrictions in the exercise of public functions**, with accompanying further legal measures and actions.

According to the Article 3 of the Law on Prevention of Corruption, public official refers to a person elected, appointed or assigned to a post in a state authority, state administration body, judicial authority, local self-government body, local government body, independent body, regulatory body, public institution, public company or other business organization or legal entity exercising public authority, i.e. activities of public interest or is state-owned, as well as a person whose election, appointment, or assignment to a post is subject to consent by an authority, regardless of the duration of the office and remuneration.

Zoran Jelić, as a Member of the Senate of the State Audit Institution, who is appointed and dismissed by the Parliament based on the proposal of the competent working body for financial affairs pursuant to the Law on the State Audit Institution, is a public official in accordance with the Article 3 of the Law on Prevention of Corruption.

According to the data obtained from the Central Registry of Commercial Entities (CRCE), Zoran Jelić, Member of the Senate of the State Audit Institution, is one of the founders of the Podgorica-based company "ET COM" (Tax Identification Number 02365677). However, according to the data disclosed in his income and assets reports which are available at the website of the Agency for Prevention of Corruption, in the section related to the

# institut alternativa

“Ownership interest in other legal entities” it is not stated that he has ownership interest in any legal entity.

According to the CRCE’s data, Jelić is one of the four founders of this company. The company is registered in 2002 and is still active, as stated in CRCE. The company’s business is wholesale selling of computers, computer equipment and software, while its headquarters is registered to Đoka Miraševića Street in Podgorica.

According to the data from the income and assets reports, Jelić did not state his ownership interest in this company in any of the reports submitted since 2008, i.e. since he became obliged to submit these reports as a public official.

Pursuant to the **Article 23, Paragraph 1 of the Law on Prevention of Corruption**, a public official shall, within 30 days from assuming the function, submit to the Agency a report on income and assets, as well as on assets and income of married and common-law spouse and children if they live in the same household, according to the state of play on the day of election, appointment, or assignment.

According to the Paragraph 2 of the same article, a public official is obliged to provide **accurate and complete information** in the report.

Pursuant to the Article 24 of the Law on Prevention of Corruption, a public official **is required to, among other, submit data on shares and ownership rights in legal entities, as well as other securities**. According to the same article, a public official shall disclose **data on ownership rights over the immovable and movable assets of a business organization, institution or other legal entity owned or established by the said public official**.

Pursuant to the Article 11, Paragraph 1 of the Law on Prevention of Corruption, **a public official cannot be president, authorized representative or member of a managing body or supervisory body, or an executive director or member of management in a business organization**. According to the Paragraph 2 of the same article, a person who is elected, appointed, or assigned to the public office in terms of this Law is obliged to resign from office or function referred to in the Paragraph 1 of this Article within 30 days from his/her election, appointment, or assignment.

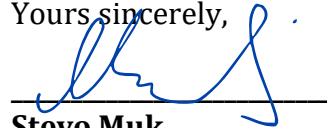
Having regard to all the foregoing considerations, we urge you to take appropriate measures and actions in line with your competences in order to determine violations of the Articles 24 and 11 of the Law on Prevention of Corruption with regard to completeness and accuracy of the data disclosed in the income and assets reports and restrictions in the exercise of public functions of the public official Zoran Jelić.

Evidence of all of the above can be found in the publicly available registries, i.e. Central Registry of Commercial Entities and the Income and Assets Reports Registry of the Agency for Prevention of Corruption.

# institut alternativa

We hope that you will handle this case efficiently and take appropriate decisions regarding the person in question and according to those decisions take subsequent legal measures, as well as inform the competent authorities in order for them to act in a similar manner.

Yours sincerely,



**Stevo Muk**

**President of the Managing Board**

**Institute Alternative**



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**Agency for Prevention of Corruption**  
**Sreten Radonjić, Director**

Podgorica, 19 March 2018

**Subject:** Addendum to the Request for initiating the procedure against Zoran Jelić, Member of the Senate of the State Audit Institution, for determining the violation of the Law on Prevention of Corruption related to conflict of interest in the exercise of public functions and restrictions in the exercise of public functions

Dear Mr. Radonjić,

Pursuant to the Article 31 of the Law on Prevention of Corruption, Institute Alternative hereby submits Addendum to the Request for initiating the procedure against Zoran Jelić, Member of the Senate of the State Audit Institution, for determining violation of the Law on Prevention of Corruption related to conflict of interest in the exercise of public functions and restrictions in the exercise of public functions.

According to the Article 3 of the Law on Prevention of Corruption, public official refers to a person elected, appointed or assigned to a post in a state authority, state administration body, judicial authority, local self-government body, local government body, independent body, regulatory body, public institution, public company or other business organization or legal entity exercising public authority, i.e. activities of public interest or is state-owned, as well as a person whose election, appointment, or assignment to a post is subject to consent by an authority, regardless of the duration of the office and remuneration.

Zoran Jelić, as a Member of the Senate of the State Audit Institution, who is appointed and dismissed by the Parliament based on the proposal of the competent working body for financial affairs pursuant to the Law on the State Audit Institution, is a public official in accordance with the Article 3 of the Law on Prevention of Corruption.

As a Member of the Senate of the State Audit Institution (SAI), Zoran Jelić is the Head of the Sector V in charge of auditing local self-government units and state-owned enterprises.

The Article 35 of the Law on the State Audit Institution, which regulates restrictions in public functions for the Members of the SAI's Senate, stipulates that "a Member of the Senate cannot perform the office of a Member of the Parliament or any other public office, **nor pursue any other professional activity.**"

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Additionally, according to the Article 41 the Law on the State Audit Institution, “a Member of the Senate cannot be a member of the managing body of a business organization”.

In the Commentary to the Law on the State Audit Institution authored by Gerd K. Bauer and published by the State Audit Institution in 2007, it is stated that “Article 41, Paragraph 1 of the Law prohibits the Members of the Senate to assume functions in the bodies of business organizations or any other legal entities, in addition to their responsibility for managing the Institution. This rule is in accordance with the Article 35 of the Law on the SAI and should influence the Senate Members to pursue activities in their field of work with great vigor as the heads of the Institution's sectors and avoid casting any doubt that they are ignoring their public responsibilities in favor of private economic interest, and, on the other hand, prevent conflict of interest.” (p. 89)

Simultaneously with performing his public function as the SAI's Senate Member, Zoran Jelić was engaged as the Member of the Audit Committee of the commercial bank “The First Bank of Montenegro” for a period longer than nine months (from 17 March to 28 December 2017). On this basis, he received a fee in the monthly amount of €650 or €5,850 in total.

Article 39 of the Law on Banks prescribes a wide range of activities and responsibilities of the Audit Committee Members, as follows:

“The Audit Committee shall:

- 1) analyze and monitor the functioning of the system for managing risks the bank is exposed to in its operations and propose the improvement of the risk management strategies, policies and procedures;
- 2) analyze and monitor the functioning of internal control systems;
- 3) discuss internal audit programs and reports and give opinion on internal audit findings;
- 4) monitor the implementation of internal audit recommendations;
- 5) analyze financial reports of the bank prior to its submission to the Board of Directors;
- 6) evaluate the quality of reports and information before they are submitted to the Board of Directors, including but not limited to:
  - application of accounting policies and procedures;
  - decisions requiring a high level of evaluation;
  - impact of unusual transactions on the financial reports;

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- quality of policies of data gathering;
- changes occurred as a consequence of the preformed audits;
- assumptions on the permanency of operations;
- compliance with the International Financial Reporting Standards and regulations;

7) give opinion on the selection of external auditor and propose an audit fee.

The Audit Committee shall draw up proposals, opinions and standpoints on the issues within their scope of work that are to be decided by the Board of Directors.

The Audit Committee shall submit annual reports on its work to the Board of Directors.”

Having in mind the stated scope of competencies and responsibilities of the Members of the Audit Committee, as well as the remuneration that the Committee Members receive on the basis of said engagement, and having in mind that this remuneration was received by Mr. Jelić as well, we believe that this undoubtedly has been a **professional activity** which Mr. Jelić performed contrary to the Article 35 of the Law on the State Audit Institution.

As a Member of the Audit Committee of The First Bank of Montenegro and by performing this demanding function on the basis of which he received remuneration and **realized financial gain**, we believe that Zoran Jelić, contrary to the Article 41 of the Law on the SAI, raised doubt that he has been ignoring his public responsibilities (as a Member of the SAI's Senate) in favor of private economic interest (as a Member of the Audit Committee of The First Bank of Montenegro), and contrary to the Article 7, Paragraph 1 of the Law on Prevention of Corruption, subordinated public to private interest.

In addition, we believe that the simultaneous exercise of the public function of the Member of the SAI's Senate with the function of the Member of the Audit Committee of The First Bank constitutes Zoran Jelić's conflict of interest on the basis of the Article 7, Paragraph 2 of the Law on Prevention of Corruption which stipulates that “the conflict of interest in the exercise of public function shall be deemed to exist when a private interest of a public official affects or may affect the impartiality of the public official in the exercise of public function”.

Article 12, Paragraph 1 of the Law on Prevention of Corruption stipulates that “a public official cannot be a president or a member of the managing body or supervisory body, executive director, member of the management of public company, public institution or other legal entity“. The Audit Committee of the legal entity, i.e. the commercial bank, is a

# institut alternativa

supervisory body, which is clear from the contents of its competencies prescribed by the Law on Banks. Contrary to the aforementioned article of the Law, Zoran Jelić was engaged in the supervisory body of a legal entity, i.e. the Audit Committee of The First Bank of Montenegro as a public official for more than nine months.

The fact is that Jelić did not resign as the Member of the Audit Committee of The First Bank immediately after being appointed Member of the Senate of the SAI on 7 March 2017. On the contrary, he continued performing this function until the end of 2017.

Article 7, Paragraph 2 of the Law on Prevention of Corruption clearly states that „the conflict of interest in the exercise of public function shall be deemed to exist when a private interest of a public official affects or may affect the impartiality of the public official in the exercise of public function“. By performing simultaneously the public function of the Senate Member of the SAI and the function of the Member of the Audit Committee of The First Bank of Montenegro, Zoran Jelić was factually in the situation which may constitute a conflict of interest according to the aforementioned legal provision.

The Board of Directors appoints members of the Audit Committee (Article 33, Paragraph 13 of the Law on Banks) while the Shareholders' Assembly elects members of the bank's Board of Directors (Article 29, Paragraph 3 of the Law on Banks).

The largest shareholder in the Shareholders' Assembly of The First Bank which elects members of the Bank's Board of Directors is Aco Đukanović who owns 170,073 shares or 39,22%. He is a brother of the public official Milo Đukanović, who is the president of the political party Democratic Party of Socialists (DPS).

The fact is that the public official Zoran Jelić is engaged in the name and for the account of the commercial bank whose largest shareholder (but also indirectly his employer) is the brother of the president of DPS. This is a political party with the largest number of seats in the Montenegrin Parliament and the largest number of ministers in the Government of Montenegro, but also the party whose members are heads of the majority of auditees, which can call into question the integrity of the Member of the SAI's Senate.

This would become particularly sensitive when deciding on the audit of the political party DPS or its political opponents, but also a large number of additional entities which can be related to the largest shareholder of The First Bank, his family and DPS in different ways.

Additionally, according to the Rulebook on Internal Organization and Systematization of Posts within the State Audit Institution, Sector V, headed by Zoran Jelić, is, among other things, in charge of **auditing the final budget accounts of the enterprises which are**

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**founded by the state, or local self-government units, as well as majority state-owned enterprises.**

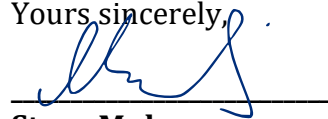
Some of those aforementioned majority state-owned enterprises have business relations with commercial banks on the basis of credit arrangements and other business relationships. Therefore, the engagement of the head of the sector as the head of the audits of these entities, who is simultaneously employed by a commercial bank, may call into question the integrity of the entire State Audit Institution.

This is obvious from the Audit Report of the Municipality of Budva which provides numerous information about the business relations of the municipality and the business organizations (public enterprises) founded by the municipality with commercial banks. In this sense, the Member of the Audit Committee of a commercial bank was granted access to business documentation of other commercial banks (contracts, annexes to the contracts, etc.) which regulates their cooperation with these legal entities.

We therefore urge the Agency for Prevention of Corruption to examine whether the public official Zoran Jelić as a Member of the SAI's Senate in the period from 17 March to 28 December 2017 violated the provisions of the Law on Prevention of Corruption and the Law on the State Audit Institution which regulate conflict of interest in the exercise of public functions and restrictions in the exercise of public functions, namely Articles 35 and 41 of the Law on the State Audit Institution and Articles 7 and 12 of the Law on Prevention of Corruption.

We hope that you will handle this case efficiently and take appropriate decisions regarding the person in question and according to those decisions take subsequent legal measures, as well as inform the competent authorities in order for them to act in a similar manner.

Yours sincerely,



**Stevo Muk**  
**President of the Managing Board**  
**Institute Alternative**

